

Stream: Inspiring Critical Thought
2018, Vol 10(2), 27–36
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<http://journals.sfu.ca/stream>

A Critical Analysis of Canada's Sex Work Legislation: Exploring Gendered and Racialized Consequences

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Abstract

In 2013, the Supreme Court of Canada ruled that three sections of the Criminal Code of Canada pertaining to sex work were unconstitutional. In response to this ruling—otherwise known as the Bedford Decision—the Conservative government introduced the Protection of Communities and Exploited Persons Act (PCEPA) in 2014. In this paper, I ask: to what extent does the Protection of Communities and Exploited Persons Act meet its stated goal of addressing the health and safety of those who “engage in prostitution”? In exploring this question, I first trace the legal terrain leading to the PCEPA’s conception. Following this, I show that the PCEPA has failed to address its stated goals in two central ways. First, by co-opting the progressive framing of the Bedford Decision in a way that obscures the situations of violence it seeks to address, and second, by making the most precarious category of sex work even more dangerous through its implementation. In order to render the actual foundations of the PCEPA visible, I draw upon critical race and feminist theory. Through this analysis, I show how gendered and racialized hierarchies regulate violence along and within the sex work spectrum. Overall, this paper argues that the PCEPA has failed to address the health and safety of “those engaged in prostitution,” and instead, has facilitated racialized patterns of gender violence against vulnerable populations.

Keywords

sex work, public policy, gender violence, gender, race.

Introduction

In 2013, the Supreme Court of Canada ruled that three sections of the Criminal Code of Canada pertaining to sex work were unconstitutional, as they violated sex worker’s section 7 *Charter* rights to health and security (Bruckert, 2015, p. 2). In response, the Conservative government introduced the Protection of Communities and Exploited Persons Act (PCEPA) in 2014. Since then, the PCEPA has sought to address “prostitution” as a social problem, while ensuring that sex worker’s rights to health and security are not violated in the process. Thus, this paper seeks to address the question: to what extent does the Protection of Communities and Exploited Persons Act meet its stated goal of addressing the health and safety of those who “engage in prostitution”? Crucially, if it is found that the PCEPA is not meeting its stated goals, then one must reconsider what the actual foundations of the PCEPA might be.

I begin by providing an overview of the PCEPA. Here, I trace the legal terrain leading up to the PCEPA’s conception, and briefly outline the main legal changes to the Criminal Code that have been put into motion as a result of its ratification. Second, I show that the PCEPA has failed to address its

stated goals in three central ways. First, I argue that the PCEPA has co-opted the progressive framing of the *Bedford Decision* in a way that obscures the situations of violence it seeks to address. Second, I show that this framing has influenced policy outcomes in a contradictory way, wherein the implementation of the PCEPA has made the most precarious category of sex work even more dangerous. Third, I draw upon critical race and feminist theory in order to render the actual foundations of the PCEPA visible. Here, I argue that the PCEPA obscures the gendered and racialized hierarchies that regulate violence along and within the sex work spectrum. As will be seen, while the PCEPA espouses a concern for the “universal dignity” of “all human beings,” there are deep racial and gendered implications implicit within its framework (Protection of Communities and Exploited Persons Act, 2014). Overall, I argue that the PCEPA has failed to address the health and safety of “those engaged in prostitution,” and instead, has facilitated racialized patterns of gender violence against vulnerable populations.

Terminology

In this paper, I use a particular terminology for important reasons. First, I understand sex work as existing along a spectrum. Across this spectrum of sex work, I use the term *sex worker* to indicate an independent sex worker and *survival sex worker* to indicate a sex worker who performs services as a result of economic or socio-cultural conditions that leave little space for agency (Ferris, 2008, p. 127). Second, since the particular location of this work is often correlated with amount of agency involved, I use the prefixes *indoor* and *street-level*, wherein street-level sex work is generally more dangerous than indoor sex work. Third, when a specific term is used within government legislation, whether or not it adheres to the meanings implied by the sex work spectrum, I will refer to that term in quotations to maintain consistency. Lastly, I separate human trafficking from the sex work spectrum for conceptual clarity and focus solely on the sex work continuum in this paper (Cool, 2004, p. 8).

Overview of the PCEPA

Background to the PCEPA: The Bedford Decision

In 2013, three sex workers, Terri Bedford, Amy Lebovitch and Valerie Scott, brought an application to the Supreme Court of Canada, wherein they argued that three provisions of the Criminal Code pertaining to “prostitution” were unconstitutional (Canada Attorney General, 2013). In particular, these women argued that the criminalization of bawdy-houses (Section 210), living on the avails of prostitution (Section 212(1)(j)) and communication in public for the purpose of prostitution (Section 213(1)(c)) had prevented them from implementing safety measures in their work (Canada Attorney General, 2013). Through the criminalization of bawdy-houses, sex workers found themselves forced out of their regular, and often more secure, indoor locations and onto the streets (Canada Attorney General, 2013). Further, the prohibition against living on the avails of prostitution meant that sex workers had to choose between working alone or working with others who would then be breaking the law (Canada Attorney General, 2013). The result, according to Justice Himel, was the erosion of non-exploitative working relationships, and an increased reliance on pimps, who were more likely to act outside of the law and to do so in a violent manner (Canada Attorney General, 2013). Last, prohibiting communication for the purposes of prostitution meant that sex workers could no longer screen their clients before sexual interactions took place (Canada Attorney General, 2013). Ultimately, it was ruled that these provisions had infringed upon sex worker’s section 7 *Charter* right to, “...the right to life, liberty, and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice” (Canadian Charter of Rights and Freedoms, 1982; Canada Attorney General, 2013). As a result, the Supreme Court mandated the

Conservative government to reform Canada's sex work within a 12-month period, and Bill C-36 was created as a result (Canada Attorney General, 2013).

Stated Goals of the PCEPA

Following the *Bedford* decision, The Protection of Communities and Exploited Persons Act (PCEPA), or Bill C-36, was created and ratified for the purpose of amending Canada's sex work laws. Given that the *Bedford Decision* was founded on the government's previous failure to uphold sex worker's *Charter* rights— specifically in the domain of health and security— we would expect to see the PCEPA explicitly addresses these mandated aims. Here, I outline the stated goals of the PCEPA, to use as a benchmark for evaluating the effectiveness of this policy.

Ultimately, the PCEPA seeks to protect those who “engage in prostitution” in two ways. First, the PCEPA criminalizes the demand for prostitution, by, “denounce[ing] and prohibit[ing] the purchase of sexual services” (Protection of Communities and Exploited Persons Act, 2014). Second, the PCEPA encourages those who engage in prostitution to report incidents of violence and to “leave prostitution” (Protection of Communities and Exploited Persons Act, 2014). Last, the PCEPA seeks to protect communities and society as a whole, by denouncing and prohibiting, “the commercialization and institutionalization” of prostitution on a broader social scale (Protection of Communities and Exploited Persons Act, 2014). Accordingly, the following activities are criminalized under the PCEPA (Protection of Communities and Exploited Persons Act, 2014):

- a. Obtaining sexual services for consideration in any place, or communicating with anyone for the purpose of obtaining the sexual services of a person (286.1)
- b. Material benefit from sexual services (286.2)
- c. Procuring a person to offer or provide sexual services (286.3)
- d. Advertising sexual services (286.4)

In the following sections, I will critically examine the PCEPA in order to discuss the extent to which the PCEPA's legal changes truly respond to the *Bedford Decision*. Ultimately, if it is found that the PCEPA runs counter to both the framing and intended outcome of the *Bedford Decision*, then one must discern the real foundations on which the PCEPA rests.

How Does the PCEPA Fail to Address the *Bedford Decision*?

In this section, I advance the position that the PCEPA has made sex work more dangerous for the most precarious category of sex workers, that is, those who are already predisposed to racialized and gendered patterns of violence. I argue that the PCEPA facilitates this violence by leaving the conditions of its existence unseen and untouched. In moving through this argument, we must first understand the way in which the PCEPA frames the problem of “prostitution,” as the solutions that follow will be directly impacted by the way the problem is defined. As will be seen, the PCEPA, uses *Bedford's* progressive narrative in a way that obscures, rather than clarifies, situations of violence and non-violence pertaining to sex work.

Co-opting the Frame: Constructing “Prostitution”

Upon first reading, the PCEPA appears to be a progressive piece of legislation. Indeed, the PCEPA had been presented in the media as fitting the “Nordic Model” in the sense that the PCEPA seeks to criminalize procurers of sexual services, rather than sex workers themselves (Davies, 2015, p. 1). According to the Government of Canada (2017), this is an “internationally” recognized policy that

relies on “changing social attitudes” rather than a traditional morality. Furthermore, the PCEPA appears to conform to the progressive *Bedford* ruling through its stated focus on the promotion of “human dignity and the equality of all Canadians” (Protection of Communities and Exploited Persons Act, 2014). At the same time, however, it has been made clear that the end goal of the PCEPA is, “ultimately abolishing [prostitution] to the greatest extent possible,” while *Bedford* only mandated that individual’s s. 7 *Charter* rights to health and safety were not violated (Government of Canada, 2017). In order to understand how the PCEPA manages this appearance of progressivism, while contradicting its very foundations, we can turn to the preamble found within it.

Within the PCEPA’s preamble, we find, in the Conservative government’s own words, the construction of “prostitution” as a social problem. According to the PCEPA, “prostitution” is a public policy problem for three main reasons. First, prostitution results in harm being done to individuals, wherein exploitation is “inherent” and “risks of violence” will always be present for those who engage in “prostitution” (Protection of Communities and Exploited Persons Act, 2014). Second, the safety of communities can be compromised as a result of the “harms associated with prostitution” (Protection of Communities and Exploited Persons Act, 2014). Third, prostitution produces a “social harm” through the “objectification of the human body” and the “commodification of sexual activity” (Protection of Communities and Exploited Persons Act, 2014). Within this preamble, we see that the “inherently” exploitative effects of “prostitution” are continually framed through the perspective of the victim, and for the Parliament of Canada, there are many victims of this social problem: the individual, the community and society as a whole.

As Brock (2009) points out, it is pertinent that we ask how “prostitution” has been produced as a visible and relatable social problem for the public to respond to (p. 1). To answer Brock’s crucial question, I suggest that the framing of the PCEPA is a strategic one, and that the foundational logic of this strategy is as follows. Initially, the PCEPA must decontextualize prostitution and sex work from the lived experiences of individuals. Discursively, we see this in the PCEPA’s removal of the term “prostitute” from the Criminal Code and the exclusive use of the term “prostituted” instead (Davies, 2015, p. 78). By separating the activity of “prostitution” from the individual, we are left with a subject that can now have generalized and strategic meanings ascribed onto them. That is, “prostitution” becomes something that is always done to us, rather than something we might choose to do. The result is that an individual’s particular experiences of exploitation or agency within “prostitution” become impossible to define for themselves. Regardless of whether an individual is a sex worker, survival sex worker, or somewhere in-between, the PCEPA views all individuals as victims to a generalized experience of prostitution as the PCEPA defines it. Crucially, because the PCEPA defines prostitution as inherently exploitative, the meaning that is ascribed to all “prostituted” individuals under the PCEPA is that of “incompetent subject in need of rescue rather than rights” (Bruckert, 2015, p. 2). Tellingly, the Government of Canada states on their official website that (Government of Canada, 2017):

“Bill C-36 recognizes that prostitution’s victims are manifold; individuals who sell their own sexual services are prostitution’s primary victims, but communities, in particular children who are exposed to prostitution, are also victims, as well as society itself.”

The problem with the PCEPA’s victim framing is that it assumes all sex workers occupy the same category of survival sex work. By assimilating an entire spectrum of sexual services into the category of exploitative “prostitution,” the PCEPA appears to address s. 7 *Charter* rights to security, while it actually undermines them for the majority of sex workers. Effectively, the PCEPA creates a single category of “victim” that renders specific positions along the sex work spectrum invisible and impossible to identify (Cool, 2004, p. 8). Since the PCEPA defines “prostitution” as an inherently exploitive activity that produces victims, the individuals who will most clearly be seen by this

framework—and thus impacted by it—are those who most clearly ascribe to the “victim” script. Here, then, we must make note of the fact that some sex workers truly are exploited by survival sex work, as structural conditions mean that the individual must perform sexual services to survive (Ferris, 2008, p. 127). Crucially, however, this means that the survival sex workers who truly do need help from the PCEPA, will also feel the consequences most deeply, if the PCEPA fails to deliver on its stated goals.

The second problem with the PCEPA’s assimilated understanding of “prostitution” is that there is no way for the framework to make sense of independent sex workers, pro-sex work communities or pro-sex work societies. Thus, diverse continuums and spheres where agency and exploitation can shift and overlap, are reduced to a single static position that fits within a narrow “victim” narrative. With this narrow understanding of inherently exploitative “prostitution” and the prostituted individual/community/society in place, the PCEPA can advance an interpretation of *Bedford* that suits the government’s end goal of abolishing “prostitution” altogether. This not only obscures—and seeks to erode— real sites of agency for some sex workers, it also leaves real sites of violence unnamed for survival sex workers, whom are disproportionately women of color (Razack, 2016, p. 291). Thus, the PCEPA leaves the specific violence and exploitation experienced by survival sex workers unnamed and unidentified as racialized gender violence.

Overall, one cannot make sense of situations of exploitation *or* agency within the PCEPA framework, and especially, not of situations where the two might overlap. Through narrow understandings of “prostitution” and “victim” that falsely erase all differences within the sex work continuum, we lose a valuable lens through which to clarify situations of violence from non-violence. As a result, the implementation of this framework has led to many paradoxical and contradictory outcomes, some of which completely undermine the *Bedford Decision*, and many of which negatively impact racialized women in particular.

Implementation: Failing to Account for Health and Safety

Despite accounting for only 20% of the sex work spectrum in Canada, more than 90% of all “prostitution” offences in Canada are categorized as street prostitution, and the majority of this category is made up of survival sex work (Cool, 2014, p. 2). Although specific demographics within this category are hard to gather on a wide scale, smaller studies conducted by researchers who have built relationships within sex work communities are more readily available. Within these smaller studies, it has been reported that women, and especially women of colour, are disproportionately overrepresented within street prostitution (Razack, 2016, p. 291). This is especially true for Indigenous women in Canada, wherein one study concluded that Indigenous women make up 70% of street-level prostitution, while only accounting for 2% of the general population (Sampson, 2015, p. 161). Given that legal changes made by the PCEPA impact street-level survival sex work in particular, the PCEPA indirectly targets a specific gendered and racialized population. In this section, I will show that the PCEPA fails to address the health and safety of this particular population in several ways.

First, the PCEPA threatens the health and safety of survival sex workers by placing stricter sanctions on the communication of “prostitution”, wherein it, “creates an offence that prohibits purchasing sexual services or communicating in any place for that purpose...” (Protection of Communities and Exploited Persons Act, 2014). According to the Canadian Public Health Association (2014), these restrictions threaten the health and safety of survival sex workers by driving their interactions further underground in isolated areas (p. 7). For street-level survival sex workers, this is of particular significance, given that communication in open and public spaces imparts a degree of security during initial interactions with clients (Abrol, 2014, p. 8). Prior to a sexual encounter, this public interaction can provide an opportunity for survival sex workers to screen clients, by

establishing the terms of their services. For example, some survival sex workers might require advance payment, or ensure condom use is agreed upon before deciding to engage with a client (Canadian Public Health Association, 2014, p. 7). Second, it is by criminalizing the demand for “prostitution”—that is, the procurers, advertisers and purchasers of sexual services, rather than the providers of “prostitution” themselves—that the PCEPA undermines the bargaining power of survival sex workers (Kriusi et al, 2018, p. 5). For individuals who are already in situations of dependency, a higher demand for their services allows for a degree of control to be exercised. That is, with higher demand for services, one can charge higher prices, and become more selective in the clientele they choose to engage with (Sampson, 2014, p. 18). An unseen consequence of the PCEPA, is that survival sex workers are now more likely to accept clients who are unsure of their STI status, or who refuse to use a condom (Kriusi et al, 2018, p. 5). Third, the PCEPA makes it difficult for survival sex workers to maintain a safe working space, as they are less likely to hire security or bodyguards, for those hired could then be charged for, “living under the avails of prostitution” (Abrol, 2014, p. 4).

Implementation: Producing Gendered and Racialized Patterns of Violence

As has been seen, the PCEPA fails to uphold its stated goals of securing the health and safety of sex workers. Much to the contrary, we find that a primary outcome of the PCEPA’s implementation has been an increase in the dangers related to street-level survival sex work. What has yet to be addressed, however, is the fact that there is a racialized and gendered predisposition to violence for survival sex worker that the PCEPA not only fails to address, but actually promotes by making this work even more precarious. Ultimately, it is by refusing to see the racialized and gendered nature of the sex work spectrum that the PCEPA also fails to address the structures producing and facilitating the violence of this system.

We see can see this clearly in the PCEPA’s proposed solutions to “prostitution”, wherein two central aims are made clear. First, the PCEPA seeks to encourage “those who engage in prostitution to report incidents of violence” and second, the PCEPA encourages these individuals to “leave prostitution” (Protection of Communities and Exploited Persons Act, 2014). It comes as little surprise, however, that sex workers across the continuum indicate low levels of confidence in law enforcement when it comes to responding to their situations. As many sex workers are aware, police enforcement of the law often serves to reinforce structural inequalities already in play (Kaye, 2017, p. 24). For independent sex workers in particular, it is not the “pimp or john” who is a threat to their agency, but rather, the state and police who are the “prime violator” of their right to engage in the legal work of their choosing (Doezema, 2010, p. 140). For survival sex workers, who often want and need a way to report and address incidents of violence, systemic barriers serve to impede the process. For many of these survival sex workers, interactions with law enforcement come marked with the fear that they will be charged with a criminal offence or have their experience completely disregarded (Corriveau and Greco, 2014, p. 348). Furthermore, a history of historical mistreatment, especially for marginalized and vulnerable populations, lends itself to deep feelings of mistrust (Kriusi et al, 2018, p. 8).

Ultimately, it is by “encouraging” a sex worker to report incidents of violence, and choose to leave their situation, that the PCEPA focuses on individual behaviour and leaves social structures untouched. To understand sexual violence, and one’s willingness to report or leave these situations, one must take into account structural violence. While white feminist frameworks tend to examine “interpersonal violence” and its relation to the patriarchy, Indigenous and intersectional frameworks have placed more attention on the ways in which, “race, colonialism, class, sexuality and disability intersect with gender to shape the multiple forms of violence” (Park, 2017, p. 272). In these frameworks, an individual’s experience with “poverty, hunger, social exclusion and humiliation” can inform their experience with intimate sexual violence (Scheper-Hughes and Bourgois, 2004, p. 1). By

decontextualizing individuals from social structures, as well as their situatedness—as was the case in separating “individuals” from the activity of “prostitution”— the PCEPA largely ignores the fact that structures can influence individual choices. By failing to recognize the existence of structural conditions of violence, the PCEPA ultimately reproduces this violence, as it leaves generative structures intact and un-critiqued (Kaye, 2017, p. 21).

Importantly, while this helps us to see that the PCEPA has obscured the conditions of violence underpinning the sex work spectrum, the specific nature of these conditions of violence must also be accounted for. As will be seen, there are gendered and racialized hierarchies regulating the sex work spectrum, wherein violence is concentrated primarily within street-level survival sex work category. Indeed, when asked about the main strategies used by sex workers to minimize the risk of criminal offence, as well as the risk of violence, many referenced avoiding street and survival sex work altogether (Corriveau and Greco, 2014, p. 355). In the words of one cisgender Caucasian man involved in indoor sex work, “if you’re rich and you’re white and you’re well educated, and you can hide behind houses and computers...then you don’t have much to fear” (Corriveau and Greco, 2014, p. 353). Indeed, this strategy is supported by evidence that shows a much higher risk of violence for street-level sex workers than indoor sex workers, which is only compounded for women of colour (Razack, 2016, p. 291). What remains unsaid in this strategy, however, is the fact that violence is effectively being siphoned onto the bodies of society’s most vulnerable populations. In this way, violence against vulnerable populations serves to “construct and reinforce hierarchical social relations” along gendered and raced lines (Hutchinson, 1999, p. 18).

Sexualizing Race: Accounting for the Conditions of Violence

Here, I seek to understand why an individual’s movement across and within the sex work spectrum is regulated in a racialized and gendered way. To put this movement in more tangible terms, we can understand movement “across” the spectrum to mean a change in social category, for example, a change in position from “street-level survival sex worker” to “indoor independent sex worker”. Movement “within” the spectrum can be understood as a vertical change in economic or social position within a specific social category. Ultimately, we will see that both kinds of movement are intimately related, for social and economic power is distributed in accordance with race and gender (Hutchinson, 1999, p. 44). To understand the hierarchies regulating the sex work spectrum one must first acknowledge that gendered and racialized people are not inherently visible as gendered and raced, rather, they *become* so through socially conferred meanings (Brock, 2009, p. 103). In regard to race, it is through one’s “immersion into white, masculine symbolic” that racialized others come to understand themselves as raced (Ingram, 2008, p. 28). Without this constructed symbolic, the raced body does not apprehend itself as raced, and similarly, without a symbolic that positions the raced body as subjugated, whiteness cannot exist as superior. Similarly, gender scripts regulate sexuality in a way that “reifies heteronormative regulatory binaries,” and reifies female sexuality in such a way as to subjugate her to male sexuality (Bruckert, 2015, p. 2). Taken together, racialized women are sexualized in a way that facilitates violence and degradation, both across and within the sexual activities continuum.

Historically, women’s behaviour has been equated with an understanding of female sexuality as “submissive” or “unbridled”, thereby justifying their exclusion from public and political spaces (Doe, 2013, p. 194). Through feminist movements, these sexual stereotypes have certainly been resisted, challenged and expanded, however, Doe rightfully asks whether all women have enjoyed such liberatory success. Here, I maintain that the existence of racialized gender hierarchies pertaining to sex work can be partially explained by transferring subordinate sexuality scripts onto particular groups of women, namely, racialized woman. Empirically, we can see this illustrated in the case of sex work advertisement and marketing within sex work establishments. According to relevant

studies, it has been shown that white cisgender sex workers are often advertised according to their personalities—the most common characterizations emphasizing them as pillars of morality, as demonstrated by their “angelic” and “sweet” natures (Raguparan, 2017, p. 37). The sexualization of women of colour is much different. Racialized women are more likely to be advertised within sex work establishments by drawing attention to specific body parts, their “wild” or “uninhibited” natures or by comparing them to consumable objects like food (Raguparan, 2017, p. 73). While both women are subject to a sexual script, in that it has been pre-constructed outside of their own terms and caters to masculine desire in order to be consumed by masculine desire, the implications are different (Ingram, 2008, p. 3).

Since racialized women are sexualized in degrading ways, they come to be seen as “appropriately” positioned on the more dangerous and potentially exploitative side of the sex work spectrum. Furthermore, this characterization of racialized women as more animal or object than human, effectively dehumanizes them, and justifies their subordinated social standing. The lived consequences of this might be uncomfortable for the Canadian government to address, but they are real implications of failed public policies, and they need to be named. The sexualization of race in a way that subordinates and dehumanizes these bodies effectively makes those bodies disposable (Razack, 2016, p. 206). For Indigenous women in particular, this has translated into some of the most brutal sexual violence in Canada, and one cannot ignore the graphic case of Robert Pickton torturing, dismembering and feeding bodies of sex workers to his pigs. For Razack (2016), this is the seriousness of disposability, and she asks: what does this tell us about the place of Indigenous women’s bodies within the social order (p. 206)? The related question that the PCEPA fails to ask, is how the framing, implementation and consequences of its legislation might play a role in facilitating these patterns of disposability.

In sum, critical race and feminist theory helps us to see that violence does not operate in a neutral way. Rather, violence is regulated through the production and maintenance of racialized and gendered hierarchies. More specifically, racialized and gendered patterns of violence always rely on a subordinated other. First, the violence of the sex work spectrum is disproportionately siphoned onto those bodies who are gendered as women. Second, this gendered violence is disproportionately siphoned onto those bodies who are racialized. Thus, racialized women are more likely to exist as survival sex workers, and to experience violence in these situations. While the PCEPA obscured the conditions of sex work related violence, the preceding analysis has helped to render them visible for critique.

Conclusion: Towards a Universal Dignity

Although the PCEPA purports to address the social problem of “prostitution” by helping “victims” of this activity, the understanding of “prostitution” advanced by the PCEPA falsely assimilates an entire spectrum of sex work into a single category of “inherent exploitation”. The result of this is threefold. First, the PCEPA is incapable of recognizing potential sites of agency within the continuum of sex work. Second, the PCEPA is unable to name the specific violence enacted upon particular categories of sex workers. Third, the PCEPA fails to achieve its stated goal of securing the health and safety of sex work, and in doing so, makes survival sex work more dangerous. This, in turn, has a disproportionate impact on racialized and gendered women, who are more likely to be involved in street-level survival sex work. Thus, while the PCEPA purports to act in the interests of “universal dignity” for “all human beings,” there are gendered and racialized consequences to its implementation.

In order to understand the nature of these gendered and racial consequences, one must examine the PCEPA outside of the conceptual framework it provides. The conceptual framework of the PCEPA cannot clarify situation of violence and non-violence, despite the role it plays in facilitating racialized

patterns of gender violence. Thus, one must discern the conditions of violence that remain obscured by the PCEPA. By recognizing the connection between structural violence and intimate violence, we see that an individual's experience with exploitation or agency can only be understood through their embeddedness in economic and socio-cultural structures. If we are to understand an individual's movement across social categories of sex work, we must first understand the socially constructed meanings that are placed upon individual bodies.

While feminist movements have been fairly successful in challenging normative constructions of female sexuality, and the ways in which they subordinate women to men, this liberation has not always been felt equally by all women. That is, the sexualisation of racialized bodies has often occurred in a way that maintains the subjugation of racialized women in particular. Through degrading sexualized constructions of the racialized other, and especially the racialized women, the "appropriate" place for the racialized female body has become associated with subjugated and degrading social positions. This "appropriateness" not only regulates an individual's movement between and within social positions, it also enables and justifies violence against the "disposable" body.

If the Canadian government is truly committed to making sex work safer for all citizens, they must first recognize that "prostitution" is a nuanced category. Within the category of "prostitution" are a variety of individuals, each with their own unique histories and experiences with structural injustice. At the same time, it is only through a recognition of these differences, that one can understand the patterns of systemic inequality regulating the violence of the sex work system in a gendered and racialized way. Thus, it is the initial recognition of a continuum of experience with exploitation and agency—both across and within the sex work spectrum— that then allows us to think through the broader goal of achieving "universal dignity of all human beings". Put another way, we have to be able to see the hierarchies, before we can dismantle them.

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