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Introduction

This project aims to fill a crucial missing link of the ongoing National Inquiry into Missing and Murdered Indigenous Women and Girls in Canada: how to address the truths of their historic marginalization and social exclusion. I will bring the voices of sex workers, who are overrepresented by women, people of Indigenous background and trans persons, to the policy table and engage them in a peer-led training program to become *social justice advocates*. In their communities, they will learn about the Criminal Code laws that impact their lives, imagine alternative ways to work safely and free of judgment, and share their learnings about what needs to be done to reduce violence towards them and promote their health, safety, human rights, and dignity.

The project will document trainees' experiences, stories, and practices as they participate in a week-long peer-led community empowerment and transformative learning program of study that values relational accountability, researcher reflexivity and Indigenous worldviews. The program will be held at sex worker outreach organizations in four locations, all of which are largely staffed by current or former sex workers and have made inroads in the past decade to challenge gender, race, and class ideologies of sex workers as deviants-victims and expand their services to include Indigenous people, trans persons and men engaged in sex work. The project will increase participants' understanding of the strengths and weaknesses of Canada's 2014 *Protection of Communities and Exploited Persons Act* (PCEPA) and help them develop peer-informed strategies to ensure social justice, safety, and dignity for the diversity of people involved in sexual commerce in Canada. Their learnings and recommendations will be shared at a national symposium coinciding with the Canadian government's 5-year mandate to review the PCEPA. In attendance will be trainees (virtually or in person), staff from sex worker outreach organizations, Fellows, Scholars and Mentors, parliamentarians, representatives from Indigenous and other community organizations, associations of chiefs of police, other regulators, health care providers and graduate students.

Project Background

The study of prostitution regulation and social policies affecting sex workers in their communities—characterized by deep tensions among religious leaders, politicians, health professionals, feminists, and social activists—has produced a large body of scholarly literature and policy documents. The dominant position prevalent in Canada today is that the purchase of adult sexual services is a form of sexual exploitation/slavery that harms Indigenous and non-Indigenous women and girls and disrupts community order, and thus requires criminal code sanctions. From this lens, sex workers are viewed as a homogeneous group in need of rescue and saving due to oppression by both sex buyers and industry managers. This position on sex work is increasingly conflated with human sex trafficking, especially relating to Indigenous and migrant women and girls, serving to deepen the view of them as victims of both interpersonal and legal violence and require protection by colonial governments.

On the other side of the divide, liberal feminists have framed prostitution as a matter of choice and called for its decriminalization so that sex workers can exercise their individual freedom in a neoliberal marketplace short on workers' rights and lacking a social safety net.

A third perspective contests this binary thinking about sex workers—as either helpless victims or free agents—by recognizing their human agency, while at the same time acknowledging the constraints imposed on them by oppressive patriarchal colonial laws (Hunt, 2014). Arnott and Crago (2009) argue that sex workers want ‘rights not rescue’. Researchers need to consult with them about the link between the interpersonal violence they experience and the laws that regulate their work and to document their suggestions for meaningful change (Beyrer et al., 2015).

The last half century of policy-making in Canada relating to prostitution regulation has failed to take the views of sex workers into account, with a few exceptions. While the exchange of money for sexual services had never been illegal in Canada until recently, the regulations nearly precluded sex work without breaking a law (Benoit et al., 2017). Prior to 2010, it was a criminal offense to keep or be found in a common bawdy house (Section 210(1)); live on the avails of prostitution—applying to anyone who receives a monetary benefit via prostitution (Section 212(1)(j)); and communicate for the purposes of prostitution (Section 213(1)(c)). These laws were challenged in 2010 in the Ontario Supreme Court—three plaintiffs, Terri-Jean Bedford, Amy Lebovitch and Valerie Scott (all current or former sex workers), argued that certain sections of the Canadian Criminal Code for prostitution-related offences violated their human rights as laid out in the Canadian Charter of Rights and Freedoms. Drawing upon a large body of social science (including my own) and legal evidence, Ontario Supreme Court Justice Susan Himel struck down the three sections, stating they deprived sellers of their ‘security of the person’ and ‘liberty interests,’ and increased their risk to be victimized. Moreover, Justice Himel ruled that the laws operated in a manner that was inconsistent with the principles of fundamental justice and individual rights laid out in Canada’s Charter of Rights and Freedoms. After a series of appeals, the case was finally heard by the Supreme Court of Canada (SCC) (indexed as *Canada v. Bedford*, 2013). The SCC unanimously ruled in favour of the plaintiffs, stating the three challenged sections of the Criminal Code violated Section 7 of the Charter.

The SCC decision in the Bedford case was a rare occasion in the history of Canadian prostitution policy development that was informed by a ‘realist’ perspective (Dunn et al. 2013) that carefully weighed all viewpoints and the available empirical evidence. Crucially, Bedford and the SCC decision paid serious attention to information provided by active sex workers, sex worker outreach organizations, Indigenous and other allied agencies serving sex workers in their communities, legal scholars, and social science researchers. Their findings showed that sex work, much like other forms of marginalized work, involves the interplay between structure and agency in workers’ lives. The SCC decision in *Canada v. Bedford* created a policy window for new regulation that would decriminalize sex work and improve sex workers’ ability to protect their health and safety; reduce stigma in health and protective services and society at large; improve sex workers’ confidence in the police and willingness to report violence; and provide opportunities for sex workers to challenge those who threaten their basic human rights and dignity (Benoit et al., 2016, 2016a; Benoit et al. 2017). Such regulation would also address the specific concerns of those who wish to leave sex work (Benoit et al, 2018).

The SCC ruled the prostitution laws stay in effect for one year; afterwards, the sections would be removed from the Criminal Code. Thus, if it chose, the Government of Canada had one year to amend new laws and/or develop regulations that would comply with the Charter. In response to Bedford, the government under the Conservative Party tabled Bill C-36. In the developmental

phase of Bill C-36, the government solicited public input into the new laws, collecting over 30,000 responses to a set of questions posed via a dedicated website (Department of Justice Canada, 2014). The government claimed the public input supported the Bill's development. As noted in its technical paper, Bill C-36 made a 'transformational shift' from the position taken by SCC decision in Bedford: "Bill C-36 reflects a significant paradigm shift away from the treatment of prostitution as 'nuisance', as found by the Supreme Court of Canada in Bedford, toward treatment of prostitution as a form of sexual exploitation that disproportionately and negatively impacts on women and girls" (Department of Justice Canada 2014, p. 3). A range of submitted evidence from active sex workers, sex worker outreach organizations, legal scholars and social scientists was paid scant attention by the Department of Justice Canada.

According to the PCEPA, sex workers in Canada may: provide sexual services at fixed indoor locations; communicate with others for the purpose of offering or providing sexual services so long as this communication does not occur in a public place that is next to a school ground, playground, or daycare centre (having greater negative impact on Indigenous and trans workers who are more likely to engage in street-based sex work); advertise their own sexual services; and pay for services with profits from the sale of their own sexual services (e.g., accounting, security) when that compensation is proportionate to the service offered. The Criminal Code amendments enacted in PCEPA effectively permit many work-related activities, especially for more privileged workers but made it illegal for clients to obtain sexual services in any venue or to communicate in any place—public or private—for obtaining sexual services for consideration. Moreover, it is currently illegal for newspaper/magazine publishers, website administrators and web-hosting services to publish advertisements for any sexual services.

In mid-2020, the Canadian government is mandated to review the PCEPA. Minister of Justice, Jody Wilson-Raybould of the Kwak'waka First Nation from B.C., has stated she is committed to 'reviewing the prostitution laws and making sure that we've adequately addressed the concerns expressed by the Supreme Court.' My Trudeau project is availing of this new policy window to bring the diverse voices of sex workers to the table and counsel the Liberal Government to enact legislation that responds to their actual needs and circumstances in a manner that both meets legislative purposes and endures future constitutional challenges.

Project Methodology

A relevant methodology – community empowerment combined with transformative learning that honours relational accountability, researcher reflexivity and Indigenous worldviews – has already been implemented in a small number of communities in less-advantaged countries. Community empowerment relating to sex work is "a collective process through which the structural constraints to health, human rights and well-being are addressed by sex workers to create social and behavioural changes, and access to health services" (World Health Organisation, 2012, p. 19). Transformative learning occurs when people develop the critical consciousness to deconstruct prevailing ideologies, recognize the social, political, economic, and personal constraints on their freedom, and gain awareness that they can be agents of change. The Sonagachi Project in Kolkata, India, is a case in point. Initiated in 1992 as a program to prevent sexually transmitted and blood borne infection (STBBI) transmission among sex workers, the Project has since transitioned into a comprehensive health, safety and human rights program largely run by sex workers themselves (Swendeman et al., 2009). The

Pumwani Majengo project in Nairobi, Kenya, also based on community empowerment and transformative learning principles, is supported by strong evidence that indicates its important role in preventing STBBIs among sex workers and improving their human rights. The project is being scaled up in other areas of Kenya (Moore et al., 2014).

I recently used this innovative approach to train sex workers of different backgrounds and social locations in the sex industry as health advocates. Participants were encouraged to actively shape the training program, which fostered positive relationships and solidarity among them, as well as with colleagues in their social networks and with staff at the local sex worker agency (Benoit et al., 2017a). The pilot training program showed promise in sex workers learning about their own diversity and about reclaiming some power over domains of their lives that have been ceded to those in control in the current societal and political context. Participants suggested that with a shorter timeframe and more condensed curriculum, the training program would be valuable for other sex workers in Victoria and in other communities across Canada, adjusted to their local conditions. Participants also called for a parallel training program to enable sex workers to know more about the laws and policies that govern their work, relate their stories about interactions with police and others in the justice system, and make suggestions about how to reduce racism, stigma and discrimination embedded in laws and policies.

My project takes up this latter call from participants, using a similar methodology to educate sex workers as *social justice advocates*.

Project Timeline

Year 1 (2018-2019): Data collection & analysis

The peer empowerment program will begin in Victoria, and subsequently move to Calgary, Montreal and St. John's, all cities where I have long-term ties with sex worker outreach organizations and other supportive community agencies. We will bring together small groups of Indigenous and non-Indigenous sex workers (N=10-12) in each of the four cities in a face-to-face peer-led program to train them as social justice advocates, to document their stories about the strengths and weaknesses of the PCEPA, and to work with them to generate effective interventions to improve their human rights and dignity.

Community context is likely to cause variability in research findings across the four sites, due to variation in police discretion regarding implementation of the PCEPA and other laws, as well as different local responses to reducing harms and expanding the rights of sex workers. Victoria is known for its current collaborative approach toward sex work regulation. Despite the punitive regulations written into the PCEPA, the municipal police, local providers and advocacy groups have worked cooperatively to improve the health and safety of sex workers and those with whom they interact in work and private life. This has involved not enacting sections of the PCEPA that involve adult consensual sexual services. This community approach will likely affect the perceptions of Victoria sex workers of current laws and social policies, and their assessment of their options to deal with social justice and related challenges. Our earlier research showed that characteristics of some of the other cities (e.g., proportionately higher numbers of Indigenous and trans street-based sex workers, more reports of racial profiling by the police, more frequent police 'stings' of adult sex work establishments, and greater instability in funding of local sex worker outreach organizations) are likely to result

in sex workers having different experiences with the PCEPA and related laws and policies and variation in recommendations for change.

Purposive criterion sampling will be used to recruit participants through a hiring process whereby interested candidates will submit applications for the positions advertised at their local sex worker organization and be evaluated by myself and staff on their suitability for participating in the program. Efforts will be made to ensure that trainee backgrounds vary by Indigenous status, gender, sexual orientation, and sex work history. Criteria will also include interest in wanting to learn about laws and policies that affect sex workers' health, safety, and human rights, being 19 years of age or older and currently engaged in sex work in the research city. Participants will receive stipends for their participation in the program, as well as share food together and have local travel refunded.

The program curriculum will be co-developed by the participants, outreach staff and myself. Key components will likely include 1) a synopsis of my own and other research findings about the diversity among sex workers; 2) the impact of pre-PCEPA Criminal Code laws and provincial and municipal policies on sex workers' human rights and dignity; 3) strategies from other countries to empower sex workers in their local communities; 4) an overview of the PCEPA; 5) presentations from protective services about the implementation of the law in the local community, and 6) participants' experiences of its effectiveness for reducing harms, and their recommendations for changes in the PCEPA and other laws and policies. Data sources will include participant journaling, anonymous feedback forms and in-person participant interviews conducted by myself in the four cities. The data from these various sources will be analyzed using Braun and Clarke's (2006) six-phase thematic analysis strategy.

Year 2 (2019-2020): Working paper and national symposium

In the first half of Year 2, I will draft a working paper that summarizes the key research findings from analysis of the data collected during the four training programs. The draft will be shared with, and feedback sought from, trainees and staff at the four sex worker outreach organizations, the Canadian Alliance for Sex Work Law Reform, and Indigenous sex worker groups, including the Indigenous Sex Work Drum Group (Toronto) and Sex Workers United Against Violence (Vancouver). The working paper will be subsequently revised and circulated for further feedback to interested Fellows, Scholars and Mentors. They will include John Borrows and Nancy Turner, Jim Tully, Roberta Jamieson and Cindy Blackstock, all experts on Indigenous legal and/or human rights, Anne Louise Crago, expert on community empowerment of sex workers, Elaine Craig, expert in the criminal regulation of sex work, and Barbara Neis, Aelyse Weiler and Adelle Blackett, experts on labour laws related to the rights of marginalized workers. The finalized paper will be circulated to all attendees of a peer-informed national policy forum that I will organize coinciding with the Canadian government's 5-year mandate to review the PCEPA.

The three-day symposium will take place in Ottawa in early 2020. In attendance will be all trainees who wish to attend, either in person or virtually (depending on their desire for safety and anonymity), staff from the four participating sex worker outreach organizations, representatives from Ottawa-based Indigenous organizations and supportive community agencies; police chiefs, and municipal, provincial and federal regulators; policy-makers and legislators; health care organization leaders, health and social care providers; members of the media; and my graduate

students researching issues of social justice and human rights. I will invite Foundation members (see potential invitees listed above) to be active participants at the event, including organizing sessions, communicating with the media, and chairing discussion groups at the planned workshops.

Given that the symposium will be peer-informed, I will work closely with trainees to develop a detailed agenda closer to the date of the event. Day One will likely include a welcoming session, followed by a keynote presentation from a legal and human rights policy expert with knowledge of the Canadian prostitution laws in a comparative perspective. The afternoon will involve presentation of key findings by trainees and/or myself from the working paper and Q & A. Day Two will involve two concurrent workshops to discuss the implementations of the findings – one for sex workers and their support organizations and a second for health and protection service providers and policy makers. Day Three will likely bring the two groups together again to present the key workshop policy recommendations and next steps. Fellowship funds allocated to the 3-day event will not cover the entire costs of this proposed national event and so additional funds will be sought from my academic home, the University of Victoria, my research location, Canadian Institute for Substance Use Research, and conference and knowledge exchange grant applications to CIHR and SSHRC.

Year 3 (2020-2021): Continuing knowledge production & exchange

During this time, I will co-produce with my research team and the Trudeau community a final report focused on recommendations for amendments to the current PCEPA legislation, strategies to enhance sex workers' human rights and dignity and improves their social inclusion in Canadian society. We will also finalize the community empowerment transformative learning curriculum piloted over the four research sites and write it up in an accessible manual for distribution to other sex worker outreach organizations interested in training sex workers as social justice advocates, as well as other NGOs working with marginalized groups struggling to improve their social rights. I will prepare conference papers to be presented at Foundation meetings and other events, articles for submission to academic journals and more targeted knowledge translation products, including short briefing documents designed to engage specific groups of knowledge users, a magazine-length article targeted for publication in Maclean's, op-ed articles in major Canadian newspapers, and other means of communication such as blogs, community presentations and contributions to traditional media to reach the general public.

All knowledge translation documents will be posted on my research website (www.understandingsexwork.ca), which is dedicated to providing sex workers, community outreach organizations and other stakeholders with resources and information aimed at dispelling myths about sex workers, fostering their social inclusion, and empowering sex workers to advocate for their rights. Finally, drawing on my 20-year plus research on the sex industry, and sex workers' struggle for social inclusion, dignified health care and police protection, I plan to author a scholarly book for publication.

Expected contributions & significance:

- 1) Contribute to the ongoing National Inquiry into Missing and Murdered Indigenous Women and Girls in Canada by providing insider knowledge from one marginalized group—Indigenous and non-Indigenous sex workers;
- 2) Make accessible a peer-informed practical manual for training of sex workers as

- social justice advocates, in partnership with sex worker outreach organizations;
- 3) Improve understanding of how Criminal Code and other laws and policies impact the diversity of adult sex workers in their local communities;
 - 4) Circulate sex workers' recommendations for amendments to the PCEPA and their suggestions for interventions to reduce violence and victimization, and improve their human rights and dignity;
 - 5) Contribute to scholarship by providing an innovative methodology for empowering Indigenous and non-Indigenous sex workers in their communities.
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Project Budget

	Year 1	Year 2	Year 3	Total
Professional support				
A part-time graduate student of Indigenous background and sex work experience	\$20,000	\$20,000	\$20,000	\$60,000
Sub-total	-	-	-	\$60,000
Travel & participation				
Conference and program travel, trainee honoraria, foods and related expenses	\$3,000	\$3,000	\$3,000	\$9,000
Sub-total	-	-	-	\$9,000
Electronic & technical supplies				
Software Licenses (SPSS & NVivo)	\$500	-	-	\$500
Laptop computer	\$1,500	-	-	\$1,500
Sub-total		-	-	\$2,000
Knowledge dissemination				
Event facilitation	\$0	\$10,000	-	\$10,000
Venue & service rental	\$0	15,000	-	\$15,000
Publications, gifts, materials	\$0	2,000	-	\$2,000
Event recording and documentation of event	\$0	2,000	-	\$2,000
Travel, accommodation, trainee honoraria for participation, food, etc.	\$0	\$25,000	-	\$25,000
Sub-total	-	-	-	\$54,000
Other expenses				
Excellence in research and public engagement Prize for Dr. Benoit				\$50,000
University administration expenses				\$25,000
ATA retained by the Foundation				\$25,000
Sub-total				\$100,000
Grand Total				\$225,000

References

- Arnott, J., Crago, A.L. (2009). *Rights not rescue*. South Africa: Open Society Institute.
- Bedford v. Canada [2013], R.S. C. 2013, SCC 72.
- Benoit, C. et al. (2018). Prostitution stigma and its effect on the working conditions, personal lives and health of sex workers. *Journal of Sex Research*, 55 (4-5), 457-471.
- Benoit, C. et al., (2017). ‘Well, it should be changed for one, because it’s our bodies: Workers’ views on Canada’s punitive approach towards sex work. *Social Sciences*, 6(2), 52-69.
- Benoit, C. et al. (2017a). Community empowerment and transformative learning among sex workers. *International Journal for Equity in Health*, 16.
- Benoit, C. et al. (2016). Unmet health care needs among sex workers in five census metropolitan areas of Canada. *Canadian Journal of Public Health*, 107(3), e266–e271.
- Benoit, C. et al. (2016a). Lack of confidence in police creates a ‘blue’ ceiling for sex workers’ safety. *Canadian Public Policy*, 42(4), 456-468.
- Beyrer C. et al. (2015). An action agenda for HIV and sex workers. *Lancet*, 385, 287–301.
- Braun V., Clark V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3, 77–101.
- Canada, Department of Justice (2014). *Technical Paper: Bill C-36, Protection of Communities and Exploited Persons Act*. www.Justice.Gc.Ca/Eng/Rp-Pr/Other-Autre/Protect/P1.Html.
- Dunn, J. et al. (2013). Improving health equity through theory-informed evaluations. *Evaluation and Program Planning*, 36, 184–90.
- Hunt, T. (2004). Whose Truth? Objective Truth and a Challenge for History. *Criminal Law Forum*, 15(1/2), 193-198.
- Moore L. et al. (2014). Community empowerment and involvement of female sex workers in targeted sexual and reproductive health interventions in Africa. *Global Health*, 10, 47.
- Swendeman D. et al. (2009). Empowering sex workers in India to reduce vulnerability to HIV and sexually transmitted diseases. *Social Science and Medicine*, 69, 1157–66.
- World Health Organisation (2012). *Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low- and middle income countries*. Geneva: WHO.