

Tuesday, March 21, 2023

Shauna Van Praagh, President
Law Commission of Canada
P.O. Box 55052
Ottawa RPO Sparks Street
Ottawa, ON K1P 1A1

Dear Ms. Van Praagh,

Re: Appointment as President of the Law Commission of Canada

On behalf of Triple-X Workers' Solidarity Association of British Columbia, I extend our congratulations on your appointment as president of the Law Commission of Canada on February 22, 2023.

I would also like to take this opportunity to introduce myself; I have some history with the LCC.

I was pleased to see the government re-establish the Law Commission of Canada, which had been previously defunded in 2006.

I have been actively engaged in legal education and law reform in Canada for sex workers since 1992. My background includes a five-year diploma from the Ontario College of Art, eleven years working as an escort, and now over thirty years as an activist for sex worker rights.

As education coordinator for Maggie's in Toronto in the 1990s, I developed "Trials of the Sex Trade," a plain language legal primer explaining federal laws related to sex work consisting of six booklets: Trick or Trap?, No Bawdy's Business, Who's Jail Bait?, The Bare Facts, Holding Court, and Legal Ease. Maggie's was cofounded by June Callwood in 1986. Ms. Callwood later served as an advisor to the LCC and while in that role she mandated that the Commission must address social injustices in two areas: marijuana and prostitution.

June encouraged me to pitch an idea for an educational platform that sex workers could use to provide feedback about prostitution law reform and regulation in Canada. In 2003, I was awarded a contract by the Commission to design and focus test a pilot project (LCC03-045).

In early 2005 I published a compilation of five workbooks called "\$ex, Work, Education, Advocacy & Research! (\$WE@&R!) Sex Workers' Workbook: Where YOU regulate the sex industry." This innovative education and survey tool was focus-tested at "Forum XXX" an international sex workers' conference in May 2005, hosted by Stella, l'amie de Maimie, in Montreal.

While I had successfully completed the terms of the original contract, the plan with the LCC project manager had been to engage me in a second contract to continue focus testing the \$WE@&R! survey and analyse the results.

Parliament was dissolved in November 2005, and upon winning the January 2006 election, the Harper government defunded the Commission, closing the office. Thus, the survey responses were left in a sealed envelope and never opened. They've been sitting in my archive ever since!

In 2014, without the benefit of views elicited using this in-depth survey, the Harper government passed a new legal regime that made buying sexual services a crime in Canada for the first time: the Protection of Communities and Exploited Persons Act.

\$WE@&R! The Sex Workers' Workbook remains available online at <https://walnet.org/swear>.

In response to the new laws passed by the Harper government, Triple-X has been organizing Vancouver's Red Umbrella March for Sex Work Solidarity, held annually since 2013, under the slogan, "Freedom to Associate is Our Right!"

Triple-X Workers' Solidarity Association of B.C. is a registered non-profit association in British Columbia since February 2012 (Society Incorporation Number: S-0059449; Federal Business Number: 830870309BC0001).

Persons can become members of the Triple-X Workers' Solidarity Association of B.C. if they have agreed to the direct exchange of sexual stimulation for financial compensation within the last six months and they intend to continue to work in the Triple-X industry. The full list of Triple-X membership criteria as defined in our Constitution, Bylaws & Policies are available on our website: <https://triple-x.org>.

As of June 2018, the Triple-X certification mark was registered with Innovation, Science and Economic Development Canada (Certification Mark No. 1,774,304). Section 2 of the Defined Standard ensures that members have provided Triple-X with proof of age (18 years of age or older) in the form of government-issued identification or affidavit by a guarantor. Section 3 stipulates that members have signed the Triple-X form agreeing that they consider themselves a Triple-X worker and agreeing that they provide Triple-X services for financial compensation. Triple-X services involve sexual stimulation that may or may not involve physical contact.

Section 4 of the Defined Standard for certified workers ensures:

“... that they are qualified to: a) assess risks for sexually transmitted infections (STIs); and b) ensure best practices in STI prevention are followed appropriate for the service provided according to B.C. Centre for Disease Control guidelines.”

Triple-X examines and analyzes federal and provincial laws and policies for potential implications on the sex industry.

To learn more about us, please find enclosed, two of our 2022 publications: *Stronger Together: Solidarity Organizing and Exploitation Prevention*; and *Sex, Scandal and Scapegoats: Canada's Blood Donation Ban for Selling Sexual Services*.

Stronger Together: Solidarity Organizing and Exploitation Prevention was submitted to Canada's Parliamentary Standing Committee on Justice and Human Rights in February 2022 that received mention in the committee's fourth report: *Preventing Harm in the Canadian Sex Industry: A Review of the Protection of Communities and Exploited Persons Act* tabled last June.

In our view, the government has an obligation to allow solidarity organizing in the sex industry. The lack of clarity in the Criminal Code Sexual Services Offences law raises many questions:

- Does Criminal Code section 286.2 (Material Benefit from Sexual Services) violate sexual services providers' right under Charter of Rights and Freedoms section 2(d) to form and run unions and professional associations?
- Is this discriminatory law, which effectively prohibits sexual services providers from unionizing or forming professional associations, justifiable under section 1 of the Charter?
- As a solidarity association, is Triple-X prevented from lawfully receiving membership fees and lawfully counselling and encouraging members to provide Triple-X services?

Triple-X has sent a letter November 25, 2022 to the Justice Minister, asking Justice Canada to provide clarification regarding the impact of Criminal Code Section 286 on the Charter right of sexual services providers to form unions and professional associations.

Sex, Scandal and Scapegoats: Canada's Blood Donation Ban for Selling Sexual Services was submitted in July 2022 to Health Canada and Canadian Blood Services regarding the changes in the policy of an indefinite deferral on blood donations for trading sex for money, that effectively discriminated against sex industry workers.

Triple-X also asks that Health Canada and Public Health Agency of Canada endorse and advocate for the decriminalization of the purchase of sexual services (Criminal Code Section 286.1). “Occupational health and safety, and sex workers’ role in the safe-sex education of their clients, are important avenues to promote STBBI prevention.”

In closing, I wish you and your colleagues at the Commission success in your new roles.

Sincerely,

Andrew Sorfleet, President
Triple-X Workers' Solidarity Association of B.C.

Encl.

CC:

- Commissioner Sarah Elgazzar
- Commissioner Aidan Edward Johnson