

Prostitution in Canada: Towards an Evangelical Response

The Social Action Commission of the Evangelical Fellowship of Canada Discussion Paper

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Introduction

Prostitution, according to a comment made at the 4th United Nations Conference on Women, is one of the greatest human tragedies.¹ It is also one of the oldest forms of oppression on earth. It is not surprising, then, that the selling of sexual services between consenting adults, has generated considerable discussion in Canada. Recent Canadian government commissions have studied prostitution and made recommendations on how to alleviate the harm that flows from this dehumanizing and exploitative practice. Prostitution not only harms its participants, but also is detrimental to Canadian society in general. It is no small problem. Statistics Canada reported 10,134 prostitution incidents in 1992. Since 1990, police have charted annually about 10,000 offences related to communicating for the purposes of prostitution.² A Christian response to prostitution should involve discouragement of the practice without further victimizing those already being exploited. As well, prevention measures should be encouraged and assistance in leaving the sex trade provided.

The Effects of Prostitution

Prostitution, which perpetuates the exploitation of the vulnerable, violates human dignity and is harmful not only to its participants but to Canadian society as a whole.

Loss of Dignity

Prostitution violates human dignity by distorting human intimacy. It takes acts of sexual intimacy, ordained by God for marriage, and treats them as services to be bought or sold. This perverts the covenant of marriage by turning what God intended as a sacred act into a commercial transaction.³ In a brief to the Special Committee on Pornography and Prostitution (the Fraser Committee), the Canadian Council of Catholic Bishops asserted that,

Whenever we close in on our own desire, whenever we treat others as a means for our own pleasure or profit, we deny their personhood and their fundamental rights guaranteed by numerous charters of rights and freedoms to be different than us.⁴

The dignity due each person is violated when one's sexual intimacy is bought or sold.

Prostitution treats people as property. A 1983 resolution by the Economic and Social Council of the United Nations states: "[T]he enslavement of women and children subjected to prostitution is incompatible with the dignity and fundamental rights of the human person..."⁵

Coercion is one road into prostitution. Pimps often force prostitutes to remain in the sex trade even when they wish to leave, making them, in essence, slaves. Ken Fast, an evangelical street worker in Ontario for 11 years, equates prostitution with manipulation and control. Some prostitutes he has worked with believed their pimps would kill them if they left the street. He notes that, "The overwhelming majority of girls we have been involved with live in poverty Their money either supports their drug dependencies or goes to their pimps."⁶

The Committee on Sexual Offences Against Children and Youths (the Badgley Committee), commissioned by the Canadian government to research and report on sexual offences, reported that over a third of the juvenile prostitutes interviewed admitted currently working or previously working for a pimp.

Harm

Prostitution is harmful to its participants and to Canadian society as a whole. It frequently involves physical violence and can be destructive to families. It exacts a high emotional cost

and perpetuates the view of women as sexual property.

Prostitution harms its participants both physically and emotionally. According to the Badgley Committee, two-thirds of prostitutes had been physically assaulted while working, 44 per cent requiring medical attention.⁷ In 1991 and 1992, 22 known prostitutes were murdered in Canada, representing five per cent of female murder victims over 16 years of age. Customers were accused in eight of the 11 cases of murdered prostitutes solved by police.⁸ According to the Department of Justice's Pornography and Prostitution Issues Paper (November 1983), "Some studies suggest that up to 70 per cent of prostitutes are raped by customers on an average of eight to 10 times a year."⁹

As well as the danger of physical assault, prostitutes are also at high risk for contracting sexually transmitted diseases. According to the Badgley Committee, a third of the women surveyed had contracted gonorrhea and about one in eight had contracted syphilis while working as prostitutes. The committee considered the prevalence of sexually transmitted diseases alarmingly high, particularly in light of the risk of serious long-term health complications. The continuing spread of HIV/AIDS also has connections to prostitution. Dr. Stephen Genuis has reported the number of new AIDS cases in the United States rose from nine per cent 1989 to 23 per cent in 1990. He says "AIDS has become the leading cause of death for women aged 20 to 40 in major cities in the Americas and Western Europe."¹⁰

Prostitutes may also be harmed psychologically. The Badgley Committee found that about one-third of prostitutes were frequent or heavy users of alcohol or drugs. Ken Fast also says prostitution has high emotional costs, noting "From the streets to the high class playboy palaces, the overwhelming majority of girls and men in the sex trade industry have tremendous emotional problems. Drug use, attempted and actual suicide, incredible insecurity and deep depression are common denominators we experience from girls who ask us for help in leaving this lifestyle."¹¹ When the Badgley Committee's survey asked juvenile prostitutes what advice they would give to a young person who was just beginning to work on the street, the majority said they would strongly discourage entering into prostitution. Examples of their advice include the following statements:

"It's your body and the lowest thing you can do is sell it. At least keep the money for yourself. Don't sell [your body] to a pimp."

"It's a disgusting way to live."

"Go home. Pimps are terrible and drugs are the pits. Kids shouldn't be here. You'll be old before you know it."

"It's emotionally disturbing."

"I'll wring your neck if I see you on the streets."¹²

Prostitution harms Canadian society by contributing to the breakdown of the family. Prostitution promotes infidelity. Ken Fast says prostitutes tell him that up to 80 per cent of their clients are married men. The Badgley Committee found that married people represented about two-thirds of the most recent clients of girls and about a third of the most recent clients of boys. Not only does this affect the marriage relationship, it puts the spouses at risk of contracting sexually transmitted diseases. Children of prostitutes may also be affected by the sex trade. For instance, they may not know the identity of their fathers. Of the female juvenile prostitutes surveyed for the Badgley Committee, 11 per cent had given birth to children, 13 per cent had abortions and two per cent had miscarriages. Allowing prostitution in private residences, as recommended by the Fraser Committee, would have an immediate and disturbing effect on any children in the home.

By reinforcing the perception of women as sexual property, prostitution may increase incidents of violence against women. In a joint statement to the Canadian Panel on Violence Against Women, church leaders referred to a "distorted view of sexuality and the objectification of the female body" as one of the underlying causes of violence against women.¹³

Exploitation of the Vulnerable

Prostitution exploits the vulnerable. Who enters this dangerous and dehumanizing occupation? The Badgley Committee found that 96 per cent of prostitutes interviewed had entered the trade before the age of 18. Almost all (93 per cent of females, 97 per cent of males) had run away from home at least once.¹⁴ While there are various reasons for youth to run away from home, the main reason given was the need or desire to escape from family problems.

The Fraser Committee found that "although there was a dearth of empirical information about prostitution, it was likely that economic distress was a significant factor in compelling many women to take up the practice." This assumption makes sense when one considers the statistics showing most prostitutes entered the trade as juveniles.

Prostitution Law in Canada

The Canadian government has always discouraged prostitution, enforcing laws rooted in the assumption that this exploitative practice harms its participants and is detrimental

to Canadian society as a whole.

While prostitution has never been illegal in Canada, there have been prohibitions of related activities such as keeping a bawdy house and soliciting. In Canada's first Criminal Code in 1892, prostitution was prohibited as a form of vagrancy. It required every woman who was a prostitute to "give a good account of herself" if she was found in a public place. This law was repealed in 1972 and replaced with a law prohibiting solicitation.¹⁵ In 1985, the soliciting law was replaced with one prohibiting communication by prostitutes or clients, as it impedes or otherwise interferes with the use of streets and public places. Other prostitution-related offences include keeping, being an inmate of, or being found in a common bawdy house, living off the avails of prostitution, pimping, and procuring a person for the purpose of prostitution. The intent of Canadian law from 1892 to the present has been to discourage prostitution.

Supreme Court of Canada Justice Lamer describes the current legal situation in which prostitution, while not specifically illegal, is in effect illegal:

We find ourselves in an anomalous, some would say bizarre, situation where almost everything related to prostitution has been regulated by the criminal law except the transaction itself. The appellants' arguments then, more precisely stated, is that in criminalizing so many activities surrounding the act itself, Parliament has made prostitution *de facto* illegal if not *de jure* illegal.¹⁶

The focus of the Canadian government's approach to prostitution has been to discourage the practice and to alleviate the harm that comes from it. Former Supreme Court Chief Justice Dickson states that: "Parliament has chosen to control prostitution indirectly through the criminalization of certain activities of those involved instead of directly criminalizing prostitution itself."¹⁷ While he finds this to be a circuitous path, he states: "The fact that the sale of sex for money is not a criminal act under Canadian law does not mean that Parliament must refrain from using the criminal law to express society's disapprobation of street solicitation."¹⁸

In considering why prostitution itself hasn't been criminalized, Justice Lamer suggests that it is a carry over from the Victorian age, when to make prostitution illegal would have made the gentlemen customers guilty of being a party to the offence.¹⁹ Current arguments against criminalizing prostitution are connected to concern that this further penalizes those who are vulnerable and exploited. Internationally, there has been a shift in the response to prostitution. Efforts once used to

suppress the traffic in women and children are being redirected into research into the causes, consequences and prevention of prostitution, elimination of discrimination, and rehabilitation for prostitutes.²⁰ Criminalizing prostitution is seen as an inappropriate response to those already suffering exploitation.

Canada has committed itself internationally to discourage the practice of prostitution. In 1979, Canada signed the United Nations Convention on the Elimination of all Forms of Discrimination Against Women. Article 6 of this convention states:

State Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.²¹

Before the UN was formed, Canada signed the League of Nations conventions concerning the suppression of traffic in women and children.²²

Other UN resolutions on prostitution include the 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others. The preamble of the Convention states:

...prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community...²³

A UN Economic and Social Council resolution in 1983 invited member states to sign the 1949 convention and reaffirmed its basic principles.²⁴

Review of Recent Commissions and their findings

In June 1983, the Minister of Justice established the Fraser Committee to study the problems associated with pornography and prostitution and their effects on children and adults. The committee held public hearings and gathered information by conducting five regional studies, a national population survey and a review of prostitution and related legislation in countries outside Canada. The committee considered three response to prostitution: criminalization (increased criminal sanctions), legalization (regulation) and decriminalization (repeal of existing criminal legislation).

The committee concluded that decriminalization of prostitution would retain the same opportunities for damage, abuse and exploitation that exist under the current legislation. Further criminalization was rejected on the grounds that it

would lack public support, be difficult to enforce and would apply a “narrow moral view.” The committee’s main reason for rejecting an exclusive regulatory approach of government control and regulation was that this could involve serious infringements of civil liberties, if not bondage. Also, the committee did not want to imply that the government approves of or profits from prostitution.

Instead, the Fraser Committee focused on prevention by way of social and economic reforms. It advocated that the causes of prostitution could be alleviated by removing social inequalities, ensuring an adequate social safety net and by funding community groups that work with prostitutes.

In its report, the committee recommended treating prostitution as a cottage industry. This could be accomplished by repealing the bawdy house legislation and allowing one or two prostitutes to work from a residence of allowing the province to regulate small-scale commercial prostitution establishments.²⁵ The committee also recommended further research on prostitution and the establishment of educational and social programs. Another recommendation was to remove the offence of “living off the avails of prostitution” from the Criminal Code, unless force, threat of force or other coercive behaviour were involved.

The Badgley Committee, mandated to determine the extent of sexual offences against children and youths and to recommend how to provide better protection for young victims, presented its report in 1984.²⁶ Using surveys of juvenile prostitutes across Canada and assessing other available sources of information, the committee documented the extent of child abuse, considered how juvenile prostitution could be prevented and examined the extent of child pornography and the availability of pornography to children.

The Badgley Committee found that emotional and physical harm, risk and privation are unmistakably associated with juvenile prostitution. The committee determined that education was the best potential tool for preventing juveniles from entering prostitution and recommended special educational programs be developed. Other recommendations included harsher sentences for pimps of juvenile prostitutes, strengthening enforcement services and establishing programs to assist juvenile prostitutes, including counselling and job training. The committee reported that according to its research, “The ingrained pattern of exploitation, disease and violence in the daily lives of juvenile prostitutes is unmistakable...”²⁷

Recently, a Federal-Provincial-Territorial Working Group on Prostitution issued a consultation paper outlining several

possible responses to prostitution. The options include:

- Increasing the penalties for those convicted of prostitution-related offences, particularly pimps and clients.
- Developing preventative educational materials.
- Establishing outreach services for prostitutes who need refuge or want to leave the trade.
- Allowing municipal regulation through the licensing of prostitutes or red-light districts.

The Working Group’s recommendations will advise the Minister of Justice on how to respond to prostitution.

Towards a Christian Response

What is the appropriate response to this dehumanizing and exploitative practice? First, prostitution must be acknowledged as a dehumanizing force that violates human dignity by treating people as objects, reinforces the perception of women as sexual property, contributes to violence against women and perpetuates the exploitation of the vulnerable. Second, we must examine Canadian laws to determine if they adequately protect the vulnerable. Laws not only reflect the values of a society, they are also instructive points of reference for society.

Developing a response to prostitution involves balancing the right to self-determination with the responsibility to stop exploitation. While adults have many freedoms and choices in Canadian society, the government has a responsibility to intervene when harm is being done, especially to the vulnerable or to children. As the protector of the common good, government creates a just public structure. This may involve limiting choice in many areas in order to protect people. For example, the government requires motor vehicle passengers to wear seat belts; it requires that food and drug distribution meet certain standards. Prostitution is an area where harm occurs and where government involvement is necessary to protect the common good.

Increased Penalties

The Federal-Provincial-Territorial Working Group on Prostitution presented the option of increasing the penalties for those convicted of prostitution-related offences, particularly pimps and clients. The Minister of Justice has introduced legislation on juvenile prostitution which would create a new offence of “aggravated procuring” with a mandatory prison sentence for those convicted. The proposed legislation would also protect youths who wish to testify against pimps and make it easier to apprehend the customers of youth prostitutes. Other efforts by the Justice Department include developing an enforcement guide for police and prosecutors in cooperation with the provinces, developing training models for those who

work with young prostitutes and encouraging the provinces to dedicate resources to fight child prostitution.

Government should be encouraged to continue its legislative efforts on juvenile prostitution and to consider introducing legislation which considers juvenile prostitution to be child abuse. At the same time, the federal government should be discouraged from increasing the penalties for prostitutes convicted of prostitution-related offences. While not all current penalties for prostitutes should be removed, increasing the legal penalties for prostitutes does not seem to be an appropriate response, as it may further victimize those who are being exploited. Increased penalties for prostitutes will not likely act as deterrents. Increasing penalties for clients and pimps is a more appropriate response.

Preventative Education

While education on the conditions and risks of prostitution may deter some from entering the sex trade, it is not an all-encompassing solution. As has been noted, people become prostitutes for many reasons, including poor family life and lack of income or employment opportunities. Preventative education may be helpful, but should be accompanied by increased support for families as well as by curbs on the availability of all forms of pornography.

Outreach Services

Outreach services should be established for those who need refuge or want to leave the sex trade. This is consistent with the principles of respect and concern for others, integral values of Canadian society. This should be undertaken in consultation with organizations, many of which are religious, who are already engaged in such work.

Regulation

The Working Group presented the option of giving municipalities more regulatory authority to deal with prostitution-related activities, possibly through establishing zones of tolerance or licensing prostitution establishments. The creation of red-light districts is a complex issue. Decriminalization of prostitution-related acts in a red-light

district would imply government sanction of prostitution and would not necessarily lessen the extent of prostitution. If people are in desperate circumstances and intend to prostitute themselves, they will likely disregard both the red-light district and licensing regulations and enter the trade illegally. Although currently prohibited, street prostitution is still a problem in many Canadian cities. A red-light district could create a two-tiered system for those within the district and those who disregard regulation. A red-light district could segregate prostitutes into non-residential areas and leave them even more vulnerable to violence and crime.²⁸

The laws Canada passes are intended to prevent harm, to protect the vulnerable and to uphold human dignity. Any response to prostitution needs to take these principles into consideration. Sanctioning prostitution is inconsistent with the very foundation of the Canadian legal system.

Summary of Recommendations

A. EFC supports recommendations 1-3

1. increased penalties for clients and pimps, particularly of juvenile prostitutes. Since this is a form of child abuse there should be a specific offence for pimps and clients of juvenile prostitutes.
2. preventative education on the effects of prostitution, increased support for Canadian families and curbs on the availability of pornography and child pornography.
3. the establishment of outreach services for those who need refuge or want to leave the sex trade. EFC also encourages the government to consult with the many organizations who are already engaged in such work.

B. EFC requests:

1. thorough research into and serious consideration of the dangers associated with red-light districts before the government considers municipal regulation of prostitution.
2. a strong position by government of disapproval of the practice of prostitution, on the grounds that it is generally demeaning, exploitative, and harmful to physical and emotional health and morals in society as a whole.

Endnotes

- ¹ Toronto Star, Sept. 5, 1995
- ² Canadian Social Trends, Summer, 1994
- ³ See EFC's discussion paper, Marriage and Family Status in Canada.
- ⁴ Submission of the Canadian Conference of Catholic Bishops to the Special Committee on Pornography and Prostitution appointed by the Minister of Justice of Canada, March 1984, p.3.
- ⁵ United Nations Economic and Social Council, Resolution 1983/30. **Suppression of the traffic in persons and of the exploitation of the prostitution of others.**
- ⁶ Ken Fast, "A Report on Prostitution", 1995.
- ⁷ Lee Wolf and Dorota Geissel, "Street Prostitution in Canada," Canadian Social Trends, 1994.
- ⁸ Lee Wolf and Dorota Geissel, 1994.
- ⁹ Special Committee on Pornography and Prostitution Issues Paper, Ottawa: Supply and Services Canada, 1983, p. 55.
- ¹⁰ Dr. Stephen Genuis, **Risky Sex**, Edmonton: KEG Publishing, 1992, p.23.
- ¹¹ Ken Fast, 1995.
- ¹² Badgley Committee, p. 1034-35.
- ¹³ The Church Leaders' Submission to the Canadian Panel on Violence Against Women, "And No One Shall Make Them Afraid", March 27, 1992.
- ¹⁴ Badgley Committee, p.980.
- ¹⁵ The Supreme Court of Canada interpreted the "soliciting" law to mean "pressing and persistent" conduct. **Hutt v. R.** (1978), 82 D.L.R. (3d) 95.
- ¹⁶ *Reference to re: ss 193 and 195.1(1)© of the Criminal Code (Man.)* [1990] 1 S.C.R. 1162
- ¹⁷ *Reference to re: ss 193 and 195.1(1)© of the Criminal Code (Man.)* [1990] 1 S.C.R. 1141
- ¹⁸ *Reference to re: ss 193 and 195.1(1)© of the Criminal Code (Man.)*[1990] 1 S.C.R. 1142
- ¹⁹ *Reference to re: ss 193 and 195.1(1)© of the Criminal Code (Man.)*[1990] 1 S.C.R. 1142
- ²⁰ Daniel Sansfacon, **United Nations Conventions, Agreements and Resolutions on Prostitution and Pornography**, Department of Justice, 1984, p.6.
- ²¹ Sansfacon, p.7.
- ²² International Agreement on the Suppression of the White Slave Traffic (1904), International Convention on the Suppression of the White Slave Traffic (1910), the Protocol amending the Agreement of 1904 (1949), the Convention for the Suppression of the Traffic in Women and Children (1921), and the Protocol to amend the Convention for the Suppression of the Traffic in Women and Children of 1921 (1947).
- ²³ Sansfacon, p.4. The Department of Justice report explains that Canada did not sign the 1949 convention because of the organization of Canada's federal system of government. The convention would have required an overlap into the provincial issues of education, social and public health initiatives.
- ²⁴ United Nations Economic and Social Council, Resolution 1983/30, **Suppression of the traffic in persons and of the exploitation of the prostitution of others.**
- ²⁵ Special Committee on **Pornography and Prostitution**, Pornography and Prostitution in Canada, Ottawa: Supply and Services Canada, 1989.
- ²⁶ Badgley Committee: Sexual Offences Against Children, Ottawa: Supply and Services Canada, 1984.
- ²⁷ Badgley Committee, p. 91.
- ²⁸ A red-light district set up in Boston as an experiment found that "Other businesses in the area moved, sexual services became more blatant, which changed attitudes about the area; crime increased and enforcement decreased. The area became run-down and unsafe" Rona Achilles, The Regulation of Prostitution Background Paper, April 14, 1995, p.21.