



Submission to the Subcommittee on Solicitation Laws of the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness

February 2005

Introduction

The Evangelical Fellowship of Canada (EFC) is a national association of churches, church-related organizations, educational institutions, individuals and 40 denominations from across Canada. The EFC has long been concerned with the protection of the vulnerable and marginalized in our society, as well as the protection and defence of human dignity. In 1996, the EFC presented a submission to the Standing Committee on Justice and Legal Affairs on Bill C-27, and submitted a brief, *Prostitution in Canada: Towards an Evangelical Response*, to the Department of Justice in which we discussed the effects of prostitution, the legal situation and made several recommendations. Nearly ten years later, we sincerely appreciate the opportunity to make a submission to this Subcommittee.

Our concern for the protection and assistance of street prostitutes stems from the biblical mandate to care for the vulnerable. As well, our belief that God has created all people in His image and loves each person is the foundation for our belief in the worth of each human being. Flowing from this respect for human dignity is our desire to treat people as persons with inherent worth, not as objects or playthings. Many Canadian evangelicals are working with street youth and prostitutes across the country, seeking to provide physical and spiritual care; we draw on their expertise and experience to generate our recommendations.

Prostitution exploits the vulnerable, violates human dignity and is harmful not only to its participants but also to Canadian society as a whole. We view street prostitutes as victims of sexual exploitation. Some are also victims of sexual trafficking, having been brought to Canada for the purposes of being exploited in the sex-trade.

We understand that the mandate of this Subcommittee is to address solicitation laws under the *Criminal Code*. Our concern is that this mandate is too narrow. The criminality of solicitation is only one part of what should be an overall strategy for addressing prostitution in Canada.

Within the narrow context under investigation by this Subcommittee, our recommendations are as follows:

- Solicitation not be decriminalized
- Increase penalties for johns and pimps
- More funding be made available for safe houses and programs offering exit strategies for street sex-trade workers

Effects of Prostitution

Prostitution violates human dignity by distorting human sexuality and commodifying human intimacy. It takes acts of sexual intimacy, which we believe are ordained by God for marriage, and treats them as services to be bought or sold, turning acts of sexual intimacy into commercial transactions. The dignity due each person is violated when one's sexual intimacy is bought or sold.

Reinforcing harmful perceptions

Prostitution harms its participants both physically and emotionally. Prostitutes are in constant danger of assault by johns and pimps, and often have no legal recourse for wrongs inflicted upon them. They are also at high risk of contracting sexually transmitted infections which may lead to serious long-term health complications, such as infertility or AIDS. "Drug use, attempted and actual suicide, incredible insecurity and deep depression are common denominators in girls who ask for help in leaving" this industry.¹ By reinforcing the perception of women and children as sexual property, prostitution contributes to the normalizing of, and may increase incidents of violence against women and children, both inside and outside of prostitution.

Cycles of Exploitation

Prostitution perpetuates the exploitation of the vulnerable. The majority of those who enter into the sex trade are juveniles. There are many stories of youths both in Canada and overseas who are forced into prostitution; information about prostitutes in Canada seems to indicate that many have run away from home, fleeing abusive or troubled family situations.ⁱⁱ Around the world, poverty and physical need draws people into this exploitive practice.ⁱⁱⁱ People are also led into and kept in prostitution by coercive means. In its conclusions, the Badgley Committee stated that their research clearly documented, “the role played by pimps in introducing and coercing young females into a life of prostitution, and of locking them into this life by way of drugs, violence and threats of violence...”^{iv}

This physically and emotionally harmful practice exploits those who are already vulnerable, and keeps them trapped in cycles of abuse and exploitation. Despite the commonly expressed desire among street prostitutes to leave the trade, most prostitutes remain in the sex trade because they feel they have no safe and viable exit strategy. Ken Fast, an evangelical Christian who has had a ministry to prostitutes in Ontario for 11 years, equates prostitution with manipulation and control. Fast reports that many of the prostitutes he has worked with believed their pimps would kill them if they left the street.^v The Badgley Committee reported that over a third of the juvenile prostitutes interviewed admitted currently working or previously working for a pimp.^{vi} Pimps often force prostitutes to remain in the sex trade even when they wish to leave, making them, in essence, slaves.

Vulnerability of Juveniles

Youths are particularly vulnerable to harm by prostitution. The Badgley Committee found that 96% of prostitutes interviewed had entered the trade before the age of 18. Almost all (93% of females, 97% of males) had run away from home at least once.^{vii} Youths who have run away or who live on the street may be particularly vulnerable, in need of food and shelter. The Badgley Committee reported that according to its research, “The ingrained pattern of exploitation, disease and violence in the daily lives of juvenile prostitutes is unmistakable...”^{viii}

The Current Legal Framework

The Communication Laws and Street Prostitution

The Canadian government has always formally discouraged prostitution, enforcing laws rooted in the assumption that this exploitive practice harms its participants and is detrimental to Canadian society as a whole. Former Supreme Court Chief Justice Dickson 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.”^{ix}

Positive aspects of the current law are, (1) it expanded police power by permitting the prosecution of male prostitutes and transvestites, (2) police could no longer make the arrest of a recognized street prostitute merely because she did not appear to be busy.^x The current laws reduce the visibility of prostitution-related interactions and transactions, and thus reduce the nuisance aspect of the trade, but they miss the mark in addressing the exploitive aspects of the prostitution industry.

It appears we have a somewhat contradictory view about prostitution in Canada. While we are willing to turn a blind eye to prostitution that occurs off the street and out of the public eye, we have a low tolerance for prostitution on our streets and in our communities. It seems it is our objection to its visibility in, and impact on our communities, rather than a desire to end the exploitation of vulnerable people, that informs our policies and law enforcement strategies. This is simply unacceptable. We must address the real root causes of prostitution, help prostitutes to leave the sex trade, and undermine the viability and profitability of the trade itself. Our ultimate goal should be the elimination of this form of sexual exploitation in Canada.

Employment or Exploitation?

It is disconcerting that in many policy dialogues, prostitution is referred to as a form of work or industry into which women willingly and freely enter. Prostitution is a form of sexual exploitation into which individuals are drawn often under the influence or manipulation of another individual, and most often with a belief that they have no other viable option. Any policy position developed without this underlying understanding will fail to address the roots of the problem, and will ultimately fail those individuals suffering under the exploitive sex trade industry across Canada.

Law Enforcement

A Detrimental Imbalance

Implementation of the law is as important as the law itself. And since street prostitution is a type of prostitution that arguably increases the vulnerability of individual women to violence, it should follow that our law enforcement philosophy and tactics address the need to protect vulnerable citizens caught in the sex trade, and offer them viable exit strategies.^{xi}

Unfortunately, unbalanced enforcement of solicitation laws contributes to the further victimization of street prostitutes. Across Canada, our law enforcement approach is detrimentally unbalanced, targeting for apprehension and prosecution an already vulnerable population of street workers while overlooking the johns and pimps who are

perpetuating and benefiting from the ongoing exploitation of vulnerable women in children. Over 90% of all solicitation/prostitution-related charges across Canada are not against pimps or johns, but prostitutes themselves, generally because they are the easiest to target.^{xiii} Police tactics such as continuous prostitution sweeps along cities' main "strolls" target these vulnerable women but do not help the problem. And if the penalty is a fine, prostitutes owe not only their pimps but also the state!

No Recourse. No Justice. No Exit.

Not surprisingly, current law enforcement practices foster an adversarial relationship between street prostitutes and law enforcement officials. Such a relationship discourages or even prevents women from contacting the police when their safety is in jeopardy, closing off their only channels for reporting assaults or seeking protection from violence or abuse.

As it is, street prostitutes have scant access to legal or supportive services designed to help them exit the sex trade. If they wish to leave the sex trade, the proper assistance and services are simply not available to them. An inadequate legal framework and unbalanced law enforcement practices combine with a lack of viable exit strategies for street prostitutes to create a revolving door of abuse, marginalization and neglect of this vulnerable population.

Meanwhile, this same imbalance leaves the root of the problem and the perpetrators of the exploitation, the johns and the pimps, largely undeterred. In fact, the lack of arrests may serve as a form of tacit approval for these behaviours.

“Harm Reduction”

The Inadequacy of the “Harm Reduction” Approach

The widely discussed “harm reduction” approach to prostitution views prostitution as an inevitable and ever-present profession that is carried on within an often hazardous work environment. There are a range of activists and academics arguing for such an approach, suggesting that the legalization and regulation of brothels would ensure greater physical protection for prostitutes and better access to resources such as condoms, medical services, and information on dangerous customers.

With all due respect, this accepts sexual exploitation for the pleasure and profit of others. Such harm reduction initiatives do not address the problem of prostitution in Canada. Harm reduction is not an adequate substitute for accessible exit strategies that enable prostitutes to leave the sex trade immediately and for good.

In addition, those who work with street prostitutes indicate that they are not in favour of so-called “red light” districts. They see this option as trapping them in a life they do not want.

International Comparison

Some countries that have implemented red light districts and legalized brothels are revisiting this issue. The majority of sex workers start at a very young age so even licensing women who are of age will not address the real problem. Eighty-two per cent of people start in the business when they are 14 years old or younger and many have a background of abuse. Many of the women who are of age are drug users and many have diseases like hepatitis C or AIDS and would not qualify to work in most legalized brothels. Where would these women go? Back on the street, without protection.

An analysis of responses to prostitution in countries such as Australia, Ireland, the Netherlands and Sweden indicates that:

- legalization has not reduced or limited trafficking, and there is evidence that it has resulted in increased flows,
- tolerance zones in both the legalized and regulatory regimes have failed to deliver the hoped for benefits, and
- only coherent, co-ordinated, multi-stranded and well-resourced interventions, linked to a clear longer-term policy direction make a positive difference.^{xiii}

In Sweden, prostitution is officially acknowledged as a form of exploitation and seen as a form of violence against women and children; so it was included in a Bill addressing such violence.^{xiv} The Swedish government prosecutes men who seek to purchase sex rather than prosecuting the prostitutes. Sweden has also provided government-sponsored programmes to help people exit prostitution. It is believed that this has halved prostitution in Sweden since it was introduced and has greatly cut down on trafficking.

While we do not support the legalization of prostitution, we support the focus of their law enforcement on prosecuting johns rather than prostitutes. The Swedish law is fundamentally viewed in a normative way, as a step towards longer-term goals of eradicating prostitution and promoting gender equality.

It is the position of the EFC that all federal policy should seek to move in a single direction towards the eradication of prostitution, rather than the pursuit of “harm reduction” model, which has been unproven abroad, and which often provides legitimate fronts for illegitimate and exploitative behaviour.

Recommendations

Prostitution is a complex and multi-faceted problem. It must be addressed on many fronts, including legislative reform, changes to law enforcement philosophy and practice, and support for social interventions.

The EFC feels that federal priorities should be to increase resources to enable women to exit prostitution, re-educate the public about the realities of prostitution, locating it within a framework of violence against women, and train professionals to understand and implement this new approach.

In summary, the EFC submits the following recommendations:

1. **Reframe the Issue:** Reframe the issue to define prostitution as a form of violent exploitation of vulnerable peoples, especially women and children. We are seeing a positive trend among some in policy and helping roles who are recognizing youth involved with the sex trade as victims, as opposed to criminals.^{xv}
2. **Reform Law Enforcement Philosophy and Practice:** Support a shift in law enforcement philosophy and practice of policing on prostitution to (1) make demand, the purchase of sexual services, the central focus of law enforcement efforts, (2) actively enforce laws against aggravated procuring, and (3) enact stiffer penalties for those guilty of purchasing or intending to purchase sexual services, and those guilty of aggravated procuring.

Increasing penalties for johns and pimps is a more appropriate response than increasing the legal penalties for prostitutes, which may simply serve to further victimize and marginalize them. In contrast to prosecuting prostitutes, targeting pimps and johns will undermine the economic viability of the sex trade, dealing a more effective blow to those benefiting from the exploitation of women and children.

We also recommend active protection of the rights of individual prostitutes to legal recourse for assaults and “bad dates.” Police follow-up on bad date reports without fear of prosecution would begin to assist in de-marginalizing street prostitutes

and rebuilding trust between beat cops and the vulnerable prostitutes on the streets.

We do not recommend decriminalizing solicitation as the current law allows for police interventions that remove prostitutes from the streets and, if approached appropriately, can serve as the first step of an exit strategy. If solicitation is decriminalized, this removes one avenue to removing vulnerable men, women and children from a situation in which they are being exploited.

3. **Widen Domestic Dialogue:** Address the various impacts of prostitution on sex trade workers and on communities in collaboration with a wide variety of partners, including street prostitutes themselves, those who work at the ground-level with street workers, provincial and territorial governments, particularly their departments responsible for dealing with justice-related issues and those responsible for social services and child welfare issues, and last but not least, municipal governments across the country.
4. **Provide and Promote Viable Exit Strategies:** In consultation with those who have exited the trade and reintegrated back into society, and facilitated by street outreach programs across the country that act, and are seen as safe exempt neutral programs and not as a tool of law enforcement (which deters individuals from accessing such services),
 - Enhance intervention services that assist prostitutes to exit the sex trade
 - Create and distribute practical information to assist those desiring to exit the trade. Provide free information and hotlines in Canadian cities. Offer safe housing options as a starting point for beginning the often lengthy and difficult process of exiting the sex trade.
 - Provide information on and resources for: housing, clothing, health, employment, education, financial assistance and planning, life skills, recreation, and counselling. It is important that these services be designed in a flexible fashion, to accommodate the number of times it takes for an individual to successfully leave the street.

Endnotes

ⁱ Ken Fast, *A Report on Prostitution* (unpublished), 1995.

ⁱⁱ Badgley Committee: *Sexual Offences Against Children*, Ottawa: Supply and Services Canada, 1984, p. 980. The Committee on Sexual Offences Against Children and Youths (the Badgley Committee) was commissioned by the Canadian government to research and report on the extent of sexual offences against children and youths and to recommend how to provide better protection for young victims and presented its report in 1984. 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.

ⁱⁱⁱ *Report by World Vision Philippines*, February 1996, in *The Commercial Sexual Exploitation of Street Children*, World Vision UK, undated, p. 8.

^{iv} Badgley Committee, *Report Summary*, p. 55.

^v Ken Fast, *A Report on Prostitution*, 1995.

^{vi} This number is likely not reflective of the actual numbers. Individuals who have left the streets often report that prostitutes tend not to admit to being pimped while on the streets out of fear, and suggest that over 90% of street prostitutes are in fact being pimped.

^{vii} Badgley Committee, p. 980.

^{viii} Badgley Committee, p. 91.

^{ix} *Reference to re: ss 193 and 195.1(1) 8 of the Criminal Code* (Man.) [1990] 1 S.C.R. 1142.

^x John Lowman, "Street Prostitution." In V. Sacco, *Deviance: Conformity and Control in Canadian Society* (Second Edition). 1992. p. 65

^{xi} Many reports in Canada show that as many as 98 per cent of sex workers have suffered some kind of assault while working. Violence against prostitutes is prevalent cities across the country. Lengthy "bad date" lists have been compiled by a number of different organizations.

^{xii} John Lowman, "Prostitution Law Reform in Canada." Internet Source. 1997.

^{xiii} Julie Bindel and Liz Kelly. "A Critical Examination of Responses to Prostitution in Four Countries: Victoria, Australia; Ireland; the Netherlands; and Sweden". Routes Out Partnership Board. Child and Woman Abuse Studies Unit, London Metropolitan University. 2003.

^{xiv} Swedish Ministry of Industry, Employment and Communications, 2003, p.1

^{xv} Susan McIntyre, "Strolling away." A Report for the Department of Justice, Canada. 2001. p.59-60.