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Buy Me Love: Realizing the Economic Potential of Sex Work Decriminalization

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Preface

Not long ago, same sex marriage in Canada was illegal. Same sex couples experienced discrimination, were labeled as inferior, suffered from harm and violence and were prohibited from marriage and family creation with the consenting adult of their choice. However, in 2005, same sex marriage was legalized (“Bill C-38: The Civil Marriage Act (LS-502E),” n.d.). This spawned an array of changing attitudes around LGBTQI rights that transformed same sex couple status in our society and created a more tolerant, respectful and prosperous Country as a result. So much so that World Pride 2014 will be held in Toronto, Canada (“Tourism Toronto | World Pride 2014,” n.d.).

Changed attitudes and perceptions toward LGBTQI rights created a more inclusive Canada for more people who live here. This inclusivity also generated vast economic gains; Gay Pride grew into a multi-million dollar source of revenue, with unofficial estimated revenues for Toronto’s Pride Week 2010 alone estimated in excess of \$136 million.

Like same sex couples prior to 2005, sex workers today face regular stigmatization, experience discrimination, are labeled as inferior, and suffer from harm and violence. Sex workers are perceived as criminals whose basic human rights are not observed or respected: “For some, being ‘marked’ or labeled as a ‘prostitute’ is experienced as a mark for life — a label that cannot be shed, and one that is a constant reminder of one’s inferior status in the world”. Due to this lack of acceptance or, at very least, tolerance, for professions some may find personally immoral, many sex workers (female, male and transgender) suffer maltreatment and abuse, feel unsafe requesting police protection and are precluded from practicing their personal freedoms such as the right to practice the profession of their choice, the right to freely negotiate services and the right to personal security. Such conditions are neither innate nor exclusive to sex work; they are rather the outcome of the stigmatization of sex workers (“Redefining Prostitution as Sex Work on the International Agenda,” n.d.). This lack of acceptance and equal respect for all citizens’ rights regardless of their personal choice of profession increases sex worker vulnerability to harassment, violence and other forms of ill treatment (Monto, 2004).

Improved attitudes and perceptions toward sex workers and sex worker rights will create a more inclusive, more open and accepting Canada. This inclusivity will generate economic gains. To this end, the outcome of the Bedford v. Canada case, which will appear before the Supreme Court in June of 2013, although a civil rights issue, may also affect Canada’s economy.

Bedford v. Canada

In March 2007, Terri Jean Bedford, Amy Lebovitch and Valerie Scott launched their case at the Ontario Superior Court of Justice pursuing the removal of three laws from the Canadian Criminal Code: s. 210 (communication for the purposes of prostitution); s. 212(1)(j) (living off the earnings of prostitution); and s. 213(1)(c) (bawdy houses). In what has become known as the Bedford vs. Canada case, the three argued that because it is legal to work as a sex worker, it is a violation of their rights under the Canadian Charter of Rights and Freedoms that the above laws criminalize many activities associated with sex work to the point that these laws make it essentially “impossible for sex workers to work in a safe and secure environment” (“Legalization vs. Decriminalization | Stella,” n.d.). They argued that these prostitution laws contradict sex workers’ Charter rights to liberty and security of the person and freedom of expression (Ibid) protected by the Canadian Charter of Rights and Freedoms. **Exhibit 1** displays the Charter articles in question.

Canadian Charter of Rights and Freedoms

Exhibit 1

Fundamental Freedoms

2. Everyone has the following fundamental freedoms:

- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication

Legal Rights

7. Everyone has 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

In September 2010, Justice Himel resolved that the above-challenged laws are unconstitutional. Then, in March, 2012, the majority decision of the “Ontario Court of Appeal stated: a) s. 210, which talks about communication for the purposes of prostitution, is unconstitutional and can no longer be used to arrest people involved in prostitution; b) s. 212(1)(j), which describes living off the earnings of prostitution, is unconstitutional but should be re-written and reinterpreted through the lens of exploitation; and c) s. 213(1)(c), which refers to bawdy houses (or brothels), is constitutional and should remain in the Criminal Code”; however, this decision was challenged by the government in July of 2012 (Ibid).

Consequently, in June 2013, the Bedford v. Canada case will continue to the Supreme Court of Canada (SCC). The SCC decision will be final and will apply to all provinces and territories in Canada. (“Legalization vs. Decriminalization | Stella,” n.d.) The outcome may result in policy and regulation gaps in need of immediate address with implications on various social and economic states of affairs.

Should decriminalization be achieved, sex workers, their clients and other sex work industry employees will enjoy full labour rights and protections, the ability to communicate boundaries and advertise services, the capacity to hire assistants, managers, body guards, drivers (creation of jobs), and access to police and court protection from violence and maltreatment. Nevertheless, the courts may also decide to uphold the laws as they stand today or to partially strike these laws down or amend them. If the above-mentioned laws remain as they are today, sex workers will continue to experience employment within a criminalized environment and will not be able to enjoy the same rights and protections afforded to other Canadians. Our economy will also lose potential profits both direct (taxation, increased employment opportunities, long term investments etc...) and indirect (improved human capital, healthcare savings, decreased arrests). Another possibility is that the courts strike down some of the laws but not others. Depending on which laws are discarded and which remain upheld (and in what manner), the outcomes for sex workers, their clients and Canada's economy will change to reflect any legal modifications.

It is worthy of note that, while provinces and municipalities struggle with today's precarious economic climate, Canadian sex workers and the underground economies that have arisen around them fight for factual and legal recognition and protection of their basic human and labour rights — asserted and recognized not only under the Canadian Charter of Rights and Freedoms and the respective Human Rights Codes adopted by the provinces, but also Human Rights International instruments.¹

Sex work industry and the economy

Sex workers toil inside an informal economy. Formalization of the sex work economy will profit Canada. Sex work decriminalization will grow Canada's economy through additional revenue from increased tourism, personal and business income tax, business permit applications and renewals as well as the extra jobs created through decriminalization of third party involvement, such as drivers, body guards, administrative assistants and book keepers whose occupations will create additional tax revenue. Overall long-term health care cost savings will be realized through risk and harm reduction opportunities as well as early health intervention. Reduced rates of arrests for newly decriminalized activities, will also equal overall cost savings. Decriminalization may also save customers money; sex workers could opt to charge lower fees should the risk of working in a criminalized industry wane.

Buy Me Love examines the fiscal possibilities of sex work decriminalization, discusses the overall enhancement possibilities – the 'big picture' – of sex work decriminalization and provides broad recommendations for successful sex industry integration into mainstream service class industry standards. Pending the June 2013 Bedford v. Canada decision, further economic analysis may be needed into policy areas such as private vs. business licensing, labour policy,

¹ It should be noted here that international instruments recognized and ratified by Canada should have the same force as the Charter. Also, when a country does ratify an international instrument this becomes law of the country and local courts should abide.

taxation policy, immigration policy, and public health, as well as their intersections with various types of sex work, with comprehensive recommendations for particular policy areas that affect specific sex industry sectors (bawdy houses, massage parlours, street workers, sex work and migration, managers and other third party employees).

While these are numerous multi-faceted issues, *Buy Me Love* examines the sex work industry through a refined gaze at this specific segment of the underground economy in order to pinpoint sex industry economy drivers and define the economic impact of sex work decriminalization.

Introduction

The geography of sex work around the world is a well-studied field of research. Whatever the legal position, one fact remains consistent: criminalized or decriminalized, the sex work industry is an economic market that creates employment opportunities for support and administrative staff (such as assistants, drivers and body guards) and provides sought-after services. These characteristics manifest across geography: some areas enjoy full sex work decriminalization, such as New Zealand, while others, like Canada, manifest an array of criminalized activity surrounding sex work. If sex work is managed with open-mindedness, respect and inclusivity for all types of employment and career choices made by consenting adults, the sex work industry stands to enhance and compliment Canada's vibrant culture of diversity and inclusivity.

In their *Beyond Decriminalization: Sex Work, Human Rights and a New Framework for Law Reform* report, PIVOT Legal Society stresses: "... if the criminal laws governing sex work are repealed, a whole range of civil laws, both provincial and municipal, will become applicable to the sex industry" (Garmaise, David 2006 p. 10). Such laws, policies and regulations include revenue generation from business and income tax, professional establishment permit applications and renewals, added tourism income, increased income for businesses in and around potential red-light districts (or other sex service cluster areas) and job stimulation (decriminalization would allow sex workers to hire office assistants, drivers, body guards, cleaners, agents, bookkeepers etc...). Savings would further result from the lack of arrests of sex workers, their clients and others in the sex work industry (such as third party managers, sometimes referred to as "pimps").

According to the Martin Prosperity Institute, cities with higher levels of tolerance, talent and technology fare better economically. It stands to reason: a city with greater acceptance and respect for all its residents (given a similar pool of talent and technology) will fare better economically than one that does not extend inclusive practices to all of its legal professions. In line with the Martin Prosperity Institute's views, service class and Creative Class economies flourish in one another's presence and cities with greater Creative Class populations have stronger economic prospects for all kinds of jobs than cities with reduced Creative Class communities.

The first section of this report will conduct an analysis of current considerations around Canada's sex work industry and its implications for sex workers, their employees, their employers and their clients.

The second section will analyze the economic impact of relieving complications faced by sex workers and propose broad recommendations to enhance sex work industry working conditions to integrate the informal sex work economy into Canada's formal economy and how such integration can make Canada a more prosperous Nation.

What is the sex work industry?

While the sex work industry can be defined in many ways, *Buy Me Love* defines it in reference to all areas of the sex industry including workers who provide direct sexual services as well as their staff and management.

Sex industry activities include (but may not be limited to): direct sale of sexual services, organizing, operating or managing sex industry businesses, or receiving direct financial gain from sex worker labour (sometimes defined as 'living off the avails').

What does sex work decriminalization mean?

STELLA, a Montreal-based Sex Worker advocacy organization, describes sex work decriminalization as "the removal of all criminal laws that prohibit selling, buying or facilitating (procuring) sex work." ("Legalization vs. Decriminalization | Stella," n.d.).

In recent years New Zealand became the first country in the world to fully decriminalize sex work (2003). Sex work, Bawdy house operation and third party management are also all legal in Ecuador, Germany, Greece, Indonesia, the Netherlands, Nicaragua and Venezuela ("100 Countries and Their Prostitution Policies — Prostitution — ProCon.org," n.d.). **Exhibit 2** describes some of the different approaches to sex work and the law ("The Law of Sex Work," n.d.).

Terms, definitions, and how they are viewed by sex worker rights activists

Exhibit 2

Term	Definition	How this option is viewed by sex worker rights activists
Legalization	Often refers to a system of criminal regulation and government control via licenses and permits that allow sex workers to work in specific and often limited ways. Thus, laws may regulate sex worker businesses and lives, prescribing health checks and registration of health status, where sex workers may or may not reside, etc.	Sex worker rights activists use the term legalization to refer to systems of state control and view such regulation of the industry or certain aspects of the industry as a form of sex worker disempowerment to freely choose where and how to deliver their professional services.
Decriminalization	Often refers to the removal of laws against prostitution. Total decriminalization refers to the repeal of laws against consensual adult sexual activity, in commercial and non-commercial contexts and all the activities that support this.	Sex worker rights advocates call for decriminalization of all aspects of sex work. Advocates and representatives of the sex work industry support sex workers' rights to work and liberties to choose management, also stating that laws against "pimping" (living off the avails) prevent sex workers from forming their businesses and organizing safer work practices. Advocates and representatives support the repeal of current laws that interfere with sex worker rights to freedom of travel and freedom of association and call for stronger enforcement of laws against fraud, abuse, violence and coercion to protect sex workers from abusive, exploitative partners, clients, and management.
Regulation	Typically refers to the criminal regulation of sex workers; however, sex worker rights activists also refer to regulation in terms of both civil regulation and self-regulation.	Sex worker rights activists call for sex worker self-regulation of sex worker industries, and civil code sex worker industry regulations regarding the conditions and rights of workers.

Sex work in Canada

While the exchange of sexual acts for money is legal in Canada, almost every activity adjacent to such exchange is not. The *Criminal Code* of Canada prohibits communicating for the purposes of prostitution in public (s. 210 "communicating"), the use of indoor workspaces (s. 213 "bawdyhouses"), the transportation to a working space (s. 211) and managerial and/or collective activities (s. 212 "procur-ing"). In practical terms, this means that a sex worker cannot hire a book keeper or a body guard, a driver or a receptionist, a manager or a graphic designer to assist them in their work activities. To be precise, in practice, current Canadian laws do not allow for practiced sex work without legal obstruction as the control of associated activities restricts and severely limits sex workers' abilities to make choices

concerning where they can work and under what circumstances. Consequently, the Canadian Sex worker rights movement has fought for sex worker rights and sex worker industry decriminalization for over the past 30 years. Sex worker rights advocacy organizations include COYOTE (Call Off Your Old Tired Ethics) (“Prostitution Issues: COYOTE: The Sex Workers’ Rights Organization,” n.d.) who supported and instigated at least 26 law suits on behalf of sex workers, (Jenness, 1990), POWER, Stella, Maggie’s Toronto, and many others some of whom will be mentioned in the body of this publication.

Abridged history of the sex work industry rights movement in Canada

Exhibit 3

Year	History of the sex work industry rights movement in Canada
1982	Creation of the Special Committee on Pornography, otherwise known as the Prostitution Fraser Committee
1990	Creation of the Federal/Provincial/Territorial (F/T/P) Working Group on Prostitution
2003	Subcommittee on Solicitation Law Review (SSLR)
2007	Terri Jean Bedford, Amy Lebovitch and Valerie Scott commenced their case at the Ontario Superior Court of Justice pursuing the removal of three laws from the Canadian <i>Criminal Code</i> : · s. 210 (bawdy house); · s. 212(1)(j) (living on the avails); and · s. 213(1)(c) (communicating in a public place for the purposes of prostitution)
2007	The Downtown Eastside Sex Workers United Against Violence and previous sex worker, Sheri Kiselbach, challenge a wide range of criminal laws on prostitution at the Supreme Court of British Columbia
2010	With regard to the Terri Jean Bedford, Amy Lebovitch and Valerie Scott case: Justice Himel decides that the three challenged laws are unconstitutional under s. 7 of the <i>Canadian Charter</i> , and that the “communication law” is unconstitutional under s. 2(b) of the <i>Charter</i> .
2012	The majority decision of the Ontario Court of Appeal states: a) s. 210 is unconstitutional and can no longer be used to arrest people involved in prostitution; b) s. 212(1)(j) is unconstitutional but should be re-written and reinterpreted through the lens of exploitation; and c) s. 213(1)(c) is constitutional and should remain in the <i>Criminal Code</i> .
2012	The Ontario Court of Appeal decision is challenged
2013	Bedford v. Canada: Supreme Court will hear <i>Bedford v. Canada</i> . This judgment will be final.

Sex work is work: Problems with the current system

Like other areas of employment and career choices, sex work can provide economic autonomy, contribute to positive self-esteem and provide a range of constructive employment options for adults who choose the profession of their free will as a legitimate form of employment for consenting adults. And, while exploitation exists in many industries, sex workers are entitled to the same labour and legal rights and protections as all other workers. Nevertheless, due to the criminal status of certain sex work aspects, sex workers cannot enjoy the benefits accessible to other workers through safety regulations, the right to regular work hours, leave benefits, the right to worker's compensation through the Workplace Safety and Insurance Act, and the right to unionize through the Labour Relations Code. In June 2013, the courts could choose to instruct governments to make sure sex workers can enjoy the aforementioned benefits and securities.

The solution cannot be to simply 'turn a blind eye' to the sex work industry. Instead, it is to enable those in the industry who want to and are able to create employment opportunities (for office assistants, drivers, bookkeepers and other support and administrative professions) to hire employees, connect with clients and advertise their services in a supportive, safe and sustainable environment for everyone.

Problems within the current system fall into two broad categories: Economic and Social. These categories are briefly outlined in **Exhibit 4**.

Economic and social effects of the current system

Exhibit 4

Category	Economic	Social
Issue with the current system	As a result of current sex work related criminalization, much of the income and proceeds from the sex work industry remain inside the underground economy and thus do not directly profit the city's economy and also stand in the way of legitimate personal investments such as the purchase of a home, an automobile (due to lack of credit rating and tax return proof of income) and Registered Retirement Savings as well as share in Employment Insurance for sex workers who might find themselves unable to work.	Due to current criminalization of aspects directly related to sex work, sex workers often find it difficult to access housing, bank loans, credit or insurance ("The Laws of Sex Work," n.d.). Likewise, criminal charges shatter sex workers' capabilities to participate in society, maintain relationships and engage in family life (Geller, Garfinkel, Cooper, & Mincy, 2009). Sex workers also have little to no access to employment insurance, extended employer-provided healthcare benefits and other safety nets enjoyed by many Canadian workers.
Result	Among other economic losses, Canada loses potential tax revenue, licensing revenue and investment revenue. Among other economic losses, sex workers lose the ability to save and plan for retirement, investment opportunities, and access Employment insurance benefits.	Sex workers are stigmatized within society and precluded from accessing equal rights and opportunities. (Bindman, Jo 1997). Sex workers are unable to access labour law protection. Due to their lack of participation and enjoyment of worker benefits, sex workers are vulnerable to enhanced effects of sudden poverty from job loss, accident and illness.

As a result of these and other disparagements, many sex worker advocates call for full sex work decriminalization and recognition of sex worker rights to autonomy and self-regulation stating that current Criminal Code provisions should be appropriately utilized to manage issues faced by sex workers, such as theft, physical and sexual assault, harassment, threats, extortion, trafficking, coercion etc. ("The Law of Sex Work," n.d.) Penalization of crimes against sex workers will create safer occupational environment and encourage respectful and equal treatment for all labour categories.

Current law realities

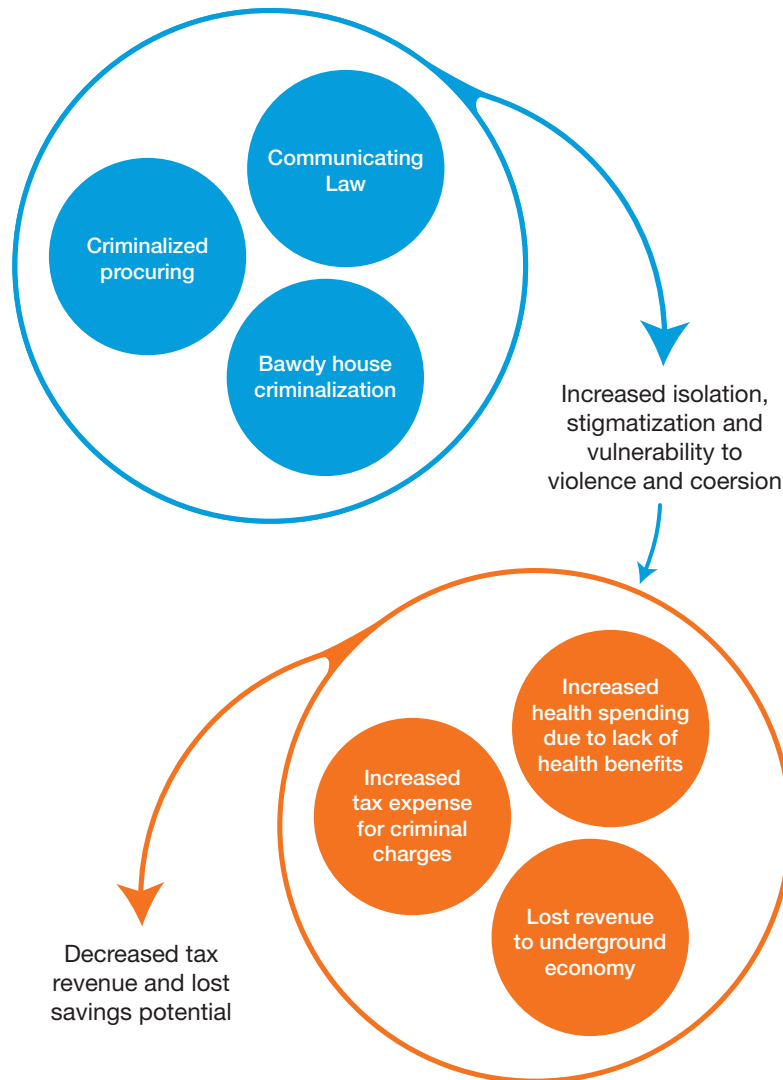
Exhibit 5²

The current law	What it means in practical terms	Implication for sex workers
<p>Section 213 “The communicating law” Section 213 criminalizes communication for the purpose of prostitution in a public space.</p>	<p>Anyone stopping or attempting to stop a motor vehicle, or communicating or attempting to communicate for the purpose of engaging in sex work or obtaining sexual services, can be charged under these laws.</p>	<ul style="list-style-type: none"> • This law focuses on street sex work control instead of sex worker safety. • Prosecutions often result in sex worker relocation to more dangerous locations with less visibility; however, greater visibility is a “desirable consequence” of decriminalization for those who are most at risk in the industry, such as street based workers. (“2. Estimation of the Numbers of Sex Workers in New Zealand — Ministry of Justice, New Zealand,” n.d.) • Sex workers relocate to isolated areas, which amplify their risk of abuse and violence and sequesters workers away from protection, social and health services. (“The Law of Sex Work,” n.d.) • Sex workers are must negotiate with clients quickly, to escape police detection and are thus unable to better assess risks and dangers. (Comte, n.d.)
<p>Section 210 of the Criminal Code criminalizes the keeping (owning, managing or assisting in the management) of a bawdy house. A bawdy house is defined as “a place that is kept or occupied, or resorted to by one or more persons, for the purpose of sex work</p>	<p>A sex worker operating out of their own residence may be charged under this provision.</p> <p>Under this law, it is also an offence to knowingly permit anyone to use or lease premises for the purposes of keeping a bawdy house. Or to be a resident or regular occupant of a bawdy house.</p>	<ul style="list-style-type: none"> • Many sex workers cannot access safer working environments. • Interference in sex worker private and employment interactions due to the criminalization of any place where sex services are sold.
<p>Section 212 criminalizes the act of procuring (i.e. obtaining or purchasing) or attempting to procure sexual acts.</p>	<p>Under this section, a person can be charged for living off the avails of a sex worker, if that person is found to live with or habitually be in the company of a sex worker, or lives in a common bawdy-house, and has directly received the proceeds of sex work. This can include an employer who requires or attempts to require an employee to have sex with a client.</p>	<ul style="list-style-type: none"> • This section is so broad that it may adversely implicate anyone in a sex worker’s private or professional life, including roommates, spouses or drivers. • Can criminalize a sex worker receiving compensation for the referral of good clients, or a wage-sharing partner.

² Information in this chart was adapted from: (“The Law of Sex Work,” n.d.)

How current criminalization laws affect sex worker's lives and the city's economy

Exhibit 6



Sex work decriminalization myths and realities

Exhibit 7

Myth	Reality
Decriminalization may encourage prostitution because more people will think that sex work is an acceptable employment choice	New Zealand, for example, where sex work has been decriminalized since 2003, has found that decriminalization has not increased sex industry worker ratios or significantly (if at all) altered people's decisions to enter or not enter the sex work industry. ³
Decriminalization will increase exploitation through the commercialization of the sex industry	Sex workers suffer from exploitation due to their current criminalized status and lack of legal sanction to request police services and protection. Decriminalization will provide sex workers with the ability to hire body guards and seek protection when they feel they need it. Decriminalization will also make it easier for sex workers to report crimes committed against them and to seek justice.

The economic potential of sex work decriminalization

Anna Holligan of BBC News reports that Netherlands' sex trade industry generates about 625m euros per year with approximately 8,000 sex workers and 3,000 working "behind a window", paying a tax rate of 33 percent ("Serials Solutions 360LINK," n.d.) (Holligan, Anna 2011). From this perspective, Canada's economy will benefit not only from the additional tax revenue derived from decriminalization, but also the compounded longer term healthcare savings that will result from improved sex worker health outcomes (through better access to extended health benefits, better educated health care providers and better ability to negotiate services, hire body guards, employ drivers for extended safety and request police protection), decreased police and protective services spending due to increased

³ "Given the relatively static numbers of sex workers pre- and post-PRA, the Committee considers decriminalization has not become a significant factor in people's decisions to enter the sex industry.... Arguments that decriminalization has increased the numbers of people in the sex industry are largely founded on the flawed assumption that decriminalization would increase the numbers of people involved in prostitution. The Committee is satisfied that such assumptions have been proved to be unfounded." ("2. Estimation of the Numbers of Sex Workers in New Zealand — Ministry of Justice, New Zealand," n.d.)

security and decreased arrests of sex workers, their clients and their employees and managers, as well as increased protection that will create downward pressure on sex worker stigmatization and assaults. Furthermore, legal empowerment and recognition will upgrade not only sex workers' quality of life but also that of their partners and dependents'. Canada's economy will also garner other positive decriminalization outcomes that include job creation; sex worker industries require managers, secretaries, accountants, graphic designers, web page designers etc... Consequently, sex work decriminalization will also boost employment rates.

For an economic gains example: Korea's sex industry accounts for up to 4.1 percent of its gross domestic product (GDP), with over 330,000 women engaged in sex work with a sex work industry estimated at 24 trillion won. ("Serials Solutions 360LINK," n.d.) In 2011, when this data was obtained, 24 trillion won translated to 21,048,000,000 CAD. That means that, if we calculate the women engaged as exactly 330,000 women earning 20.4 billion won per year for the Korean economy, each sex workers counted above directly and indirectly provided approximately 63,782 (2011 CAD) for Korea's economy in 2011.⁴

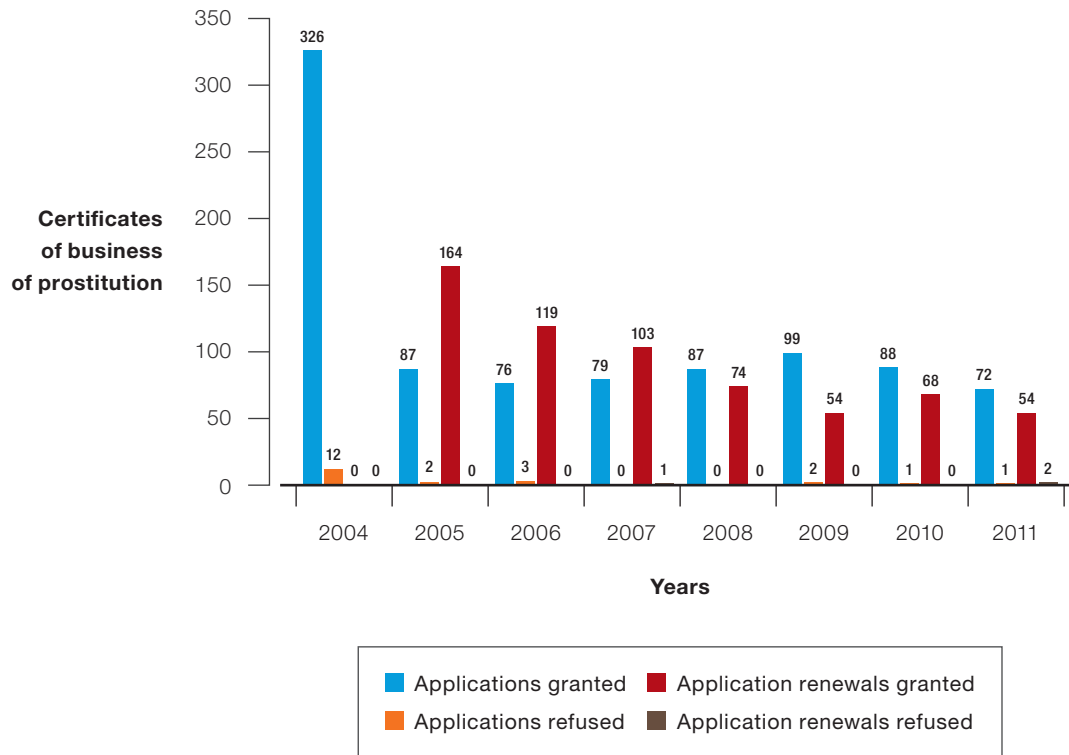
Another example includes a 2011 Switzerland "... turnover put at CHF 3.5 billion (approximately \$4billion CAD) per year [with] 14,000 officially registered sex workers" (Kobler, Eveline and Strebel, Etienne 2011) or approximately \$285,714 CAD per sex worker, per year, contributed to Switzerland's economy.

Exhibit 8 displays New Zealand's recent income just from licensing through sex work decriminalization, where immediate "business of Prostitution" application requests began with (2003 pre-decriminalization) 326 applications granted upon the first year of decriminalization and continued to grow at a small but steady yearly rate. With application for an operator's certificate valuation of NZD 247.70 (or \$207.11 CAD), (Policy, 2012) New Zealand gained approximately 80,750.2 (or \$67,517.86 CAD) in certificate application fees alone within the first year of decriminalization. This number does not include additional business and income tax revenue collected or savings over the longer term on health and corrections expenditures.

⁴ It is important to note that some sex workers do not necessarily identify as women. Transgender sex workers, for example, may not be counted in the numbers. Conversely, transgender sex workers (if counted) should also be noted as people who contribute to this portion of the economy.

Certificates of business of prostitution 2004–2011 (Policy, 2012)

Exhibit 8



Long term and indirect saving opportunities vs. Human Capital loss

The sex work industry not only provides a means of livelihood or financial gain for brothel owners and financial backers, sex worker managers, sex worker support, and safety and administrative staff but also supports additional industries including (but not limited to) neighbouring bars, alcohol retailers, small businesses and shops, taxi drivers and, of course, this industry financially maintains sex workers' children and extended families ("October 21, 2000 — Preventing_HIV_AIDS_in_Brothels_Synergy.pdf," n.d.). However, in a criminalized industry, many sex workers experience a high rate of incarceration.

Incarceration affects sex workers' abilities to care for their children and other family members (as well as negative effects on future employment prospects). According to a study on parental incarceration, "Mothers with incarceration histories are less likely to be working by their child's third birthday, work less consistently, and earn less... families in which a parent has been incarcerated face considerable hardship...the family instability ... may contribute to further developmental and behavioral challenges for children in later years..."(Geller, Garfinkel, Cooper, & Mincy, 2009) In fact, only 30 percent of youth from impoverished families grow

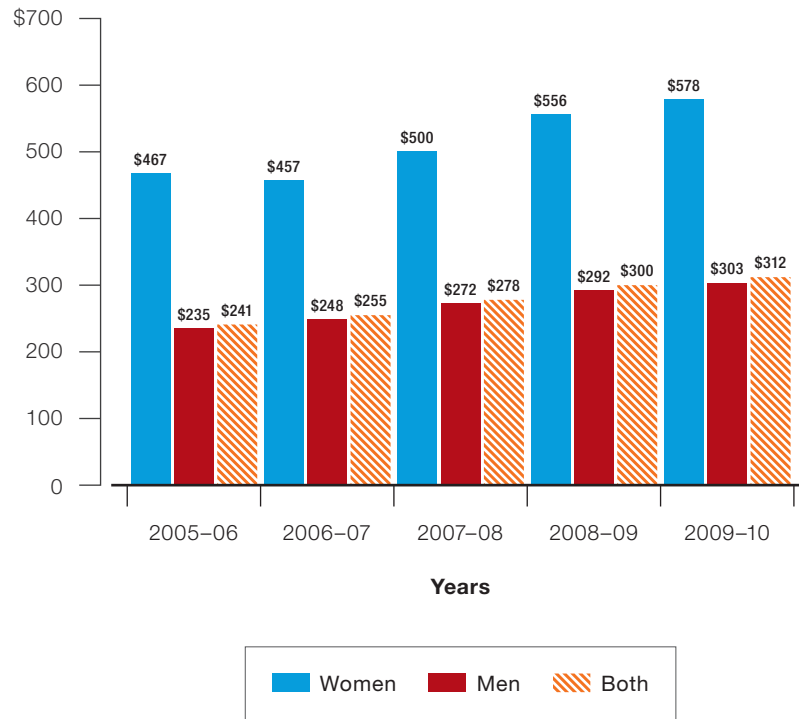
up to attend university. (“Why Are Youth from Lower-income Families Less Likely to Attend University? Evidence from Academic Abilities, Parental Influences, and Financial Constraints — 11f0019m2007295-eng.pdf,” n.d.)

Conversely, the “social benefits of education include increased civic participation, reduced criminal activity, government tax revenue from higher earnings, and contributions to higher average living standards that arise from increased innovation and technological change as well as spillover effects from higher education that raise the productivity and earnings of others” (“The Evolution of the Returns to Human Capital in Canada, 1980–2006 — CLSRN Working Paper no. 53 — Boudarbat, Lemieux, Riddell.pdf,” n.d.) As the global demand for higher skilled workers increases and wages for low skilled workers fall (“foc262c.pdf,” n.d.), the overall educational and employment losses for children with incarcerated mothers will not only stunt their own economic growth and vitality but also that of the Country. Thus, an additional long run outcome of continued sex work industry criminalization is underdeveloped adults and squandered human capital opportunities.

Furthermore, the Canadian average daily cost per female inmate per day has risen to \$578 (2009–2010) (Government of Canada, 2012); with 2,459 total sex industry-related violations in Canada (2011) — and 570 in Ontario alone (“CHASS Data Centre,” n.d.) — assuming that each person arrested for a sex industry related violation spent at least one day as an inmate, we arrive at a very modest approximation of a minimal loss of \$1,421,302 (CAD) from 2011 Canadian violations (and a total of approximately \$329,460 for Ontario on sex industry-related costs in 2011). **Exhibit 9**, provides the federal average daily inmate costs and their rise for female inmates from 2005–2010.

Federal average daily inmate cost (current \$)

Exhibit 9



Effects of decriminalization on sex worker prosperity and Canada's economic growth

The Creative Class theory argues that Tolerance, the first “T” of economic development is “a quality recognized as essential to objective thinking since the 19th century”; hence formalized support and inclusion of alternative legal professions will likewise expand Canada's economic growth prospects.

Although decriminalization alone will not eliminate the stigma and victimization of sex workers, it will decrease stigmatization via legitimization and increase sex worker abilities to access legal protection.⁵ Likewise, potential sex worker clients will be more likely to access sex workers once such actions are not met with punitive consequences: sex workers will benefit from increased earning potential. As a result of potentially increased earnings, access to labour law benefits, access to legal protection and responsibility to pay appropriate taxes, sex workers will have the opportunity to invest in retirement and other long-term savings and investment options and thus increase personal and bank investment revenue, as well as enjoy greater spending powers. **Exhibit 11** explores potential fiscal growths that arise from reduced stigma and decreased vulnerability effects of sex work decriminalization.

Income and savings growth chart from reduced stigma and vulnerability

Exhibit 10



⁵ “Legalization would likely reduce stigma to some degree. Prostitutes might have better access to police protection as their own risk of criminal prosecution...demand for prostitution might increase” (Monto, 2004) p. 23

Policy recommendations

In addition to economic and employment growth opportunities, the infrastructure and economic conditions of Canada's sex work industry must also be addressed through recommendations to respective levels of government. Without accessible business growth opportunities, labour law coverage, unionization opportunities, police protection, community support, and chances to engage in employment, health and retirement savings and insurance options, individuals who could otherwise add to this country's growth and employment are forced to remain hidden inside underground economies vulnerable to violence, stigmatization, decreased health outcomes, and social isolation.

How can Canada support its sex industry toward increased health outcomes, improved financial stability and heightened prosperity? The policy recommendations discussed below reflect our review of recent academic literature and data.

The following five broad recommendations set out initial starting points for policy creation and analysis:

1. *Create a working group committee to put forward federal, provincial, and municipal policy recommendations*

Formation of a working group committee that includes sex workers, their representatives, politicians, law-makers and other stakeholders, to produce fair and equitable policy and regulation recommendations will ensure that sex workers have a say in the policies and regulations that affect them and their right to safe working conditions.

Some, but not all, of the goals for this committee should contain:

- a) Construction of recommendations for a safe sex policy to be adapted by licensing authorities for use in bawdy houses and other sex industry and third party employment areas ("Prostitution Licensing Authority 2011–12 Annual Report — o6_welcomePLA.pdf," n.d.);
- b) Proposals of conditions for granting licenses and what steps need to be taken to ensure that those conditions are met;
- c) Creation of a positive sex work industry communication strategy for use by media and other social outlets in order to provoke change of harmful public perceptions of sex workers and the sex work industry;
- d) Recommendations towards the creation of an external governance body (such as the "College of Nurses" or the "College of Social Workers") in order to recognize that Canadian sex workers have the knowledge and expertise to regulate themselves as individual practitioners and to regulate their

profession through the College. The College of Ontario sex professionals for example, can thus be charged with (among other duties as prescribed by the committee) articulation and promotion of practice standards, participation in legislative processes, gathering and sharing statistical information about Ontario sex professionals, and working in partnership with employers, educators and government so that everyone in Ontario benefits from quality sex services;⁶

- e) Initial investigation into practices that exclude sex workers from the protection of existing labour and human rights laws, policies and regulations. Such could include (but are not limited to) gaps in policy and regulation around unionization, public health standards, extended health benefits and others;
- f) Should it be found that current labour policies are insufficient to protect sex worker rights, policy amendment remedies should be proposed to fully include the labour requirements of sex work professionals.

Regardless of how the committee chooses to operate and what areas are focused upon, the ultimate goal should entail effective, safe and respectful outcomes for sex workers, their employers, employees and clients. Such outcomes must include sex worker integration and access to safety, security of the person, ability to self-regulate, and unrestricted equal access to labour rights, human rights, and all other rights available to Canadian workers.

The work of this committee should also support best economic impact outcomes through policy and regulation recommendations that include thoughtful short and long-term social and fiscal considerations that affect all stakeholders.

2. Maintain and extend labour rights equity, union support and improved access to healthcare for sex industry workers

At this time, many sex workers are not able to access and utilize their labour rights. Equal access to labour rights that include (but are not limited to) legal work contracts, vacation and vacation pay (provided by sex worker employers), termination notification, and health and safety at the workplace are a necessary employment standard that should be acknowledged in labour policies and legislation as well as employed in all labour practices. It is imperative that sex work be included in and recognized as an occupational category with all the benefits that such implies. (“POWER_Report_TheToolbox.indd -POWER_Report_TheToolbox.pdf,” n.d.).

⁶ Adapted from the Ontario College of Nurses, (“About the College of Nurses of Ontario - CNO,” n.d.)

Currently, many sex workers are employed in sub-optimal conditions with high degrees of danger. Active support for sex work industry unionization would help sex workers improve their employment standards and ameliorate many risks associated with their work. Such legislative and policy improvements will protect and enhance sex worker wages and working conditions.

3. *Improved education for sex workers*

Federal, provincial and municipal policy makers must realize and implement strategies to meet the particular needs of their workers. Should decriminalization or legalization be accomplished, sex workers will need to know and understand their rights, their obligations and their points of access to support when they feel their rights have been compromised or should they wish to exit the industry. Assuming that provincial and municipal governments will be responsible for policy and regulation implementation, each municipality should be responsible for the creation and online distribution of information packages geared toward sex work industry professionals. Sex worker employers should also be held accountable for disseminating this information to all of their employees.

4. *Active workplace inspection and police clearance certification for Bawdy Houses (brothels) and other sex industry employers*

Laws, polices and regulations that affect the sex work industry should be based on codes that strengthen women and transgender people's position in society. Exploitation, maltreatment and abuse are easier to identify and combat when sex workers are not relegated to underground subcultures. Regular inspections to ensure that sex worker employers conform to licensing, public health and other necessary conditions, will allow authorities the chance to identify human trafficking and other legal infractions against vulnerable populations.

5. *Extended supportive programming for sex workers wanting to exit the sex industry*

Available access to programs and services that ameliorate negative sex work industry experiences and provide sex workers wishing to exit the industry for any reason viable options toward the pursuit of retraining, education, legal rights and supports around "trapping factors" ("Vulnerability and involvement in drug use and sex work — vulnerability_drugs_sw.pdf," n.d.) such as drug or alcohol dependence, homelessness etc... that include but are not limited to harm and risk reduction methods will further support sex industry validation and help protect vulnerable populations from coercion, trafficking and other criminal activity.

Analyzing policy recommendations

The International Union of Sex Workers (<http://www.iusw.org/>) provides the following guidelines for policy practice and evaluation that will be used as part of this paper because it is acknowledged that nothing about sex workers should be stated or done without sex worker input. To this end, the ensuing guidelines should be adhered to for all sex work industry related policy and practice creation and evaluation and will thus be used in **Exhibit 12** to evaluate this paper's proposed policy recommendations.

Policy recommendation analysis

Exhibit 11

Recommendation	Does it promote the human rights and safety of people in the sex industry?	Does it respect our consent to sexual activity?	Does it facilitate the reporting and prosecution of crimes of violence (e.g., robbery, sexual assault, coercion, trafficking) against people in the sex industry?	Does it challenge the stigmatization and social exclusion of people who sell sexual services?	Does it reflect the evidence base on prostitution and related issues?
Creation of working group committee	The committee would be created in order to strengthen and promote the above	This is implicit in creation of the committee	Such facilitation may be an indirect result of recommendations that come forth from the committee	The committee is created with this in mind	The committee must do the above in order to be effective
Maintain and extend labour rights equity, union support and improved access to healthcare for sex industry worker	Yes	Yes	Yes	Yes	Yes
Improve sex workers' health, safety and Education	Improved safety and education entails improved rights knowledge, which improves sex worker abilities to access protection and avenues towards safety	Yes	Improved safety inherently entails such	This would challenge internalized stigmatization as well as medical stigmatization	Yes
Improved access to medical treatment and examinations	Yes	Yes, this is what the improvement is partially about	Improved medical access can indirectly facilitate the reporting and prosecution of violent crimes against sex workers	Improved access includes medical staff training around sex worker sensitive practices and thus challenges medical stigmatization	It must
Active workplace inspections and police clearance certification for sex industry employees	Yes	Yes	Inspections promote greater safety and security in the work space	Yes, in that it prioritizes sex worker safety and rights	N/A
Extended supportive programming for sex workers wanting to exit the sex industry	Yes as it would also assist those in the sex industry to access their rights to exit	Such respect should be inherent in the mission and vision and by-laws of exit support agencies	This support should be available as needed	Should be inherent in the mission and vision and by-laws of exit support agencies	N/A

Conclusion

There are many outcomes that can be predicted as a result of the *Bedford v. Canada* verdict. One result might be a strike down of all three of the laws in question. Such an outcome would require immediate policy considerations around bawdy houses, third party managers etc. Another outcome might be a change of or reinterpretation of the laws. Finally, the court may choose to uphold current laws without change. If we consider that decriminalization is discussed in an April 29, 2013 *Globe and Mail* report as “consistent with Canada’s legal obligations under the Convention on the Elimination of Discrimination against Women (CEDAW)” (“It’s time for Canada to abolish criminal laws against sex workers,” n.d.) and also take for our example, previous court outcomes that have led to this court case, we can conclude that there is good possibility of change at least in partial favour of *Bedford*. Should decriminalization or partial decriminalization occur this year, both the sex work industry and our country will stand to benefit from economic and social gains through appropriate policy and regulation creation.

Because the sex work industry stands to generate substantial direct and indirect federal, provincial and municipal revenue — “...there are profits in providing services to adult-related businesses, including advertising, printing, financial services, attorneys, apparel, and travel agencies” (“Why brothels as businesses make sense — *The Globe and Mail*,” n.d.) — addressing the specific difficulties experienced by this segment of workers will make a significant positive impact on Canada’s economy and society.

In order to support a strong and healthy economy, our present labour practices and policies need to support improved sex worker health outcomes, positive employee/employer relationships, and fair and equitable contracts that reflect the reality of the employer/employee occupational agreements.

Appropriate policy measures around sex work industry decriminalization will serve Canadian governments and residents. Short term savings and income would result from increased business and personal income tax disbursements, industry license applications, decreased criminal and incarceration spending, increased job creation and increased tourism income. Long term savings and income possibilities include business licensing renewals, increased RRSP and other savings investments, decreased health expenditures, and increased child health and education outcomes that will translate into long-term stronger human capital gains.

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