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Prostitution: work or oppression?

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ASSEMBLÉE DES
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D'INTERVENTIONS
RÉGIONALES

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The regional intervention women group assembly

The *Assemblée des groupes de femmes d'interventions régionales AGIR* (Regional intervention women group assembly) is an issue table of the Canadian province of Québec, and a rights defence organization that fights all forms of violence, discrimination, marginalization, or exclusion against women, and promotes equality between men and women in various spheres of society.

AGIR's analysis and actions aim to shed light on different issues by:


- Enabling area concentration of Outaouais women groups,
- Defending women groups' and women's rights and interests,
- Providing a place for discussion, exchange, training, analysis and mobilization
- Promoting women's rights and needs to the political and socioeconomic spheres

The Outaouais region's geographical situation, at the border of the provinces of Québec and Ontario, and its cultural diversity are great advantages that make our feminist analysis very rich.

Distinctiveness of Québec's feminist movement

Canada is a country divided into thirteen provinces that all have their own government. Thus, certain matters are treated at a provincial level, and decisions may vary for each province.

In Québec, there is an issue table for each region as a part of the *Réseau des tables de groupes de femmes du Québec* (Québec women's group table network). This feminist rights defence network is unique to Québec, as other Canadian provinces have unfortunately suffered the conservative government's budget cuts in 2006. According to the conservatives, men and women are now equal in Canada, and so, feminist organizations are no longer useful. However, this very government



reopened debates that directly involve women, such as the right to abortion or the legislative framework for prostitution. In 2014, it is alarming to realise that the government's speech is equivalent to the myth of "achieved equality" which reflects in no way women's true situation.



PROSTITUTION: WORK OR OPPRESSION?

The Larousse dictionary defines prostitution as the "act by which a person gives their consent to having sexual encounters with an unspecified number of people for consideration."¹ The Criminal Code of Canada rather defines it as "the act of sexually stimulating another person by engaging in various sexual acts for consideration."²

Prostitution is an issue of global concern that mostly affects women, but also a taboo that divides feminists between pro-sex workers and abolitionists. Even though these two opposite views share the common goal of protecting sex workers, they contemplate different legal means for this achievement.


On one hand, pro-sex workers define prostitution as a job, and therefore wish to protect prostitutes by invalidating any law that would stop them from working, and by providing extra supervision for the industry. Several countries such as Australia (1980), Germany (2002), the Netherlands (2000) and New-Zeeland (2003) choose to adopt such a pattern.

On the other hand, abolitionists see prostitution as sexual exploitation, and opt to promote sex-trade workers' safety by penalizing clients and pimps whom they identify as both a threat, and the source of human trafficking success. Such a neo-abolitionist approach was adopted in Sweden (1999), Norway (2009), Island (2009), and France (2013).

Even though none of the existing models is perfect, the analysis of data proceeding from the concrete realization of both approaches appears the best way to determine on which side feminists should stand in this controversy. Australia and Sweden, as pioneers in this domain, may be taken as assessment models.

¹ Dictionnaire Larousse(Dictionary), *Prostitution*, Web. (2014)
<http://www.larousse.fr/dictionnaires/francais/prostitution/64497>

² R. c. St-Onge (2001), 44 R.C. (5th) 395



In 2014, prostitution remains a very outstanding topic, as laws regarding this matter are changing in many countries. On December 20th, for instance, The Supreme Court of Canada decriminalized prostitution, and gave the government no more than one year to adopt a new legislative model. In the meantime, France criminalized sex work, and, subsequently, the Government of Canada submitted Bill C-36³ regarding the same matter. The justice committee is currently amending this bill, which causes different reactions among pro-sex workers and abolitionists. The passage of such a bill will have a concrete impact on our society, and feminists wish to be informed and to take part in this debate, which is currently not the case.


The *Conseil du statut de la femme*⁴ Québec organization compared results proceeding from various countries' legislative models. This was achieved in order to guide the Government of Québec's decisions towards taking suitable measures regarding the issue of sex work. Even though this study contains a relevant statistic database to improve reflection on the subject, other sources were used to complete this research project.

Canadian History of prostitution

Prostitution in Canada always evolved along with measures that made its practice illegal, until the Supreme Court Judgement of December 2013 that invalidated any law that criminalized sex trade. The Government of Canada has now been trying to solve this matter for more than a hundred years. Prostitution was indeed mentioned for the first time in the Criminal Code of 1892. At the time, the juridical system had established laws to tackle vagrancy and brothels, which were considered a nuisance to public order and a moral offense. Legislation penalised sex-trade workers but not

³ Refer to page 8 for Bill C-36 details

⁴ *Conseil du statut de la femme* is a study and consultation government agency, which promotes and defends Québécoises, since 1973. Its goal is to achieve equality between men and women. The *Conseil du statut de la femme* gives advice to the Minister and the Government of Québec on any matter concerning equality and respect of women's rights and status. www.csf.gouv.qc.ca



clients. Procuring was also considered a crime. Two national committees then studied contraventions related to sexual exploitation. On one hand, the Bagley committee pointed out prostitute's young age together with pimps' important role in recruiting them. If Bagley achieved some interesting research, he also drew risky conclusions. He completely denied, for instance, the client's responsibility in sexual exploitation. According to him, a man is a man, and should therefore not be condemned for his natural behaviour. In his report, he recommended criminalizing young prostitutes. On the other hand, the Frazer committee was against this idea, and rather proposed to fight the fundamental problems of prostitution, with reforms, in order to erase social gender inequality. This required the Government's support to create social programs, and invest in community groups that help prostitutes and former prostitutes.⁵


Almost a hundred years later, in 1972, the Royal Commission on the Status of Women in Canada points out the importance of fighting street prostitution, which leads to many changes in the Criminal Code⁶. The word "vagrancy" is modernized, and replaced by the prohibition of soliciting for prostitution purposes in public places: "Every person who solicits any person in a public place for the purpose of prostitution is guilty of an offence punishable on summary conviction."⁷

In 1985, the Government sets aside the Fraser committee's opinion, and rather considers Badgley's position that recommended criminalizing prostitutes. This leads to Bill C-49 that aims to modernize the Criminal Code's disposition towards soliciting. The new disposition reads as follows: "Every person who in a public place or in any place open to public view communicates or attempts to

⁵ House of Commons Canada, Report of the Standing Committee on Justice and Human Rights, *The Challenge of Change: A Study of Canada's Criminal Prostitution Laws*, Web. (2006) <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=2599932&Language=E&Mode=1&Parl=39&Ses=1>

⁶ Government of Canada Privy Council Office, *Report of the Royal Commission on the Status of Women in Canada*, Web. (1970) <http://epe.lac-bac.gc.ca/100/200/301/pco-bcp/commissions-ef/bird1970-eng/bird1970-eng.htm>

⁷ Criminal Code, S.C. 1892, c. 29.



communicate with any person for the purpose of engaging in prostitution or of obtaining the sexual services of a prostitute is guilty of an offence punishable on summary conviction. "⁸ This amendment is the main element used to tackle street prostitution, as it directly targets prostitutes who advertise their sexual services in public areas. The Government adopted it in order to "solve the problem of nuisance, not the prostitution problem in whole"⁹, as stated by the Federal-Provincial-Territorial Smith Working Group on Prostitution.

In 2014, the prostitution debate reappears at the Parliament. The laws that have always severely punished solicitation, brothels, and sexual services for consideration are declared incompatible with the Canadian Charter of Rights and Freedoms. The Supreme Court gave the Conservative Government no more than one year to adopt a new legislative model that would modify the aforementioned clauses to make them compatible. Bill C-36 is then developed, and is currently being revised by the Justice committee. This Bill may therefore represent Canada's most recent views on prostitution.


Bill C-36

Introduced on June the 4th, Bill C-36, called "Protection of Communities and Exploited Persons Act"¹⁰ is based upon the abolitionist legislative model that Sweden, Norway, Island, and France currently embrace. This model tends to penalise clients and pimps without penalising sex-trade workers. Yet, the Canadian model does not exclude the possibility of criminalizing prostitutes who solicit around schools, playgrounds, day-care centres and churches. Within the Justice committee, the official opposition wanted any clause that kept criminalizing prostitutes to be rejected, but as a majority government, the conservatives adopted

⁸ Criminal Code, (L.R.C. (1985), chap. C-46), section 213.

⁹ Federal-Provincial-Territorial Smith Working Group on Prostitution *Rapport sur la prostitution*, p. 8. R. v. Smith (1989), 49 C.C.C. (3d) 127 (The Court of Appeal of British Columbia).

¹⁰ Canada (Attorney General) c. Bedford, 2013 CSC 72, [2013] 3 R.C.S. 1101



this model. This project rejoices abolitionists, but is very criticised by pro-sex workers.

Pro-sex workers' reactions

According to pro-sex workers, Bill C-36 goes against the Charter of Rights and Freedoms¹¹, and puts prostitutes at risk. In their opinion, penalising clients and pimps, and forbidding the advertisement of services will affect prostitutes way more than it may help them in their work.


Under the threat of severe fines and up to five years of incarceration, clients will be nervous, and in a rush to complete their transaction. Prostitutes will then have less time to assess their clients, and will lose part of their client base. Swedish statistics demonstrate that such measures considerably reduce the consumer demand for sexual services, a 40% decrease of clients.¹²

Furthermore, the purpose of banning third parties from capitalising on prostitution is to abolish sexual service businesses online, escort services, massage parlours, and strip clubs that also provide sexual services. This will force prostitutes who no longer have access to this type of supervision, to find clients on their own, and to work in more clandestine places, closer to criminals.

Moreover, the prohibition of advertising services online or in other publications will make it even harder for prostitutes to find clients. They will risk being incarcerated if they get caught advertising, or soliciting near schools, day-care centres, parks, or churches. This criminal infraction is special alteration of the Canadian Government to the traditional Nordic model. Normally, this type of legislative framework does not penalise prostitutes in any way.

¹¹ 1867 constitutional law (R-U), 30 & 31 Vict, c 3.

¹² Conseil du statut de la femme, Avis sur la prostitution. *La prostitution: il est temps d'agir*, Web. (2012) <http://www.csf.gouv.qc.ca/wp-content/uploads/avis-la-prostitution-il-est-temps-dagir.pdf>, p.95.



In addition to this bill, the Canadian Government promised 20 million dollars in funding to help survivor prostitutes, a far lesser amount than what is needed to cover the actual needs of the entire country. Without appropriate financial commitment, an adequate intervention for this problematic will prove nearly impossible. Investing in police training and in organizations that work with survivor prostitutes is the bottom line of successfully handling prostitution. They are the ones who have the power to perform concrete interventions with both sex workers and clients.

Authorities' lack of intervention resources is one of the neo-reglementarist system's major flaws. Concrete intervention is fundamental, given that illegal brothels proliferate: "In the state of Victoria, according to the Business Licensing Authority (BLA), the number of legal brothels went from 40, at the moment of legislation in 1984, to 184, 20 years later, in 2004. These statistics exclude the illegal sector, which expanded four to five times more than the legal one."¹³ "Additionally, "a police investigation disclosed, in 2011, that at least two brothels in Sydney, and three in Melbourne were related to human trafficking and sexual slavery international networks."¹⁴ Be it in Australia, New-Zeeland, the Netherlands or Germany, the illegal side of prostitution remains beyond authorities' reach, and 90% of prostitution is estimated to continue happening illegally.¹⁵ Adequate police training is essential to taking action in both human trafficking and sex industry. The lack of help for women working in street prostitution, or wishing to withdrawal from prostitution has also been identified as an urgent need.

Pro-sex workers ask for a legal framework that would allow prostitutes to work in the safest possible conditions, while also limiting inconvenience for the rest of society, and fighting criminal networks that exploit minors, vulnerable women, and out-of-status immigrants.

¹³ Ibid. p.80

¹⁴ Ibid. p.82

¹⁵ Ibid. p.89



November 30, 2013- Sex workers in France protest against the new law penalizing clients

Abolitionists

Abolitionists rather see Bill C-36 like a weapon against sexual exploitation. They define prostitution as an "organized worldwide system, governed by pimps, that recruits, buys and sells women and girls forced to be prostitutes by misery, violence or illusion, as they have no other option."¹⁶ Instead of trying to control the black market, that mostly exploits women and children, they want to fight its source. Penalising clients and pimps, and the prohibition of advertising or soliciting sexual services then appear to be necessary measures to tackle consumer demand, the source of global prostitution's success.

Prostitution statistics in Canada are striking:


- The average age sex workers start at is between 14 and 15, and nearly 80% of adult prostitute women started as minors.
- 70% to 90% of prostitute women suffered physical assault (rape, blows, serious injuries, threats, etc.) from a client, and the majority of prostitutes have post-traumatic stress syndrome. Their death rate is 40 times higher than average.

¹⁶ Ibid. p.108

- Investigations carried out in several countries reveal that 89% or more of prostitute women wish to leave prostitution, and none of them would like their own daughter to do this type of "work."¹⁷

According to a study lead by Persons Against the Crime of Trafficking in Humans (PACT-Ottawa)¹⁸, the human trafficking market's profit in the Outaouais region alone is of more than 25 million dollars. This study disclosed stunning statistics: "At least 90% of human trafficking victims in Ottawa and Gatineau are Canadians [...] 500\$ per night multiplied by seven days (the girls don't have a day off) comes to a total of 3500\$ per week or of 182 000\$ per year. If a pimp controls three girls this comes to 547 500\$, and the regional total adds up to 25.9 million dollars, considering the 142 victims listed in Ottawa and Gatineau."¹⁹

¹⁷ Ibid. p.108.



teenager's awareness on prostitution:"This aspect of the law, that criminalizes purchase, makes our job easier in the prevention workshops we offer to hundreds of young people. The opposite would have been a disaster. How could we prevent people from entering the prostitution system, either as a recruiter or as «merchandise» when the law allows it? With the new law, we can address the issue with the same perspective we use to talk about sexual assault or violence in love relationships, referring to abuse of authority as a result of social inequality. Our message then becomes much more coherent for young people!"²¹

Violence is often one of the main reasons women enter prostitution for:"According to Australian Project Respect⁷⁵, in Australia, 73% of prostitute women interviewed in legal brothels say to have suffered violence as children or as adults, before starting prostitution. Social workers believe this percentage should probably be higher, given that it is often difficult for women to talk about such ill-treatments. Otherwise, the new laws didn't improve their work conditions or reduce the violence they endure. The accounts of women who met this organization's representatives show that they have to work more hours to gain the same amount as previous years, because of increased competition. Health problems have also increased, including anxiety, stress, insomnia, and severe depression, as well as drug use, in particular the ones that keep them awake. Women also reported an augmentation of violence made by clients, who are ever more demanding regarding the sexual services offered. Ultimately, nothing proves that legislation made prostitution safer, even in legal brothels."²² Abolitionists therefore condemn the neo-reglementarist model's failure to reduce violence against women.

However, abolitionists also criticise the clause of Bill C-36 that penalizes prostitutes if they solicit in areas near churches or minors. Apart from their disagreement on

²¹ Centre d'aide et de lutte contre les agressions sexuelles en Outaouais et Collectif de l'Outaouais contre l'exploitation sexuelle, *Mémoire présenté au Comité permanent de la justice et des droits de la personne de la Chambre des Communes sur le projet de loi C-36*, p. 4.

²² Conseil du statut de la femme, Avis sur la prostitution. *La prostitution: il est temps d'agir*, Web. (2012) <http://www.csf.gouv.qc.ca/wp-content/uploads/avis-la-prostitution-il-est-temps-dagir.pdf>.p.96.


what type of legal framework should control prostitution, both sides agree that prostitutes should in no case suffer legal penalties.



June 13, 2013 – Abolitionists' protest in front of the Supreme Court of Canada at the beginning of Bedford hearings


Conclusion: Worldwide prostitution

As a conclusion, prostitution is a global problematic, and a part of the feminist movement's concerns. Raising our governments' awareness for this issue, in order for them to take it seriously is vital. Without their collaboration, our capacity to take action is limited. Their financial support remains too low to help us concretely treat this problematic. In order to fight prostitution, we must first of all tackle poverty and violence. As long as our capitalist society's engine will keep on running, women and children will continue engaging in prostitution to ensure their survival. Our reflections must go beyond the morality of commercial sex, and look into the situations prostitute people truly live, and the other options they have. Prostitution often starts as a temporary "solution", that allows gaining a certain amount of money that would otherwise be out of reach. As long as governments will lack the will to fight the fundamental causes of this problem, prostitutes will require protection, and tolerance regarding certain of their activities. If prostitutes can't



advertise their services on the internet or in public places near minors, as by the current bill, they will once again find themselves working in dark alleys, caught with danger, and we are back to square one...

In Sweden, ten years after introducing the neo-abolitionist legislative model, the number of street prostitutes has halved. Given the little impact of this law on the internet, a simple migration of prostitutes towards this sector of the industry appears possible. Would virtual solicitation be the new way to go for starting prostitutes? How much control does the government truly have on this ever growing worldwide industry? Only time will tell, but we believe there is still lots of work to be done. The feminist movement needs to strengthen its relationship with governments in order to define a grey zone that would respect sex-trade workers while also protecting sexually exploited women and children.



GAGNON, Lysiane, *Abolir la prostitution?*, La Presse, Web. (2014)
http://www.lapresse.ca/debats/chroniques/lysiane-gagnon/201406/13/01-4775673-abolir-la-prostitution.php?utm_categorieinterne=traffidrivers&utm_contenuinterne=cyberpresse_vous_suggere_4782554_article_POS5

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(2006)<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=2599932&Language=E&Mode=1&Parl=39&Ses=1>