

Recommendations for Prostitution Laws in Canada

Background Paper

Jennifer Lucking, Chair, Human Trafficking in Canada Working Group

April 2014

Introduction

According to world renowned psychologist and researcher Melissa Farley, “prostitution is multi-traumatic with extremely high rates of physical and sexual violence perpetrated against people who are vulnerable usually as a result of gender, poverty, previous history of sexual assault, marginalization because of race or ethnicity, or a combination of these factors.”¹ Proponents of legalizing prostitution argue that moving the sex trade indoors will provide a system of safety measures for those who consent to be involved in the industry. We need to be extremely concerned with the word consent when the dynamics of power are unequal. We argue that sex work is inherently violent and dangerous regardless of location. In fact, girls and women in prostitution have a mortality rate 40 times higher than the national average.² Furthermore, it is undisputed that the majority of prostituted individuals enter the sex trade before the age of 18, and many before the age of 16.³ We need to stop viewing prostitution as a vocation of choice and instead view it as an affront to gender equality and violence against women, children and marginalized populations.

The Netherlands and Nordic Model

Many in favour of legalizing prostitution point to the Netherlands as a positive model. However, the system of governance that has been established with the intent to keep those in the sex trade “safe” has not been effective. For example, it is reported that only 4% of all prostituted women are registered, a mandatory requirement for engaging in legal prostitution.⁴ The Netherlands has demonstrated that because the sex trade is largely controlled by criminal organizations, it is difficult – if not next to impossible – to adequately govern the sex trade to keep it “safe.” The very idea that the sex trade is “safe” is an oxymoron.

¹Farley, Melissa. “Prostitution Harms Women Even if Indoors: Reply to Weitzer.” *Violence Against Women*, Vol. 11 No. 7, July 2005. p 950-964.

²Special Committee on Pornography and Prostitution, 1985, *Pornography and Prostitution in Canada*.

³ Department of Justice, “Youth Involvement in Prostitution: A Literature Review and Annotated Bibliography.” http://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-jj/rr01_13/p1.html

⁴ Canada: Parliamentary Information and Research Service, “Prostitution: A Review of Legislation in Selected Countries,” 11.

The Evangelical Fellowship of Canada, “Out of Business: Prostitution in Canada – Putting an End to Demand,” <http://files.efc-canada.net/si/Prostitution/Out%20of%20Business.pdf>

Instead of legalizing or decriminalizing prostitution, we advocate for a Canadian version of the Nordic Model. Versions of the Nordic Model have been adopted or considered in various forms in many European countries including Sweden, Norway, Finland, Iceland, France and Ireland. In particular, we would like to advocate for the **criminalization of purchasers** (not of those being prostituted as they are often vulnerable and marginalized) as well as **strong government funding to support organizations who work with prostituted individuals and perpetrators** so that effective programs may be put into place to assist with exit from the sex trade.

A Model for Canada

We would also encourage a Canadian version of the Nordic model which would raise awareness and address the issue of **demand** for paid access to women's and children's bodies. Addressing the issue of demand is crucial in Canada. In the Netherlands and Australia, despite the fact that accessing paid sex is not illegal (and therefore relatively easy), both of these countries have a high number of sex tourists per capita in comparison to countries which have not legalized or decriminalized prostitution.⁵ Do we want Canada to be known as a nation of individuals who travel to places like Cuba, Haiti, Thailand and Cambodia to purchase sex?⁶ Canadians need to be made aware of the realities of prostitution and human trafficking, that it is inherently violent and an affront to gender equality.

Implementing a Canadian version of the Nordic Model resonates with Canadian values of gender equality and a commitment to social justice. The Charter of Rights and Freedom states that "Every individual is equal before and under the law and **has the right to the equal protection** and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability." Canada needs laws and systems in place to provide a culture of equality considering that there is a disproportionate number of those involved in the sex trade who are:

1. Under the age of 18
2. Marginalized or vulnerable populations
("Aboriginal, racialized, immigrant, and abuse survivors"⁷)
3. Female
4. Desiring to exit

⁵Gunilla Ekberg, "The Swedish Law That Prohibits the Purchase of Sexual Services," 1197.

The Evangelical Fellowship of Canada, "Out of Business: Prostitution in Canada – Putting an End to Demand," <http://files.efc-canada.net/si/Prostitution/Out%20of%20Business.pdf>

⁶<http://www.thestar.com/news/investigations/childsextourism.html>

⁷Canadian Women's Foundation, "End human trafficking," <http://www.canadianwomen.org/trafficking>

Recommendations

According to the report “The Tipping Point,”⁸ written by Joy Smith, there is a precedent nationally and provincially for victim focused legislation and support from certain law enforcement services which already reflect a Nordic Model approach. There is also strong NGO support across the country. The Canadian Council of Churches’ Human Trafficking in Canada Working Group advocates for a Canadian version of the Nordic Model, acknowledging that our system of government and our culture are uniquely different from other countries. We support and reiterate these modified recommendations drawn from the Evangelical Fellowship of Canada’s report “Out of Business”⁹ for Canada:

1. Parliament must be clear and unambiguous in the definition of prostitution as a form of violence, abuse and control of vulnerable children, women, and men.
2. Invest strongly in exit programs and support for prostituted persons along with restorative programs for perpetrators; with federal social funding commitment towards provincial governments for these purposes.
3. Criminalize the purchase and attempted purchase of sex.
4. Amend our laws to reflect the current non-criminal nature of individuals who are being prostituted. For example, removing the prohibition on communicating for the purposes of prostitution [section 213(c) of the *Criminal Code*] or restrict its application to the intended purchaser.
5. Maintain prohibitions against profiting from sexual exploitation; i.e. pimping.
6. Support strict crime diversion programs upon sentencing such as John’s schools.
7. Engage the provincial governments, territorial governments, municipal governments, nongovernmental organizations and other public and private partners in the development of a comprehensive national plan or strategy with the objective of ending prostitution. This can happen when demand for prostitution is reduced, which also means addressing poverty and inequality. Incarceration will likely only postpone the issue.
8. Initiate a public awareness campaign to accompany such a change in the law, educating the public that paying for sex is both illegal and unacceptable; that it is violence against the victim and contrary to equality between the sexes. These need to include education

⁸ Joy Smith, “The Tipping Point: Tackling the Demand for Prostituted/Trafficked Women and Youth,” <http://www.joysmith.ca/assets/the%20tipping%20point%20-%20mp%20joy%20smith%20-%20feb%2018%202014.pdf>

⁹ The Evangelical Fellowship of Canada, “Out of Business: Prostitution in Canada – Putting an End to Demand,” <http://files.efc-canada.net/si/Prostitution/Out%20of%20Business.pdf>

on violence against women as well as violence against children as boys and young men are also victimized.

Conclusion

Faith communities in Canada are deeply concerned for vulnerable and marginalized individuals in this country who turn to or are recruited into prostitution – not from choice, but from *lack of* legitimate choices or options. We urge all to consider the *majority* of those in the sex trade – and not the vocal few who may benefit from prostitution – who desire to exit from a lifestyle of exploitation, violence and oppression. We need to stop viewing prostitution as a vocation of choice and instead view it as an affront to gender equality and violence against women, children and marginalized populations.

The Canadian Council of Churches is the largest ecumenical body in Canada, now representing 25 churches of Anglican, Eastern and Roman Catholic, Evangelical, Free Church, Eastern and Oriental Orthodox, and Historic Protestant traditions. We are one of the few ecumenical bodies in the world that includes such a range of Christian churches. The Canadian Council of Churches was founded in 1944.