THE PROTECTION OF *WHOSE* COMMUNITIES?:
A COMPARATIVE MUNICIPAL CASE STUDY OF SEX WORK BYLAWS & THEIR ENFORCEMENT IN THE WAKE OF BILL C-36

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Abstract

This Major Research Project (MRP) concerns the enforcement of licensed indoor sex work bylaws in Canada through a comparative analysis of two municipalities: Toronto, ON and Vancouver, BC. My MRP asserts that, in spite of the continued criminalization of many aspects of sex work at the federal level in light of the passing of Bill C-36, *The Protection of Communities and Exploited Persons Act*, in 2014, some municipalities in Canada have continued to condone sex work through their bylaws and enforcement mechanisms. My research finds that while there are similarities between the bylaws themselves in these two jurisdictions, the primary difference between the two cases is as a result of enforcement practices. I assert that Vancouver's adoption of GBA+ and intersectional-informed femocratic administrative tools at the municipal governmental level is one of the primary drivers leading to the outcome of some licensed indoor sex workers in Vancouver being able to work with greater respect and less harassment than licensed indoor sex workers in Toronto. However, while aspects of Vancouver's approach demonstrate some positive developments that correlate to benefits for some of its city's sex workers, the findings of my MRP reveal that Canada's two largest Anglophone cities *both* have a lot of work to do to better support and protect some of their most vulnerable workers.

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Thank you to Milan & Otto Schramek for the time and energy to write this.

Dedication

To the families of the sixty-seven women from Vancouver's Downtown Eastside.

To a future with better policies to protect sex workers across Canada and the globe.

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Introduction

This Major Research Project (MRP) concerns the enforcement of licensed indoor sex work bylaws in Canada through a comparative analysis of two municipalities: Toronto, Ontario and Vancouver, British Columbia.

Activities surrounding sex work in Canada are conventionally governed through the federal Criminal Code as per the division of powers under Canadian federalism outlined in the 1867 *Constitution Act*. As such, there is a general assumption that the laws of the Criminal Code will be evenly applied across Canadian provincial and municipal jurisdictions; as well, municipalities cannot implement bylaws to govern activities under federal criminal jurisdiction. My MRP queries the application of laws applied to sex work through a comparative analysis of municipal licensing bylaws and their enforcement in two jurisdictions: Toronto and Vancouver. These two cities present relevant cases for comparison due to their being the two largest cities in Canada in terms of population. Further, Toronto and Vancouver are often perceived as progressive havens for diversity; Good (2009), for instance, justified her book-length focus on these two municipalities by way of their being the "two most prominent immigrant-receiving city-regions in English-speaking Canada" (p. 5).

In addition, both cities were located within provinces that held Liberal majority governments during the chronological context of this MRP, which is demarcated by the period from 2012-2018 and covers the passing of the federal Bill C-36, *The Protection of Communities and Exploited Persons Act* (PCEPA). This bill, which was designed to criminalized the purchase of sexual services for the first time in Canadian history, was driven by then Prime Minister Stephen Harper and his Conservatives, which held a majority position at the time. Major opposition parties including the Liberals, the NDP, and the Green Party voiced their lack of support for this bill, in keeping with many advocates, scholars, and sex workers who rejoiced in the wins of the Supreme Court's *Bedford* decision of the previous year (2013). The *Bedford* decision was seen as a "watershed moment for sex workers and Canadian legal history" since it "shifted the legal and political discourse around sex work from a focus on nuisance and public

order to a focus on health, safety, and human rights" (Belak, 2018, p. 48). For many sex workers, human rights advocates, legal experts, and academics, the *Bedford* decision epitomized the "culmination of decades of work … to repeal laws that criminalize street-based work, indoor sex work and working collectively" (SWUAV, 2014, p. 1). The wins of *Bedford* were swiftly overturned by Bill C-36. Although, as this MRP posits, some municipal jurisdictions have done more than others to retain the footholds gained by the *Bedford* decision, in keeping with support from scholars such as Craig (2011).

My MRP asserts that, in spite of the continued criminalization of many aspects of sex work at the federal level, some municipalities in Canada have continued to condone sex work through their bylaws and enforcement mechanisms. While the stated impetus behind Bill C-36 is to end the demand for sex work by targeting the client or consumer (in keeping with the philosophy of the Nordic Model upon which it was based), and in doing so endeavours to bring an end to sex work and related activities altogether, my MRP demonstrates that sex work and related activities are not on the decline in two of Canada's largest cities in the wake of the passing of Bill C-36. This finding dovetails with work done by those opposed to criminalization and who instead support the decriminalization of sex work: we see that sex work isn't going away; that it is a legitimate form of labour for which workers should be fairly compensated; and that its workers deserve occupational health and safety protections under the Criminal, as well as municipal, codes. While the federal context is vital for understanding policy approaches to sex work in Canadian municipalities, as well as outlining a key debate between criminalization and decriminalization regarding sex work in Canada, this MRP takes up a comparative municipal scope.

Critical scholarly attention to municipal control over sex-work activities remains an understudied avenue (Benoit & Shaver, 2006; Lam, 2016; van der Meulen & Valverde, 2013). However, this MRP asserts that municipalities wield an extensive amount of regulatory and enforcement control over the activities associated with licensed indoor sex work. For example, van der Meulen and Durisin (2018) write that, "many municipalities have attempted to control and limit aspects of the sex industry through various zoning bylaws and licensing schemes and thus approach the matter indirectly" (p. 38). Auger (2014) explains that cities themselves have little power relative to the federal and provincial governments

but “their respective provinces grant them the right to regulate businesses through licensing and zoning” (p. 101). Craig (2011) asserts that, “Municipal laws licensing body rub parlours and escort services exist in many Canadian cities, despite the continued criminalization of much of the activity engaged in by these businesses” (p. 101).

My MRP’s investigation in policies surrounding sex work at the local level focuses upon the enforcement of municipal licensing bylaws pertaining to indoor sex work establishments in the cities of Toronto and Vancouver. Licensed indoor sex work establishments in these two jurisdictions include: body rub/massage parlours and holistic centres/health enhancement centres (note that Toronto uses the terminology of “holistic centres,” while Vancouver uses the terminology of “health enhancement centres”). Pivot Legal Society’s (2009) data found that “tens of thousands of people work in escort agencies, bawdy-houses, body-rub parlours, massage parlours, strip clubs, and dating services that are registered as legitimate business establishments across Canada” (qtd. in Lam. 2016, p. 90). While Toronto limits the number of body rub parlours, for instance, to 25, in Vancouver there is no cap on licensed indoor sex work establishments (save the prohibitive costs of procuring them), and estimates place licensed establishments in Vancouver in the hundreds (Anderson et al., 2015).

Despite these numbers, in fact the majority of sex trade activities occur outside the realm of licensing through unlicensed escort services, street-based sex work, and in other unregulated locations. Van der Meulen and Valverde’s (2013) finding that it is “not uncommon … for sex workers to forgo licensing and take their chances working illegally and subject to federal criminal charges” (p. 321), underscores a driving impetus of this MRP. Since, according to Krüsi et al. (2016), the majority of the harms which befall sex workers in their line of work are attributed not to “the inherent character of sex work, but rather [to] the specific regimes of criminalisation and stigmatisation that shape the[ir] working conditions, health and safety” (p. 1137), it follows that municipal bylaws and enforcements thereof could be designed and enacted in ways that would encourage sex workers to seek out licensed establishments in which to work that would enhance their occupational health and safety.

Since municipalities maintain the majority of their regulatory power over spaces as opposed to people or acts (van der Meulen & Valverde, 2013), bylaws concerning zoning and licensing present the nexus of municipal control over licensed indoor sex workers and sex work establishments. As Lam (2016) explains, "municipal bylaws and regulations are significant factors in undermining the health, safety, and well-being of sex workers" (p. 91). Lam's point here is attributed to her qualitative interviews with indoor sex workers in Toronto, which reveal that municipal regulations and enforcements are causing harms to this group. Building on this core critique, my MRP contrasts Lam's findings on the negative impacts of municipal licensing regimes and their enforcement in Toronto with more positive approaches to municipal regulation of sex work in Vancouver. My research finds that while there are similarities between the bylaws themselves in these two jurisdictions, the primary difference between the two cases is as a result of enforcement practices, namely Vancouver's adoption of the *Sex Worker Response Guidelines* (SWRG, 2015). I uphold the implementation of these guidelines as evidence of Vancouver's adoption of GBA+ and intersectional-informed femocratic administrative tools at the municipal governmental level.

Therefore, I assert that Vancouver's adoption of GBA+ and intersectional-informed femocratic administrative tools at the municipal governmental level is one of the primary drivers leading to the outcome of some licensed indoor sex workers in Vancouver being able to work with greater respect and less harassment than licensed indoor sex workers in Toronto. It follows, then, that the application of comprehensive GBA+ and intersectional-driven policy approaches represents a potentially successful route to producing equitable policies for the divergent subjectivities and identities who lay claim to the term "sex workers." The inhibiting of GBA+-informed policies and practices can then be understood as a factor which *prevents* equitable policymaking for sex workers, for example in this MRP's comparative jurisdiction of Toronto.

Importantly, the difference in enforcement practices between the two jurisdictions is not sufficient to hold up Vancouver as an idealized model for municipal regulation and enforcement of sex work. While Vancouver has been seen to be at the forefront for sex workers' rights and protections in the

Canadian context (Clancey qtd. in Rantanen, 2020, n.p.), there is still much room for improvement. While some cisgender, white sex workers working in licensed indoor establishments in Vancouver have seen an improvement in regards to the enforcement strategies of bylaws by police and inspectors (Krüsi et al., 2016), this is not true across the board for sex workers in Vancouver. For example, street-based sex workers, BIPOC, im/migrant, trans, and impoverished sex workers are still subject to widespread harassment and stigmatization in Vancouver due to socially-embedded inequalities (Krüsi et al., 2016; Lyons et al., 2017). Goldenberg et al. (2017) find that "im/migrants in Vancouver's sex industry experience high levels of criminalization, including police arrest or harassment"(p. 8); the researchers found that Chinese-run businesses in the city were subject to a disproportionate number of "unexplained police visits and document checks, combined with discriminatory and disrespectful treatment" (p. 9). Im/migrant sex workers work under increased threat of being charged since they can face high punitive costs such as "detention, deportation, or status revocation" (McBride et al., 2020, p. 2). McBride et al. (2020) point out that im/migrant sex workers in Vancouver are subject to even further harms as a result of precarious citizenship, including clients refusing to wear condoms (p. 7).

The research process of my MRP set out with the hypothesis that Vancouver's progressive policy approaches to licensed indoor sex work regulation meant that sex workers in its jurisdiction experienced more supportive, sex-positive, and harm-reducing labour conditions than sex workers in Toronto. While aspects of Vancouver's approach demonstrate some positive developments that correlate to benefits for some of its city's sex workers, the findings of my MRP reveal that Canada's two largest Anglophone cities *both* have a lot of work to do to better support and protect some of their most vulnerable workers. My MRP addresses a necessary gap by presenting the first chapter-length comparative study of sex work licensing bylaws and their enforcement in these two jurisdictions. Although municipalities are often sidelined in discussions surrounding sex work policy development and analysis due to their activities being regulated at the federal level, I argue that the policies set by municipalities, in addition to the approaches to their enforcement, have significant impacts on sex workers' health, safety, well-being, and right to work without harassment. Municipalities are therefore a major player in providing equitable

working conditions for some of the nation's most marginalized and persecuted workers. My MRP concludes with recommendations directed at both jurisdictional cases that develop out of my comparative analysis.

A vast consortium of scholars, advocates, community-based organizations, sex workers, as well as international bodies such as the World Health Organization and UNAIDS (qtd. in Anderson et al., 2015), advocate for federal decriminalization as a foundational step towards safeguarding the rights and protections of sex workers. While I too advocate for decriminalization at the federal level, I argue that intergovermental collaboration backed by municipal leadership offers a clear path for the improvement of sex workers' rights and protections. Van der Meulen and Durisin (2018) write, "Especially in a decriminalized context, if that is to be achieved in Canada in the future, municipal policies will become exceedingly important, as they will be the prime regulatory framework governing sex workers' lives" (p. 39). In their study of licensing in Vancouver indoor sex work locations, Anderson et al. (2015) conclude that "municipal licensing, alongside legislative change (e.g. sex work decriminalisation), have the potential to dismantle some of the stigma associated with sex work" (p. 12). Thus, both in the meantime, and in a potential future marked by federal decriminalization, municipalities have an important role to play. The choices they make with regards to bylaw development and enforcement have monumental effects upon sex workers within their jurisdictions.

My research locates two main outcome drivers which contribute to the diverse experiences of being a licensed indoor sex worker in Toronto versus that of Vancouver in the context of federal criminalization.

- **A legacy of community and intergovernmental collaboration resulting in a policy feedback loop that, in some instances but not all, privileges sex workers and their advocacy organizations in decision-making processes.**

Mobilizing Béland and Schlager's (2019) concept of policy feedback, which "refers to the variety of ways in which existing policies can shape key aspects of politics and policymaking" (p. 184), my

analysis of sex work licensing bylaws and their enforcement in Toronto and Vancouver contextualizes current bylaws and enforcement practices within the intergovernmental policy legacies of the respective jurisdictions and the evidence or lack thereof of coordination between provincial and municipal governments and community advocates and organizations that support sex workers. While evidence in Vancouver of collaboration between provincial and municipal governments and advocacy organizations has produced some positive results for sex workers, efforts towards connection and engagement between provincial and municipal governments and advocacy organizations in Toronto have been met with greater resistance.

This finding aligns with Hayle's (2017) comparative analysis of Vancouver's quick and Toronto's relatively slow adoption of Supervised Consumption Sites (SCSs). Hayle identified "strong public support, favourable electoral conditions, and law enforcement support" (p. 398-9) as the primary drivers behind Vancouver's fast tracking of these progressive social policies. Conversely, these drivers lagged markedly in Toronto. The formation and enactment of social policies pertaining to drug and prostitution regulation, legalization, and/or decriminalization are reliant upon many differentiating factors and are subject to debates unique to these specific policy realms. However, a jurisdiction's ability to swiftly enact such policies relies on such drivers as those outlined by Hayle, in addition to the two of the major outcome drivers identified in this MRP: those of a particular jurisdiction's legacy of intergovernmental and community collaboration, and their incorporation of progressive approaches and tools such as those of Gender-Based Analysis+ (GBA+) and corrolary femocratic administrative approaches. Such approaches will be further explained in the following, however, the fundamental premise of GBA+ is "based on the feminist/intersectional understanding that all policies have potential to impact social groups differently, thereby creating and sustaining unequal power relations" (Scala & Paterson, 2017, p. 427).

- **A jurisdiction's incorporation of GBA+ and intersectional approaches to enforcement practices of bylaws.**

My MRP presents a two-fold investment in GBA+ and intersectional analysis. Not only do I firmly believe that policies that effect sex workers should be developed in consultation and engagement with sex workers and their advocates, but also the Vancouver case demonstrates that the use of GBA+ and intersectional policy approaches to the enforcement of sex work bylaws produces some better outcomes for licensed indoor sex workers in this jurisdiction. Notably, the primary reason for better outcomes for licensed indoor sex workers in Vancouver is due to the incorporation of the *Sex Worker Response Guidelines* (SWRG, 2015), a set of sex-positive, harm-reduction bylaw enforcement policies which were incorporated by the City of Vancouver and the Vancouver Police Department in the aftermath of the Robert Pickton trial. However, these Guidelines have not had a positive impact for all sex workers in Vancouver; notably, street-based, BIPOC, trans, and im/migrant sex workers continue to face harmful persecution in spite of this policy. My findings suggest that the Guidelines do present a strong step in the right direction, and yet they need to be applied more broadly.

A further admission regards the particular conditions which led to the development of these guidelines: the disappearances and/or murders of sixty-seven women from Vancouver's Downtown Eastside between 1978 and 2003, the majority of whom were taken at the hands of serial killer Robert Pickton. Pressures from the media, community groups, and the international public helped to drive Vancouver's response to the crisis, which included the 2012 *Missing Women Commission of Inquiry* and its resulting recommendations, many of which form the basis for Vancouver's contemporary sex work policies. Findlay (2018) writes that the Pickton case "made it impossible to ignore the connection between patriarchy, violence, poverty, and racism" (p. 220) as it affected sex workers in the Downtown Eastside; similarly, Arthur et al. (2013) state that there's "no doubt that the tragedy of the missing and murdered women galvanized Vancouver's sex worker movement" (p. 144), in addition to larger public responses. The loss of these women's lives is a grave mark on Canada and no future policy achievements can atone for them. However, the collaborative efforts to prevent further similar tragedies in Vancouver are noteworthy in their impetus to protect community members in spite of federal legislation. It is my sincere

hope that it will not take similar crises in other Canadian municipalities, such as Toronto, to enact better policies to protect sex workers.

- **The impact of federal and provincial "anti-trafficking" policies on municipal bylaw enforcement of sex work.**

While the two aforementioned drivers function to explain the improved conditions for some licensed indoor sex workers in Vancouver as compared to that of Toronto, a third factor contributes to increasing instances of harassment for sex workers in both jurisdictions: that of federal and provincial "anti-trafficking" policies. Such policies have a negative impact on sex workers across the nation in terms of an increase in the frequency and invasiveness of inspections and harassments (CASWLR, 2019), and thus present a necessary additional dimension for my MRP.

Canada's 2002 adoption of the 2000 United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children* initiated the country's first federal responses to human trafficking (Durisin & Heynen, 2015). These included updates to the Criminal Code in 2002 and 2005; the ratification of the Immigration and Refugee Protection Act (IRPA) in 2002; as well as two subsequent federal action plans: the *National Action Plan to Combat Human Trafficking* (2012-2016) and the *National Strategy to Combat Human Trafficking* (2019-2024). Notably, the current strategy highlights its commitment to a "A New Whole-of-Government Strategy" (National Strategy, 2019) aimed at targeted intergovernmental interventions. Ontario followed suit with their own corresponding anti-trafficking laws, Ontario's *Anti-Human Trafficking Act* (2017). As well, both jurisdictions developed corresponding action plans: Ontario's two successive strategies, the 2016 *Ontario Strategy to End Human Trafficking* and *Ontario's Anti-Human Trafficking Strategy* (2020-2025); and *BC's Action Plan to Combat Human Trafficking* (2013-2016).

While the fight against human trafficking is of grave import, the vast sums of funding and the intensity with which anti-trafficking policies have taken root in Ontario have produced correspondingly negative effects for licensed indoor sex workers in Toronto. With Ontario being pinpointed as a hotbed of

incidents – due to Ontario and Quebec accounting for approximately 85% of trafficking charges nation-wide (Millar & O'Doherty, 2020) – efforts to curb this crime have incurred a spike in bylaw enforcements and inspections marked by sexist, racist, and other derogatory harassments towards licensed indoor sex workers in Toronto. Despite fewer recorded instances of human trafficking in BC, the province's increased focus on anti-trafficking initiatives has had an analogous effect on racialized sex workers in Vancouver. Initially, my hypothesis suggested that the effects of anti-trafficking strategies in BC did not result in a spike in enforcements of Vancouver sex workers. However, Krüsi et al. (2016) find that, despite shifts in policing in Vancouver as a result of the adoption of the *Sex Worker Response Guidelines* (SWRG, 2015), sex workers facing various social stigmas as a result of their race/ethnicity, gender identity, and/or immigration status continue to face harassment from police. Stigmatization in the form of an increase in the frequency and invasiveness of enforcements is markedly rising for im/migrant sex workers (SWAN, 2018). Millar and O'Doherty (2020), suggest that enforcement practices of sex workers vary depending on skin colour and thus question "whether the Canadian criminal justice system effectively 'protects' the safety and security interests of racialized and marginalized groups, especially migrant, Indigenous, and Black sex workers" (p. 25).

Changes in policing protocols in Vancouver should provide better working conditions for sex workers city wide; as well, they should function to thwart the panic of anti-trafficking policies and their focus on heightened inspections. However, Supporting Women's Alternatives Network (SWAN) (2018) writes that police and bylaw inspectors fail to address "topics such as implicit bias, power relations between police and criminalized and marginalized populations, the historical and continued adversarial relationships between police and sex workers, and sex work stigma" (p. 3). As such, sex workers of colour are unduly persecuted under the auspices of anti-trafficking policies in both jurisdictions. My MRP reveals that anti-trafficking policies thus present an additional hurdle to the improvement of working conditions and protections for sex workers in both Toronto and Vancouver. While anti-trafficking policies are not the focus of this research, a corollary argument of this MRP posits that such policies are causing harm to sex workers and there is a demonstrated need to deconstruct and re-imagine these policies and

their enforcement strategies in ways that undo the underlying unwarranted ideological conflation between trafficking and sex work, which is used to justify abuses of sex workers (CASWLR, 2019; Goldenberg et al., 2017; Lam, 2018a; McBride et al., 2020; Millar & Doherty, 2020; SWAN, 2018).

My MRP will proceed as follows: my Literature Review will outline and define key concepts and movements in sex work policy in Canada as they pertain to explanatory aspects of my comparative municipal case study. My Methodology section underscores my MRP's commitment to GBA+ and intersectional policymaking principles and upholds the need for equity-seeking groups, especially sex workers themselves, to be at the decision-making tables wherein the laws and policies that affect them are debated and agreed upon. My Comparative Case Study presents the major contribution of this MRP and offers historical context for each of my cases in addition to comprehensive analysis of the core outcome drivers for each case. My final sections provide a comparative discussion and recommendations which flow out of the findings detailed in the case study.

Literature Review

In this section, I provide an overview of the relevent literatures on the primary policy approaches to sex work regulation and their corresponding ideologies. This focus serves to contextualize Canada within international and historical frames. In the following sections of the literature review, I discuss the regulation of sex work at the municipal level in Canada and engage with core themes of this MRP, namely equity, diversity, and the need for GBA+ and intersectional approaches to the design and implementation of sex work policies at the local level. While the scope of this MRP does not permit a comprehensive history of sex work regulation, legislation, and revolution in Canadian history, my aim in incorporating an abridged history in the corresponding **Appendix I** is to demonstrate that when sex workers and their advocates are involved in decision-making process, more equitable results are achieved for sex workers. For example, more equitable policies have been driven by the the Supreme Court of Canada's *Bedford* decision (2013); and, in Vancouver, City Council's incorporation of a Women's Advisory Committee (WAC) in 2005. Each of these events have led to positive gains for human rights and labour protections for sex workers and in each instance sex workers were heavily involved in the consultation and decision-making processes.

Approaches to sex work policies fall along the binary of criminalization versus regulation. In a criminalization approach, sex work industry activities are governed by criminal law provisions, whereas in regulated approaches the activities of sex work are monitored through labour, health, and other social policies (Durisin et al., 2018). The favoured international model of criminalization is that of Sweden's 'Nordic model,' which passed in 1999 and is driven by the imperative to criminalize the purchase of sex (Chu & Glass, 2013). The policy developed in response to an "anti-sex work feminist position which views all sex work as a form of male violence against women and seeks to eradicate sex work in order to achieve what they deem is 'gender equity'" (Chu & Glass, 2013, p. 103). Sweden's criminalization bill was passed without consultation of sex workers and encourages a framework wherein "men who purchase sex are deemed to be aggressors and all women in sex work are deemed to be victims of male violence

and patriarchal oppression, a framing that conflates sex work with trafficking" (Chu & Glass, 2013, p. 104).

Many equity-seeking scholars, academics, and legal experts oppose restrictive policies (i.e. those associated with criminalization) (Anderson et al., 2015; Lam, 2016; Sayers, 2018; van der Meulen & Durisin, 2008), since such policies function to increase levels of risk and harm for sex workers, and instead promote a harm-minimization regulatory approaches such as that of decriminalization. One of the most praised international regulation models is New Zealand's decriminalized approach, which was launched in 2003 and relies upon "labour and public health policies … to regulate the sex industry" (Durisin et al., 2018, p. 8). New Zealand's policies aim to support sex workers' rights, protections, and dignity.

It is my own position that decriminalization of sex work is the model that can best service the rights, needs, and protections of sex workers in Canada, both in terms of safeguarding their physical health and enabling them to earn a living. Decriminalization enables sex work to be conceived of as *work*, as van der Meulen's action research found. Her interviews with sex workers across a diverse spectrum of age, race, and gender emphasized the importance of re-conceptualizing sex work through a "labour-orientation and a rights based framework" (van der Meulen, 2012, p. 149). Bruckert (2015) similarly poses the issue of sex work from a labour-protection vantage: "Replace prostitution with any other occupation and the statement that nothing can be done to reduce workplace risk becomes unthinkable. The response to danger at work should be … to implement safety and security mechanisms" (p.1-2).

Regulatory approaches become especially complex when it comes to the distinction of forced versus voluntary labour. Schwarz et al. (2017) write, "Feminist debates surrounding sex work and human trafficking are notoriously contentious, with a binary approach that sees pro-sex work and anti-human trafficking ideologies as incompatible" (p. 1). These scholars assert that the stakes of these debates are especially high since "manifestations of this conflict have become entrenched in legislation, incarceration, and deportation – structures that affect real people's material conditions" (Schwarz et al., 2017, p. 2). Not only are these debates contentious but policy makers without sufficient knowledge and/or lived

experience can elide the vital distinctions between sex work and human trafficking. The findings of this MRP suggest that the conflation of sex work and human trafficking by legislative and regulatory bodies can lead to increased harms for sex workers at the local level. Bill C-36 presents a federal example of this trend towards an unfounded conflation of sex work and human trafficking since much of the impetus behind the bill stemmed from Conservative lawmakers trying to protect innocent victims – primarily coded as vulnerable women – which fomented in relation to parallel panic over human trafficking in Canada and the development of these first federal strategies.

Despite the policy framework sought by a given government, Abel (2019) underscores the universal challenges in developing sex work policies due to the multi-faceted elements required including: "participatory research, which includes sex workers and policy-makers, to provide good evidence; collaborative governance where decisions on what policies look like are informed by sex workers; and a strong rights-based harm minimization argument" (p. 1928). Many jurisdictions around the world have struggled to unite such elements and produce effective policies around sex work, ones which both empower sex workers' rights to labour, health, and safety, while also curtailing extraneous harms to sex workers and broader communities. As such, Canada's struggles mirror international trends.

This MRP is concerned with the interface between federal criminal laws and the municipal authority to enforce or disregard them through the mechanisms of local bylaws and enforcement. Lewis and Maticka-Tyndale (2000) define the Canadian intergovernmental sex work policy interface as existing between sex workers and the establishments in which they work, including the municipal bylaws that govern their labour practices, in conjunction with federal criminal statutes and police practices as they effect the health and well-being of sex workers. While the focus of Lewis and Maticka-Tyndale's research is escorts and escort agencies in the municipality of Windsor, Ontario, I marshal this conceptual frame for delineating the network of gubernatorial powers operationalized at various levels of government which effect the day-to-day realities of indoor sex workers in Toronto and Vancouver.

By contextualizing the federal laws with the local bylaws and enforcement practices in both Toronto and Vancouver, this MRP offers an analysis into what Sayers (2018) calls "jurisdictional issues,"

which occur "when one level of government's legislative powers encroaches upon another's" (p. 58). In the case of licensed indoor sex work in these two jurisdictions it is clear that municipalities are greenlighting businesses which offer sexual services and yet devising strategies to avoid acting in contravention of the Criminal Code. Auger (2014) describes how municipal licensing bylaws both "contradict and reinforce" (p. 109) the federal laws. For example, "The bylaws may contradict the federal law by providing licenses for businesses that likely operate in violation of the Criminal Code, like body-rub parlours. Yet they reinforce the Criminal Code by providing another prohibition against sex for sale" (Auger, 2014, p. 109). This tension presents a crucial context for this MRP.

Sex work occurs across Canada in both CMAs (census metropolitan areas) and non-CMAs (cities and towns with a population fewer than 100,000). CMAs, however, collectively accounted for 87% of all prostitution-related incidents between 2009-2014 (Rotenberg, 2016). This figure translates to scholarly attention and public perception: Auger (2014) writes, "Prostitution and the sex trades are generally associated with cities and urban spaces, both in academic scholarship and in the media" (p.103).

Indoor sex work is privileged due to it being the predominant form in Canada, representing at least 80% of sex work (CPHA, 2014). Pivot Legal Society's (2009) data found that "tens of thousands of people work in escort agencies, bawdy-houses, body-rub parlours, massage parlours, strip clubs, and dating services that are registered as legitimate business establishments across Canada" (qtd. in Lam. 2016, p. 90). In Vancouver alone, Anderson et al. (2015) estimate hundreds of licensed indoor venues. Despite the preponderance of indoor sex work, the literature privileges outdoor street-based sex work; as such, licensed indoor sex work in Canada – and especially municipal regulation thereof – remains an understudied avenue (Benoit & Shaver, 2006; Lam, 2016; van der Meulen & Valverde, 2013). While many sex work advocates propagate the benefits of indoor sex work, the challenges around creating, administering, fostering, and safeguarding indoor spaces proliferate. The issues extend from creation and enforcement of municipal licensing and zoning bylaws, as discussed in the following, to the lack of workplace standards applied in businesses such as body rub and massage parlours (van der Meulen, 2011).

Municipalities wield the power to help or hinder sex workers, depending upon the decisions they make concerning bylaws and enforcements. For example, Anderson et al.'s (2015) interviews with sex workers working in licensed indoor businesses in Vancouver found that many of their respondents "maintain that they were less vulnerable to violence and more likely to be treated professionally and respectfully by clients while working in a licensed business" (p. 12). Anderson et al. (2015) thus assert that, "licensing regimes can reshape the structural framework of sex work and serve an important intervention to support violence prevention" (p. 12). Despite their potential positives for the health, safety, well-being, and labour rights of sex workers, the licensing of indoor sex businesses in Canadian municipalities presents difficulties which may undermine the possible gains of working within a licensed indoor business. Van der Meulen and Durisin (2018) write that sex workers in Canada have reported that licensing does not improve their workplace conditions, their safety, or their ability to organize for better rights" (p. 42-3). The major hurdles which prevent municipal licensing schemes from supporting sex workers include: i) the lack of clarity with respect to legality/illegality due to mixed messages from different levels of government (i.e. the Criminal Code versus local bylaws), and ii) bylaw enforcement practices marked by harassment and disrespect.

Thus, in theory, local zoning and licensing bylaws could offer foreseeable benefits for a worker looking for a safer and more regulated location; however, zoning and licensing bylaws at the municipal level have often been weaponized against sex workers and sex work establishment owners and operators due to their relatively high, and therefore prohibitive, costs as compared to other business licenses ("Identifying Research Gaps in the Prostitution Literature," 2015); their nebulous and restrictive zoning regulations (van der Meulen & Durisin, 2018); the imposition of "an unreasonably low maximum number of licenses for particular businesses, thus imposing an artificial limit on a market" (van der Meulen & Valverde, 2013, p. 320); and the invasive regulations which they impose upon sex workers and establishments such as criminal record restrictions, employee registration, and uniform requirements (Anderson et al., 2015), not to mention signed medical notes stating the sex worker is free of communicable diseases (van der Meulen & Valverde, 2013).

Since municipalities cannot directly contravene the Criminal Code, businesses within their jurisdiction cannot advertise the sale of sexual services outright. Auger (2014) explains that municipalities therefore "attempt to avoid overstepping their jurisdictional authority related to the criminal law by using euphemistic language and outlawing practices associated with prostitution and the sex trade" (p. 101). Such contradictions place sex workers in a tenuous position wherein they are exposed to "a variety of competing interests acting on terrain that is practically and discursively complex and particularly uneven for sex workers" (van der Meulen & Durisin, 2018, p. 43). Sex workers are thus caught in the crosshairs – unfamiliar with the complexities of the interface between the Criminal Code and *de facto* legalization via the granting of local licensing practices. Such a context diminishes the possibilities for sex worker rights, health, and safety promised by regulatory measures. It also commonly causes "sex workers to forgo licensing and take their chances working illegally and subject to criminal charges" (van der Meulen & Valderde, 2013, p. 321). Lewis and Maticka-Tyndale's (2000) qualitative interviews perhaps best reveal the lack of clarity surrounding sex work that is sanctioned by municipalities, despite it being criminalized under federal law: one city councillor "expressed disbelief when she learned of the different federal regulations and statutes and was confused about how a city could license sex work and simultaneously deny that it *was* sex work" (p. 443). Thus, the intergovernmental interface results in policy gaps and regulatory loopholes that negatively affect sex workers in tangible ways.

Van der Meulen and Valverde (2013) point out that individual licenses required by municipalities (i.e. for exotic dancers; body rub attendants; escorts, etc.) are "not subject to much, if any, legal scrutiny [and so] municipalities have a great deal of leeway in deciding what activities they will subject to licensing" (p. 318). As a result, they found that each municipality "will differ in what license it requires and for what areas of work" (van der Meulen & Valverde, 2013, p. 319) thus creating a patchwork of policies and regulations across the country. While furcated bylaw creation at the local level is cited as a positive attribute according to Craig (2011) since such regulations can be formulated with "the level of specificity necessary to respond to the local needs and factors at play in a particular municipality" (p. 99), this level of specificity in bylaw creation needs to be developed in collaboration with the stakeholders of

that specific community. However, Auger's (2014) jurisdictional scan of Canada's twenty largest CMAs and their bylaws regarding sex work shows limited specificity: she notes the similarity of bylaws across the country despite their being passed over different periods and in different provinces. Auger's (2014) findings provide important data for my research (see **Appendix II**) and she offers a compelling argument to prove the case that municipal licensing bylaws discursively construct sex workers as outsiders in Canadian communities. My MRP applies this precedent to two specific cases and demonstrates that, while sex workers in Toronto continue to be marginalized by the enforcement strategies of municipal licensing bylaws, Vancouver's approaches to bylaw enforcement demonstrate a more conscientious approach and yet still indicate room for improvement.

In recent years, Canadian policy scholars have begun to turn their attention to municipalities. In her comparative analysis of immigration policies in the municipalities of Toronto and Vancouver, Good (2009) writes, "The degree to which municipalities vary in their approaches to the challenge of accommodating diversity is puzzling in light of limited conceptions of municipal autonomy in Canada" (p. 93). She explains that municipalities are sometimes perceived as nothing more than "'creatures of the provinces' … [y]et municipal autonomy indeed exists in a 'mushy middle' between legislative frameworks that provide little local discretion to municipalities and forms of 'home rule'" (Good, 2009, p. 93). Good's (2009) analysis of municipalities in and around Toronto and Vancouver builds on Smith and Stuart's (2006) codification of certain municipalities as "eager beavers," meaning "municipalities that have exceeded their formal levels of autonomy through local leadership efforts" (p. 93).

Regulatory actions and enforcement practices in both Toronto and Vancouver illustrate Good's "mushy middle" concept in that both municipalities must abide by provincial directives, while at the same time balancing local public interests. Both of these municipalities have enlarged their autonomy, with respect to their home province, through the development of strong local politics, municipal code amendments, and police forces working in tandem. Mendes (2008) speaks to growing interest in research on municipalities in Canada, speaking to animating questions for this MRP: "Recent years have seen the appearance on urban agendas of a host of social and environmental issues not conventionally understood

as municipal concerns" (p. 942). This trend, she explains, "has resulted in a growing body of research that asks what pressures, processes and mechanisms result in some social and environmental policies being adopted by municipalities, while others are not?" (Mendes, 2008, p. 942). Following Mendes' provocation, my MRP questions why and through what drivers these two municipalities have different approaches to bylaw enforcement practices with respect to sanctioned indoor sex work establishments.

In terms of historical context, scholars pinpoint the 1970s as the decade that sparked greater interest in the local regulation and enforcement of sex work by Canadian municipalities. Brock (2009) aligns the rise of municipal control over local sex workers and sex work establishments as a reaction to waves of 1960s "permissiveness" in federal policy (p. 33). Municipalities felt the onus to rectify some of the perceived moral and social damage enacted by more permissive lawmaking at the federal level by clamping down on local regulations via zoning and licensing. In fact, the effects of 1970s municipal policy developments in both Toronto and Vancouver are still being felt today, as will be examined in the forthcoming case study.

This MRP uses the epithet "sex workers" to describe its primary subjects. In keeping with Durisin et al. (2018), the term "sex worker" is used to "connote a demand for social and economic justice for some of the world's most marginalized and stigmatized workers," which builds upon "[t]he idea of the sex worker [as] inextricably related to struggles for the recognition of women's work, for basic human rights and for decent working conditions" (Kempadoo (1998) qtd. in Durisin et al., p. 4). Durisin et al. (2018) note, however, that "the emergence of 'sex worker' as an identity category may exclude those who do not consider what they do to be a form of labour" (p. 4). Durisin et al.'s statement gestures to other challenges with the identificatory label of "sex worker." For example, sex workers across the board experience the full compendium of intersectional identity forces: race, class, ability, gender, immigration-status, sexual orientation, etc. While Statistics Canada (2016) published that the majority of sex workers in Canada identify as female (Rotenberg), collapsing the notion of sex worker with the gender orientation of female enacts an identificatory violence towards sex workers of other gender identities.

Beyond diverse and non-binary gender identities, sex workers also ascribe to myriad intersectional identity expressions such as those of race, class, and ability. Building on scholars such as Bingham et al. (2014), this MRP underscores the "surprising silence in public policy and research on the voices and struggles of Aboriginal women who are street-entrenched, living in poverty and engaged in sex work" (p. 441), despite their finding that sex workers of Indigenous ancestry are "three times as likely to experience generational sex-work involvement, irrespective of other risk factors" (p. 447). Indigenous activists, sex workers, legal experts, and radical feminists remain divided on the issue of whether legalization, decriminalization, or criminalization of sex work would be of the greatest benefit to Indigenous sex workers. For example, many see that while sex work can be viewed as a consensual choice by many sex workers, due to centuries of exploitation, sexism, racism, and genocide at the hands of the Canadian state against Indigenous peoples, many Indigenous sex workers can be seen to enter into sex work through a false choice – i.e. due to lower socio-economic factors, lack of security and/or health in early years (Bourgeois, 2015), bias from state and police officials (Public Safety Canada, 2014; Sikka, 2010), and intergenerational predation and trauma due to persistent colonialism (Sayers, 2018), to cite key factors. Indigenous anti-sex work feminists who advocate for abolition see Bill C-36 as not having gone far enough. Baptie and Smiley (2020) write, "We must take a stand against men's entitlement to women's bodies, improve the material conditions of women's lives, and educate ourselves about the connections between prostitution and women's oppression" (n.p.).

Indigenous feminist and lawyer Sayers, on the other hand, has witnessed the silencing of Indigenous women with sex trade experience who are opposed to abolition at decision-making tables. Sayers (2018) argues that municipalities' increasing autonomy over bylaw-making powers can have negative consequences for Indigenous street-based sex workers specifically who represent some of "the most marginalized in the sex trade" (p. 58). Both her research and her own experiential work in the sex trade suggest that Indigenous women can be further marginalized due to heightened threats of incarceration, fines, and persecution caused by the compounding of copious legal and regulatory mechanisms, i.e. federal laws and local bylaws. Discussions and decisions about the rights of Indigenous

sex workers happen at tables from which they are excluded (Sayers, 2018), and thus Indigenous sex workers are unable to provide valuable recommendations which could have a salutary effect on their day-to-day realities and/or help them receive vital social services. Sayers (2018) is adamant that if governments, policing agencies, and communities are serious about supporting Indigenous sex workers, especially in the wake of the National Inquiry into Missing and Murdered Indigenous Women and Girls, that, "There should be practical responses like working to end the continued marginalization of Indigenous women, especially marginalization through the criminal regulation of prostitution and related strategies" (p. 64).

Sex workers can also be affected by their lack of rights and protections due to their citizenship status or lack thereof. Lam, Executive Director of migrant sex worker rights organization Butterfly, (2016) calls for research into the experiences of sex workers which can "fully explore the relationships among the law, race, immigration status, and health and safety" (p. 103), gesturing to the particular experiences of migrants from the Global South, especially Asia, who come to Canada and engage in sex work despite barriers of language, citizenship, and social support, etc. Lam's groundbreaking research concerns licensed indoor sex work establishments in the Greater Toronto Area and their employees, many of whom, she finds, are immigrants from Asian countries. She writes, "Migrant sex workers in particular are impacted by the intersection of laws that discriminate against them …[which] include immigration regulations, criminal offences, and municipal regulations that directly target migrants, sex workers, and sex work" (Lam, 2018a, p. 25).

Lam finds that stringent municipal laws and enforcements further harm sex workers, both documented and undocumented. Since workers are compelled to pretend that no sexual acts occur in their respective establishments, their owners and managers, as well as city inspectors and local police, are unable to provide them with "information, protection, or safe working conditions" (Lam, 2016, p. 100). Lam's (2016) position is that the licensing of indoor sex work establishments, such as body rub parlours and holistic centres, "cannot improve the health and safety of the workers" (p. 102) since the "regulation, and prohibition of sexual services by municipal law not only decreases the autonomy of sex workers and

their ability to control their working environment, it also increases the surveillance of sex workers … and infringes their human rights" (p. 102). Despite their citizenship status, Auger (2014) finds that licensee stipulations for body rub attendants and exotic dancers working in Toronto, especially mandatory health checks to prove they are free from communicable diseases, and the impetus towards surveillance and record-keeping of sex workers and their activities reify sex workers as outsiders in Canadian communities.

This non-exhaustive compendium of iterations of sex workers speaks to the efficacy of utilizing a GBA+ and intersectional framework of analysis since it allows for capacious investigations into complex policies and the proliferating identities of the people they affect. GBA+ and intersectional-informed policy approaches can provide the flexibility and accommodations necessary to foster the changing of "the public narrative surrounding sex work, migration, and trafficking, and centre the voices of migrant sex workers themselves, rather than allowing those in positions of power to continue speaking for them" (Lam, 2018a, p. 32). My Methodology section further takes up GBA+ and intersectional approaches.

Methodology

The Government of Canada, in keeping with other Western industrialized nations, has worked to officially incorporate approaches such as gender and/or diversity mainstreaming into the research, development, and implementation of policymaking since 1995 (Status of Women Canada, 2018). The federal government's efforts coalesce around the promotion and utilization of a GBA+ framework, in which the '+' "emphasizes how a *range of social dynamics* – gendering, racializing, heteronorming, disabling, and so on – *interact*" (Bacchi, 2017, p. 34, emphasis in original). The core premise for the application of such an approach is to ensure that policies are inclusive to myriad societal groups and identities: Scala and Paterson (2017) define GBA+ as being "based on the feminist/intersectional understanding that all policies have potential to impact social groups differently, thereby creating and sustaining unequal power relations" (p. 427). While GBA+-informed policymaking presupposes salutary effects, critics caution that GBA+ objectives are seldom met. For example, Bacchi (2017) writes that there is considerable debate as to whether such approaches can achieve the goal of ensuring every policy is intersectionally inclusive and sensitive. This MRP uses "GBA+ and intersectional" in order to signify the important distinction made by Bacchi (2017) with respect to "gendering" policies: while "gender" is the called-upon verb, it is intended to encompass "numerous other active and activating processes of oppression and subordination – racializing processes, heteronorming processes, classing processes, disabling processes, third-worlding processes, etc." (p. 21).

My MRP holds up GBA+ and intersectional approaches to policy analysis as preferred for achieving equity in policymaking in Canada. My own privileging of GBA+ and intersectional approaches also correlates with a primary finding in my MRP in that I assert that Vancouver's adoption of GBA+-informed femocratic administrative tools at the municipal governmental level contributes to one of the primary drivers behind the outcome as to why licensed indoor sex workers in Vancouver are able to work with greater respect and less harassment than licensed indoor sex workers in Toronto. I assert that the application of comprehensive GBA+ and intersectional-driven policy approaches represents a potentially

successful route to producing equitable policies for the divergent subjectivities and identities who lay claim to the term "sex workers." For example, this MRP puts forth an argument that Vancouver has experienced some success in terms of empowering the labour rights and safeguarding the health and safety of sex workers in their jurisdiction due, in part, to their implementation of GBA+-informed policies. The inhibiting of GBA+-informed policies and practices can then be understood as a factor which *prevents* equitable policymaking for sex workers, for example in this MRP's comparative jurisdiction of Toronto.

This MRP is methodologically informed by and advances GBA+ and intersectional policymaking through two core motivating principles and/or queries:

I) My findings uphold the notion that, if created through the proper channels of consultation and support with stakeholders, GBA+ and intersectional-centered policies can have a positive effect upon sex workers' day-to-day lives. Taking this premise a step further, this MRP perceives policies as not only *affecting* citizens but also functioning to *constitute* them as particular subjects, in accordance with foundational theoretical work by Bacchi (2017). Bacchi (2017) is interested in how inequality is "done" through policymaking (p. 21), and offers new investigative questions that concern the doing of policy and its correlated effects upon citizens. For example, her questions include: "What does the particular policy, or policy proposal, deem to be an appropriate target for intervention? What is left out? And how does it produce them as particular kinds of subjects?" (Bacchi, 2017, p. 28-9).

In terms of praxis, van der Meulen's (2011) action research speaks to the centuries of regressive legislation aimed at controlling sex workers' bodies, vocations, and rights. At a macro level, the greatest gains for sex workers in the realm of Canadian policy have occurred either through the courts or when sex workers and their advocates have been at the decision-making table (see **Appendix I**). Van der Meulen (2011) writes, "despite the desperate need to reform prostitution policy, Canadian policy makers and politicians have rarely solicited input from sex working communities in the policy development process" (p. 348). Recent efforts in Vancouver, which will be discussed in forthcoming sections, present the beginning of a changing tide. Such policy shifts are furcated (Craig, 2011), designed both *for* and *by* the

communities they will effect. As GBA+ policymaking in practice, these trends demonstrate that when policies are created, in part or in whole, by the people whom they affect, people are able to participate in their own constitutive processes and design ways of living, being, and doing which reflect their own self-perceptions.

II) Femocratic Administration: a GBA+ and intersectional praxis

This MRP connects GBA+ with the strategies of both democratic and femocratic administration. In terms of implementing GBA+ policies, the enactment of the principles and approaches of participatory democracy and democratic administration can work to bring sex workers and their advocates into the policy processes whose outcomes have palpable effects upon their day-to-day lives. Auger (2014), for instance, argues that Young's concept of participatory democracy should be incorporated into the bylaw making processes concerning sex work in local jurisdictions. In line with Young's theory on effective group representation as vital for participatory democracy, Auger (2014) outlines three institutional mechanisms required to ensure that more equitable bylaws could be put in place for sex workers: "self-organization of group members, group analysis and generation of policy proposals, and group veto power regarding policies that affect the group" (p. 115). In fact, Young's tenets of participatory democracy dovetail with Vancouver's successes with respect to bylaws and enforcement for licensed indoor sex workers which, in this MRP, are accorded to GBA+, intersectional, and femocratic administrative philosophies and strategies.

Findlay (2014) applauds the fundamental tenets of democratic administration, namely that: "public sector workers have closer contact with citizens and social movement organizations; positions are elected whenever possible … and that a decentralization of power and a levelling of hierarchies is pursued" (p. 6). In terms of elected positions through a democratic administrative lens, Findlay asserts that they be "representative of the full diversity of Canadian citizens in terms of race, gender, class, sexuality, nationality, and ability" (p. 6). However, her research finds that while democratic administration offers more equitable and participatory governmental and policy approaches, it has been largely inattentive to gender and diversity. As such, Findlay (2018) extends democratic administration to

"femocratic administration" which responds to the Canadian political context insofar as it sees "women's policy machinery [as] marginalized within the power structure of the state; women are still underrepresented in political institutions" (p. 209). Femocratic administration is comprised of three components: i) feminist bureaucratic restructuring in which intersectionality can be addressed through the use of feminist organizational principles to transform the nature of the state; ii) improved representative bureaucracy within the public service; and iii) marshalling of the primary tenets of democratic administration, as listed above (Findlay, 2018).

Unlike feminist institutionalism which is an approach designed to illuminate the gendered configurations of power and behaviour (Lovenduski, 2014), Findlay's femocratic administration does not view institutions as separate from social forces. It is important to note that, while her epithet relies upon the prefix "fem," femocratic administration encompasses other intersectional identities beyond either the sexual or gender category of women, in line with Bacchi's (2017) useful "gendering" approach to policy analysis which drives this MRP (p. 21). In terms of Andrew's (2008) analysis of women's representation in local political spheres, one outcome of decentralization is that of local groups being required to perform greater service delivery to their communities. However, this growth in responsibility often accords with weakened institutional support and connections. Though many feminist organizations desire separation from the state, femocratic administration emphasizes state centrality (Findlay, 2018). Institutional representation is important under this schema in that it aids groups both in making demands on the resources of the state, and as "a strategy to transform the 'main business' of municipal governments by including women's groups as, if not central, at least legitimate actors" (Andrew, 2008, p. 122). Legitimacy functions to induce a sense of entitlement "so that their issues are seen as legitimate issues within the local political sphere" (Andrew, 2008, p. 122).

Paterson et al. (2016) recently studied women's policy agencies across the Canadian provinces in order to ascertain which of their practices were most successful in achieving equitable policies. One of their key findings is that there exists a strong correlation between advisory councils and representations of gender equality in policymaking since such "councils offer a space to represent alternative views

informed by expertise and lived experience" (Paterson et al., 2016, p. 420). In fact, this is one of the femocratic strategies employed by Vancouver City Council in their efforts to respond to the missing women crisis, since, "many began to link the need to defend and improve city programs and services with the need to expand the representation of women and girls in city institutions" (Findlay, 2018, p. 220).

This MRP ultimately argues that Vancouver's adoption of GBA+ and intersectional policy strategies in the wake of the Pickton trial and the *Missing Women Commission of Inquiry*'s recommendations has led to better working conditions as a result of less harassment for some licensed indoor sex workers in Vancouver. While many sex work advocacy and community-based organizations, in conjunction with a small number of local politicians, are pushing for similar strategies to be implemented in Toronto, this municipality has had less success – thus far – in incorporating GBA+ and intersectionally-informed policy approaches as well as corollary femocratic administrative tools into local decision making mechanisms in fulsome, long-lasting, and wholly equitable ways. Having outlined the key methodologies and concepts used in this MRP, I now turn to the comparative municipal case study.

Comparative Municipal Case Study

The findings of this MRP demonstrate that municipal bylaws pertaining to sex work in Toronto and Vancouver do possess some differences; yet, the primary difference in the working conditions for a licensed sex worker in these two jurisdictions is due to the enforcement practices associated with the bylaws.

In **Appendix II,** I reproduce Auger's (2014) cataloguing of licensing bylaws across Canada, extracting the data for Toronto and Vancouver. While Auger's data is helpful in that it provides an overview of municipal licensing bylaws across Canada, her analysis does not extend to the import of the disparities between my two cases. Bylaws pertaining to licensing indoor sex work establishments in Vancouver are less restrictive, both in their stipulations and in their enforcement. As well, Vancouver requires very few individual licenses for sex work-adjacent establishments: notably, neither body rub and massage parlours, nor health enhancement centres require employees to obtain individual licenses. Conversely, Toronto mandates considerably more individual licenses for practitioners, which incurs greater red-tape with corollary invasive tenets such as medical exams and Criminal Record checks. The increase in red-tape further accords with increases in both the quantity and the extent of inspections. Notably, the bylaws present damning similarities as well. For instance, both Toronto and Vancouver maintain a stipulation against licensed sex workers being able to lock the doors of their treatment rooms, which leaves them vulnerable to potentially violent intrusions. Thus, while Vancouver's bylaws do provide some marked differences from Toronto – crucially, less invasive requirements for practitioners – the maintenance of the door locking stipulation demonstrates that both jurisdictions have much work to do to ensure the health and safety of sex workers through municipal licensing bylaws and enforcement.

Since bylaws themselves should, in theory, reflect the Criminal Code, while not attempting to regulate federally-designated activities, there is only so much leeway they can provide to skirt the criminalization of sex work. For example, a municipality cannot make sex work legal via local regulations as they are unauthorized to do so and yet municipalities such as Toronto and Vancouver have

developed strategies by which to circumvent the Criminal Code: they license businesses of which they are knowingly aware offer sexual services; they collect revenue from these licenses; and their efforts to offset their own circumvention of federal law appear in the form of bylaws that enable them the authority to enter and inspect such locations and employees therein. As such, a municipality's power to inspect, and the choice whether or not to wield it, forms the locus of power within the confines of this MRP. On the surface, city and police inspections of licensed indoor sex work businesses and their employees demonstrate to higher-level governments (federal, provincial) that municipalities are in compliance with the federal laws regarding the criminalization of sex work; however, the discretionary power of choice to inspect or not inspect (and to lay charges or fines) can have considerable effects upon sex workers' lives, rights, and livelihoods.

Toronto - Policy Legacy 1970s-2018

Toronto's policy legacy paints a picture of regressive policies determined by municipal and police control, with little engagement and/or consideration of sex workers. Brock (2009) writes that sex work was on the rise across Canadian cities in the 1970s and yet Toronto was a particular hot spot: "Tensions were particularly high in Toronto, where Yonge Street was developing a reputation as the 'sin strip' of Canada" (p. 33). The first body rub parlours opened on this infamous strip (Yonge Street between Wellesley and Queen Streets) in 1972 and the industry quickly thrived: Ross (in press) writes that, "A snapshot of Sin Strip at its peak in 1974-1975 shows forty-eight sex-orientated businesses" (p. 6).

Many citizens and local business owners (of non sex work-related businesses) disapproved of the growth of the adult entertainment industry on Yonge Street. In 1973, Mayor David Crombie received over three hundred letters from constituents demanding the Mayor "act to clean up sexual commerce and save the street" through claims of morality, the future of urban development in the city, and the rights of all citizens to frequent the area, not just those seeking adult entertainment (Ross, in press, p. 1). The growth of conservative newspapers such as the *Toronto Sun*, whose reporters decried the immorality of the 'sin strip,' in conjunction with the lobbying of the city's Downtown Council further drove City Council to crack down on municipal regulations and enforcement of sex work establishments. Members of the Downtown Council were represented by owners of non sex work-related businesses and argued of the distinct differences between their establishments "which paid taxes, obeyed municipal regulations, and had an abiding interest in the street's future" with those of the new sex work establishments which, they argued, "accepted short-term leases, did not maintain their premises, and alienated mainstream consumers with aggressive advertising" (Ross, in press, p. 9). Downtown Council lobbied against sex shops on Yonge Street, warning that "unless the city acted, the unchecked spread of the sex industry would undermine both the viability of downtown Yonge as a marketplace and Toronto's reputation as a safer, better functioning example of a large North American city" (Ross, in press, p. 9).

Another factor in public pressure against sex workers in Toronto developed out of Prime Minister Pierre Trudeau's amendments to the Criminal Code to "remove provisions against adult homosexual sex" (Page, 2018, p. 273). Page (2018) explains that such amendments ignited a "process of upward mobility … that saw the formation of gay villages and openly gay businesses across the country" (p. 273), and led to struggles between especially trans sex workers and gay neighbourhood residents in cities including Toronto and Vancouver. In Toronto the site of this particular clash was at the intersection of Homewood and Maitland, just east of Yonge Street, in the Church-Wellesley Village. Page (2018) writes that, "These violent conflicts highlight the pronounced economic and political disparity within Canada's LGBTQ community, which cuts along race, class, and gender lines" (p; 279). While, admittedly, this MRP cannot provide a comprehensive account of the diverse experiences and histories of sex workers in Toronto and Vancouver, and especially how the effects of gentrification in these two cities have impacted municipal policy changes, Page (2018) speaks to the profoundly complex intersections of gender, sexuality, labour, urban development, and public policy which together form contemporary social policies and day-to-day realities for sex workers on-the-ground.

As part of his justification for amending the Criminal Code to legalize adult homosexual sex, Prime Minister Pierre Trudeau uttered his now famous phrase from 1967, "there's no place for the state in the bedrooms of the nation," (qtd. in Page, 2018, p. 273). When the federal government "washed its hands of intervening in local debates over censorship and prostitution" (Ross, 2017, n.p.), provincial and municipal governments began to take on greater responsibilities in the governance and regulation of sex work in their jurisdictions. In 1975 the province amended both the Municipal Act and Theatres Act which "expanded municipal legislative power over body rub parlours … As a result, city politicians were able to pass a bylaw to license and limit the number of body rub parlours in Metro Toronto" (Brock, 2009, p. 35). Toronto's efforts can be seen, according to Ross (2017), as "effectively trying to license massage parlours out of existence" (n.p.). In 1977 the city appointed the Special Committee on Places of Amusement, which was made up of politicians and police officers whose shared vision was to shut down city establishments that offered sexual services. One of the key findings of their report appears as follows: "It

is absolutely necessary that appropriate levels of government take action to minimize the offensiveness to the general public of adult entertainment establishments in particular" (Brock, 2009, p. 35). Brock (2009) notes that the report failed to acknowledge that there had been no rise in the crime rate since the opening of these establishments.

The municipal code amendments and the recommendations of the special committee led to changes damaging to sex workers and establishments including: increased fines; special classes of licenses for adult entertainment establishments; redefinition of zoning bylaws to prevent any new businesses from opening; the empowerment of the police in acting as licensing inspectors; and increased costs and red tape associated with the procuring of licenses for body rub parlours, as well as dancers and parlour attendants. For example, dancers and attendants had to submit a criminal record check in order to obtain a license (Brock, 2009). The main outcome of the war on the 'sin strip' for body rub parlours was their closure and then ultimate dispersal into other neighbourhoods of the city and into other municipalities. Regulatory amendments to sex work bylaws in the 1970s have altered the culture of sex work and its enforcement in Toronto to this day. Ross (2017) writes, "Somewhat ironically, (Toronto's] licensing regime (still more or less in place today) would provide a framework for the continued dispersal of body-rub parlours to drab strip malls and storefronts throughout the city" (n.p.).

Ross's (2017) point that the 1975 municipal code bylaw amendments have continued to provide a framework for the regulation and enforcement of indoor sex work establishments in Toronto is corroborated by studies focusing upon the twenty-first century by Law (2014) and Auger (2014). Law (2014) analyzes bylaws surrounding strip clubs and exotic dancers in Toronto after the passing of the Ontario Municipal Act (2001), which gave municipalities the authority to restrict zoning in terms of the number of strip clubs allowed. In the early 2000s, Toronto City Council discussions pertaining to adult businesses began to shift their focus from strip clubs to "what they perceived as an emerging threat to the community – body rub parlours" (Law, 2014, p. 38). A task force was set up to "develop licensing criteria, standards and regulations for Holistic Establishments" (qtd. in Law, 2014, p. 38-9). Law (2014) explains that the term "Holistic Establishment" was previously used as code for "illegal body rub parlour"

by city officials and police (p. 39). The recommendations provided by the task force led to City Council limiting such establishments' hours of operation and "also made holistic establishments, body-rub parlours and adult entertainment parlours into distinct business categories, in an effort to safeguard the reputation of [other businesses] … and public health and safety" (Law, 2014, p. 39). Such 2005 changes were aligned with an increase in the police budget: the "hiring of 200 more police officers over a five-year period [to be] funded by an equivalent increase in the licensing fees in massage parlours and adult entertainment businesses (qtd. in Law, 2014, p. 39).

Auger (2014) analyzes the licensing categories of body rub parlours and holistic spas and/or holistic centres in Toronto. She describes the development of the newer holistic category in Toronto in the late 1990s and early aughts: "While the body-rub bylaws remain in place, the newer holistic category was introduced to ensure body-rub attendants were not pretending to offer holistic services by requiring holistic practitioners to have government-recognized training" (Auger, 2014, p. 103). Auger (2014) notes that in practice, however, "many of Toronto's erotic massage parlours are licensed under the holistic category" (p. 103). Licensing challenges pertaining to body rub parlours and holistic spas continue to plague licensed indoor sex work establishments and their employees in Toronto, as will be discussed below.

Before the SCC *Bedford* decision in 2013, an Ontario Superior Court initially struck down prohibitions on keeping a bawdy-house, communicating for the purposes of prostitution, and living on the avails of the trade due to these being in violation of *Charter* rights of security of the person and freedom of expression ("Prostitution Laws Struck Down," 2010). And yet, in the wake of the ruling, York Region police charged 27 people with crimes such as keeping a common bawdy-house, living on the avails of prostitution, and being an inmate of a common bawdy-house (Vincent, 2010). A spokesperson for the force commented at the time that they are still laying prostitution-related charges, despite the ruling since, "We're under an obligation to enforce the current laws" (qtd. in Vincent, 2010, n.p.). It is clear from the outset that policing strategies in Toronto remain in confluence with the federal Criminal Code, even when an Ontario provincial court struck down core tenets regarding prostitution. The year 2010 also marked the

"first prosecuted case of labour trafficking" (Kaye et al., 2014, p. 40) in Canada with the apprehension and charging of Ferenc Domotor, known as Hamilton's human trafficking kingpin who forced 19 people from Hungary to work without pay in the construction sector. These two events in 2010 set the scene for a different approach to the enforcement, inspection, and charging of licensed indoor sex work establishments and their employees in Toronto as compared to Vancouver.

Toronto - Current Licensing Bylaws

The City of Toronto regulates the licensing of indoor sex work-adjacent business in the city through its Municipal Licensing and Standards Division (MLS), as per the 2006 amendments to the municipal code (Sayers, 2018,), and the corollary 2006 City of Toronto Act, Chapters 545 and 546 (Auditor General's Report, 2017). Licensing schemes for indoor sex work establishments in Toronto are prescribed as such (see also **Appendix II**): Toronto requires licenses for owner/operators and attendants for adult entertainment parlours (i.e. strip clubs); body rub parlours; and holistic spas/centres. At present, no new applications for body rub parlours are being accepted in Toronto due to the cap of 25 being reached (City of Toronto, Body Rub Parlour), which is a zoning stipulation hangover from the 1975 municipal bylaw amendments that endeavoured to control the number and location of body rub parlours within certain jurisdictions (Ross, 2017). Body rub attendants/rody rubber licenses are still being accepted, however. Such a license requires a criminal record check as well as a letter of employment. There is also an additional list of screening criteria that includes the stipulation that the applicant will be denied their license if they have been convicted of a sexual offence under the Criminal Code in the last ten years (City of Toronto, Body Rubber).

Stipulations under the Toronto Municipal Code 545 for Body-Rub Parlours include additional aspects which are both invasive and/or potentially harmful for sex workers. These include both 545-333 and 545-345, which mandates medical examinations of body-rubbers in order to prevent the spread of communicable diseases (note that patrons are not required to show proof of medical examination to receive services). They also include 545-343: the "Obstruction or locking of individual rooms or cubicles

[is] prohibited" (City of Toronto Municipal Code 545, 2020, p. 12). Licensing bylaws for Body Rubber and Body Rub Parlours in Toronto require more invasive stipulations than for Body Rub Parlours and Body Rub Attendants in Vancouver, especially the stipulations requiring Criminal Record checks and medical examinations. However, it is important to note that while Vancouver requires fewer invasive stipulations than Toronto for Body Rub Parlours/Body Rub Attendants, both Toronto and Vancouver retain stipulations preventing the ability of licensed body rubbers/body rub attendants from locking treatment room doors. In the case of both jurisdictions' bylaws, this stipulation remains a point of contention since the inability to lock a door leaves a sex worker vulnerable to aggressors who may enter the treatment rooms.

In terms of applications for holistic spas/centres and holistic practitioner/attendants, applications remain open. Toronto Municipal Code stipulations under 545 for Holistic Centres and Holistic Practitioners include: that the owner be licensed as a holistic practitioner (545-160.2); the applicant for an owner's license must submit the list of practitioners in their centre (545-166); only holistic services be advertised (545-180); the touching of specified body areas is prohibited, as well as clients, owners, and practitioners are to cover specified body areas (545-186) (City of Toronto Municipal Code 545, 2020). Importantly, applicants for holistic centres are disallowed from applying if they are members of certain holistic associations (City of Toronto, Holistic Centre). As per an April 2018 City Council decision, a "comprehensive review of body-rub parlours and holistic centre regulations" (LS24.2, Work Plan for Review of Chapter 545, 2018) is currently underway.

This 2018 decision by City Council developed out of the 2017 Auditor General's Report and the key findings that not only are businesses with holistic centre licenses providing body rub services, but also that many of the licensed Professional Holistic Associations which applicants for licenses for holistic centres purport to be members of are potentially shell associations. The April 2018 Council report demonstrated its willingness to "ensure all appropriate stakeholders and community partners are consulted in this review" (LS24.2, Work Plan for Review of Chapter 545, 2018), including definitive Toronto sex worker advocacy organizations Butterfly: Asian and Migrant Sex Workers Network and Maggie's:

Toronto Sex Workers Action Project, alongside anti-human trafficking organizations and Toronto Police Services (TPS). In these consultations, the City Council directed the Executive Director, Municipal Licensing and Standards "in the comprehensive review of body-rub parlours and holistic centre regulations, to use an anti-human trafficking lens to protect public health and safety, including a review of provincial and federal reports on human trafficking" (LS24.2, Work Plan for Review of Chapter 545, 2018). The concerned focus on an "anti-trafficking" lens for these consultations and reviews is troubling since, while fighting human trafficking is imperative, an "anti-trafficking" lens with respect to bylaw enforcements and inspections of licensed indoor sex work establishments in the city presents the primary driver behind recent abuses and harassment of sex workers, especially migrants, as will be argued in below sections. Furthermore, the city's commitment to consultations with sex worker advocacy organizations and other community-based organization have not been implemented with a GBA+-framework of intersectionality-aware care, respect, and equality.

Toronto - Legacy of Community and Intergovernmental Collaboration

In the days leading up to December 6th, 2014, twenty-five Toronto city councillors drafted and signed a petition asking then Premier Kathleen Wynne to refer Bill C-36 directly to the Ontario Court of Appeal in order to determine whether the new *Protection of Communities and Exploited Persons Act* (PCEPA) was constitutional. Their letter states, "We fear that Bill C-36 [PCEPA] has introduced such unsafe conditions into Canadian society, bringing foreseeable detriment and real danger to some of the most vulnerable women we represent" (qtd. in Robertson & Houston, 2014). As former MP Peggy Nash commented at the time: "If the justice minister had listened to any legal experts when crafting this legislation, Premier Wynne wouldn't now be forced to sort through this mess" (qtd. in Browne, 2014).

Wynne's efforts to sort through the "mess" of the passing of PCEPA and local reactions from city councillors, advocacy groups, and MPs involved her reaching out to the sitting Ontario Attorney General. Wynne was driven to investigate the constitutionality of the new sections of the Criminal Code under PCEPA which targeted the consumers who sought to purchase and thus commodify sexual services. In

line with the twenty-five city councillors who feared that PCEPA was a regressive move which nullified the valuable gains for rights and protections for sex workers achieved in the 2013 SCC *Bedford* decision, Wynne stated, "I am left with the grave concern that the so-called Protection of Communities and Exploited Persons Act will protect neither the 'exploited persons' nor 'communities'" (qtd. in Baker, 2017, p. 423). On a personal note, I did not discover this quotation until I had already titled this MRP; however, it is clear that both Wynne and myself questioned the language used in PCEPA in terms of just *whose* communities the Conservatives saw themselves as protecting. Wynne's effort to gain further insight into the Act and its potential ramifications for Ontarians were dismissed by the Attorney General who found "no clear unconstitutionality in the law" (Baker, 2017, p. 424).

In 2017, then Auditor General of Ontario Beverly Romeo-Beehler and her office produced a report in which they reviewed the City of Toronto's Municipal Licensing and Standards Division's Management of Business Licenses in terms of Licensed Holistic Centres. Their study focused upon the period from January 1, 2015 to December 31, 2016. Their key finding was that, "a significant number of holistic centres appeared to be offering unauthorized services" (Auditor General's Report, 2017, p. 1); this was correlated with the statistics of their registering 410 licensed holistic centres in the city as compared to only 25 body-rub parlours (as per the cap denoting only 25 body-rub parlours in effect since 1975). The report explains that many holistic centres are offering services provided at body-rub parlours and yet they are paying considerably lower license fees ($270 versus $13,102, respectively); and their staff are not subject to the same requirements as body rub attendants, such as medical examinations.

Beyond the potential risks imbricated in a holistic centre supplying body rub services, the report also asserts that "these centres could potentially pose an array of health, safety and community issues, including the risk of human trafficking" (Auditor General's Report, 2017, p. 3). Another key finding was that one of the requirements for a holistic centre or practitioner license mandates the applicant be a member of a not-for-profit Professional Holistic Association. The AG's report reviewed the 10 Associations with the largest memberships, which in total represent 92 per cent of licensed holistic practitioners in Toronto, and found that many of these Associations "appear to exist only on paper"

(Auditor General's Report, 2017, p. 3). These findings present the animating focus of this section's analysis on Toronto's licensing bylaws and enforcements of indoor sex work establishments. In fact, the Auditor General report poses ongoing challenges for licensed indoor sex workers in Toronto, especially with regard to an increase in raids and inspections due to heightened anxieties around human trafficking; the cap on body rub parlours causing an influx of applications for holistic centres; and conflicts over the legitimacy of Professional Holistic Associations.

Toronto - The Effects of "Anti-Trafficking" Policies

Recent spikes in enforcement in licensed indoor sex work establishments in Toronto can be linked, in part, to the federal government's commitment to signing the United Nations' *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* two decades ago. Durisin and Heynen (2015) explain that while human trafficking is now part of our contemporary cultural zeitgeist, it is only very recently that this conceptualization has attained a high level of prominence in Canada. The scholars assert that "Anti-trafficking NGOs, governments, and other organizations have mobilized the language of trafficking to push for a range of legislative and policy changes" (Durisin & Heynen, 2015, p. 9). In Canada, we have seen changes to the Criminal Code, including the ratification of the IRPA (2002), as well as various federal and provincial task forces and action plans assembled to quell instances of human trafficking.

Law locates the genesis of anxieties around human trafficking at Toronto's municipal level in June 2004: in the wake of a spate of work permits granted to migrant exotic dancers under the Temporary Foreign Worker Program. Durisin & Heynen (2015) describe the regulations under the Temporary Foreign Worker Program: "The provisions provided an exemption for various categories of workers … The exemption for migrant exotic dancers was based on allowances made for a range of performing artists" (p. 9). Unfortunately, one of the outcomes of this program domestically was the dissemination of often unfounded conflations between Eastern European migrants with transnational, organized crime rings, the latter of which was seen as exploiting the former. By performing a discourse analysis of human

trafficking accounts in prominent, English-language Canadian newspapers from the 1990s through the early aughts, with the commencement of the Temporary Foreign Worker Program, Durisin and Heynen (2015) posit that "these new narratives enabled the extension of policing and security-based approaches to human migration that had damaging effects … on migrant women in the sex sector in particular" (p. 11). Such narratives compelled governmental officials, including then Immigration Minister Judy Sgro and Toronto City Councillor Peter Milczyn to speak out against allowing these specific workers to enter the country through this program (Rimniceanu, 2007). Law (2014) explains, "immigration and trafficking concerns subsequently informed the City Council's development of protocols and strategies regarding the sex industry" (p. 39).

Subsequent provincial and municipal governments in Ontario and Toronto thus began to stoke the fire of fighting human trafficking, which was amplified by the 2010 conviction of Ferenc Domotor in Hamilton, Ontario – the bust of the largest human trafficking ring in Canadian history ("Hamilton human trafficking," 2012). While this case concerned the trafficking of construction workers, the conviction of Domotor sparked rising public anxiety about human trafficking. This panic was and continues to be primarily directed towards human trafficking for the purposes of the sex trade. Millar and O'Doherty (2020) explain, "In Canada, the conflation of human trafficking and prostitution and a consequential reductive narrative that trafficking is mostly, if not entirely, related to sexual exploitation, serves to invisibilize the multiplicity of other forms of trafficking" (p. 26). The Domotor case in conjunction with the release of damning provincial statistics on human trafficking, in which the country's "two most populous provinces (Ontario and Quebec) account for approximately 85%" of trafficking charges (Millar & O'Doherty, 2020, p. 29), began to paint the province as a nexus of human trafficking rings in Canada. As a result, Ontario and subsequently Toronto have been beset by escalating panic with regards to curbing incidents of human trafficking.

This panic has materialized at the levels of funding allocation, strategic action plans, and, crucially for this MRP, an increase in harms such as harassment befalling licensed indoor sex workers in the city in the name of police and inspectors cracking down on trafficking. Premier Kathleen Wynne's

2016 Mandate letter to then Ontario Minister of Community and Social Services Helena Jaczek listed human trafficking as her third priority item in keeping with the 2016 statistic that Ontario is a "major centre for human trafficking in Canada, accounting for roughly 65 per cent of police-reported cases nationally" (Newsroom Ontario, 2016). Ontario's inaugural strategy to end human trafficking was earmarked $72 million. In 2020, Premier Doug Ford launched his own strategy, *Ontario's Anti-Human Trafficking Strategy* 2020-2025 with a pledge of $307 million, the largest investment in anti-trafficking supports and services in Canada to date (Carruthers, 2020), one year after announcing a $133 million cut to funding for Legal Aid Ontario, among other austerity measures.

This increase in anti-trafficking funding and attention has led to an anti-trafficking lens becoming the dominating focus in the province and, as such, eclipsing the health, safety, and rights of adult consensual sex workers. While curtailing forced and unfree labour, especially that of minors, is undoubtedly a worthy goal, persistent anti-trafficking policies in Toronto have developed from a "conflation of sex work with trafficking, which is informed by racism, xenophobia, and myths of the migrant sex worker" (Lam, 2018a, p. 2-3). The increase in funding and attention manifests in the aforementioned spike in inspections in the name of bylaw enforcement but with the escalated volume and anxieties stemming from provincial commitments to curb human trafficking. Various politicians and enforcements agencies, across intergovernmental dimensions, continue to conflate sex work and trafficking despite the fact that anti-trafficking policies often "harm the people [they] are trying to help" and/or "condemn sex work rather than meaningfully helping [potential] victims of trafficking" (Law, 2014, p. 40).

Toronto - GBA+, Intersectional & Femocratic Administrative Approaches to Enforcement

As noted above, the April 2018 Council report demonstrated its willingness to "ensure all appropriate stakeholders and community partners are consulted in this review" (LS24.2, Work Plan for Review of Chapter 545, 2018), including Toronto sex worker organizations Butterfly and Maggie's. However, while consultations did occur, a May 1, 2018 letter to Toronto City Council from the Canadian

HIV/AIDS Legal Network, signed by three influential sex work advocates Sandra Ka Hon Chu, Elene Lam, and Andrea Sterling described racist, contemptuous, and dismissive treatment towards deputants in the consultations. The signatories observed as deputants' accounts of abuse and harassment at the hands of bylaw enforcement officers were met with "disbelief among committee members" and "descriptions of bylaw enforcement officers' racism were brushed aside" ("Racism and Prejudice have no Place in City Hall," 2018). One City Councillor repeatedly conflated sex work and sex trafficking, demonstrating his limited understanding of the issues being discussed. The signatories explain, "The outright denial of even the potential for racism on the part of city staff was profound and could be linked to the everyday hostile racism of bylaw enforcement officers" ("Racism and Prejudice have no Place in City Hall," 2018). They close with the statement offering that if the committee is dedicated to quelling human trafficking then "it is critical that its members … meaningfully consult with those directly affected by the bylaws and their enforcement, and to base policy developments on evidence … Sadly, if the committee's response to deputants was any indication, there is much more work to be done" ("Racism and Prejudice have no Place in City Hall," 2018).

Chu, Lam, and Sterling's letter reveals various challenges pertaining to the incorporation of GBA+-policy frameworks and the tools of femocratic administration within the municipality of Toronto's approach to bylaw creation and enforcement of licensed indoor sex work establishments such as body rub and massage parlours and holistic health centres and their employees. First off, in order for consultative processes to be equitable, deputants must be heard: their concerns must be received with respect and gravity and treated as evidentiary materials which inform the review's processes and deliberations. A successful form of "authentic engagement" privileges "a citizen-centered approach to evidence and engagement" (Johns & McLellen, in press, p. 4). Authentic engagement aligns with core principles of "democratic administration," which posits that relationships between the state and society can be reconfigured through "state funding of advocacy, more popular control of policy formation and implementation (especially by marginalized groups), and greater knowledge-sharing and coordinated actions between the providers and users of public services" (Findlay, 2018, p. 210).

As will be discussed in the next section, despite the City of Vancouver's success in implementing a core femocratic administrative tool into the institutional structures of their municipal government, the Women's Advisory Committee (WAC), the City of Toronto does not possess a similar board, agency, commission, or committee to consider complex social issues such as the needs of an intersectionally diverse group which represents sex workers and their communities. Findlay (2018) connects the weakening of feminist representation at the institutional level in both Toronto and Ontario due to the advent of New Public Management which "rejected the principle of internal advocacy by public servants, curtailed the influence and access of outside social forces, and individualized inequality by attributing it to personal responsibility" (p. 209); Andrew (2008) also sees changes to women's representation due to neoliberalist decentralization, including the slashing of the Status of Women Canada's 2006 budget. Another factor is, of course, the gravity of the murders and disappearances in Vancouver from the late 1970s until the early 2000s and Vancouver's subsequent efforts to mitigate further loss of life, especially due to their being in the global spotlight as a result of these heinous crimes.

Even though Canada signed the UN *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) in 1980, which "commits governments to promoting equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life" (Greckol, 2005, p. 1), the City of Toronto remains without a dedicated, institutionally-recognized women's council to advise on crucial intersectional policy issues. Independent charitable and community-based organizations such as Toronto Women's City Alliance and Women Win Toronto are committed to increasing the representation of women on City Council and in senior management (TWCA, 2013), and assisting with municipal political campaigns headed by women (womenwinto, 2020), respectively. While City Council requests consultation from sex worker organizations, as they did with the 2018 body rub and holistic centre bylaw review proceedings, key stakeholders remain outside the structures of power and their valuable expertise, knowledge, and recommendations thus remain overlooked to the detriment of the lives of sex workers in Toronto.

Toronto City Council's April 2018 decision to perform a "comprehensive review of body-rub parlours and holistic centre regulations" (LS24.2, Work Plan for Review of Chapter 545, 2018) grew out of both the 2017 Auditor General's (AG) report as well as community response to a spate of harassment claims against bylaw officers during inspections of body rub parlours and holistic centres. The AG report called for the hiring of more bylaw officers in order to increase the number of inspections into these businesses. While the report demonstrated its commitment to protecting public health and safety through the increase in inspections and endeavoured to respond to calls from some citizens concerned about the city's licensing of sex work in contravention of the Criminal Code and potential ramifications (Pelley, 2018; Pelley, 2019), employees of body rub parlours and holistic centres began to experience new and increasing threats to their health, safety, and well-being as a result. A spring 2018 petition began to circulate, entitled "End discriminatory and targeted prosecutions on holistic centres and practitioners in Toronto" (change.org, 2018). Toronto Centre City Councillor Kristyn Wong-Tam spoke to the media about her experiences meeting with employees of body rub parlours and holistic centres who were victims of harassment at the hands of city inspectors and police: "They felt that there was discrimination in the way they are being treated" (qtd. in Ferguson, 2018, n.p.). Wong-Tam cited incidents of bylaw officers asking the women, or holistic practitioners, to disrobe and show them their undergarments (qtd. in Ferguson, 2018). The councillor linked these discriminatory practices with bylaw officers' racism towards the employees, many of whom are of Asian background and speak limited English (Ferguson, 2018).

Lam's community-based research and advocacy also highlights an increase in racially-targeted inspections of licensed body rub and holistic centres in the city. When she began to hear complaints from community members who worked in such establishments regarding their mistreatment by bylaw enforcement officers and police, Lam initiated a series of qualitative interviews. Her 2018 findings corroborated suspicions: "Overall, respondents had very negative impressions of municipal bylaw enforcement officers and police" (Lam, 2018b, p. 5). For example, her findings demonstrate that 60% of respondents had negative perceptions of bylaw enforcement and police officers: "Some felt that the officers did not respect them as workers (40%), treated them as criminals (37.8%), or unjustifiably

punished them (13.3%)" (Lam, 2018b, p. 5). Further, half of the respondents "describe police officers as abusive, oppressive, or humiliating (53.6%), while a significant number perceived them as discriminatory (42.9%) and unreliable (25%)" (Lam, 2018b, p. 5).

Lam's findings link the increase in inspections and the heightened abuses therein to the wrongful perception of Ontario politicians, police, and bylaw enforcement that sex work and human trafficking are conflated (Lam, 2018a). This misunderstanding of the crucial distinctions between sex work and trafficking negatively affects all sex workers, but especially migrants (Lam, 2018a). Her research on the harassment at the hands of inspectors and police experienced by migrant workers in indoor sex work-adjacent establishments finds that "despite widely touted claims of trafficking, which has led to increased policing and repression of holistic practitioners, the research did not uncover any instances of forced labour or trafficking" (Lam, 2018b, p. 5). Contrary to public anxiety surrounding migrant sex workers, Lam underscores that, "Asian migrant sex workers who are being targeted through these policies are rarely (and based on current data, never) victims of trafficking" (Lam, 2018b, p. 3). Therefore, Asian migrant sex workers in Toronto face greater risk of harm through "anti-trafficking policies which allow them to be exploited, locked up, abused, and violated by law enforcement officials" (Lam, 2018b, p. 3).

Rates of inspections were skyrocketing, from 500 in 2013 to 1,700 in 2016 (Ferguson, 2018), and continue to rise into 2020 (Armstrong, 2020). Community members were to have their voices heard as part of the bylaw consultations called for in the April 2018 City Council decision. Efforts to amend the bylaws by way of supporting sex workers align with a core finding of Lam's (2018b) survey of holistic practitioners that, "the bylaws themselves are problematic, and enable bylaw enforcement and police officers to use their broad discretion to abuse and harass practitioners who work in spas and wellness centres" (p. 6). In advance of the review, a consortium of researchers, community workers, sex workers, and advocates, including Lam, van der Meulen, and Sterling, prepared a submission with extensive recommendations to be considered by the city as part of their efforts to amend bylaws pertaining to body rub parlours and holistic centres.

The joint submission states that while its signatories support the mitigation of human trafficking, "At the same time, we urge the Licensing and Standards Committee and City Council to ensure that these goals do not come at the expense of the occupational health and safety or labour and human rights of people working" (LS24.2.3, 2018, p. 1-2). The submission also states that rationales for Body-Rub Parlours by-laws should be evidence-based, and posits that, "We believe that a carefully amended Body-Rub Parlours by-law could effectively meet the needs of workers, consumers and the public alike" (LS24.2.3, 2018, p. 1-2). The joint submission provides myriad recommendations to improve bylaws pertaining to indoor sex work establishments in Toronto, notably the removal of the requirement that body-rubbers obtain individual licenses (LS24.2.3, 2018, p. 3); the limiting of the medical examinations in accordance with "the individual's ability to perform the essential duties of the job" (LS24.2.3, 2018, p. 4), and instead providing access to free sexual health resources to operators of body-rub services (LS24.2.3, 2018, p. 5).

Further, the submission calls for investigation and enforcement policies and practices to be reconceived so that they "do not violate workers' human, privacy and occupational safety rights" (LS24.2.3, 2018, p. 6). The authors argue that, "The potential benefits of anti-trafficking measures should be carefully balanced against the potential, often overlooked, harms" which can be achieved through "meaningful consultations with erotic/sexual/'adult' service providers and the organizations that represent them" (LS24.2.3, 2018, p. 7). They also assert the need for the decriminalization of sex work: "City Council should consider developing a policy position in support of the decriminalization of prostitution, including the decriminalization of clients and third parties" (LS24.2.3, 2018, p. 7).

Positive results for sex workers as a result of these consultations remain pending. In April 2020, two years later, bylaw enforcements have increased by 200% since the 2014 passing of Bill C-36 (Armstrong, 2020). The incursion of anti-trafficking driven inspections, in keeping with the province's priority commitment to ceasing human trafficking, as well as anxiety caused by the 2017 Auditor General's report and the subsequent hiring of additional bylaw enforcement officers, have contributed to this spike in both the number and in the heightened abuses of these inspections. Advocacy associations

including Barbra Schlifer Commemorative Clinic, Butterfly, Canadian HIV/AIDS Legal Network, Chinese Canadian National Council Toronto Chapter, and Chinese and South Asian Legal Clinic responded to the most recent surge in inspections by urging Mayor John Tory and Toronto City Council to cease police and inspectors from performing such “excessive, unnecessary and discriminative inspections and prosecutions” (Armstrong, 2020).

Vancouver - Policy Legacy 1970s-2018

Vancouver's policy legacy provides essential keys to unlocking its current approaches to sex work policies and enforcement. According to Arthur et al. (2013), "Vancouver's earliest sex workers were strong, resourceful women … For a full century, they enjoyed relatively safe and peaceful times, especially working in supper clubs after the 1920s" (p. 130). Ross (2009) locates the growth of the adult entertainment industry in Vancouver as arising out of the economic upturn after the Second World War; however, she writes that, "In the late 1960s and 1970s, defenders of social purity across British Columbia" (p. 21-22) began to attack sex workers. From the 1970s onwards, social reactions to prostitution in confluence with the gentrification of now exceedingly trendy and expensive downtown neighbourhoods such as Gastown, Mount Pleasant, and the West End drove local politicians and law enforcement to heed residents' demands and corral sex workers in the Downtown Eastside (Cameron, 2010; Ross, 2018). A community-based organization called CROWE, Concerned Residents of the West End, promoted such logic; according to Hugill (2010), "It was argued that prostitutes offended citizens by harassing them on the street and that the residents' right to peace and quiet was violated by the noise [they made]" (p. 83-4). Such "nuisances" were thought to reduce property values and increase crime in a "mutually reinforcing relationship that would ultimately destroy the residential communities in which the strolls were located" (Hugill, 2010, p. 83-4). Ross (2018) writes that "the visibility of street-level prostitution in the West End – a largely white, middle-class enclave … directly conflicted with city boosters' fantasy of hosting Expo 86" (p. 259). The existence of prostitutes in the neighbourhood, Ross (2018) explains, was seen as intrinsically linked to noise, the use of illicit substances, and a decrease in property value. Gordon Campbell, Mayor of Vancouver from 1986-1993, echoed this sentiment: "We do not want hookers around our high schools or our elementary schools … We do not want them in our parks, we do not want them in our residential neighbourhoods" (qted. in Cameron, 2010, p. 56).

As in the urban history of Toronto from the late 1960s onwards, the acceptance of white gay men and gay neighbourhoods into mainstream society in Vancouver also further served to push for the

removal of sex workers, and especially trans and BIPOC sex workers, out of rapidly gentrifying downtown neighbourhoods. As white gay men moved towards "respectibility," the social aspirations of this group "began to clash with the vibrant street culture" of Vancouver's West End Davie Street area (Page, 2018, p. 273). Campaigns against street-prostitution led by white gay men ensued in an effort to "gentrify the physical space of the so-called gaybourhood" and in so doing protect property values and simultaneously "clean up the image of homosexuality in Canada" (Page, 2018, p. 274). Ross (2018) explains that "the hoisting of white gay men ever higher up the respectability ladder impeded solidarity with otherwise logical allies – street-involved sex workers" (p. 259) who lacked the resources and social capital to combat this wave of anti-prostitution sentiment. The culmination of years of violent and oppressive tactics by groups such as CROWE occurred on July 4, 1984, when B.C. Justice McEachern granted the City of Vancouver a "Quiet Zone" injunction to prohibit prostitution in Vancouver's West End, which resulted in evictions of prostitutes en masse from the neighbourhood (Sorfleet, 2016).

In the wake of the injunction to remove sex workers out of "up-and-coming" neighbourhoods in Vancouver, such as the West End's Davie Street strip, sex workers relocated to the city's Downtown Eastside (DTES) neighbourhood which, through the 1980s-2000s was marked by poorly lit areas, derelict industrial buildings, and long blocks which made it difficult for sex workers to access support from community members and inured them to greater risks of violence and predation. Between 1978 and 2003, sixty-seven women were disappeared and/or murdered from Vancouver's DTES neighbourhood. Serial killer Robert Pickton has been charged with twenty-six of the murders, but, in a conversation with an undercover police officer, admitted to the murder of forty-nine women ("Robert Pickton Case," 2016). Findlay (2018) writes, "Pickton, a serial killer who preyed on Indigenous women and sex workers in Vancouver's Downtown Eastside, made it impossible to ignore the connection between patriarchy, violence, poverty, and racism" (p. 220). This horrific rampage drove community activism: Arthur et al. (2013) explain, "There's no doubt that the tragedy of the missing and murdered women galvanized Vancouver's sex worker movement" (p. 144). Such activism, in connection with city and law

enforcement officials concerns, eventually led to policy changes within the city, the effects of which continue to support sex workers.

Three major shifts took hold in Vancouver in the aftermath of the Pickton trial which have had a positive effect on sex workers' health, safety, and right to work in the city. The implementation of such policies can be seen as efforts to introduce both the ethos and practices of decriminalization of sex work. The 2014 amendments to the Criminal Code under PCEPA did little to thwart these policies, the majority of which remain in effect to the present day. The policy strategies developed in response to community and international outrage at a municipality doing next to nothing to protect some of its most vulnerable citizens. For example, Jiwani and Young's (2006) analysis of local and international reactions to this series of crimes point out three trends: police inefficiency; the eruption of a legitimacy crisis, which caused the "mayor to embrace a law-and-order approach that culminated in the offering of a $100,000 reward for information" (p. 897); and escalating international interest due to the airing of the telecast of the story on an episode of *America's Most Wanted* in 1999.

Vancouver's strategies to implement GBA+, intersectional, and femocratic administrative policies for the betterment of sex workers have been applied across sectors, from municipal government, to policing, to community organizations. In 2005, the city's Gender Equality Strategy formed a Women's Advisory Committee (WAC) made up of a city councillor, a city staff representative, a member from city clerk's office, a Parks Board commissioner, a member of the Vancouver school board, and fifteen local community members, and presented the "first municipal women's advisory council in Canada" (Findlay, 2018, p. 220). WAC brought a gender-based and intersectional lens to the creation of Vancouver's *Healthy City Strategy*, 2014-2025, and their ethos, "We will resist the push to view these vulnerable populations in a monolithic way, by recognizing the complexity of the lived realities of individuals who experience marginalization on multiple and intersecting grounds" (qtd. in Findlay, 2018, p. 223), has thus been reflected in municipal policies.

Vancouver City Council, in collaboration with WAC, helped first to support the development, and then ultimately passed "Forsaken: the Report of the Missing Women Commission of Inquiry"

(MWCI) (2012). Wally T. Oppal, lawyer, judge, and provincial Liberal politician, was named Commissioner of the Inquiry and his efforts produced a comprehensive analysis of and extensive recommendations for the missing women crisis, with particular focus on police failure with regards to incompetent investigations, incomplete data collection, and a lack of urgent attention to the patterns of disappearance of the victims, the majority of whom were street-based sex workers on Vancouver's DTES. While Oppal points out that his report is directed at police officers and their organizations, he explains that "all of society shares the responsibility for allowing this tragedy to unfold … we can and we must take steps to substantially reduce the marginalization that makes particular groups of women vulnerable to [predators]" (MWCI, 2012, p. 108). It is important to note that while the MWCI produced some valuable recommendations which have produced some positive effects for sex workers in the DTES, the MWCI was not without its criticisms. For example, Bennett et al. (2012) criticize the length of time it took to commence the inquiry and the loss of vital witnesses and evidence therewith.

Oppal's substantial recommendations include: a transformation of the police-community relationships through the development of a community-based approach to policing (MWCI, 2012); the creation of a special liaison role to support inter-community understanding and to provide resources to sex workers (these roles would be filled by former sex workers) (MWCI, 2012); the creation of discretionary guidelines for police to aid them in laying fewer charges (with fewer warrants and charges on sex workers, barriers to the reporting of bad johns will be removed) (MWCI, 2012); and the development of enhanced legislative protection for exploited women which would be formulated by a working group comprised of sex workers, community-based organizations, Indigenous organizations, police agencies, and the Crown Counsel Association (MWCI, 2012). The City's response was to create the *Living in Community Action Plan* (developed by a consortium made up of municipal government, police, business owners, sex workers, and advocacy groups), hire sex work social planners to enact their proposed measures (City of Vancouver, n.d.), and implement the collaboratively drafted *Sex Worker Response Guidelines* (SWRG, 2015), which were adopted and re-issued by the Vancouver Police Department (VPD). The VPD's version even included this crucial stipulation: "Sex work involving

consenting adults is not an enforcement priority for the VPD" (VPD, 2013, p. 4). Although, as will be further discussed below, the VPD continues to disproportionately harass street-based sex workers, as well as trans, BIPOC, and im/migrant sex workers in Vancouver, despite this stated commitment.

Most important for this analysis is the section of the *Sex Worker Response Guidelines* (SWRG, 2015) entitled "By-law Regulation and Enforcement." The authors direct this report to city employees who are "encouraged to separate personal values and morals regarding sex work from their profession in order to perform their duties with fairness, objectivity and impartiality" (SWRG, 2015, p. 3). Thus, when city employees, including police, are engaging with sex workers, especially in terms of regulation and enforcement, they are to adhere to the enclosed guidelines even though they do not follow the federal Criminal Code to a T. The first three guidelines are especially pertinent: 1) "the safety, health, and rights of individuals engaged in sex work will be respected; 2) "When individuals engaged in sex work are the subject(s) of a complaint, staff will engage the sex work social planners to assist with resolving the situation where appropriate and/or connecting them to appropriate community organizations"; and 3) "Adult consensual sex work is in itself not a by-law violation" (SWRG, 2015, p. 4). While harassment of sex workers ultimately comes down to police discretion – and unfortunately, as will be described below, this discretion is applied unevenly – the collaborative nature of the guideline formation process shows, at least, a growing awareness about the need for different stakeholders to work together in supporting those who engage in sex work.

The Vancouver case reveals some positive attributes regarding this municipality's approach to sex work policy and enforcement in the wake of the passing of PCEPA. The current City of Vancouver website boasts key tenets of its *Healthy City Strategy*, including "Health and Safety for Sex Workers" (2020). The city describes its position and mandate with regards to sex workers by specifically addressing the ongoing discrepancies between federal law and local regulation, "While many of the issues regarding sex work fall under senior government jurisdiction, Vancouver is the first city in North America to take a proactive approach [to] improving the health and safety of sex workers" ("Health and Safety for Sex Workers," 2020). The city cites five priority issues to support this aim with tenets 4 and 5 being most

pertinent to this MRP: 4) “Provide training and awareness to City staff to more effectively respond to the needs of sex workers and to prevent sexual exploitation”; and 5) “Align City bylaws to support the health and safety of sex workers and Vancouver neighbourhoods” (“Health and Safety for Sex Workers,” 2020).

In terms of how such priorities translate to increased human rights and better working conditions for licensed indoor sex workers in Vancouver, Arthur et al. (2013) find that “indoor sex workers in Vancouver rarely seem to worry about police interference” (p. 141). The scholars cite former sex worker Scarlett Lake who now runs her own escort agency in the city: “There wasn’t anybody running around trying to catch you, and I think that’s terrific. Maybe it’s just a West Coast, more open-minded kind of feeling amongst the populace” (qtd. in Arthur et al., 2013, p. 141-2). What Ms. Lake describes as a more “open-minded feeling” has been concretized at the level of bylaws and imbued into the enforcement practices of police and city inspectors. However, Ms. Lake and others who do not carry the burden of concern over police interference are markedly fortunate as a result of their subjectivity and positionality. For example, street-based sex workers, BIPOC, im/migrant, trans, and impoverished sex workers are still plagued by widespread harassment and stigmatization in Vancouver due to socially-embedded inequalities (Krüsi et al., 2016; Lyons et al., 2017).

Vancouver - Current Licensing Bylaws

In looking at current licensing bylaws for indoor sex work and indoor sex workers (see **Appendix II**), the City of Vancouver requires licenses for the owners of the following indoor sex work and adult entertainment businesses: adult entertainment store; body rub parlour/body painting studio/modeling studio; dating service; social escort service; and health enhancement centre. The only individual license required for these businesses is for escorts. While Vancouver does not require individual body rub attendants or health enhancement centre practitioners to apply and pay for individual licenses, owners of body rub parlours must "supply the Chief Constable and the Inspector with the name, age, address and sex of all persons employed by the applicant" (11.5)(1)(4450). Further, proprietors and employees must be wearing "clean, washable, non-transparent outer garments covering his or her body between the neck and the top of the knee, the sleeves of which do not reach below the elbows" (11.5)(7) (4450). While Vancouver requires fewer individual licenses for licensed sex workers in their jurisdiction, in addition to fewer stipulations for those procuring such licenses, stipulation (11.5)(5.b) (4450) gives pause for concern: that of the rooms of body rub parlours being disallowed from being equipped with locking devices. Vancouver's mandating of this undeniably dangerous regulation underscores that while its approach to bylaw enforcement of licensed indoor sex work establishments and their employees functions to produce better working conditions for some of its city's sex workers, there is still much room for improvement – not only in its approach to enforcement of unlicensed and/or street-based sex workers, but also in the bylaws themselves.

One of Vancouver's most pertinent stipulations as it relates to this MRP is (11.5)(8) (4450): "No body-rub parlour proprietor shall exhibit [themselves] in any window on or about the licensed premises… nor [exhibit] any printed words that might indicate that the licensed premises is a place that offers any form of sexual entertainment." Section 8 indicates the sly dance municipalities must partake in to similarly license and thus condone establishments which offer sexual services while at the same time avoid direct contravention of the Criminal Code. Thus, while the City of Vancouver does not admittedly

advertise or promote sex work, critics from journalists to federal officials have commented upon their skirting the law (Hasiuk, 2012 ; "Identifying Research Gaps in the Prostitution Literature," 2015).

Despite the various regulatory measures prescribed for those endeavouring to operate a body rub parlour, an adjacent business license for a health enhancement centre has only three stipulations for licensees: the licenses are granted to those who have a knowledge and understanding of the provided therapies (therapeutic touch techniques including shiatsu, reflexology, bio-kinesiology, hellework, polarity, reiki, rolfing, and trager) (10)(4450); minors (under 19 years old in British Columbia) are disallowed from the premises; and services cannot be rendered between 12 midnight and 8am (49)(4450). The bylaw states that, regarding the licensee's "knowledge and understanding" of therapeutic touch techniques, that "the Inspector may require the applicant or officer to take and pass an examination" (17.1)(1)(4450). The caveat "*may* require"; the significantly lower cost of health enhancement centre licenses; and the few stipulations, as compared to body rub parlours, have contributed to very few body rub parlour licenses being procured in Vancouver in contrast to an abundance of health enhancement centre licenses.

In fact, the cost of a body rub parlour license is $6,527 in comparison to $160 for a health enhancement centre license. In 2015, the cost of a body rub parlour license was the third most expensive business license in the city, the first being for the Pacific National Exhibition (PNE) ("Identifying Research Gaps in the Prostitution Literature," 2015), which boasts the oldest wooden roller coaster in Canada (built in 1958). It is clear from this statistic that body rub parlours are classified as both high-risk and also highly stigmatized operations, and yet the City of Vancouver turns a blind eye to the limited number of applications they receive for such establishments in spite of an abundance of applications for health enhancement centres. While Vancouver's approaches to bylaw enforcement of certain sex workers can be seen as more progressive and equitable than Toronto's, cost-prohibitive licensing regimes demonstrate that the municipality still has a long way to go to create fully sex-positive and harm-reducing labour conditions for *all* of its sex workers.

Even the Federal Department of Justice has caught on to Vancouver's permissiveness: "We know from sex sellers ... in Vancouver that some … health enhancement centres are fronts for prostitution. Why pay many thousands of dollars for a body rub license when a [health enhancement] license is one fortieth of the cost?" ("Identifying Research Gaps in the Prostitution Literature," 2015). And yet, the federal government has thus far appeared to disregard this contravention of the Criminal Code by a municipality – a disavowal that is supported by precedent: Sayers (2010) finds that federal courts have historically been "reluctant to decide against a municipality's power to regulate certain activities, like prostitution" (p. 58). This finding underscores all the more reason for municipalities to create policies supportive to sex workers.

Vancouver - Legacy of Community and Intergovernmental Collaboration

Then City Manager, Penny Ballem, wrote to the Senate Committee on Legal and Constitutional Affairs on September 3rd, 2014 with a joint submission from the City of Vancouver and Vancouver Coastal Health Authority in response to PCEPA, which was set to come into effect on December 6th of that year. The letter requests the Committee consider the Supreme Court's *Bedford* decision and refer the new legislation to the Court to ensure compliance. Ballem and her signatories (City of Vancouver, 2014) write, "We ask that the Federal Government consult with local health authorities and municipalities in the process of the Criminal Code development because together we bear the burden of mitigating the impacts on our local residents and communities" (n.p.). Ballem et al. state that their municipality is recognized as a leaders in Canada "for our progressive approaches … [and] we strive to decrease the adverse effects of health and social inequities among marginalized and underserved populations and to create a healthy and safe city for all of our residents" (City of Vancouver, 2014, n.p.).

The ethos of high-ranking city officials towards PCEPA has been echoed by provincial authorities. Pivot Legal Society, a legal organization located in Vancouver's DTES that represents and advocates on behalf of marginalized and criminalized communities, wrote then Premier Christy Clark in 2014 to encourage the province to create special guidelines for Crown counsel relating to charge approval

and prosecution under PCEPA. These guidelines embody the MWCI's (2012) recommendation for enhanced legislative protections for sex workers and other vulnerable individuals to be formulated by a working group composed of sex workers, community organizations and their staff, Indigenous organizations, and the Crown Counsel Association. Pivot (qtd. in Pablo, 2015) argued that it is "not in the public interest to charge and prosecute people who have allegedly violated the new laws on prostitution" (n.p.). Deputy Attorney General Richard Fyfe responded to the letter in 2015 in which he stated that the Attorney General cannot "override the legislative intent of parliament" (qtd. in Pablo, 2015, n.p.), and yet he admitted that "there are very strong views about this new legislation, and … many believe it does not effectively address, or ameliorate the safety issues that were voiced before the Supreme Court of Canada in Bedford" (qtd. in Pablo, 2015, n.p.). In the City of Vancouver and the province of British Columbia, high-level politicians and administrators recognize the importance of safeguarding the health and safety of sex workers despite the passing of regressive federal legislation. The trickle-down effects of such an intergovernmental philosophical alignment are evidenced in the bylaws and policing and enforcement strategies utilized by the city, strategies which aim to privilege a harm-reduction approach. The Attorney General, in the case of Vancouver, may thus be more willing to enact the provincial power of non-enforcement, as per Baker's (2017) legal position, as a result of such ideological sympathies with matters of local public interest.

Vancouver - The Effects of "Anti-Trafficking" Policies

One of my hypotheses in commencing this project was that the negative effects of anti-trafficking policies for sex workers nation-wide would be offset by GBA+, intersectional, and femocratic administrative initiatives in Vancouver, such as the adoption of the *Sex Worker Response Guidelines* (SWRG, 2015). However, unannounced inspections of body rub and massage parlours wherein police demand practitioners show documentation continue to rise for racialized and im/migrant sex workers in Vancouver (Goldenberg et al., 2017). SWAN (2018) notes the racial bias implicit in police and bylaw inspectors: "when a number of non-Caucasian, and especially Asian, sex workers who speak accented

English work together, this work situation has been perceived as trafficking" (p. 3), while the same assumption would not be held of a group of Caucasian, Canadian-born sex workers. As such, GBA+, intersectional, and femocratic administrative policies for bylaw enforcement have not gone far enough in Vancouver as they are unable to support and protect *all* sex workers in this jurisdiction. Further, the Vancouver case further underscores the intensity of the anti-trafficking wave in both Toronto and Vancouver, and the harmful impacts its policies have on sex workers in both cities.

In line with the federal government's impetus for a coordinated intergovernmental action plan to end human trafficking, BC developed their own plan: *BC's Action Plan to Combat Human Trafficking*, 2013-2016. The plan is careful to define trafficking in terms of "whether someone is being controlled for the purposes of exploitation" (BCAPCHT, 2013, p. 3) and does not discuss consensual sex work, even so far as attempting to create distinctions, on any of its pages. The plan was developed in consultation with numerous community-based organizations province wide. And yet, despite the culmination of this strategy, and in spite of community consultation, race-driven harassment and superfluous inspections of im/migrant sex workers continues in Vancouver. SWAN (2018) has called for specialized anti-bias training for police and bylaw inspectors to attempt to bring an end to these abusive behaviours. At the time of writing, no new evidence has appeared to suggest that such acts are decreasing.

Vancouver - GBA+, Intersectional & Femocratic Administrative Approaches to Enforcement

Committees such as WAC, reports such as the MWCI's "Forsaken," and city-community partnerships such as those of Vancouver's *Healthy Living Strategy* and *Living in Community Action Plan* described in the aforementioned Policy Legacy section work together in the creation of municipal guidelines and bylaw enforcements around sex work. They also represent GBA+ and intersectional-informed policies and femocratic administrative strategies in action. Such efforts centre the intersectional factors that can put sex workers at further risk for predation, such as socio-economic status, histories of trauma and abuse, age, health, drug or alcohol dependence, ability, and race. Non-hierarchical committees and partnerships focus upon diversity in representation and privilege consultation and engagement with

different stakeholders in order to glean a wealth of perspectives. Further, such engagements demonstrate an "active experiment with state-community collaboration that is required by femocratic administration" (Findlay, 2018, p. 224). While the majority of activities around sex work remain criminalized under federal law, Vancouver has privileged enforcement practices that have produced more supportive and equitable labour conditions for some of the city's licensed indoor sex workers. While such practices still require considerable development so that they might be supportive to all sex workers in Vancouver, these efforts present a strong step in the right direction. Vancouver sex-work advocacy organizations, such as Pivot Legal Society, have called for other jurisdictions to employ Vancouver's model ("Vancouver Sex Workers Issue 'Know Your Rights' cards," 2015), and yet, so far, other municipalities have been slow to follow suit.

The City of Vancouver, in conjunction with Vancouver Coastal Health and community and law enforcement support, created and implemented the SWRG as a harm-reduction policy tool in the aftermath of the Pickton trial. When the federal government was developing Bill C-36, the same consortium, backed by the City manager, opposed the criminalization of sex work in a joint submission to the Senate stating that, "We strive to decrease the adverse effects of health and social inequities among marginalized and underserved populations and to create a healthy and safe city for all of our residents" (City of Vancouver, 2014). The City continues to employ the SWRG and attending practices, despite the passing of Bill C-36, which demonstrates how previous policies can have strong effects on the development of new ones.

Advocates in Vancouver have been pushing for safer indoor workspaces for sex workers (Krüsi et al., 2012). Shannon's (2012) study found that "safer indoor sex work spaces provide more important and potentially life-saving benefits to sex workers including reduced exposure to violence and HIV and improved relationships with police" (BC-CFE, n.p.). The project led to the expansion and/or continuance of "supportive housing policies" being used in housing programs across the city (Murphy, 2012; BC-CFE, 2012). In the lead up to the Supreme Court *Bedford* decision, Shannon hoped that, "if the bawdy house law [was] struck down …decriminalizing brothels across Canada, these facilities [could] be used as

an example of how supportive policies can extend beyond a housing environment into more formal sex work environments" (qtd. in Murphy, 2012). While not considering licensed indoor businesses such as body rub parlours or health enhancement centres, the fact that city-funded housing projects demonstrated the enactment of policies supportive to sex workers' health illustrates the general sentiment towards safeguarding the protection of sex workers in the wake of the Pickton trial. Such policies have bled into the policing and enforcement of other sex-adjacent businesses as well, and especially those which promote indoor sex work. And yet, there remains much work to be done in Vancouver for progressive approaches to sex work regulation and enforcement which benefit all sex workers, including street-based, BIPOC, trans, and im-migrant sex workers (Goldenberg et al., 2017; Krüsi et al., 2016; Lyons et al., 2017; McBride et al., 2020).

In 2015, Vancouver criminal defense lawyer Michael Shapray told *The Georgia Straight* newspaper his impression that, "there's little, if any enforcement, going in," vis-à-vis sex work (qtd. in Pablo, 2015, n.p.). Pablo (2015) corroborated Shapray's perception stating that, "before the new prostitution laws became effective last year, the VPD indicated that there's not much that's going to change in the way its officers deal with the sale and purchase of sex" (n.p.). There is some evidence of spikes in enforcement for consumers (as dictated by the end-demand directives of PCEPA): for example, Vancouver organization Sex Workers United Against Violence (SWUAV) writes that they recommended the VPD not arrest clients and yet, "unfortunately this recommendation was not accepted by the VPD, which continues to actively target clients of sex workers through undercover stings and patrols of areas where street-based sex work takes place" (SWUAV, 2014, p. 2). In fact, the VPD statistics show that sex work-related Criminal Code offences rose from a low of 47 in 2012 5o 71 in 2013 (SWUAV, 2014). A rise in harms for street-based sex workers in Vancouver due to client-based persecutions is also corroborated by Machat et al.'s 2019 study (p. 578). However, there has been no discernible rise in enforcements of indoor sex work establishments in terms of published research, media articles, or communications bulletins from community organizations since 2012. This discrepancy highlights the uneven application of the SWRG, which will be described further below.

The Vancouver Police Department (VPD) adopted the city's recommended SWRG in 2013 and re-issued this set of harmonized guidelines under their own banner; in 2017, the British Columbia Association of Chiefs of Police (BCACP) also re-issued the guidelines, demonstrating their commitment to continuity of these principles province and force wide. The 2013 VPD adopted guidelines state, "As a police agency, the VPD is obligated to enforce the laws of Canada, although police also have considerable discretion in deciding when and how to enforce laws" (VPD, 2013, p. 2). The key takeaway from the VPD (2013) document (issued prior to the criminalization of purchasing sexual services under PCEPA) is as follows: "Sex work involving consenting adults is not an enforcement priority for the VPD" (p. 4). Thus, while the VPD states their commitment to cracking down on street gangs, youth exploitation, and human trafficking, they demonstrate their willingness to work with partner organizations, such as Sister Watch and the Sex Industry Liaison Officer program (the latter which developed out of the MWCI's recommendations) in order to create and foster respectful relationships with sex workers outside of such high risk priority areas (VPD, 2013, p. 3).

The British Columbia Association of Police Chiefs' guidelines grew out of an internal commission to respond to the recommendations of the final report of the MWCI. Their release in 2017 reveals some slight alterations to the 2013 enforcement guidelines. They uphold that police officers have "discretion in deciding when and how to enforce the laws," and state that: "Police agencies in BC should prioritize the enforcement of Criminal Code provisions respecting sexual services based on the principles and guidelines outlined in this document. Enforcement priorities should be based on risks and safety considerations" (BCACP, 2017, p. 6). The language is altered to reflect the change in the Criminal Code. The updated guidelines thus make clear that the discretionary power to enforce bylaws rests in the hands of police officers.

This power to enforce speaks to the unevenness with which both the VPD and BCACP guidelines are implemented in practice. For example, while a reduction in the inspection and/or charging of licensed indoor sex workers in Vancouver is ultimately a good thing, that certain sex workers in Vancouver are on the receiving end of special treatment gives pause for concern. Street-based sex workers, as well as

BIPOC, trans, im/migrant, and impoverished sex workers in Vancouver continue to face dehumanizing treatment by police and bylaw inspectors (Krüsi et al., 2016; Lyons et al., 2017; SWAN, 2018). Krüsi et al. (2016) state that while some sex workers in Vancouver have experienced "more positive police interactions and [police officers'] increased concern for sex workers' safety" (p. 1142), the vast majority of the sex workers they interviewed described their reluctance to engage with police, and especially participants of Indigenous ancestry.

Thus, the *Sex Worker Response Guidelines* have functioned to support *some* sex workers through the training of enforcement officers and the promotion of core tenets such as: respecting the "safety, health, and rights of individuals engaged in sex work" (SWRG, 2015, p. 4), and encouraging an understanding of the health promotions of indoor sex work and so not policing such work as though it were a bylaw violation. Sorfleet writes that, "Today, the City of Vancouver prioritizes the health and safety of all residents and practices a coordinated and balanced approach to sex work that considers the needs of the whole community" (Sorfleet, 2016). While this is the perception city officials and police in Vancouver would like to disseminate to the rest of Canada and internationally, Vancouver still has much work to do to design bylaw and enforcement mechanisms that both protect and benefit all of its jurisdiction's sex workers.

Discussion

My research indicates that both Toronto and Vancouver have work to do to create and implement bylaws and enforcement strategies which support and protect sex workers, especially in the wake of federal criminalization via PCEPA and a concomitant surge in anti-trafficking policies. This MRP finds that anti-trafficking policies lead to additional harms for sex workers in both jurisdictions as a result of racist bias in police and enforcement officers. Thus my findings speak to an urgent need to deconstruct and re-imagine these policies and their enforcement strategies in ways that undo the underlying, unwarranted ideological conflation between trafficking and sex work which is used to justify abuses of sex workers.

This MRP argues that Toronto and Vancouver's bylaws themselves have less effect upon the rights, health, safety, and well-being of sex workers than their enforcement. For example, Vancouver has bylaws regarding licensed indoor sex work establishments and yet these bylaws are of little consequence as evidenced by the fact that many businesses opt for health enhancement centre licenses in lieu of body rub parlour licenses and there does not appear to be any penalty for doing so. While there are differences between the bylaws, such as Toronto mandating more invasive measures than Vancouver for individual practitioners in licensed establishments, a key stipulation – that of practitioners being disallowed from locking the doors of treatment rooms – persists in both cases. In the case of both jurisdictions' bylaws, this stipulation remains a point of contention since the inability to lock a door leaves a sex worker vulnerable to aggressors who may enter the treatment rooms. This finding demonstrates the need for bylaw reform in both jurisdictions.

However, Vancouver has begun to take preliminary steps with regards to bylaw enforcement that has led to some positive outcomes for some of its licensed indoor sex workers. While Vancouver still needs to ensure that these policies produce positive effects for all of its sex workers, Toronto would do well to implement Vancouver's GBA+, intersectional, and femocratic administrative strategies as an

initial step down the path towards better working conditions for its sex workers. The two main outcome drivers that correspond to the betterment of conditions for some licensed indoor sex workers in Vancouver as compared to that of Toronto are: **a legacy of community and intergovernmental collaboration** and **GBA+, intersectional, and femocratic administrative approaches to bylaw enforcement**.

Viewed through the lens of "policy feedback" which upholds the impact of existing policies upon the shaping of future policies (Béland & Schlager, 2019), pre-existing collaborative governance efforts between provincial and municipal jurisdictions, along with community advocacy groups, helped Vancouver to stay the course and continue to protect licensed indoor sex workers in their jurisdiction in spite of PCEPA. In Vancouver, city staff and local health networks joined together to demonstrate their lack of support for Bill C-36 when it was first proposed; they asked that the "Federal Government consult with local health authorities and municipalities in the process of the Criminal Code development because together we bear the burden of mitigating the impacts on our local residents and communities" (City of Vancouver, 2014). Local Vancouver sex work advocacy organizations also made their positions on Bill C-36 known to the Premier and Attorney General. The latter stated that, while it is incumbent upon his office to uphold the Criminal Code in provincial prosecutions, "many believe [Bill C-36] does not effectively address, or ameliorate the safety issues that were voiced before the Supreme Court of Canada in Bedford" (qtd. in Pablo, 2015). Such a statement paves the way for BC to institute a policy of provincial non-enforcement, as per Baker's (2017) constitutional analysis. However, while non-enforcement practices are being applied to some licensed indoor sex workers in Vancouver, many sex workers in this jurisdiction are still feeling the full force of harassment, inspections, and carceral charges – especially trans, BIPOC, street-based, and im/migrant sex workers.

Policy feedback loops in Toronto, beset by lack of ideological coordination between provincial and municipal governments and community advocacy groups, have worked to continually disadvantage licensed indoor sex workers in this jurisdiction, with a rise in harmful inspection practices in the wake of Bill C-36 as a result of escalating anxieties around human trafficking. Even in the aftermath of the

Ontario Superior Court's *Bedford* decision in September 2010, and before the passing of Bill C-36 in December 2014, Toronto police forces, under direction from the provincial government, continued to crack down on licensed sex work establishments. In 2014 Premier Wynne, backed by twenty-five Toronto city councillors, reached out to the Ontario Attorney General regarding the suspected unconstitutionality of Bill C-36 and its potential harms for Toronto residents; the Attorney General's response was in support of the federal bill. A 2017 Ontario Auditor General Report has served to increase harmful inspections for licensed indoor sex work establishments in Toronto, despite calls from sex worker advocacy groups and other organizations to limit these degrading measures.

In terms of GBA+, intersectional, and femocratic administrative policy approaches and initiatives, the City of Vancouver's Women's Advisory Committee (WAC) has had a permanent place on City Council since 2005. Its membership is reflective of diversity and includes members from community-based organizations, advocates, and those with lived intersectional experiences ("Women's Advisory Committee," n.d.). In collaboration with the City, local police, and additional community partnerships, the WAC helped to launch the SWRG, which have had some positive effects for sex workers in Vancouver in terms of the policing, enforcement, and inspection of licensing bylaws.

The City of Toronto possesses no such institutionally-recognized council to address issues germane and important to sex workers' rights, health, safety, and well-being. When the City of Toronto has requested input from such advocates their testimonies have been met with racism, disrespect, and disavowal; thus, advocates have not been treated as equal members in consultative processes intended to support sex workers and their communities. Despite Vancouver's Pivot Legal Society calling for other jurisdictions to develop policies to protect sex workers ("Vancouver Sex Workers Issue 'Know Your Rights' cards," 2015), Toronto has yet to follow suit. Its bylaws and enforcements thereof remain guided by limited understandings of sex workers' experiences and needs due to, in part, to the City failing to involve sex workers and their advocates in policymaking processes.

The SWRG have been formally instituted in the City of Vancouver through the Vancouver Police Department, in accordance with the British Columbia Association of Chiefs of Police. While the

Association of Chiefs of Police recognizes that police retain considerable discretion with regard to bylaw enforcement, as per the SWRG, police and inspectors are "encouraged to separate personal values and morals regarding sex work from their profession in order to perform their duties with fairness, objectivity and impartiality" (SWRG, 2015, p. 3). Unfortunately, police discretion is applied unevenly. While some sex workers have witnessed benefits as a result of changes to policing in Vancouver through the adoption of the SWRG, in fact street-based and racialized sex workers are experiencing a rise in enforcements and abuses as a result of PCEPA and corollary anti-trafficking policies.

In Toronto, bylaw inspections have been markedly rising since the implementation of PCEPA. Many employees of body rub and massage parlours and holistic centres have experienced racist and sexist behaviour and harassment by police and bylaw enforcement officials and inspectors. Despite the City's willingness to review bylaws and inspection practices, consultative efforts have demonstrated further disrespect to sex workers and advocates. At the time of writing there is still no decision as to whether the bylaws and enforcement practices will be altered.

Ultimately, one of the primary drivers for Vancouver's more equitable approaches to the enforcement of licensed indoor sex work in their jurisdiction – though admittedly not equitable for all –is due to the decisions made in the aftermath of the Pickton trial. It is a devastating fact that it took an event of this magnitude to create better protections for some of Canada's most vulnerable workers and individuals. As I stated in my introduction, it is my sincere hope that it will not take similar crises in other Canadian municipalities to enact better policies to protect sex workers. While PCEPA purports to protect communities, this MRP argues that communities themselves know best as to what regulatory measures can best support and protect them.

Recommendations

While the Liberals' 2016 campaign ticket included the promise to review prostitution legislation, no federal action has been taken thus far to amend or replace PCEPA. Municipal leadership has a valuable role to play in protecting the human and labour rights of some of this nation's most vulnerable workers. While Vancouver has demonstrated some local leadership in this vein and its efforts are working to protect some sex workers in their jurisdiction, this MRP argues that Vancouver has more work to do to ensure its policies and enforcement strategies are supportive to sex workers across race, class, citizenship-status, and gendered lines. As Canada's largest city and a destination for people from all over the world, Toronto further needs to become a leader in protecting sex workers in the hopes that other municipalities, and subsequently the federal government, will follow suite. Municipal leadership by these two jurisdictions can be achieved through the adoption of the following recommendations:

Toronto:

- The formation of a dedicated and permanent committee of Toronto City Council to address the complex and myriad needs of the intersectional equity-seeking group known as sex workers. This committee is to be made up of those with lived experience in sex work, as well advocates with legal and community-based understanding of sex workers' rights.
- This group would work to draft and institute fundamental sex work policies for the City including:
    - A policy position that underscores the core distinctions between sex work and human trafficking.
    - A set of guidelines that will guide bylaw inspectors and police as to how to navigate encounters with sex workers both judiciously and respectfully.
- The removal of invasive stipulations for body rubbers, body rub attendants, and holistic practitioners, namely Criminal Record checks and medical examinations.

- The removal of stipulation 545-343: the “Obstruction or locking of individual rooms or cubicles [is] prohibited” (City of Toronto Municipal Code 545, 2020, p. 12), from the bylaw.

Vancouver:

- The WAC needs to ensure that non-enforcement policies, as writ in the SWRG and the VPD and BCAPC Guidelines, are applied to sex workers across Vancouver. Additional training for bylaw inspectors and police needs to involve education surrounding Indigenous, trans, im/migrant, and street-based sex workers specifically so these workers can enjoy the more supportive policies and practices being applied to some licensed indoor sex workers in Vancouver.
- The removal of stipulation (11.5)(5.b) (4450): that of the rooms of body rub parlours being disallowed from being equipped with locking devices, from the bylaw.

Both Jurisdictions:

- All police and bylaw enforcement officers in Toronto and Vancouver need to receive revamped human trafficking awareness training. SWAN (2018) states, “Human trafficking awareness training that does not include experiential input on the distinction between sex work and human trafficking is causing great harm and impeding efforts to address human trafficking in the sex industry” (p. 5).

Appendix I

Sex Work Policies in Canada: Selected Historical Timeline

1867 - *Constitution Act*, division of powers; the federal government granted jurisdiction over criminal law

1865-1870 - Contagious Disease Act
Women could be contained and defined if suspected of having a venereal disease (van der Meulen et al., 2013, p. 6).

1892 - first Criminal Code
"When the first Criminal Code was introduced in 1892, it included a series of laws aimed at controlling women's sexuality and 'protecting' them from so-called defilement. Women who were seen to be of 'moral character' (yes, that was the language used!) should not be enticed into a 'house of ill-fame', in other words, into a brothel or bawdy-house. So, there were laws that criminalized procuring as well as owning an establishment where 'defilement' might happen. There were also laws aimed at vagrants, who, according to the Criminal Code, included women who were 'common prostitutes' walking alone at night and unable to 'give a satisfactory account' of themselves. These provisions were modified a number of times over the next hundred years and some were eventually removed" ("Shining a Light on the Labour of Sex Work," 2014).

1957 - Wolfenden Report (UK)
"The general liberal legal philosophy articulated in Britain's *Report of the Committee on Homosexual Offences and Prostitution* (the Wolfenden Report) … has been credited with setting the terms for liberal legislation in several nations … The key to the impact of the Wolfenden Report was its reformulation of the relation of the law to private consensual sexual matters … certain activities between adults, when conducted in private, were not the law's business" (Brock, 2009, p. 29-30).

1970 - RCSW, Royal Commission on the Status of Women
Recommendation #26: cites the Wolfenden Report influenced the assertion that "prostitution is fundamentally a social, not a criminal, problem." Against fines and prison time since such measures add "stigma of a criminal record which may make her rehabilitation more difficult" (RCSW, 1970, p. 371).
Recommendation #27: repeal of section 164(1)(c) of the Criminal Code due to concern about the use of vagrancy in order to regulate the activity of women prostitutes (RCSW, 1970, p. 371).

1972 - Vagrancy legislation revoked and Soliciting laws introduced. "Thus, being a prostitute was no longer illegal; instead, the law criminalized the activities that surrounded it" (van der Meulen et al., 2013, p. 8).

1977 - Canada's first sex worker's organization, based in Toronto, BEAVER (Better End All Vicious Erotic Representation) - soon became CASH (Committee Against Street Harassment).

1982 - Vancouver's first major sex worker's organization: ASP (Alliance for Safety of Prostitutes).

1983 - Toronto's first major sex worker's organization: CORP (Canadian Organization for the Rights of Prostitutes).

1983 - Fraser Committee (Special Committee on Pornography and Prostitution)
Many years of research and review; very few sex workers and their allies consulted. Despite some of their recommendations to loosen brothel licensing laws (van der Meulen, 2009, p. 176), their efforts led to the passing of C-49, a bill which was not supported by the committee.

1985 - Bill C-49. "The new law, which replaces s. 195.1 of the Criminal Code, makes it an offence in a public place to offer to buy or sell sexual services" (O'Connell, 1988, p. 110).

2003-2005 - Subcommittee on Solicitation Laws of the House of Commons Standing Committee on Justice and Human Rights (SSLR); first major government committee to rely on sex workers and their advocates as expert witnesses in high numbers.

2007-2013 - *Bedford* case and decision, Ontario Superior Court of Justice; Supreme Court of Canada
Bedford decision (2013) decried current Canadian prostitution laws as unconstitutional. The *Bedford* decision was a "watershed moment for sex workers and Canadian legal history" since it "shifted the legal and political discourse around sex work from a focus on nuisance and public order to a focus on health, safety, and human rights" (Belak, 2018, p. 48).

2014 - Bill C-36, *The Protection of Communities and Exploited Persons Act*
Under Bill C-36, the prostitution transaction became illegal: "purchasing sexual services and communicating in any place for that purpose is now a criminal offense for the first time in Canadian criminal law" ("Prostitution Criminal Law Reform," 2014).

Appendix II

Comparative Bylaw Breakdown

CITY	LICENSING SCHEME	LICENSEE
Toronto, ON	Adult entertainment parlor	Owner, operator, attendant
	Body-rub parlor	Owner, operator, attendant
	Holistic massage	Owner, attendant
Vancouver, BC	Adult entertainment store	Owner
	Body-rub parlor, body painting studio, and modeling studio	Owner
	Dating service	Owner
	Social escort service	Owner, escort
	Health enhancement center	Owner

Data extracted from Auger, 2014, p. 108

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