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ILLEGAL LIVES, LOVES, AND WORK:
HOW THE CRIMINALIZATION OF PROCURING
AFFECTS SEX WORKERS IN CANADA

Emily van der Meulen¹

Abstract²: Based on interviews with sex workers and advocates of decriminalization in Toronto, Canada, this article argues that aspects of the *Criminal Code's* procuring legislation has detrimental impacts on sex workers' daily realities and relationships. While the direct exchange of sexual services for money is not illegal in Canada, the laws that surround prostitution-related activities criminalize common work situations as well as sex worker's personal and business relationships. Sex workers' lived and intimate knowledge lend them a greater awareness of the effects and consequences of the current legislative framework as well as a greater awareness of what social and legal changes are necessary to improve their lives.

Introduction

Sex workers have a unique insight and expertise regarding their industry, the role it plays in Canadian society, and the ways in which regulatory schemes will impact their business. Above all, law and policy makers should listen to sex workers in order to understand how the laws affect them, which is a necessary step in ensuring that Canada's laws comply with the guarantees and protections enshrined in the Charter and other human rights instruments (Childs et al., 2006, p. 9)

Over the past two decades, research on sex work in Canada has largely focused on the effects of the *Criminal Code* on the vulnerability of, and violence towards, sex working communities (Allinott et al., 2004; Betteridge, 2005; Childs et al., 2006; Hanger & Maloney, 2006; Lewis, Maticka-Tyndale, Shaver & Schramm, 2005; Jeffrey & MacDonald, 2007; Lowman, 1998; Lowman, 2000; Lowman & Fraser, 1995; Maticka-Tyndale, Lewis, Clark,

Zubick & Young, 1999; Miller, 1993; Pyett & Warr, 1997; Star, 2006; van der Meulen & Durisin, 2008). This body of literature has principally analyzed the implications of the combination of the four prostitution-related offences in the *Criminal Code* (sections 210-213). These include: being found in or keeping a common-bawdyhouse (sections 210-211), thus prohibiting the use of indoor locations for the commercial exchange of sexual services; the criminalization of procuring, living on the avails, cohabiting, and gaining or aiding a person to engage in prostitution (section 212), thus prohibiting managerial and employer relationships; and the criminalization of public communication for the purpose of engaging in prostitution (section 213), thus prohibiting street-based sex work. While research indicates that the criminalization of various aspects of sex work effectively increases violence, stigma, and discrimination, very little scholarly work has focused exclusively on one of the four sections to assess the ways in which it affects sex workers' lives, loves, and work (Currie & Gillies, 2006). This article does just that by narrowing the analysis to the section that carries the harshest penalties and arguably the most stigma: the procuring legislation of section 212.

Based on interviews with sex workers and advocates of decriminalization in Toronto, Canada, this article presents findings on the effects of this one section of Canada's *Criminal Code* and argues that criminalization has detrimental effects on sex workers' daily realities and relationships. While the interview material presented below is from a select number of respondents, the common themes, critiques, and suggestions echo and add on to the results of other Canadian studies on sex work, including those conducted with sex workers in: two Maritime provinces, New Brunswick and Nova Scotia; Montreal, Quebec; Windsor, Ontario; Vancouver's Downtown Eastside, British Columbia; and Victoria, British Columbia (Allinott et al., 2004; Benoit & Millar, 2001; Childs et al., 2006; Jeffrey & MacDonald, 2007; Star, 2006).

The interviews were conducted as part of the author's doctoral research focusing on the effects of criminalization in Canada. Those interviewed brought with them a wide array of related experiences and knowledge as all were either advocates of decriminalization involved in the sex workers' rights movement or had worked in multiple sex industry establishments and sectors. For example, six of the ten sex workers had worked at escort agencies, five as independent escorts, four as street-based sex workers, four in massage parlors, three in exotic dance, two in pornography, and two in phone sex (see Table 1.0). These diverse experiences combined with their many years of work in the sex industry (the average of which was thirteen) and an age range between twenty-nine and forty-nine years, resulted in particularly compelling and informed responses. Upon completion of the interviews, results from the coded transcripts were triangulated with the following primary and second source materials: international literature by, for, and about sex work and sex workers; international and Canadian policy documents; excerpts and sections of Canadian municipal and federal legislations; and findings from other Canadian qualitative studies on sex work. In order to protect confidentiality and anonymity, the names used below are pseudonyms chosen by the interviewees, except in instances where participants expressed desire to have their legal names documented.

What the interviews indicate is that aspects of the procuring legislation of section 212 directly and negatively impact sex workers' relationships with significant others and workplace managers. The interviews conducted focused exclusively on the adult-related provisions of the legislation³; specific provisions addressing the procurement of youth engaged in prostitution⁴ will not be discussed here. The analysis that follows will present first person accounts of how aspects of section 212 affect sex workers' ability to cohabit with friends and housemates, as well as how it negatively affects personal and intimate relationships, in addition to professional and business relationships.

<i>Table 1.0: Interview Demographics</i>	
Characteristics	Number Interviewed (%)
Gender (N=12)	
Female	9 (75%)
Male	1 (8.5%)
No Response	2 (16.5%)
Race (N=12)	
White/Caucasian	7 (58%)
Black/Afro Caribbean	3 (25%)
Latina	1 (8.5%)
No Response	1 (8.5%)
Sex Work Status (N=12)	
Current	8 (67%)
Former	2 (17%)
Ally	2 (17%)
Age (N=12, Average =36)	
29-31	3 (25%)
32-34	2 (17%)
35-37	2 (17%)
38-40	3 (25%)
41+	2 (17%)
Age of Entry into Sex Work (N=10, Average=20)	
17-19	4 (40%)
20-22	3 (30%)
23-25	2 (20%)
26-29	1 (10%)
Number of Years Working in Sex Industry (N=10, Average=13)	
3-5	3 (30%)
6-10	1 (10%)
11-15	1 (10%)
16-20	3 (30%)

21+	2 (20%)
Previous Sex Industry Jobs (N=10*)	
Escort Agency (in or outcall)	6
Independent Escort (in or out call)	5
Street	4
Massage Parlour	4
Dance	3
Porn (internet and video)	2
BDSM	2
Phone Sex	2
Performance/Burlesque	2
Other (including Brothels, Bars, Peep Shows etc)	3
* Interviewees worked in multiple sex industry establishments	

In discussions about decriminalization, it is common for individuals to articulate support for the removal of the bawdyhouse provisions (so that sex workers can work from the safety of indoor locations) and for the elimination of the communicating charges (so that sex workers are not forced into isolated, remote, and often more dangerous locations out of police view). However, it is much less common for individuals to support the removal or changes to the procuring section of the *Criminal Code*. I surmise this is due to two key reasons. First, the public perception is that this particular piece of legislation protects sex workers from violence, extortion, and harm from pimps and other exploiters. Second, those who critique it open themselves up to serious and harmful allegations that they support and condone violence against women. Discussions about procuring often draw visceral and highly emotive responses that are oftentimes not based on empirical evidence, but instead based on long-standing mythologies that sex workers themselves have countered. Indeed, sex workers have clearly articulated the ways in which the procuring law can increase their vulnerability and exposure to harm, as opposed to reduce it.

It is not uncommon, especially for policymakers, to overlook, ignore, and disregard sex workers' own experiences and expert knowledge of their own lives, loves, and work. As such, this article is an attempt to rectify the silencing of sex workers' voices by instead showcasing their insightful analyses of the impacts of a particular piece of Canadian legislation. Indeed, all of the Toronto-based sex workers and allies interviewed expressed frustration at the ways in which the criminal law penalizes, stigmatizes, and marginalizes their intimate and business relationships. As Allinott et al. (2004) contend, "sex workers are in the best position to describe what it is like to work and live under the current social and legal framework and to recommend the ways in which their circumstances should be improved" (p. 2).

Illegal Lives: The Criminalization of Sex Worker Cohabitation

Procuring "essentially refers to an act of persuasion" (Barnett, 2008, p. 8), yet section 212 of the *Criminal Code of Canada* includes a number of different infractions within this offense, for example: living on the avails of another person's prostitution earnings; exercising control or direction over a person in an attempt to aid or compel someone to engage in prostitution; soliciting a person to have sexual intercourse with another person; and enticing someone who is not a prostitute to go to a bawdyhouse to have sexual intercourse (see *Criminal Code*, section 212).

Canadian case law has determined that the following situations are considered procuring: an employer requiring an employee to have sex with a client; gaining from facilitating prostitution through influencing or controlling someone; and living on the avails of prostitution (Barnett, 2008, p. 8-9; see also *R. v. Deutsch*, 1986 and *R. v. Perrault*, 1986). While one might assume that living on the avails and other procuring charges would require proof of persuasion or manipulation, interestingly, owners of escort agencies have been found to be guilty of living on the avails even

in the absence of coercion (*R. v. Downey*, 1992; *R v Barrow*, 2001).

Further, the procuring legislation stipulates, “evidence that a person lives with or is habitually in the company of a prostitute... is, in the absence of evidence to the contrary, proof that the person lives on the avails of prostitution” (see *Criminal Code*, section 212[3]). In effect, this means that a sex workers’ family member, friend, or housemate can be automatically considered guilty of an offence, just by virtue of being “habitually” in a sex workers’ company or by simply living with them (Betteridge, 2005). The section of the *Criminal Code* related to living on the avails “potentially exposes roommates to prosecution if a sex worker’s earnings pay for rent and household expenses” (Allinott et. al., 2004, p. 15). Research conducted by a sex workers’ advocacy group in Ontario and Quebec further indicates that prohibitions against procuring “undermine sex workers’ well-being because they may leave their partners or spouses open to charges if they are co-habiting” (STAR, 2006, p. 16). While it is unlikely that the legislation would be used against a friend or housemate, its very existence and the potential that it could be is troubling and can negatively affect sex workers' relationships.

The sex workers and allies I interviewed in Toronto were very critical of the living on the avails section of the procuring law. Sex work researcher and advocate of decriminalization Maria Belen, for instance, noted that “it’s certainly not applied to any other kind of work, which is very interesting... That whole ‘living off the avails of prostitution’ is one of the most outrageous... I mean, they are all outrageous... but some are more outrageous than others.” Those interviewed were especially critical of the procuring legislation for its paternalism and for the ways in which it increases stigma and discrimination against them. They argued that no other workers are prevented from cohabiting, nor do other workers face the same kinds of regulations regarding how they are entitled to spend their money. Alysa, a current sex worker,

summarized her concerns by noting, “in other words, they’ve decided that it’s up to the courts to decide how men and women spend their money.” Similarly, current sex worker Julia observed that “the [procuring] laws are coming from a place that assumes you are being victimized”.

All of the interviewees agreed that the procuring laws were built upon unfounded notions and mythologies around “pimps” and a lack of understanding about the industry itself. The assumption is that anyone who resides with a sex worker must be automatically taking advantage of her and must, therefore, be her “pimp”. Despite research which has shown that exploitative pimping is not as common in the Canadian context as public perception and the media present (Canada, 1985; Jeffrey & MacDonald, 2006; Currie & Gillies, 2006), there is little room within the pimping discourse for notions sex worker agency. Instead, embedded within it are conceptualizations of female passivity and vulnerability where women need state protection from violent male predators. Indeed, there is no recognition that some women choose to share their living arrangements with others:

Everyone has an opinion on the big bad pimp. However, very few people have actually taken the time to read the law... it criminalizes all of my normal, healthy relationships. We’re not allowed to have a roommate... we’re not permitted to really have a friend, because that friend would probably be habitually in our company (Valerie, former sex worker).

I think that the myth of the pimp and the beat up street worker is still very, very alive in people's minds... There is some sort of entitlement from the nation state to supervise the private lives of sex workers. It is so interesting that they feel they have that right. I would like to see if a law like this can happen in any, any, any other area! ... It would be immediately protested as an infringing on human rights,

basic rights, privacy rights. Again, it is how the state perceives the sex worker as a public object even in their private lives... These laws come from all other types of ideas and myths (Patricia, sex work researcher and advocate of decriminalization).

The [sex worker/pimp] relationship is one based on the victim and the monster, the monster pervert, the monster pedophile, whatever, it's always a monster (Maria Belen, sex work researcher and advocate of decriminalization).

In the public's mind and I think in politician's minds, there is this mythical and distorted image of the "pimp". When people talk about the procuring laws they are thinking about pimping, about physical abuse, coercion, again a lot of racist and really class biased imagery. And it's simply not true... the stereotype and the construct of the pimp is so deeply enmeshed in our culture. It's a big, big thing and it speaks to so many different fears around women, around sexuality, around money, around immigration, around race, it goes on and on and on (Kara, current sex worker).

Research with sex workers, police officers, community advocates, politicians, justice officials, and lawyers from Canada's east coast indicates that pimping mythologies are "based on deep racial and sexual biases against black men" (Jeffrey & MacDonald, 2006, p. 95). The researchers contend that the pimping discourse has become an "easy way to dismiss the violence against sex workers as a product of a subculture of violent black pimps rather than a product of negative social attitudes towards sex workers" (Jeffrey & MacDonald, 2006, p. 95). Additional scholarly work spanning four Canadian provinces and involving sex workers, health care providers, community advocates, and law enforcement officers cautioned against the use of the term "pimp" which, they argue "conjures and reinforces stereotypical and racist imagery" and

“serves to ‘other’ sex workers and their relations” (Currie & Gillies, 2006, p. 21).

My research with Toronto-based sex workers and advocates of decriminalization also demonstrates the ways in which pimping discourses impacts sex workers’ ability to cohabit with others. Not everyone wants to, nor can afford to, live alone. This is especially true in large urban centers with the high costs of accommodation. Essentially, then, sex workers who are unable to cover living costs on their single income are left with two options: first, sex workers can cohabit with a family member, friend, or housemate and not disclose their source of income in order to prevent possible criminal charges and claims of being pimped; or second, reveal the source of income to cohabiting family members, friends, or housemates and potentially expose them to criminal charges through the procuring legislation.

Illegal Loves: The Criminalization of Sex Workers’ Relationships

In addition to criminalizing common cohabiting situations, section 212(1)(j) prohibits living wholly or in part on the avails of someone’s prostitution earnings. This effectively criminalizes sex workers’ intimate and personal relationships, which can cause serious stress and anxiety for lovers and significant others. Currie and Gillies (2006) identified that fear of having a loved one charged with procuring both undermines sex workers’ “ability and right to enter into the relationships of their choosing” and that it can “sometimes inhibit women from fostering relationships at all” (p.48). Other Canadian sex work researchers have gone so far as to argue that the procuring legislation essentially acts as a self-fulfilling prophecy, whereby the high levels of stigma and discrimination towards men in relationships with sex workers effectively prevents the possibility of a truly healthy relationship from developing (Davis & Shaffer, 1994). The Toronto-based sex

workers I interviewed were very critical of the ways in which the procuring laws negatively impact their loved ones:

Well first of all, it's nobody's fucking business. It's appalling... Obviously, it impacts your relationships... It's so heart-wrenching to imagine your partner being put through that... having to have them take that risk. That definitely would impact your personal relationships (Sasha, current sex worker).

Certainly “living on the avails” is a charge that can be laid against personal partners... of a sex worker. These charges aren't frequently laid, but the very fact that they could be really puts a chill and puts a damper on people's relationships and whether one discloses to their partner that they are in the sex trade -- or how much they disclose because they don't want it coming back on their partner. I've met many women who have said it's been a real challenge on the relationship -- not the actual sex work itself -- but having to hide from the partner or worried about what's going to happen to the partner (Kara, current sex worker).

While Canadian case law has determined that the economic relationship between the procurer and the prostitute must be “parasitic” in nature (*R. v. Bramwell*, 1993; *R. v. Celebrity Enterprises Ltd.*, 1998; *R. v. Grilo*, 1991), how one specifically defines parasitic is still ambiguous (Barnett, 2008; Davis & Shaffer, 1994). A court could conceivably rule that the relationship between a sex worker and her child or lover is parasitic, a fact which understandably worried many participants in this study. Therefore, many of the interviewees were concerned about the implications of this law on their loved ones and dependants:

Personally, speaking from my own experiences, I have this awareness that when I take my partner out for dinner that

that is technically illegal. If my partner accepts money from me, that's illegal, even though I know the court has ruled that [the exchange of money or goods] has to be parasitic (Julia, current sex worker).

As a parent who is also a [sex] worker, your child could be considered living off the avails and that could be considered a parasitic relationship. That means that you can't buy something for your child. What working parent should be prevented from purchasing their child a gift – or even basic living necessities? (Keisha, advocate of decriminalization)

This would make it really hard for a kid of a sex worker. It would make it really difficult for whoever the sex worker is supporting with their money. Often sex workers support themselves, but they often are also supporting families. It makes it difficult to live securely, feeling like you can't actually let people know about your work or your kids won't get fed (Renee, current sex worker).

This law affects all areas of your life -- your partner is then considered a pimp, regardless. Or if you have an adult child living at home, some folks would consider that parasitic. If there is an adult offspring living in the house they're living off the avails of their parent. It criminalizes what in any other industry wouldn't even be an issue (Lisa, current sex worker).

The interviewees were additionally highly critical of the gendered assumptions and stereotypes imbedded within the discourses of parasitism and pimping:

It would be a little bit different if most sex workers were men, then I wonder if the relationship would be parasitic... Because there's this assumption of the typical kind of role

of men and women and who works... the typical division of labor is that the man goes out to get the bacon and the women stays at home. It just so happens that there are more women who are sex workers so that kind of imagery and that kind of metaphor seems to work -- because no man should rely on a women. If it was the other way around I wonder if the same language would be used; it might be the same law, but I wonder about the language... Can you imagine in a heterosexual marriage where only the man works and the wife stays at home, it's parasitic! We can parallel that in exactly the same way and certainly we would never do that (Maria Belen, sex work researcher and advocate of decriminalization).

There's a gender bias... I don't know if anybody has actually looked into it in terms of the numbers, but I would imagine that a woman who is supporting, in full or in part, a male partner through her earnings as a prostitute, she going to be seen as exploited and a victim more than if the roles were reversed or if the other partner were a female (Kara, current sex worker).

While the sex workers and allies I interviewed were nearly unanimous in their critique of areas of the procuring legislation, sex workers in other parts of the country have been more ambivalent. Extensive research (Allinott et. al., 2004) among current and former street-based sex workers in Vancouver's Downtown Eastside, which has the lowest per capita income in the country (GoC, 1996), one of the highest rates of HIV and hepatitis in the global north (Lowman, 2000) and is the site where over sixty women are suspected to have been killed in Canada's most grotesque serial murder case (Betteridge 2005; Lowman 2000), offers a different set of opinions. Those interviewed in the study described how it was important to have legislation that protects sex workers from exploitation and harm, but also acknowledged that aspects of the procuring legislation were detrimental to their safety.

For example, one Vancouver sex worker articulated: “The law should be worded so that it captures that aspect of pimping, the violent and exploitive kind of pimping” (Allinott et al., 2004, p. 10). Another stated: “I have a hard time saying whether or not the laws against procuring and living off the avails are wrong. Some guys are there to protect the working women, and some abuse them. I think that no one should be charged with living off the avails unless they are also abusing or assaulting the prostitute” (Allinott et al., 2004, p. 10).

However, case law has determined that abuse and coercion are not needed for a successful conviction (*R. v. Barrow*, 2001). Further, as Currie and Gillies argue, the procuring legislation is not necessarily the most helpful nor successful tool to prevent possible abuses such as sexual and physical assault or intimate partner violence. They posit that the procuring legislation is superfluous as other more comprehensive and effective criminal laws already target various aspects of abuse (Currie & Gillies, 2006).

Illegal Work: The Criminalization of Managers and Bosses

Research on street-based sex work in Canada has demonstrated that there is often a heightened risk of violence when working outdoors (Lowman, 2000; Lowman & Fraser, 1995; Miller, 1993) and that indoor work is often safer “primarily because a manager is almost always present” (Lowman, 2000, p. 995). However, the activities of managers, owners, and operators of many sex industry establishments are criminalized through various subsections of the procuring legislation (i.e. section 212[1] a, b, d, e, h). These provisions prohibit soliciting two or more people to have sexual intercourse, enticing someone to a bawdyhouse to engage in prostitution, and influencing someone to sell a sexual service. The criminalization of these activities makes agency managers and owners hesitant to call the police if there is an altercation at the worksite as police attention could lead to charges against them, in addition to the possible closure of the business itself (Benoit &

Millar, 2001). This fear is compounded by the fact that escort agency owners have indeed been charged with section 212(1)(j), or living on the avails of prostitution, even when coercion was not proven (Betteridge, 2005).

The sex workers and advocates of decriminalization I interviewed critiqued the procuring legislation for criminalizing the standard employer/employee relationship and for creating a labor context that forces sex workers to work independently. As explained below, however, not all sex workers want to work independently, and some prefer to have a manager to take care of the business aspects of the job:

Some people are really good at managing their money and other people want an accountant. Some people want to book their own calls and other people don't possess the skill or would rather not have that as part of their working experience... If it is illegal for people to do that kind of work, then you're taking away what could potentially be a safety net as well as basic structures in a work setting... Those are the basic options that we should all have - to be independent, to be working in a structured environment - with co-workers, managers etc. - to be freelance, those different options. Taking that away forces people to do things that they may not necessarily have the skills for or the desire to do (Keisha, advocate of decriminalization).

People sometimes ask me, "Kara, after working independently for many years why did you go back to working in the parlor?" And I say, "Because it was convenient." I went back to school and I didn't want to bother with the time and the energy and the money and resources necessary to run my own business, it was easier to go and do a couple of eight hour shifts - no muss, no fuss, did my shift, went home, fucked off, I was done. I didn't have the same safety concerns, I didn't have to invest

money upfront, it was excellent for me (Kara, current sex worker).

Not everybody has the resources or wants to work independently, some people want to go to work and just go to work. [The procuring legislation] makes it illegal for someone to be an entrepreneur and run a business. In Western society that's a right, [and] in most fields and is regarded as a virtue. Culturally and socially, it's seen as a good thing to do, to run a business and be a self starter and be self employed and employ others and all of that (Robert, current sex worker).

The criminalization of the employer/employee relationship exists in both licensed (legal) and non-licensed (illegal) sex industry establishments. It is commonplace in Canadian cities to have a set number of licenses for sex establishments; for example, there are twenty-five legal erotic massage parlors in the city of Toronto, the remainder are functioning illegally (CTMC, No. 574-2000, Schedule 31 [35]). Municipalities must claim that sexual services are not being bought or sold at the worksite, or else they are in contravention of the federal *Criminal Code* (Bruckert, Parent, & Robitaille, 2003; Lewis & Maticka-Tyndale, 2000). Nonetheless, research with sex worker populations in Vancouver indicates that “the true nature of these services is commonly known but... city council and police tend to turn a blind eye to the criminal offences that such businesses commit” (Childs et. al., 2006, p. 78).

Studies conducted by Childs et al. (2006) and Currie and Gillis (2006) indicate that despite the criminalization of the employer/employee relationship, sex workers in many sex industry establishments continue to have individuals that manage the business aspects of the work. In these instances, just as Canadian municipalities must deny that they are licensing the sale of sexual services, managers of adult establishments must also deny that sexual services are being offered, or else they risk procuring

charges. Sex workers are thus classified as “independent contractors”, thereby allowing managers to claim they were unaware of the services the worker was providing to clients⁵. Managers are also not able to fully inform potential clients about the nature of the business prior to booking the client for the sex worker. Essentially, this pushes the responsibility onto sex workers who then must engage in negotiations with clients once they are alone with them:

[The procuring law] means that managers or owners/operators aren't clear with the clients about the nature of the service. It means that often women are placed in situations where there they are in a private space with a client without having negotiated the terms and conditions of the service -- it could mean safer sex, it could mean price, it could mean the type of activities, it could be the length of time that you are spending -- and this is a real recipe for danger. Suddenly you are alone in a room or in a car or another environment with somebody who might have a completely different understanding of what is going to transpire than what your understanding is. This is simply because there hasn't been the opportunity for that negotiation to take place, particularly if it has been arranged through a third party who is wanting to protect themselves and build a little bit of a buffer by not being clear about what the services are (Kara, current sex worker).

This policy quagmire results in a context in which sex workers are left between a rock and a hard place. On the one hand, since they work in a situation that is characterized by an employer/employee relationship, whether licensed or unlicensed, they should be able to make claims under the provincial acts regarding employment standards, worker's compensation, and occupational health and safety. On the other hand, disclosure of their type of work to government bodies could result in workplace investigations that

could open themselves, their employers, and their co-workers to federal charges, or to the closure of the workplace itself (Childs et al., 2006). Given this context then, sex workers are left vulnerable to exploitative managers and bosses and rarely access the basic labor protections they are entitled to under Canadian law (van der Meulen & Durisin, 2008).

Despite the complicated and sometimes problematic relationships that can develop due to the illegality of the employer/employee relationship and the necessity of shifting responsibility from one party to another in order to prevent possible procuring charges, some of the sex workers interviewed in Toronto stated that they had good working relationships with their bosses and an affinity towards their agencies. As Julia, a current sex worker, put it, “I have a particular sense of loyalty to my agency, but that’s personal. In business sense or long-term sense, I don’t owe them anything. They are nice people, but if I fall on my high heels on the loose tiles on the floor I’m not getting very much help with that.”

The criminalization of common work-related activities and business relationships does not stop with managers and owners. Research conducted with escorts in Windsor, Ontario confirms that procuring can also be applied to a sex worker who brings a friend or co-worker at a client’s request (Lewis and Maticka-Tyndale, 2000). It is not uncommon for sex workers, when requested, to arrange “to have a colleague join in the sexual transactions. In addition to satisfying the client, the latter strategy provide[s] more protection for the worker” (STAR, 2006, p. 25). However, sex workers can be charged with procuring for gaining from facilitating prostitution though influencing someone to provide sexual services. Thus, the procuring legislation has far reaching work-related implications for sex workers’ managers and bosses, in addition to sex workers themselves.

Conclusion

As the interview excerpts above contend, the procuring legislation of section 212 and the prohibition of cohabitation and living on the avails of a sex worker's earnings further marginalizes and criminalizes sex workers' intimate and business relationships. As sex workers and allies have argued, the mythologies about pimps and the misunderstandings about the sex industry that underlie the procuring law has grave consequences for sex workers lives; managers need to deny the sexual nature of the work or else face possible charges and family members can potentially be charged for the simple act of living with a sex worker.

Similar to the findings from other Canadian research on sex work (Allinott et al., 2004; Betteridge, 2005; Bruckert, Parent & Robitaille, 2003; Childs et al., 2006; Jeffery & MacDonald, 2007; Lowman, 2005; Stella, 2007), the sex workers and advocates of decriminalization interviewed in Toronto unanimously argued that the laws that govern the sex industry do more harm than help. Their diverse backgrounds in the sex industry provided a highly informed level of expertise and knowledge, which grounded their important critiques of the current system. Indeed, areas of the procuring legislation were attributed to causing a decrease in workplace satisfaction and safety that, in turn, contributes to heightened stress and vulnerability. As such, sex workers and allies have clearly articulated that the procuring legislation of section 212 has detrimental effects on their lives, loves, and work.

The majority of the interview participants strongly advocated for the removal of the procuring section from the *Criminal Code* and to instead protect sex workers from exploitation and harm through other areas of criminal law and labor policies. For example, sex workers should be able to seek justice against a would-be exploiter under the kidnapping, forcible confinement, assault, and bodily harm provisions of the *Criminal Code* (Davis & Shaffer, 1994). Similarly, in situations in which a sex worker is under the complete control of her employer for accommodation, clothing, and food, but she is not receiving adequate wages from them, she should be

able to access both the federal extortion laws and the provincial *Employment Standards Act* (Childs et al., 2006). Further, if the risk of federal procuring charges was removed, it is more likely that sex workers would access the provisions that protect all workers from unsafe workplaces and dangerous work through the *Occupational Health and Safety Act*. Or, if indeed a sex worker were to harm herself at the worksite, she could access the *Worker's Compensation Act* without fear of possible criminal charges against her employer for merely being her employer.

However, some of the interview participants were hesitant to fully endorse a decriminalized system until the stigma and discrimination surrounding sex work is reduced. There was fear that if the prostitution-related laws were removed from the *Criminal Code* and sex work remained stigmatized, municipalities and provinces might increase the number and severity of penalties and bylaws aimed at the sex industry. As it currently stands, some cities and provinces are attempting to circumvent the *Criminal Code* and regulate aspects of the sex trade through zoning restrictions, high licensing fees, highway and traffic bylaws, and proceeds of crime legislation. It is possible that this would continue, if not increase, if decriminalization was not accompanied by ideological and perceptual changes. As such, while the interview participants saw decriminalization as key to increasing sex workers' basic rights and protections, there were some concerns and hesitations about when this goal should be realized; prostitution must be conceptualized in labor and human rights frameworks for legislative change to be fully effectual. As Bruckert, Parent, and Robitaille (2003) argue, "decriminalization alone does not ensure a safe working space for the women, nor does it guarantee the protection of their rights as workers. Other steps must therefore be taken in order to encourage the recognition of sex work... as legitimate forms of labor rather than deviance or exploitation" (p. 36).

In conclusion, this article argues in support of serious amendments to the procuring legislation so that sex workers can refer clients to other sex workers, find employment in safer workplaces where the employer/employee relationship is not criminalized, cohabit with family members and friends, and develop intimate relationships without the fear of putting their partners in legal jeopardy. Any and all legislative amendments or changes need to be created in consultation with sex workers. Indeed, as Childs et al. contended at the start of this article, “sex workers have a unique insight and expertise regarding their industry, the role it plays in Canadian society, and the ways in which regulatory schemes will impact their business” (p.9).

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² The views expressed in the publication are those of the author and do not necessarily reflect the views of the Ontario Ministry of Health and Long-Term Care.

³ Section 212(1)(a), (b), (c), (d), (e), (h), (j) and 212(3).

⁴ Section 212(2), (2.1), (a), (b) and 212(4).

⁵ In addition to avoiding procuring charges, employers often prefer to list sex workers as "independent contractors" for a variety of other reasons. For example, as "independent contractors" sex workers cannot join workplace health insurance plans and workplace unions, and employers can avoid paying some income taxes (Childs et al, 2006). Without a record of employment, however, sex workers are not eligible for Employment Insurance, the Canada Pension Plan, and Worker's Compensation (Sorfleet, 2005).