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NEW REPORT CALLS ON FEDERAL GOVERNMENT TO DECRIMINALIZE PROSTITUTION

Modernizing laws would protect sex workers' health and human rights

OTTAWA, December 13, 2005 — In a report released today, the Canadian HIV/AIDS Legal Network called for the federal government to decriminalize the practice of prostitution and ensure that the health, safety and human rights to which all people in Canada are entitled are also shared by sex workers.

“Having sex for money is legal in Canada, but sex workers can’t do their jobs legally or safely because of this country’s outdated criminal laws,” said Glenn Betteridge, Senior Policy Analyst and principal author of the report. “These laws, and the way in which they’re enforced, push sex workers into situations that put their health and safety at risk, and leave them open to stigma and discrimination, violence, and possible exposure to HIV.”

Currently, the criminalization of prostitution puts sex workers under constant threat of arrest, meaning they often have less time to assess the risk of taking a particular client or to negotiate terms (like insisting on safe sex). Criminalization also pits police and sex workers against each other, effectively alienating sex workers from the protective services of police if, for example, a client becomes aggressive or violent.

“We need to respect sex workers, not persecute them, and we need to focus on improving their living and working conditions,” said Claire Thiboutot, Executive Director of Stella, a Montréal-based support and information group organized by and for sex workers. “This report explains why the laws have to be changed and why the changes need to be based on solid evidence, including evidence from sex workers themselves.”

Among the 10 recommendations in *Sex, work, rights: reforming Canadian criminal laws on prostitution*, the Legal Network is calling on the federal government to:

- Protect sex workers' rights under the *Canadian Charter of Rights and Freedoms* and international human rights law by repealing the four *Criminal Code* sections that make “communicating,” “bawdy-houses” and “living on the avails” illegal;
- Recognize sex work as work under employment standards and occupational health and safety laws; and
- Include sex workers in the policy and law reform process. Sex workers must have a say in modernizing the laws and policies that affect them.

The report is the culmination of a two-year project on criminal law, prostitution, and the health and safety of sex workers in Canada. It included consultations with sex workers, sex worker organizations, public health and social science experts, and community-based organizations.

The full report is available at www.aidslaw.ca, along with a concise plain-language booklet and a series of 10 information sheets.

About the Canadian HIV/AIDS Legal Network

The Canadian HIV/AIDS Legal Network (www.aidslaw.ca) promotes the human rights of people living with and vulnerable to HIV/AIDS, in Canada and internationally, through research, legal and policy analysis, education, and community mobilization. The Legal Network is Canada's leading advocacy organization working on the legal, ethical and human rights issues raised by HIV/AIDS.

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“BAWDY-HOUSE,” “LIVING ON THE AVAILS” AND “COMMUNICATING” PROVISIONS OF CANADA’S *CRIMINAL CODE*

Prostitution means exchanging sex for money. Prostitution is legal in Canada and it is legal to be a sex worker, but it’s nearly impossible for sex workers to practice prostitution without breaking the law and risking criminal charges.

Four sections in the *Criminal Code* make almost every activity related to prostitution illegal and prohibit prostitution in almost every public or private place:

- Section 210 outlaws what are called “common bawdy-houses.”
- Section 211 makes it illegal to take or direct a person to a bawdy-house.
- Section 212 prohibits “procuring” prostitution or “living on the avails” of prostitution.
- Section 213 outlaws “communicating in public for the purposes of prostitution.”

“Bawdy houses”

The *Criminal Code* says a “common bawdy-house” is any place that someone keeps or occupies for the purpose of prostitution.

Bawdy-houses could include sex workers’ homes, hotels, massage parlours, or even parking lots and cars.

The bawdy-house laws force sex workers to make a difficult choice. If a sex worker wants to work indoors in a place where they have more control over their own safety, they risk being charged under the bawdy-house laws. If they choose to do out-calls or work on the street, this usually means giving up control over their working situation — and in the case of working on the street, they risk being charged with “communicating in public for the purposes of prostitution.”

“Procuring” and “living on the avails”

The sections of the *Criminal Code* that prohibit procuring and “living on the avails of prostitution” make it hard for sex workers to work in ways that promote their safety and can make some of sex workers’ personal relationships criminal.

“Procuring” makes it illegal for a sex worker to refer a client to another sex worker, to arrange to have another sex worker join him or her with a client, and to allow other sex workers to use his or her home for prostitution. This can make it difficult for sex workers to work together for their own safety.

The *Criminal Code* says that anyone who regularly spends time with a sex worker and who is supported by the sex worker is assumed to be “living on the avails of prostitution.” It is up to that person to prove that he or she is not living “parasitically” off the money the sex worker makes. This can cast the shadow of possible criminal charges over a sex worker’s partner, family members, roommates or friends.

“Communicating”

The “communicating” offence became law in 1985, replacing the previous offence of “solicitation.”

In 1985, Parliament outlawed “communicating in public for the purposes of prostitution.” This essentially makes it illegal for a sex worker to work in a public place, since they can be arrested for talking to a client on the street, in a bar, or anywhere that is a public place. Since a sex worker risks arrest if the police catch her or him communicating with a client in public, sex workers are often forced to move to darker, more remote areas, like industrial areas or parks, where there are few people to turn to for help if a client or predator becomes aggressive or violent.

Since Parliament outlawed “communicating” 20 years ago, over 90 percent of prostitution-related charges have been brought under this section of the *Criminal Code*. During the same period, the murder and disappearance of sex workers in Canada has escalated.

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