Sex Work and Canadian Policy: Recommendations for Labor Legitimacy and Social Change

Emily van der Meulen

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Abstract Sex workers are rarely considered expert consultants in policy development processes; instead, they often remain on the receiving end of harmful policy decisions. This article argues that sex workers' narratives and analyses of their lives and work should be the driving force behind attempts to answer the following question: What social and policy changes are necessary to improve sex workers' health, safety, and working conditions? As such, the findings from a narrative research study with sex workers (N=10) from Toronto, Canada, have been analyzed to compile five key recommendations to achieve labor legitimacy and social change. They include: conceptualizing prostitution as a form of sexual labor; the inclusion of sex workers in policy-making efforts; decriminalization and the removal of the prostitution-related offenses from the Criminal Code; the implementation of sex workerinfluenced workplace standards; and support for unionization and other forms of labor organizing.

 $\label{lem:words} \textbf{Keywords} \ \ Prostitution \cdot Qualitative \ research \cdot Action \\ research \cdot Decriminalization \cdot Health \ and \ safety \cdot Sexual \\ labor$

Canadian policies that attempt to prohibit prostitution are ambiguous at best. On the one hand, prostitution is not illegal and one can exchange sexual services for financial gain. On the other hand, most of the activities associated with it (including negotiating services with clients in public, word-of-mouth advertising and referrals, seeing clients at a fixed address, working for a third party, and sharing a work location) are criminalized under one of the four main prostitution-related sections of the *Canadian Criminal*

E. van der Meulen ()
Department of Criminal Justice and Criminology,
Ryerson University,
350 Victoria Street,
Toronto, ON M5B 2K3, Canada
e-mail: evandermeulen@ryerson.ca



Code (sections 210, 211, 212, and 213). Because many common work-related activities are criminalized, it can be particularly difficult to implement social and public policies that sex workers have identified as beneficial. Canadian sex workers, sex work allies, and sex work researchers have argued that the current policy arrangement, and the quagmire that surrounds it, harms rather than helps sex workers (Allinott et al. 2004; Betteridge 2005; Childs et al. 2006; Clamen 2005; Currie and Gillies 2006, unpublished manuscript; van der Meulen 2010). Indeed, it has been well established by sex workers' rights activists and researchers that social and policy changes are necessary in order to improve sex industry working conditions and to reduce incidences of violence that are too often the result of the laws that criminalize both workplaces and work activities, and not as a result of the work itself (Allinott et al. 2004; Betteridge 2005; Childs et al. 2006; Delacoste and Alexander 1998; Lowman 2005; Maggie's: The Toronto Prostitutes' Community Service Project 2006; Stella 2005).

Despite the desperate need to reform prostitution policy, Canadian policy makers and politicians have rarely actively solicited input from sex working communities in the policy development process (Committee on Sexual Offences Against Children and Youth 1984; Special Committee on Pornography and Prostitution 1985; Department of Justice—Canada 1989). Instead, sex workers have more often been on the receiving end of harmful and detrimental policy decisions and recommendations. In instances where sex workers have been allowed to participate in policy development, their suggestions for change have rarely, if ever, been implemented (Allinott et al. 2004; Clamen 2005; Maloney 2006; Stella 2005). The lack of attention to sex workers' narratives, and the negation of those narratives

¹ For example, the decision to criminalize communication for the purposes of engaging in prostitution (Department of Justice—Canada 1989) and the policy recommendations of the federal the Subcommittee on Solicitation Laws Review (Maloney 2006).

when expressed, can be situated in a larger discourse that conceptualizes sex workers as victims who lack agency and who are unable to make informed decisions on their own behalf (Barry 1995; Dworkin 1981; Ekberg 2004; Farley 2004; Maloney 2006).

The term "sex work" is used throughout this article in recognition of the diversity of individuals who work in a variety of sex industry jobs, including but not limited to adult entertainment dancers, phone sex operators, actors in adult rated films, erotic web cam operators, escorts, massage attendants, professional dominants and submissives, and street-based sex workers. Both the sex workers' rights movement and the sex worker's rights organization that supported the research presented in this article have informed this broad definition and understanding of what constitutes sex work (Delacoste and Alexander 1998; Maggie's: The Toronto Prostitutes' Community Service Project 2006). In some instances, I will also use the term "prostitution" where the differentiation of labor-activities is relevant to the context of the recommendation.

I argue that sex workers' narratives and analyses of their lives and work should be the driving force behind the answer to the following question: What social and policy changes are necessary to improve sex workers' health, safety, and working conditions? As such, the article opens with a brief introduction to both the sex workers and the narrative research study from which the five social, labor, and policy recommendations were developed. Next, the article turns to the recommendations, which, if realized, could improve sex workers' safety and working conditions as well as reduce social stigma and discrimination. Specifically, the recommendations focus on: (1) Conceptualizing prostitution as a form of sexual labor; (2) The inclusion of sex workers in policy-making efforts; (3) Decriminalization and the removal of the prostitution-related offenses from the *Criminal Code*; (4) The implementation of sex worker-influenced workplace standards; and (5) Support for unionization and other forms of labor organizing.

Narrative Research with Sex Workers

The sex workers (N=10) whose narratives contributed to, shaped, and molded the recommendations below live and work in Toronto, Canada. Their wide array of experiences in multiple sex industry establishments and sectors, over an average of 13 years working in the industry, make for particularly persuasive and informed suggestions for social and policy change. For example, six of the ten have worked at escort agencies (both in call, for example a bawdy-house, and out call, where the sex worker meets the client at an external location), five have worked as independent escorts (both in call and out call), four as

street-based workers, four as erotic massage attendants, three as exotic dancers, two as phone sex operators, and two in pornographic films. The majority of the participants identified as women (N=9).

The interviews were conducted as part of a larger study on the implications of criminalization in Canada (see van der Meulen 2010; van der Meulen and Durisin 2008). The sample was derived from non-probability convenience sampling, as all participants were current or former members of a local sex workers' rights organization. All interviews were conducted in-person, one-on-one and ranged from 45 minutes to 3 hours. The interview guide was semistructured and focused broadly on the effects of the Criminal Code on sex workers' lives and work as well as sex workers' own recommendations for labor organizing within the sex industry. The majority of the participants (N=6) chose to be identified by pseudonyms for reasons of confidentiality and anonymity. Legal names were recorded in instances where participants preferred to waive their anonymity, which reflected a desire to be personally and politically linked to the teachings, experiences, stories, and/or knowledge they shared during the interviews.

Upon completion of the interviews, grounded theory's constant comparison method was drawn on for coding and analysis (Charmaz 2000; Strauss and Corbin 1990). More specifically, a codebook was created after closely reading a portion of the transcripts. The codebook was further refined and developed as additional transcripts were examined. Codes were then grouped into various themed areas for narrative analysis, following which the themed areas were examined in relation to Canadian sex work research and international policies, in part, to develop recommendations for change. This process allowed for the triangulation of multiple sources to confirm and support the interpretation of the narrative data.

Since it is difficult to argue compellingly for large scale social and policy reform based solely on ten narratives, regardless of both the diversity of experiences and how knowledgeable the participants are, the final analysis was triangulated with sex work research in the following areas: qualitative and narrative research studies conducted with sex workers in British Columbia, Ontario, New Brunswick, and Nova Scotia; writings by and about sex work and sex workers in North America and internationally; and primary and secondary source material on Canadian, Swedish, Dutch, and New Zealand prostitution policies. Despite the extensive triangulation process, the study is limited in its findings as it only considered adult consensual sex work and it focused primarily on women. However, studies conducted on youth engaged in sex work (O'Connell Davidson 2005), women who are defined as victims of trafficking (Sutdhibhaslip 2002; Kempadoo et al. 2005; Agustin 2007), and male sex workers (Allman 1999) have



drawn similar conclusions and recommendations to those presented here.

In addition to employing a narrative research methodology, this study was also designed with an action-oriented approach whereby the sex workers interviewed were encouraged to participate in the study from inception to dissemination and the purpose of the research was to affect change (Brydon-Miller et al. 2003; van der Meulen 2011). The inclusion of sex workers' narratives and analysis of their lives and work was central to the study development and research process, both in terms of shaping the conceptual framework of the research generally, and also in terms of lending the results and recommendations greater experiential validity. Thus, an action research methodology with a narrative research framework was deemed to be the most useful approach to achieve the goal of promoting social and policy change through research.

This article understands narrative research to include the stories, perspectives, and testimonies of sex workers. as well as the process by which sex workers are actively listened to, in so far as the telling of their experiences can shape and mold new understandings and conceptualizations of sex work. The narrative methodology employed herein supports the assertion that narratives are an important source of qualitative data, which can help identify, illuminate, and explain social patterns and phenomena (Tolman et al. 2005). If Webster and Mertova (2007) are correct that "Stories contain knowledge that is readily put to use in the world" (p. 20) and "Narrative is a tool for transfer of knowledge" (p. 22), then an action-oriented narrative methodology would both record and analyze human experiences, and would develop practical and useful knowledge to provoke action for social justice. In the context of this article, then, narrative research is both about including sex workers' own voices and stories of their experiences in the publication itself, and about relying on their narratives to develop recommendations.

The recommendations highlighted below were developed through the analysis of the meanings and knowledge created through the interviews and external research. Riessman (1993) argues, "Meaning is ambiguous because it arises out of a process of interaction between people: self, teller, listener, and recorder, analyst, and reader" (p. 15). In order to offset some of this ambiguity and to increase the reliability and authenticity of the findings, full transcripts were given back to the interviewees to allow them the opportunity to make modifications, including adding, changing, or removing text. This process was important to ensure both the credibility of the transcript and for the extra assurance that participants were comfortable with their narratives as documented. Additionally, interview participants were given a written draft of the recommendations

for their feedback and to cross check for accuracy. As Reissman contends, "It is important that we find out what participants think of our work, and their responses can often be a sources of theoretical insight" (p. 66). In this instance, those who responded to the draft articulated their support of the recommendations as presented; any and all suggested changes or modifications were incorporated into this final version.

Recommendation 1: Conceptualizing Prostitution as a Form of Sexual Labor

First and foremost, until sex work is conceptualized in labor-based terms and the moralistic discourse that constructs sex workers as victims lacking agency is abandoned, it will prove to be difficult to achieve lasting policy and social change. Sex workers and sex work allies in Canada and internationally have clearly argued for the necessity of conceptualizing prostitution, and other kinds of sex work, as forms of sexual labor (Chapkis 1997; Childs et al. 2006; Kempadoo and Doezema 1998; Kempadoo 2004; Sanders 2005; van der Meulen and Durisin 2008; van der Veen 2001). Narratives from the Toronto-based sex workers engaged in this research emphasized the necessity of conceptualizing sex as work:

It seems pretty obvious that you have to see sex workers, in all the different sectors, as workers and treated with respect in that way by the law and by society generally, as productive workers. We are providing a necessary service [...] respect the integrity and the independence of sex workers generally.

-Alysa, current sex worker

Attitudes around it needs to change—socially, in our consciousness, in our community sense of what work is, what work is valid...

-Renee, current sex worker

They think it's not a real job because it is so delegitimized in every possible way... They don't put it back into the realm of labor. That happens with all forms of women's work but in the sex industry more so. It is totally delegitimated...

-Julia, current sex worker

Perceiving of prostitution as a legitimate form of work, as opposed to sexual exploitation or a morally questionable activity, shifts the discourse from one in which morality is central, into one in which workplace conditions and worker's rights are central (Wijers 2004).

If prostitution is conceptualized in this way, sex workrelated policies will change accordingly because, as



Ditmore (2005) posits, prostitution policies are shaped, influenced, and molded by prostitution ideologies; or as Sanders (2006) articulates:

Only when the place of prostitution in society is not considered the plight of the immoral or destitute, but a fixed feature of sexual behaviour, will policy move from the tone of moral disapproval or public nuisance to a realistic perspective that facilitates the provision of safe sexual services as work (p. 2443).

Indeed, in a context in which prostitution is seen and understood to be a form of labor, policies will focus on how to maintain and establish labor rights and labor protections for industry workers (New Zealand Prostitutes Collective 2004; Government of New Zealand—Department of Labour's Occupational Safety and Health Service 2004; Prostitution Reform Act 2003). Conversely, in a social context in which sex work is analogized to a form of gendered slavery, policies will consequently focus on how to best eradicate the sex industry and how to best "protect" sex workers (Ekberg 2004; Gould 2002; Kulick 2005; Svanstrom 2004).

Sweden provides an important example of a national policy framework that is shaped by a particular prostitution ideology. Embedded within and written throughout Swedish policies is a conceptualization that sex work is a form of sexual exploitation, so that clients, who are seen to be oppressing women, are criminalized but sex workers, who are seen to be victims, are not (Ekberg 2004; Gould 2002; Kulick 2005; Svanstrom 2004). For example, the April 2005 Ministry of Industry, Employment, and Communications' own fact sheet on prostitution contains the following opening sentence: "In Sweden, prostitution is regarded as an aspect of male violence against women and children. It is officially acknowledged as a form of exploitation... that constitutes a significant social problem, which is harmful not only to the individual prostituted woman or child, but to society at large" (Ministry of Industry, Employment, and Communications—Sweden 2005, p. 1). Indeed, the social view of the sex industry is that it is a "social evil" that needs to be eliminated (Wijers 2004). In this instance, the discourse that surrounds sex work shapes the policies put in place to criminalize clients and "protect" sex workers; from the Swedish perspective, sex work must be eradicated in its entirety along with other forms of violence against women. However, as will be discussed below, sex workers in Sweden and internationally have articulated that this policy framework is not in their best interest as it instead increases violence and stigma.

Conceptualizing sex work as a form of labor may diminish the ostracization and social intolerance that many sex workers face. Full social and legal acceptance of the sex industry and sex workers is imperative if we are to see long-lasting equitable changes. A social and political conceptualization of sex work through labor and human rights lenses, therefore, will prove to be fundamentally necessary and will allow for sex workers to legally and legitimately organize for improved rights, protections, and policies (Chapkis 1997; Kempadoo and Doezema 1998; Kempadoo 2004; Sanders 2005).

Recommendation 2: The Inclusion of Sex Workers in Policy-Making Efforts

In addition to, and building upon, a shift in the way sex work is conceptualized, it will prove essential to include sex workers themselves in policy development and reform processes. In an international context, some countries, for example New Zealand, have responded to and incorporated sex worker suggestions for policy change. Other countries, for example Sweden, have not actively engaged with sex workers' testimonies when modifying old and creating new policies. Similarly, in Canada, despite sex workers' lobbying to be included in the policy process, their narratives have not successfully shifted policy makers' perspectives.

Due to decades of advocacy efforts, sex workers in New Zealand were central to the consultation process that lead up to the 2003 passage of the Prostitution Reform Act, which removed criminal sanctions against prostitutionrelated activities (Healy et al. 2010; New Zealand Prostitutes Collective 2004; Government of New Zealand-Department of Labour's Occupational Safety and Health Service 2004). Further, a former sex worker was herself a member of parliament and voted in favor of the bill (Beyer 2003). The New Zealand conceptualization of sex work as a form of labor helped to facilitate a social context in which sex workers' narratives in support of decriminalization and improved workplace protections, including industry-wide standards and occupational regulations, were incorporated into policy (Government of New Zealand-Department of Labour's Occupational Safety and Health Service 2004; Prostitution Reform Act 2003). Even the Occupational Safety and Health Service acknowledged the collaboration of the government-funded New Zealand Prostitutes Collective, "who provided industry-specific information and understanding of the sex industry in New Zealand" during the creation of workplace safety guidelines, which were themselves based on ones developed, in part, by an Australian sex workers' rights organization (Government of New Zealand-Department of Labour's Occupational Safety and Health Service 2004, n.p.). The inclusion of sex workers' narratives and knowledges into the New Zealand policy change process provides an important example in which sex workers are considered active agents and influential participants in policy change.



Conversely, Sweden is a prime example of a policy context that did not solicit the input and advice of sex workers. Instead, sex workers in Sweden have argued against the criminalization of clients for the ways in which it leads to an increase in violence and stigma (Ostergren 2004). The criminalization of the purchasing of sexual services had led to a reduction in the number of clients (through fear of arrest and clients seeking sexual services in neighboring countries) and it is reported that those who are left are generally more violent and aggressive towards sex workers (Government of Norway 2004; Sambo 2001). This has further contributed to a market where some sex workers feel compelled to reduce their rates and are more likely to agree to sex without protection (Ostergren 2004). Street-based sex workers also report having to make split-second decisions about whether to accept a client's offer, as any conversation in public could lead to his arrest (Government of Norway 2004). Ostergren (2004) concurs, arguing, "clients are more stressed and scared and negotiation outdoors must be done in a more rapid manner. The likelihood of ending up with a dangerous client is thereby greater" (n.p.). Had sex workers' narratives been engaged with in the policy process, it is questionable whether the country would have pursued this particular policy framework. Lund (2007), for example, challenges the efficacy of the law and states, "Even though the law supposedly aims at protecting sex workers, it is evident that the main purpose of the law is to protect society from a perceived social ill" (n.p.). In Sweden, sex workers' narratives have been largely disregarded and the conceptualization that all sex workers are exploited victims prevails (Ekberg 2004). However, I argue that sex workers' knowledge and narratives should be forefront in the creation and adaptation of policy in order to ensure said policies reduce inequalities rather than increase them.

An important conceptual shift that could bring about improvements in the development of sex work policies is the recognition that sex workers have intimate insider knowledge of the sex industry that lends them greater authority to recommend lasting and beneficial legislative and social change. Sex workers are simultaneously the most overlooked and the most important people in the policy equation; sex workers' expert opinions, testimonies, and narratives should be the primary sources of data considered when developing new policy. As Childs et al. (2006) argue, "sex workers have a unique insight and expertise regarding their industry, the role it plays in... 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" (p. 9).

Despite the importance of sex workers' narratives in policy change, in a recent Canadian government review of the prostitution-related sections of the *Criminal Code*, called the Subcommittee on Solicitation Laws Review,

some sex workers who testified at the review hearings reported feeling tokenized, not listened to, and generally disregarded. This review was particularly important due to the extremely high levels of violence that sex workers in Canada have faced in recent years (Duchesne 1997; Lowman 1998; Maloney 2006). Some of the sex workers who testified identified a specific subcommittee member as being particularly unresponsive to their narratives. Below, sex workers discuss their experiences at the hearing and paraphrase comments made to them:

[He] asked a couple of inflammatory questions here and there but for the most part he sat there reading Time Magazine. When women are coming in baring their souls because they believe that something good might come from this and at great personal risk to themselves, in public, and [he] is busy reading Time Magazine that really tells you something!

-Valerie, former sex worker

His facial expressions were like, "This is a waste of time, why am I here, why did they even call us here?" He shut women down very quickly saying, "Well the law is this, the law is that. Deal with it." You know what? He was rude. He was rude to some women, just because we were sex workers. He was talking down to us. It was not nice.

-Sarah, current sex worker

Really. You had to wonder why he was even involved if he was so disinterested in what people had to say and if he had made up his mind so thoroughly. His body language! At one point, we were all sitting around the round table and he was at the head of the table, he actually spun his chair around so that his back was to us! He was staring off into the corner!

-Kara, current sex worker

In the end, the subcommittee's final report did not present recommendations for change that were supported by sex working communities (Canadian HIV/AIDS Legal Network, Stella and Maggie's 2007; Stella 2005).

Recommendation 3: Removing the Prostitution-Related Offenses from the *Criminal Code*

In Canada, where most of the activities associated with prostitution are criminalized (including managing, operating, and working at a bawdy-house, driving a sex worker or client to a place used for prostitution, sex worker-client communication in public, and living on someone's prostitution earnings) many sex workers are forced to work in substandard conditions in fear of violating both federal and municipal laws. A Canadian sex worker's rights



organization, Maggie's: The Toronto Sex Workers Action Project (2006), articulates:

These laws prevent us from negotiating safe work conditions and developing secure work sites, leading to violence, economic insecurity and poor work conditions. By continuing to criminalize our lives and work, Parliament sends the message that people working in the sex trade are deviant, disposable and undeserving of respect (p. 1).²

The criminalization of sex work though the *Canadian Criminal Code* contributes to a social context in which sex workers are discouraged from seeking support from many common social services. Sex workers often need to hide the nature of their work from public view or risk both arrest and social stigma. As Allinott et al. (2004) argue, "criminal laws... bar sex workers from full access to Canada's social agencies, such as healthcare, affordable housing programs, income assistance, and police protection" (p. 35). With decriminalization, and the removal of prostitution-related offenses from the *Criminal Code*, sex workers might be more likely to disclose their work status and access support when and where needed.

Decriminalization, as the Canadian and international sex workers' rights movement has argued, is in the best interests of sex workers and of the general public (Allinott et al. 2004; Betteridge 2005; Chapkis 1997; Childs et al. 2006; Currie and Gillies 2006, unpublished manuscript; Delacoste and Alexander 1998; Kempadoo and Doezema 1998; Lowman 2005; Nagle 1997; Pheterson 1989; Shaver 1988; van der Meulen 2010; van der Meulen and Durisin 2008). The Toronto-based sex workers interviewed were strongly in support of decriminalization:

Bottom line is that I would decriminalize prostitution and make it safer and easier for women and men to work.

-Sasha, current sex worker

Even amending it slightly wouldn't be enough... there is so much that is actually dangerous about it. [...] I don't see how [the Criminal Code] can be changed without being struck down completely. They just seem so incredibly backwards right now.

-Alysa, current sex worker

I would repeal [the laws] entirely. I think it's really punitive and it doesn't make sense in a country that never criminalized prostitution itself to have so many criminal sanctions against working in prostitution.

-Robert, former sex worker

I don't think they are really necessary. [...] If you deny people rights and you criminalize them and make what they're doing illegal, it's not going to accomplish what the objectives of the law are. [...] There are other ways to deal with the issues that those laws were designed to address. A lot of these prostitution laws are not useful or necessary, they cause more harm... So it's probably in everybody's best interest to get rid of it.

—Julia, current sex worker

Decriminalize completely. There are already laws out there for predators, for folks who commit violence against another individual, for forcible confinement, there are assault charges... There are all these laws on the books already.

-Lisa, current sex worker

There are two main ways that decriminalization can become a reality in the Canadian context. First, in order to make a new law or change an existing law, a bill needs to be drafted by the government or a Member of Parliament. The bill will need to pass through three readings of the House of Commons, where it will be read, debated, and studied, before being sent to the Senate for a similar process. If approved at both the House of Commons and Senate levels, it will become a law. Second, if an individual is charged with one of the prostitution-related offenses, he or she can argue that the law violates their protected rights under the Canadian Charter of Rights and Freedoms.³ They can continue the "Charter Challenge" to the provincial Superior Court level and then up to the Supreme Court of Canada who will make the final decision about whether or not the individual's claims are valid. If the Supreme Court rules that the law violated the individual's Charter protected rights, they can have the laws removed from the Criminal Code. This process takes many years and requires a substantial amount of resources. At the time of writing, a Charter Challenge in Ontario had resulted in a provincial Superior Court ruling that the laws do indeed violate sex worker's rights and should be removed. The federal government appealed the decision and the provincial Court of Appeals is currently reviewing the matter.

Allinott et al. (2004) contend, "Striking down the prostitution laws is a critical step, but is not exhaustive of the actions required to remedy the disadvantage and marginalization experienced by sex workers in Canada" (p. 35). Therefore, while decriminalization and the removal of the prostitution-related offenses from the *Criminal Code*

³ The Canadian Charter of Rights and Freedoms is the highest law of the country. As such, all levels of courts and legislatures must conform to the Charter in their actions and proposals for legal reform (Department of Justice—Canada 2008).



At the time of the press release (2006) however, it was called Maggie's: The Toronto Prostitutes Community Service Project.

is imperative for the reduction of exploitation in the sex industry, it is not the only necessary action. Provincial and municipal governments must consult sex workers in the decriminalization process or it is possible, even likely, that the provinces and cities might implement even more stringent and problematic policies. Specifically, provincial Highways and Traffic Acts, various employment and labor policies, municipal bylaws including zoning and business regulations, and sex industry licensing schemes should all be reviewed for their impact on sex working communities. As Childs et al. (2006) postulate, "Criminal law reform will be most effectively carried out if all levels of government... contemplate how areas of law that fall within their jurisdiction will play a role in creating a safe and legitimate sex industry" (p. 9). Therefore, prior to or in conjunction with the removal of Criminal Code offenses, sex worker activists, allies, and researchers along with politicians and policy makers should consider the policy implications of decriminalization at different levels.

Speculation into the Canadian context post-decriminalization is difficult. However, despite political differences between Canada and New Zealand, for example New Zealand is unicameral, an analysis of decriminalization and the effects of the *Prostitution Reform Act* can help to elucidate what such a profound legal, social, and political transformation might look like in other jurisdictions. Indeed, government and other reviews of sex work in New Zealand's post-decriminalized context have shown very favorable results (Abel et al. 2010; Fitzharris et al. 2008).

Recommendation 4: The Implementation of Sex Worker-Influenced Workplace Standards

Sex workers in indoor establishments have few legal avenues to protect themselves from exploitative labor conditions and practices (Benoit and Millar 2001). As such, workplace policies to protect and ensure labor rights are particularly important for sex industry workers. In Canada, there are key provincial policies that can support the improvement of sex industry working conditions; Ontario examples include the Employment Standards Act (ESA) and the Occupational Health and Safety Act (OHSA) (Government of Ontario-Ministry of Labor 2009a, b). The ESA outlines the minimum standards that both employers and employees must follow in the majority of workplaces. Specific areas covered by the ESA include hours of work, mandatory rest and eating breaks, minimum wages and overtime, holidays and vacation, as well as parental, family medical, and personal leaves (Government of Ontario-Ministry of Labor 2009b). The Employment Standards Act is particularly important in non-unionized workplaces where there is no collective body that represents workers' rights and ensures that minimum standards are being upheld. Despite the criminalization of many work-related activities, sex workers' employers need to ensure that sex industry workplaces meet the requirements set out in the ESA.

The second key labor policy, the OHSA, sets out the rules and responsibilities of workplaces regarding safety, standards, and provisions for conduct including handling hazardous substances and violence. The OHSA further stipulates that it is both employers' and workers' responsibility to support and enforce the provisions of the Act (Government of Ontario—Ministry of Labor 2002, p. 2). Employers and workers are to form workplace partnerships in an "internal responsibility system" based on the understanding that "workplace parties themselves are in the best position to identify health and safety problems and to develop solutions" (Government of Ontario-Ministry of Labor 2002, p. 2). The "partnership" model might work for many, perhaps even most, workplaces, however, within stigmatized and precarious sex industry establishments where aspects of the employer-employee relationship are criminalized, this model might not be the most effective or successful. When workplaces are concerned about federal bawdy-house and procuring charges, the establishment of a "health and safety representative" and "joint health and safety committees", as the OHSA instructs, might not be on the top of their priorities list. And yet, sex workers and sex work researchers have articulated a correlation between workplace enjoyment and health and safety standards (van der Meulen and Durisin 2008).

If the provisions in the OHSA and ESA were enforced in sex industry workplaces, sex workers could see improvements that include the implementation of basic standards of cleanliness, the right to refuse unsafe work, being paid for all work requirements, and the ability to have standard breaks, all of which have been identified by sex workers as important in industry workplaces:

Just cleanliness, generally, in the areas where the dancers go, the change rooms. We're often walking around barefoot. So a minimum standard of cleanliness, maybe hiring a cleaner... It should be a clean place to work.

—Alysa, current sex worker

Having the right to refuse work, having someone tell you that is a very powerful thing. Sex workers don't have anyone saying that. They have nothing, nothing like that. [...] Any indoor establishment should have things like fire plan, things like that. [...] We should have all of our work paid for which doesn't happen in massage. The women in these parlors are doing laundry and doing these things unpaid.

—Julia, current sex worker



Policies would need to put in place to allow for breaks... I think the same type of labor laws that apply now for other industries would need to be put in place for the sex industry.

-Lisa, current sex worker

In a decriminalized context, with the cessation of fear of criminal charges, establishments where sexual services are provided might be more likely to increase compliance with provincial workplace polices. This greater compliance with basic protections can, in turn, promote greater workplace satisfaction for sex industry workers. It would be advisable prior to and during the decriminalization process that one or more committees be struck to review the ESA and OHSA in order to assess their impact on sex industry establishments and to determine how and where provisions and activities could be modified or updated accordingly. It is recommended that sex workers are included in the review committees as their insider knowledge could prove to be an invaluable source of information.

Again, the New Zealand case study provides a valuable example of the direction in which Canadian provincial health and safety policies might develop. The Prostitution Reform Act set as its primary objective the decriminalization of the industry so as to safeguard sex workers' human rights and promote occupational health and safety (Prostitution Reform Act 2003). The wording of the Act makes clear that prostitution is work and prostitutes are workers. Since decriminalization has come into effect, New Zealand sex workers have participated in the creation of Occupational Health and Safety Guidelines and they work in more safe and secure environments (Clamen 2005; Government of New Zealand—Department of Labour's Occupational Safety and Health Service 2004). As the New Zealand case study demonstrates, when sex workers are recognized as sexual laborers deserving of full labor rights and protections, government officials and committees are more likely to include them in decision-making and policy review processes.

Recommendation 5: Unionization and Other Forms of Labor Organizing

In addition to the protections outlined in the provincial labor policies, sex workers could see dramatic workplace improvements from the establishment of industry or sector-wide unions and professional associations. Indeed, trade union organizing, association building, and general labor organizing could be key in establishing and maintaining appropriate workplace policies that are defined and endorsed by sex workers themselves. Unionized workplaces have job classifications in their collective agreements so

that any worker doing a particular job is automatically considered an employee and eligible for the rights and benefits as outlined in the agreement. The collective power of multi-stakeholder unions can assist sex workers in their struggle for labor legitimacy and more specifically, in the struggle for employee recognition. Narrative excerpts from the Toronto-based sex worker interviews showed clear support for forms of unionization:

Ideally, you have one massive union that everybody supports... that's the only way to do things is to galvanize everybody. You've got to have strength in numbers with stuff like that.

—Sasha, current sex worker

I think you have to be a collectivity otherwise you don't have any power. [...] Unions are the only proven way to achieve labor rights and standards. To get a union job it's a blessing these days! They have all these lovely benefits attached to them.

-Julia, current sex worker

Organizing unions for any workplace is really important to feel like you have support and to feel like you don't always have to fight your battles alone. Sex workers are constantly fighting battles. It would be nice to have some kind of support system set up.

-Renee, current sex worker

People who are unionized obviously have better benefits so if people can get unionized workplaces obviously they would have increased protections.

-Robert, former sex worker

Sex work unionization is not a new phenomenon. Canada's first exotic dancers union, the Canadian Association of Burlesque Entertainers (CABE), was founded in Toronto in 1979 (Sorfleet 2005). During the 3 years of its existence, the Canadian Labor Congress officially recognized CABE as Local 1689 (Sorfleet 2005). In addition to dancers, Childs et al.'s research has demonstrated that street-based sex workers are highly in favor of unionization; there was unanimous support for a sex worker union among streetbased research participants working in Vancouver's Downtown Eastside (Childs et al. 2006). Some indoor sex workers in Childs et al.'s study, however, expressed reservations about unionization for fear of loss of independence and possible reduced wages (Childs et al. 2006). Like other workers in Canada, sex workers should be afforded the right to join or form a union at their workplace if they so choose.

In instances where sex workers prefer not to unionize, they should be entitled to join a professional association and work collectively with others in their sector for improved standards and conditions. In addition to unionization, some of the sex workers interviewed argued in favor



of sector-specific associations and organizations to promote sector-specific rights:

Professional associations... would be an option for people who want to work independently, either as self-employed or as independent contractors.

-Kara, current sex worker

Some kind of association, like a sex worker guild, could oversee, and take complaints, and make sure [labor regulations] are dealt with by the provincial government... It could even have some kind of legal mandate to be able to force the government to listen and deal with that particular problem.

-Valerie, former sex worker

Professional associations of current and former sex workers can facilitate the creation of industry and sector-wide standards by and for sex workers. Professional associations can further provide labor legitimation and can assure that minimum training requirements have been met. Associations can also create requirements and certifications that might make it easier for sex workers to be able to work in any province of their choosing (Sorfleet 2005). Indeed, associations could benefit sex workers who want to work independently but who also see the potential advantage of collectivized guidelines and industry standards.

Conclusion

Sex workers' narratives and knowledge, in combination with Canadian and international research and writing, have been compiled to answer to the following question: What social and policy changes are necessary to improve sex workers' health, safety, and working conditions? In response, this article puts forward five recommendations for labor legitimacy and social change: a conceptualization of sex work in labor-based discourses; actively engaging with and including sex workers and their narratives in policy reviews and reform; removing the prostitution-related sections from the *Criminal Code*; creating sex worker-influenced workplace standards; and supporting sex worker labor organizing, unions, and associations.

In an ideal scenario the actualization of the recommendations would occur relatively simultaneously or in relative conjunction with one another; each recommendation will be best realized if implemented concurrently. For example, sex worker unionization and association building will be much more successful in a decriminalized context otherwise many common workplace activities, which would be protected in the collective agreement, would be illegal. Similarly, sex work needs to be conceptualized in labor-

based terms prior to and in conjunction with changes to provincial *Occupational Health and Safety* and *Employment Standards Acts* or else it is possible, even likely, that the changes will be imbued with problematic and patronizing protections that sex workers have articulated to be not in their best interest. Since the immediate and simultaneous realization of these recommendations is unlikely to happen, a process of "relentless incrementalism" might prove to be more effective (Battle 2001).

According to Battle (2001), policy and social change that happens at a relentlessly incremental pace is a successful strategy when "big-bang reforms" fail. He defines relentless incrementalism as a process "consist[ing] of strings of reforms, seemingly small and discrete when made, that accumulate to become more than the sum of their parts. Relentless incrementalism is purposeful and patterned, not haphazard and unintended" (Battle 2001, p. 39). In other words, focusing on realistic, consistent, and small-scale changes that culminate in much larger aims and objectives could prove to be effective in initiating lasting and beneficial social and policy change. For example, while decriminalization could happen relatively overnight though a pronouncement of the Supreme Court of Canada, it could also happen though a series of smaller social and policy changes that lead to a groundswell of public support for sex workers' rights.

Narrative research can play an important role in the relentlessly incremental process. The inclusion of sex workers' narratives for social change, if incorporated into policy-making efforts, could slowly shift the conceptualization of sex work to one in which sex workers are seen as expert consultants and agents of change, which can in turn increase public support for sex workers' rights. The recent growth of the use of narratives in research (Lieblich et al. 1998; Webster and Mertova 2007) optimistically signals an increased recognition of the importance of including the voices of communities in both research and policy development. As suggested by the sex workers interviewed, policy and social change regarding the sex industry should be contingent upon the support, participation, and consultation of sex workers. The social marginalization and ostracization of sex work and sex workers will only begin to diminish if there is a shift in the way we conceptualize the industry and we remove the criminal sanctions, regulations, and social stigma that penalize them. Further, sex workers' labor and social vulnerability can be assuaged through the establishment, implementation, and enforcement of workplace health, safety, and occupational policies in addition to sex worker unionization and association building. Narrative research is instrumental in the realization of these goals as it ensures that sex workers' voices and analyses are included in discussion of labor legitimacy and social change.



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