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Queer Ontario Partially Applauds the Ontario Appeals Court Ruling on Canada's Prostitution Laws

Toronto, ON -- March 26, 2012 -- Queer Ontario partially applauds the Ontario Appeals Court Ruling on Canada's prostitution laws for its decision to recognize sex work as a legitimate line of work. We are relieved to see that a more experiential consideration of sex workers and their rights has taken hold in the judicial system, as opposed to the sex-negative moralism that had previously governed their living and working conditions.

The Court's decision to strike down the prostitution-specific clause in the 'bawdyhouse' provision, and to criminalize 'living on the avails of prostitution' only when it involves worker exploitation, grants sex workers the ability to establish safer workplaces and to live off of their earnings without criminal persecution. It makes it easier for sex workers to report instances of exploitation and gives them the ability to establish multi-person brothels, or to hire bodyguards and chauffeurs.

However, we reject the Court's decision to uphold the 'communication for the purposes of prostitution' provision since it continues to criminalize sex workers who work outdoors. It is a decision founded on phobic attitudes that deem sex workers and any evidence of their work to be a 'public nuisance' — a decision that places the rights of hypothetical communities above the individual and inalienable rights of sex workers, thus failing to provide basic legal protections to those who need them the most.

Indeed, it is unreasonable for the Ontario Court of Appeals to presume that all sex workers will start working indoors now that the 'bawdyhouse' and 'living off the avails' provisions have been amended. Working outdoors *still* provides greater visibility to sex workers, which can contribute to a greater availability of clients and, with that, a more sustainable income. Unfortunately, working outdoors also presents a greater security risk for sex workers — risks that can be allayed by pre-screening their clients — and the decision to criminalize their communication in public fails to equip them with the legal support they need to do their work safely.

Moreover, the Appeals Court failed to realize that establishing and operating a brothel requires a certain level of income, a certain level of connectedness, and a certain level of entrepreneurial know-how to do so successfully, which many sex workers do not have because of economic, educational, and language barriers, among others.

We expect that the imminent Supreme Court decision will give greater consideration to the implications behind the public solicitation law, as well as the social, financial, and knowledge requirements needed to establish and operate a brothel. A protection of sex worker rights invariably includes the protection of those who work outdoors, in public. To criminalize them is to be complicit in the continued stigmatization of sex workers as a class of people.

Queer Ontario's position statement on sex worker rights can be found here:
<http://queerontario.org/2011/12/17/queer-ontario-policy-statement-on-sex-work>

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Queer Ontario is a provincial network of gender and sexually diverse individuals — and their allies — who are committed to questioning, challenging, and reforming the laws, institutional practices, and social norms that regulate queer people. Operating under liberationist and sex-positive principles, we fight for greater accessibility, recognition, and pluralism in society.