

Respectfully Submitted



www.ARPACanada.ca
info@arpacanada.ca
613-297-5172

POLICY REPORT for Parliamentarians

Courtesy of the Association for Reformed Political Action (ARPA) Canada

La version française de ce document est aussi disponible en prenant contact avec ARPA aux coordonnées ci-haut.

Prostitution: Parliament's Moral Imperative

The topic of prostitution is making headlines in Canada today. Two constitutional challenges are making their way through the courts in Ontario and in British Columbia. The matter from British Columbia is currently before the Supreme Court of Canada on a legal issue of standing, to be resolved in 2012. The Ontario Court of Appeal has already heard the Ontario case and that decision is pending. Very soon this matter will have to be resolved. The question is whether it will be the Supreme Court of Canada or our elected lawmakers who will determine what the law will be.

Our Parliamentarians have a unique opportunity to improve Canada's prostitution laws rather than risk the Supreme Court creating another legal vacuum.

In both court challenges, the appellants are seeking to decriminalize prostitution by decriminalizing bawdy houses, permitting individuals to live off the avails of prostitution and allowing communication for the purchase of sexual services. Currently these practices are illegal in Canada, as per the Criminal Code, sections 210 to 213. It should be noted that the actual exchange of money for sexual services is not itself illegal.

Prostitution is not a profession - it's oppression;

it's not sexual liberation - it's sexual exploitation.

A recent Angus Reid survey indicates that most Canadians believe the status quo is unacceptable.¹ The Canadian model is not working.² Canadians expect leadership from their elected representatives on this issue. There is much misunderstanding and ignorance surrounding prostitution. And there is much at stake. As Parliamentarians, you have an opportunity to be proactive on this issue, instead of scrambling in

reaction to a Supreme Court decision. Outlined below are some legislative models that have been used in a number of different countries and which are being proposed for Canada.

Prostitution IN CANADA

SEPTEMBER 2011

Option 1: Legalization/Decriminalization

“Legal prostitution and decriminalized prostitution are both state-sanctioned prostitution, but there are differences between them. In legalized prostitution, the state assumes the role of pimp, collecting taxes and regulating the practice of prostitution. Decriminalized prostitution is a radical removal of any and all laws regarding prostitution (including laws against pimping, pandering, purchasing, and procuring) so that the buying and selling of people in prostitution is considered the legal equivalent of buying candy.”³

“...researchers have found that [legalized prostitution] produces a “prostitution culture” with increased illegal as well as legal prostitution, increased presence of organized crime, increased demand for prostitution, increased child prostitution, and increased trafficking of women for the purpose of prostitution. State sponsored prostitution provides a legal welcome to pimps, traffickers, and johns.”⁴

A number of governments have attempted legalization and regulation of prostitution, including the Netherlands, the state of Nevada, and Victoria, Australia. In these districts, even with all of the regulation put in place by government, there is still an overwhelming influence by gangs, and rampant drug and human trafficking, sexual exploitation, and child prostitution.⁵

The simple reality is that legalization and decriminalization benefit the pimps, traffickers and johns; it normalizes the treatment of the female body as a commodity for men to rent and for “businessmen” to rent out; it degrades the community.

Legalizing or decriminalizing prostitution is fundamentally immoral. It is an unacceptable alternative to the Canadian status quo.

Prostitution and Human Trafficking

The connection between prostitution and human trafficking cannot be overstated.¹³ In Western Europe, the trafficking of women and girls into the sex trade has been one of the most rapidly expanding criminal activities of the past two decades.¹⁴ The legalization or even toleration of prostitution has historically led to an increased number of women and children being trafficked into the commercial sex trade.¹⁵ One study in the Netherlands reported that in the first 5 years of legalizing prostitution, the number of child prostitutes in the country increased 300% from 4,000 to 15,000!¹⁶

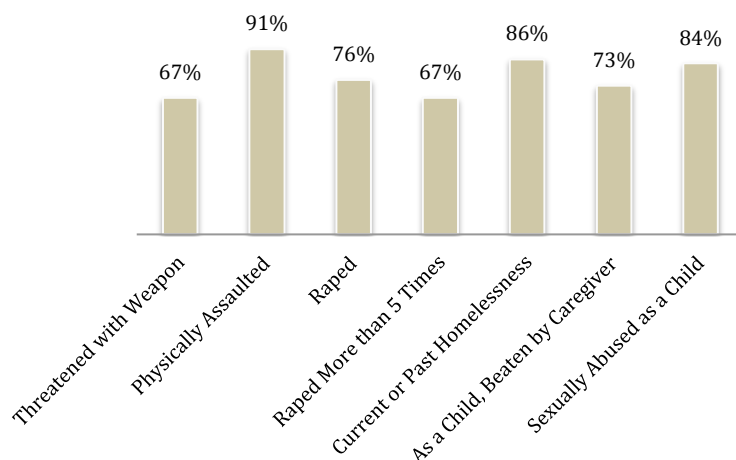
Prostitution in Canada	
Age range of prostitutes	13-49 ⁶
Percentage younger than age 18 at entry	54% ⁷
Percentage of pimp-controlled prostitution	80%-95% ⁸
Mortality rate of girls and women in prostitution	40x national average ⁹
Number of women trafficked into Canada for sexual exploitation	600 per year ¹⁰
Sexual exploitation accounts for percentage of the world's human trafficking	79% ¹¹
Reduction in Swedish prostitution within 5 years of abolition	67% ¹²

Prostitution and Violence Against Women

Prostitution is violence against women. Let's not kid ourselves - decriminalizing prostitution will not create an equal playing field for female entrepreneurs who wish to engage in a legitimate business of sexual services. The horrific reality is that the vast majority of prostituted women are controlled by pimps and suffer incredible harm. Prostitution is intrinsically exploitative. Legalizing or decriminalizing a practice that is inherently harmful and dangerous does not reduce the harm, danger or exploitation.

As Dr. Melissa Farley states, "If we view prostitution as violence against women, it makes no sense to legalize or decriminalize prostitution. The primary violence in prostitution is not "social stigma" as some maintain. Decriminalizing or legalizing prostitution would normalize and regulate practices which are human rights violations, and which in any other context would be legally actionable (sexual harassment, physical assault, rape, captivity, economic coercion) or emotionally damaging (verbal abuse)."¹⁸

Figure 1: Violence in Prostitution: Canadian Statistics¹⁷



Option 2: The Swedish Model

In 1999, Sweden revised their prostitution laws, and introduced a new law where "the person who, for payment, obtains a casual sexual relationship is penalized... for the purchase of sexual services with fines or imprisonment for a maximum of six months."¹⁹ Sweden officially recognized prostitution as a form of exploitation and violence against women and children and therefore targeted those who engaged in exploitation, rather than those who were exploited.

The Swedish model properly punishes those who exploit vulnerable women and children and at the same time supports those trying to gain their freedom from the sex trade.

Sweden was the first country to criminalize the demand while decriminalizing the supply. It's basic economics: target the demand, and the supply will dwindle. With the sex trade, as it was with the slave trade in the past, demand creates supply. Because people want to buy sex, there will be those who provide

it. But if the Criminal Law targets those who want to buy, then demand is reduced, and those providing the supply (pimps and traffickers) need to go elsewhere.

The Need for Exit Strategies

The Swedish model views prostitutes as victims of a crime rather than criminals. The motivation is to remove the stigma and make it easier for prostitutes to leave the trade. Although the end goal is commendable, it does not justify the generalization that prostitution *per se* denotes victimhood. As those who are advancing the current court challenges exemplify, there are people who choose to enter the sex trade, profit from it, and do what they can to advance it. With that in mind, it is important that legislation that properly criminalizes the demand for sex also has a parallel system in law through which those who wish to escape from the sex trade are given the tools and support necessary to reintegrate into society.

As can be seen in the chart on the right, prostituted women need support and help. A compassionate Canadian people and a government that intends to target crimes against women and to help victims of crime must be ready to give assistance in shelter, addiction counseling, job training and health care.

Response to "What Do You Need?" Asked of 100 Canadian Prostitutes

Leave prostitution	95%
Home or safe place	66%
Job training	67%
Drug/alcohol treatment	82%
Health care	41%
Peer support	41%
Individual counseling	58%
Self-defence training	49%
Legal assistance	33% ²⁰

Recommendations

ARPA Canada urges our elected representatives to speedily advance and support legislation that seeks to eradicate prostitution by addressing demand and by adjusting the focus of the laws and law enforcement to the prosecution of those who purchase sexual services. We also encourage you to empower those organizations that already exist to help prostitutes exit the sex trade.²¹

The Swedish model gives some helpful direction for how to minimize the demand for prostitution by focusing on prosecuting those who purchase sex. Not criminalizing sex trade workers, while also clamping down on human trafficking and kidnapping, removes obstacles for prostitutes who want to leave the trade while also targeting those who are forcing them into the trade against their will. There is no need to go beyond that by using language that assumes that all prostitutes are victims. Prostitution is immoral, and the law must reflect that both those who buy and sell sexual services are obliged to stop.

It is crucial that our government sends a loud and clear signal to Canadian society, and especially to our youth, that prostitution is hurtful, dangerous, socially undesirable, and destructive.

About ARPA Canada

The Association for Reformed Political Action (ARPA) Canada is a non-partisan not-for-profit organization that uses grassroots support to encourage our elected representatives in their daily work and calling and seeks to assist the members of Reformed churches in Canada to engage in the public sphere. *Respectfully Submitted* is a biannual letter in which we hope to encourage you, our elected representative, on current policy issues with a goal of keeping Canada glorious and free.

We welcome your feedback, questions, and requests for research on this and other policy subjects.

¹ "Canadians Decry Status Quo on Prostitution", by Mario Canseco 19 July 2011 Vancouver Sun.

² The Canadian model has resulted in a "two-tiered system" which focuses on street prostitutes and delivers much harsher sentences to the prostitutes than to the men. See Shelagh Day, "Prostitution: Violating the Human Rights of Poor Women", Action ontarienne contre la violence faite aux femmes, June 2008. Online: <http://www.embracedignity.org/uploads/ProstitutionAsViolenceAgainstPoorWomen.pdf>, p. 13.

³ Melissa Farley, "Prostitution, Trafficking, and Cultural Amnesia: What We Must Not Know in Order To Keep the Business of Sexual Exploitation Running Smoothly" in *The Yale Journal of Law and Feminism* (Vol.18:N 2006) at 129.

⁴ Farley, "Prostitution, Trafficking, and Cultural Amnesia" *supra* note 3 at 128.

⁵ See Farley, Melissa "Myths and Facts about Trafficking for Legal and Illegal Prostitution (March 2009) available online: <http://www.prostitutionresearch.com/pdfs/Myths%20&%20Facts%20Legal%20&%20Illegal%20Prostitution%203-09.pdf>

⁶ "Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder." Farley et al. *Journal of Trauma Practice* (The Haworth Maltreatment & Trauma Press, an imprint of The Haworth Press, Inc.) Vol. 2, No. 3/4, 2003, pp.33-74 at 40.

⁷ *Ibid.*

⁸ Kathleen Barry, *The Prostitution of Sexuality: The Global Exploitation of Women*, July 1996, New York, New York University Press.

⁹ Special Committee on Pornography and Prostitution, 1985, Pornography and Prostitution in Canada 350.

¹⁰ Government of Canada, Department of Justice, *Victims of Trafficking in Persons: Perspectives from the Canadian Community Sector*, 2, 2006, http://www.justice.gc.ca/eng/pi/rs/rep-rap/2006/rr06_3/rr06_3.pdf

¹¹ UN Office on Drugs and Crime, *Global Report on Trafficking in Persons*, February 2009, <http://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>

¹² De Santis, "Why Hasn't Anyone Tried This Before?" Women's Justice Center, online: http://www.ayudaparamujeres.com/cj_sweden.html

¹³ See generally Monica O'Connor, Grainne Healy, "The Links Between Prostitution and Sex Trafficking: A Briefing Handbook", Coalition Against Trafficking in Women (CATW), A Swedish and United States Governmental and Non-Governmental Organization Partnership, 2006.

¹⁴ *Ibid.*, at p. 25.

¹⁵ *Ibid.*, at p. 29.

¹⁶ Janice G. Raymond, "Ten Reasons for Not Legalizing Prostitution and a Legal Response to the Demand for Prostitution" Binghamton: Hawthorn Press, 2003, p. 7.

¹⁷ Farley et al. "Prostitution and Trafficking in Nine Countries" *supra* note 6 at 43.

¹⁸ Melissa Farley, "Prostitution: Factsheet on Human Rights Violations" 4/2/2000. Available at <http://www.prostitutionresearch.com/factsheet.html>

¹⁹ Law on Prohibition of the Purchase of Sexual Services, Swedish Codes of Statutes, promulgated 4 June 1998, entered into force 1 January 1999. Online: http://www.bayswan.org/swed/swed_law.html

²⁰ Table 8 in Farley et al. "Prostitution and Trafficking in Nine Countries" *supra* note 6 at 51.

²¹ ARPA Canada in effect concurs with the recommendations of The Evangelical Fellowship of Canada (the EFC). See their stellar report in "Selling Ourselves: Prostitution in Canada Where are we Headed: A Comparison of the Swedish and the Dutch Models, and the Correlation Between Prostitution and Human Trafficking" (April 2010) The Evangelical Fellowship of Canada. The EFC's recommendations are outlined on pp. 20-23.