

PROSTITUTION IN CANADA: AN OVERVIEW

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CANADA

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Over the past 20 years, 63 women disappeared from the streets of Vancouver. It took over 10 years for the police to begin a formal investigation into these disappearances, ultimately leading to the arrest of a suspect facing charges in connection with the deaths of 22 women. In January 2004, police found videotape evidence of a string of sadistic attacks on prostitutes in Vancouver. A suspect was charged with 16 counts of sexual assault and unlawful confinement in connection with these attacks. In what some commentators describe as a clear example of the distrust between street prostitutes and the police, the police had received no reports from the sex trade workers involved. Meanwhile, Edmonton police investigating the slaying of 9 prostitutes over 7 years announced in June 2004 that a serial killer might be preying on sex workers there.

In the past, most legal measures dealing with prostitution have been instituted to protect communities from the negative effects of prostitution. The Vancouver murders and attacks, however, have raised the profile of the violence faced by those engaged in prostitution, and society's role in creating an environment that can prevent such violence.

This paper provides a brief description of what is currently known about prostitution in Canada, and discusses how public policies have tried to mitigate the harmful aspects of prostitution.

PROFILE OF PERSONS INVOLVED IN PROSTITUTION

The image most Canadians associate with prostitution is that of the street prostitute. Street prostitution, however, is estimated to account for only about 20% of prostitution activity in Canada. The commercial sex industry in Canada also includes massage parlours, escort services, and strip clubs. John Lowman, a criminologist who has extensively researched prostitution issues over the past 20 years, describes the Canadian context as follows:

The Canadian contact sex service trade – that which is usually referred to as “prostitution” – ranges from female sexual slavery (the gorilla pimp) and survival sex (sale of sexual services by persons with very few other options, such as homeless youth and women in poverty) through to more bourgeois styles of sex trade (including some street prostitution) where both adults are consenting, albeit in a way that is shaped by their gender, occupation, ethnicity, socio-economic status and cultural values.⁽¹⁾

Although there are many types of prostitution, much of Canadian prostitution-related law enforcement has been targeted to street prostitution rather than escort agencies. The Federal, Provincial and Territorial Deputy Ministers Responsible for Justice established a Working Group on Prostitution in 1992 to review legislation, policy and practices concerning prostitution-related activities. As noted in the Working Group’s report, the focus on street prostitution “has enabled a two tiered sex trade to emerge. More expensive licensed off-street prostitutes operate with virtual impunity while poorer customers and prostitutes, who are mainly on the streets, are routinely arrested.”⁽²⁾

A. How Many People Are Involved?

The social stigma surrounding prostitution and the variety of settings where it takes place make it difficult to obtain an accurate picture of the number of people involved. Existing arrest statistics for prostitution-related charges are more reflective of enforcement trends than of the actual level of prostitution activities. In addition, most estimates of the number of people engaged in prostitution are collected at the local level and focus on street prostitution, making it difficult to assemble a national overview of the nature and extent of prostitution in Canada. Municipal police forces contacted in preparation for this paper were unable to provide approximate counts of street prostitutes in their cities, noting that the number of persons on the streets at any given time is dependent on a variety of factors, including the season and weather conditions. Some reported that the variability in the numbers of street prostitutes was due both

(1) John Lowman, *Prostitution Law Reform in Canada*; available on-line at: <http://users.uniserve.com/%7Elowman/ProLaw/prolawcan.htm> (accessed on 23 September 2003).

(2) Federal/Provincial/Territorial Working Group on Prostitution, *Report and Recommendations in respect of Legislation, Policy and Practices Concerning Prostitution-Related Activities*, December 1998, p. 65; available on-line at: <http://canada.justice.gc.ca/en/news/nr/1998/part3.html> (accessed on 8 September 2003).

to the mobile nature of prostitution circuits, which regularly shift groups of women throughout a number of major cities, and – at the other end of the spectrum – to a group of people who turn to prostitution sporadically in the survival sex trade.

B. Key Demographic Features

Some demographic features about people engaged in prostitution are widely agreed upon. For example, the majority (most studies suggest 75-80%) of persons who work as prostitutes are women, while almost all the clients are men.⁽³⁾ Although the prostitution of youth under the age of 18 is illegal in Canada, research suggests that the majority of women engaged in prostitution begin between the ages of 16 and 20.⁽⁴⁾ Research has also consistently demonstrated that a disproportionate number of people involved in prostitution experienced sexual abuse in childhood, although it remains unclear what other factors predispose certain sexually abused youth to prostitution.

Youth involved in prostitution are often runaways who sell sexual services for survival. Some of these youth claim that street prostitution allows them to have a level of control over their abuse which they did not have at home, that it gave them the money they needed when they ran away from home, and that their limited education and work options made prostitution one of the few viable choices. The existence of youth prostitution illustrates the importance of a wide-ranging response to prostitution that incorporates prevention and support activities.

Certain groups of people who experience high levels of marginalization in Canadian society, such as Aboriginal women and women trafficked into Canada, are particularly vulnerable in the sex trade. The over-representation of Aboriginal women in street prostitution in the western provinces has been well documented. A study of prostitution in Quebec noted that minority and Aboriginal women were also over-represented in prostitution in Montréal, and that these women were more likely to face greater violence from clients.⁽⁵⁾

(3) Frances Shaver, “Traditional Data Distort Our View of Prostitution,” Notes for presentation during the panel “Demystifying Sex Work,” When Sex Works: International Conference on Prostitution and Other Sex Work, Université du Québec à Montréal, 27-29 September 1996; available on-line at: <http://www.walnet.org/csis/papers/shaver-distort.html> (accessed on 30 September 2003).

(4) *Ibid.*

(5) Conseil du Statut de la Femme, *La Prostitution: Profession ou exploitation? Une réflexion à poursuivre*, Québec, May 2002, p. 69.

A minority of sex workers are men, who generally sell sexual services to other men. There are important differences in the working conditions of male and female sex trade workers. For example, while most male prostitution takes place on the street, these men appear to have more control over their work environment than women prostitutes. Male prostitutes face less violence from their clients, but some studies suggest that they are more likely to face homophobic violence from members of the general public.

C. Prostitution, Drugs and Trafficking

Many commonly held assumptions about the people who engage in prostitution are more reflective of the minority of prostitutes who work on the street. One of these assumptions is that sex trade workers turn to prostitution to finance their use of illicit drugs, or use drugs to cope with their prostitution experiences. Although drug use is significant among those engaged in street prostitution, most studies in North America indicate that the majority of people involved in the sex trade industry do not use illicit drugs. In fact, some massage parlours and hotels either forbid or advise against drug and alcohol use.⁽⁶⁾ However, those who do have addictions face greater mental health issues and risks of exposure to diseases through the sharing of syringes.

Growing attention is being paid to the trafficking of women and children for the purposes of prostitution, both internationally and nationally. There are no accurate statistics on the number of women trafficked into Canada annually for the purposes of prostitution; a 2004 U.S. State Department report noted, however, that Canada is both a destination and a transit point for persons trafficked into prostitution from China, Thailand, Cambodia, the Philippines, Russia, Korea, and Eastern Europe.⁽⁷⁾ Although Canada's *Immigration and Refugee Protection Act* contains increased penalties for traffickers, there are no provisions to protect the rights of those who have been trafficked. Currently, it is impossible for women trafficked into Canada to access services without risk of deportation.

(6) Conseil permanent de la jeunesse, *Vu de la rue : Les jeunes adultes prostitué(e)s – Rapport de recherche*, Gouvernement du Québec, 2004.

(7) U.S. Department of State, *Trafficking in Persons Report*, June 2004; available on-line at: <http://www.state.gov/g/tip/rls/tiprpt/2004/>.

D. Why Do People Work in the Sex Trade?

People involved in various forms of prostitution have different motivations for turning to prostitution and varying levels of control over their work environment. As the most publicly visible component of the sex trade industry, street prostitutes are the focus of much of the research and public discussion around prostitution. Street prostitutes generally have less control over their work environment, face higher levels of victimization and experience higher rates of substance abuse than prostitutes who work either independently or for agencies. Even among street prostitutes, however, there is a diversity of experience. Some belong to organized networks which shuttle them regularly between major cities. Some choose to work on the street occasionally for quick access to money. Others are caught up in a cycle of prostitution and drugs whereby they turn to the street for survival sex in order to finance their next “fix.”⁽⁸⁾

There is a popular misconception that most women are coerced into prostitution by pimps. While Canadian estimates differ about the proportion of prostitutes who work for others, it is clear that not all prostitutes work for intermediaries or pimps. A committee struck by the City of Montréal to study street prostitution and juvenile prostitution found that only 20% of street prostitutes worked for pimps.⁽⁹⁾ Other studies suggest that the prevalence of pimps varies by region, with a majority of prostitutes working for pimps in Halifax, and a minority in Vancouver.⁽¹⁰⁾ Studies suggest that male prostitutes are less likely to work for others, while juvenile prostitutes in urban areas are more likely to work for an intermediary, often their “boyfriend.”

Some women engaged in prostitution in Canada work independently by setting up escort agencies, servicing an established list of “regular” clients, or working for themselves on the street. In comparison to the majority of street prostitutes, these sex workers generally have considerably more control over their work environment.

(8) See Conseil permanent de la jeunesse (2004) for excerpts of interviews with current and former street prostitutes that illustrate this cycle of drugs/prostitution.

(9) *Rapport du Comité Montréalais sur la prostitution de la rue et la prostitution juvénile*; available on-line at: http://www2.ville.montreal.qc.ca/loisirs/05_dev_social/rapport.htm (accessed on 10 September 2003).

(10) Frances Shaver, “Prostitution: a Female Crime?” in Ellen Adelbert and Claudia Currie, eds., *In Conflict with the Law: Women and the Canadian Justice System*, Press Gang Publishers, Vancouver, 1993.

E. Acknowledging Differences Among Persons Engaged in Prostitution

Clearly, a university student working for an escort agency has a different set of issues, concerns and needs than a drug-addicted woman who is forced to turn to prostitution to finance her drug habit. Because they are the most vulnerable of all groups of sex trade workers, street prostitutes have needs that cannot always be generalized to other groups of prostitutes. Given the variety of sex trade work in Canada, and the fact that street prostitution accounts for a minority of sex work, any public policy discussion that aims to broadly address the needs of persons engaged in prostitution should take into account these differences and be clear about the differential impact of policies on different groups of prostitutes. Understanding that different groups of people involved in prostitution have different motives for working in the sex trade and different levels of control over their work environment is a first step, then, in identifying the best policy approach to minimizing the harmful aspects of prostitution.

The next section of this paper examines public policy goals in dealing with prostitution and the variety of possible approaches to attaining these goals.

PROSTITUTION: THE POLICY CHALLENGE

Two widely agreed-upon policy goals in dealing with prostitution are the reduction of harm to communities and the prevention of violence against prostitutes.⁽¹¹⁾

A. Harm to Communities

Across Canada, people who live in neighbourhoods where street prostitution is widespread experience a common set of problems that seriously erode their living conditions. Discarded condoms and syringes on public and private property, traffic congestion on local streets, harassment of residents who are mistaken for prostitutes, and the presence of drug trafficking activities which often accompany street prostitution create environments that are detrimental to residents and businesses alike. Community policing efforts, designed to respond to issues identified by communities, are trying to “clean up” neighbourhoods by increasing police presence where street prostitutes are located. It has been well documented that police enforcement generally results in a relocation of prostitution activity to other prostitution venues such as escort agencies and massage parlours, or to more secluded areas, or to other neighbourhoods that in turn mobilize to get rid of the street prostitutes.

(11) Federal/Provincial/Territorial Working Group on Prostitution (1998).

B. Violence Against Prostitutes

While recent attention to the disappearance of women from the streets of downtown eastside Vancouver has brought violence against prostitutes to the fore of public attention, the violence faced by women in the sex trade is neither a new phenomenon nor limited to women in Vancouver. The spectrum of violence faced by those engaged in prostitution ranges from catcalls and insults, to assault, rape and murder, and it may be inflicted by their clients, pimps, the general public, other prostitutes and/or police.

Homicide statistics indicate that prostitution is one of the most dangerous occupations in Canada. The Canadian Centre for Justice Statistics notes that, between 1991 and 2001, 73 prostitutes were killed while working.⁽¹²⁾ These numbers under-represent the actual figure, as they include only those cases in which the police were able to determine that the death occurred in the course of engaging in prostitution-related activities. Between 1991 and 1995, 63 known prostitutes were murdered.⁽¹³⁾ Almost all were female (60); seven of them were juveniles aged 15 to 17. Most deaths were related to the trade: 50 prostitutes were thought to have been killed by clients, and 8 by pimps or in a drug-related incident.

Police forces across the country have long recognized that prostitutes are at a high risk for homicide. Its final report, the Federal/Provincial/Territorial Working Group on Prostitution documented how the RCMP in Alberta had developed a registry of persons believed to be at risk of becoming victims of homicide, to expedite the process of body identification. The report notes that “the registry was considered by police to be warranted by the large numbers of unidentifiable bodies of prostitutes disposed of in remote rural areas in Alberta.”⁽¹⁴⁾ Police in Halifax and Edmonton are currently collecting DNA samples from prostitutes for the same purpose.⁽¹⁵⁾

The violence faced by women engaged in prostitution has also been well documented in qualitative interviews. For example, a study of 200 adult sex workers in Victoria,

(12) M. Dauvergne, “Homicide in Canada,” *Juristat*, Catalogue No. 85-002, Vol. 22, No. 7, Statistics Canada, Ottawa, 2001.

(13) D. Duchesne, “Street Prostitution in Canada,” *Juristat*, Catalogue No. 85-002-XPE, Vol. 17, No. 2, Statistics Canada, Ottawa, 1996.

(14) Federal/Provincial/Territorial Working Group on Prostitution (1998).

(15) Graeme Smith, “Prostitutes Wary of DNA Database,” *The Globe and Mail* [Toronto]. 10 May 2004, p. A1.

British Columbia, found that 67% of respondents had received treatment for physical injury and 36% had been hospitalized specifically because of injuries they had incurred in the sex trade.⁽¹⁶⁾ Another study in Vancouver reported that three-quarters of the prostitutes interviewed had experienced violence in the previous six months.⁽¹⁷⁾ Prostitutes who work the streets are much more likely to be victims of violence than other sex workers.

PUBLIC POLICY APPROACHES TO PROSTITUTION

There are competing schools of thought about how society should deal with prostitution. While there is widespread agreement on the need to protect the human rights of persons engaged in prostitution, there is debate as to how this can best be achieved. Some argue that women should have the freedom to choose to use their bodies as they wish, and that selling sexual services is as valid a choice as selling any other service. Others argue that prostitution promotes the commodification of women and strips them of their human dignity. Women's organizations, groups advocating for sex trade workers and community groups have been among those most actively engaged in the discussions on how to best approach prostitution, particularly in Quebec and in British Columbia.

Many organizations that advocate on behalf of sex trade workers argue that some women choose to sell sexual services for a living, and that the public's focus on the minority of sex trade workers who are street prostitutes does not represent the wide spectrum of women who sell sexual services. They argue that society has a responsibility to support their choice and to create an environment in which it would be safe for them to conduct prostitution activities.

At the same time, the evidence would indicate that there are groups of people, such as runaway youth, women trafficked into Canada, and some Aboriginal women, for whom prostitution is not a free choice but a reflection of the lack of viable alternatives. For this group, an examination of public policy approaches to prostitution must take into consideration the social, economic and personal factors that force some people into prostitution, and make it difficult for most of them to leave prostitution.

(16) Cecilia Benoit and Alison Millar, *Dispelling Myths and Understanding Realities: Working Conditions, Health Status, and Exiting Experiences of Sex Workers*, Report written for the Prostitutes Empowerment, Education and Resource Society (PEERS), October 2001, p. 68.

(17) J. Lowman and L. Fraser, *Violence Against Persons Who Prostitute: The Experience in British Columbia*, Research, Statistics and Evaluation Directorate, Department of Justice Canada, 1995.

The current public policy response to prostitution in Canada includes laws against prostitution-related activities as well as social policy measures aimed at prevention and harm reduction. The various levels of jurisdiction over different aspects of prostitution complicate the coordination of this response. While the federal government defines the legal nature of prostitution, provincial and territorial governments are responsible for health and social services, and municipal governments are responsible for the definition and enforcement of local by-laws that regulate the spaces in which prostitution occurs.

A. The *Criminal Code* Approach

Although prostitution in Canada is not illegal, most activities relating to prostitution are. There are *Criminal Code* offences for running bawdy houses (s. 210 and s. 211), procuring (s. 212) and communicating for the purposes of prostitution (s. 213).⁽¹⁸⁾ Under section 213 of the *Criminal Code*, either the buyer or the seller of sexual services can be charged for communicating for the purposes of prostitution. Arrest statistics for communicating for the purposes of prostitution do not distinguish between clients and providers of prostitution services; however, given that the majority of providers are women and that almost all clients are male, there appears to be a notable discrepancy in the severity of sanctions. While 39% of women charged with communicating were sent to prison, this sentence applied to only 3% of men. Men were more likely to receive a fine (56%, compared to 32% of women) and four times more likely to receive a lighter penalty such as a suspended sentence, payment of legal costs, and suspension of a driver's licence.⁽¹⁹⁾

Internationally, legislative approaches to prostitution range from abolition to regulation by the state.⁽²⁰⁾ While some countries have made public policy choices based on prostitution as a form of work (for example, the Netherlands⁽²¹⁾ and Germany), others have taken an abolitionist stance against all prostitution (for example, most states in the United States). In

(18) For a more detailed description of the *Criminal Code* provisions relating to prostitution, please refer to James R. Robertson, *Prostitution*, CIR 82-2E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, September 2003.

(19) Duchesne (1996).

(20) For a more detailed description of the legislative models in place internationally, please refer to Karen Hindle and Philip Rosen, *Prostitution: A Review of Legislation in Selected Countries*, PRB 03-29E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, November 2003.

(21) The Government of the Netherlands has prepared a fact sheet on prostitution in that country, entitled *Q&A Prostitution: Dutch Policy on Prostitution Questions and Answers*; available on-line at http://www.nlembassy.org.yu/contents/download/prostitution_policy.pdf.

contrast to the approach that criminalizes the prostitute, there is increased attention at the international level to a neo-abolitionist approach to prostitution that advocates the criminalization of the activities of the *clients* of prostitution rather than those of the prostitutes. This approach is currently adopted by Sweden.

Approaches to prostitution also change over time. For example, New Zealand provides an example of a nation that has recently moved from the quasi-criminalization of prostitution toward decriminalization.

1. The Suitability of Criminal Sanctions for Dealing With Prostitution

Most observers concur that criminal sanctions against prostitutes have been largely ineffective in protecting prostitutes and minimizing the nuisance aspects of prostitution. Organisations as diverse as religious groups⁽²²⁾ and alliances of sex workers call into question the effectiveness of criminalizing prostitution as a deterrent, and focus on the role of the state in promoting preventative education and outreach services for those engaged in prostitution.

Public consultations, parliamentary committees and intergovernmental working groups have also questioned the effectiveness of criminal sanctions against prostitutes. For example, the Special Committee on Pornography and Prostitution (the Fraser Committee), which was appointed by the Minister of Justice in 1983 to recommend alternatives to the soliciting laws, proposed partial decriminalization of prostitution.⁽²³⁾ Mindful of the importance of finding the appropriate mix of legal and social instruments to deal with prostitution, the Fraser Committee recommended that the criminal law limit itself to conduct that is violent or that threatens force. In spite of these recommendations, the soliciting law provision was replaced by another on communicating for the purpose of prostitution (s. 213), which continued to view the work of the prostitute as criminal activity. A review of s. 213 by the Standing Committee on Justice and the Solicitor General in 1990 concluded that street prostitution in cities across the country either had not decreased or had been displaced to other neighbourhoods since the introduction of the legislation. The same conclusion was reached by the Federal/Provincial/Territorial Working Group on Prostitution, which noted in its 1998 report that:

(22) For example, see the Social Action Commission of the Evangelical Fellowship of Canada discussion paper *Prostitution in Canada: Towards an Evangelical Response*, The Evangelical Fellowship of Canada, May 1996.

(23) For a comprehensive overview of the legislative response to prostitution, please refer to Robertson (2003).

The harm, evidenced by the noise, litter (including infected needles) and traffic, as well as by the associated substance abuse and violence, has persisted despite the availability of s. 213 [of the *Criminal Code*].⁽²⁴⁾

Much of the research on prostitution in the past decade warns that criminalizing women involved in prostitution leads to further alienation from protection, health and social services. According to John Lowman, the quasi-criminalization of prostitution in Canada contributes to the marginalization of those engaged in prostitution, creates an illicit market that makes prostitutes open to exploitation, encourages the convergence of prostitution with other illicit markets such as the drug trade, and alienates prostitutes from the protection of services such as the police.⁽²⁵⁾ Forced to operate illicitly, sex work is not covered by workplace health and safety norms. In addition, criminal records for prostitution-related offences create barriers to exiting the sex trade and make it difficult for those who have left the sex trade to escape the stigmatization of having participated in prostitution.

Researchers and advocates for sex workers suggest there may be a link between the criminalization of prostitution and violence against prostitutes.⁽²⁶⁾ As neighbourhoods mobilize to remove street prostitutes from their public spaces and as police enforce communicating laws, prostitution is pushed further out of public view into more secluded areas. With an eye to avoiding prosecution, street prostitutes are more likely to make hasty decisions without due attention to their safety. The ongoing distrust between prostitutes and police also makes prostitutes hesitant to report assaults to police, thus increasing their vulnerability to becoming targets of violence.

Although these negative effects of the criminalization of prostitution activities are widely accepted, police forces have been generally reluctant to embrace efforts toward the decriminalization of prostitution without alternative tools to control its disruptive aspects.

(24) Federal/Provincial/Territorial Working Group on Prostitution (1998), p. 3.

(25) John Lowman, "Violence and the Outlaw Status of (Street) Prostitution in Canada," in *Violence Against Women*, Vol. 6, No. 9, September 2000, pp. 987-1011.

(26) Benoit and Millar (2001), p. 94.

B. The Social Intervention Approach

Recognizing the limited success of criminal sanctions in preventing prostitution, advocates on all sides of the debate have identified the need to address both the social and economic context in which prostitution is viable, as well as the need for social service measures. This need has been identified in the reports of the Fraser Committee, the Committee on Sexual Offences Against Children and Youth (Badgley Committee),⁽²⁷⁾ and the Federal/Provincial/Territorial Working Group on Prostitution. Social intervention measures are designed to prevent people from turning to prostitution, meet the needs of those currently engaged in prostitution, and provide opportunities for those who wish to leave the sex trade. While the need for services has been repeatedly identified, funding for programs that do not have a legislative foundation⁽²⁸⁾ tends to be short-term and insecure.⁽²⁹⁾ Moreover, there is a lack of program evaluation information to assess the success of the different types of social programs.

1. Preventive Measures

Although some people choose prostitution as a form of work, others turn to prostitution out of a perceived lack of choice. The goal of preventive measures, therefore, is to address the factors that lead people to a situation where prostitution becomes their only perceived or real option for survival.

Most research indicates that the average age of entry into prostitution is between 16 and 20. This means that many young people turn to prostitution at an age at which both society and the law⁽³⁰⁾ deem the act of prostitution to be commercial sexual exploitation. Most people agree that strategies are needed to prevent youth at risk from entering prostitution, and that these strategies should look at both the structural or societal realities that make youth more

(27) The federal government appointed the Committee on Sexual Offences Against Children and Youth in 1984 to explore legal sanctions pertaining to child sexual abuse and to make recommendations aimed at protecting children at risk.

(28) Programs with a legislative foundation are those that are required by the state to comply with existing legislation. These include child welfare programs in all provinces and territories and, in some jurisdictions, secure confinement of sexually exploited youth.

(29) Karen Busby *et al.*, "An Examination of Innovative Programming for Children and Youth Involved in Prostitution," in H. Berman and Y. Jiwani, eds., *In the Best Interests of the Girl Child Phase II Report*, November 2001, p. 107.

(30) See s. 212 of the *Criminal Code*.

vulnerable to commercial sexual exploitation (such as poverty, the unequal relation between men and women, discrimination against gay and lesbian youth, and youth unemployment), and specific factors that predispose individuals to prostitution (such as living in an abusive home environment and running away from home).

There is also general agreement that early intervention and awareness-raising strategies could play an important part in addressing the involvement of youth in prostitution. Such prevention measures include educational programs aimed at families and schools as well as services for street-involved youth. Across the country, programs to educate young people about the realities and risks of life in prostitution have been developed and delivered by organizations of prostitutes as well as police forces.

2. Harm Reduction Measures

Throughout history, most health measures applied in relation to prostitution have aimed to protect clients rather than prostitutes.⁽³¹⁾ Despite studies that show Canadian female prostitutes are no more likely to be infected with HIV/AIDS or other sexually transmitted diseases than other women unless they are also injection drug users,⁽³²⁾ funding to prostitution organizations in North America has largely focused on HIV/AIDS awareness. While this is important, it is also important to identify and address other needs of persons involved in prostitution.

Harm reduction measures recognize the complex circumstances that keep people in prostitution and the need to provide health and other services to those currently engaged in prostitution. These can include counselling, substance abuse programs, needle exchanges, bleach kits, street-wise workshops and condoms, as well as initiatives to reduce violence against prostitutes, such as “bad date” sheets.

Several jurisdictions have recognized the importance of collaboration among service organizations involved in the delivery of harm reduction measures. An effort towards greater collaboration was recently initiated in Montréal, where the city and the regional health board have provided funding to coordinate linkages between the police force and services that are available to support prostitutes in crisis, including lodging and emergency mental health and

(31) See Claudine Legardinier, *La Prostitution*, Éditions Milan, Paris, 1996, p. 63, quoted in Conseil du Statut de la Femme (2002), p. 44.

(32) Canadian Women’s Health Network, *Network Magazine*, Winter 2003, Vol. 5/6, No. 4/1; available on-line at: <http://www.cwhn.ca/network-reseau/6-1/6-1pg9.html> (accessed on 9 September 2003).

detoxification services.⁽³³⁾ In its implementation, the Montréal initiative highlights the importance of maintaining a harm reduction orientation. Claiming that the primary goal of the initiative is to suppress street prostitution, however, organizations representing sex workers in Montréal have not embraced this initiative.

3. Support to Exit Prostitution

Significant difficulties face people who want to leave the sex trade. Low education levels, little experience in the “straight” work world and criminal records make it difficult for many to integrate into the labour force. Some women who work for pimps also express a fear of retaliation from their pimps should they leave the trade.

While there are many possible reasons for exiting prostitution, some research suggests that women decide to leave prostitution when they undergo a significant life event such as experiencing extreme abuse, learning of their HIV status, having their children apprehended by the child welfare system, or experiencing the death of a fellow prostitute. Other research suggests that leaving prostitution is usually not achieved in a single clean break but rather over a period of time.

People who leave prostitution may have a wide spectrum of needs such as access to housing, drug detoxification services, mental health services, education, and employment. Since people who are engaged in prostitution are reluctant to contact mainstream support systems, it is important to have outreach workers who are sensitive to their needs and able to meet them on their turf.

REVIEW OF THE *CRIMINAL CODE* PROVISIONS CONCERNING PROSTITUTION ACTIVITIES IN CANADA

In February 2003, a motion was tabled in the House of Commons to review the solicitation laws, with the aim of improving the safety of sex workers and communities. In the fall of 2003, the House of Commons Justice Committee commenced a review of the *Criminal Code* sections that criminalize prostitution activities. Responding to a report by PIVOT Legal Society on the experiences of sex workers with the criminal justice system, the Justice Minister

(33) Ross Marowits, “Confiscated Hells Angels drug money to help Montreal prostitutes in crisis,” Canada.comNews; Canadian Press, 24 September 2003; available on-line at: <http://www.canada.com/search/story.aspx?id=a74d4af2-7035-4828-b068-4fd22400a63c> (accessed on 25 September 2003).

(at the time, the Hon. Ron Irwin) also suggested early in 2004 that the *Criminal Code* sections dealing with prostitution needed to be reviewed.

Some advocates call for the elimination of the *Criminal Code* sections dealing with prostitution and suggest that decriminalizing prostitution-related activities would result in improved safety for persons engaged in prostitution by:

1. eliminating the fear of prosecution that currently pressures sex workers to engage in prostitution in secluded areas where they are vulnerable to violence;
2. eliminating the adversarial relation that currently exists between many sex trade workers and the police, thus allowing the former to benefit from greater police protection; and
3. giving sex workers more control over their work environment (for example, allowing them to operate as small businesses) and allowing them to benefit from existing labour legislation.

There is some debate among advocates of decriminalization about how to change the *Criminal Code* provisions dealing with prostitution activities. The Federal/Provincial/Territorial Working Group on Prostitution, in its 1998 report, provided the following distinction between full decriminalization and regulation (or partial decriminalization):

- “Decriminalization” refers to the complete removal of a prostitution-related offence, such as s. 210 or s. 213, from the *Criminal Code*;
- “Regulation” (also called by some people “legalization” or “partial decriminalization”) refers to a framework in which some prostitution activity which is subject to criminal sanction under existing provisions of the *Criminal Code* would be rendered lawful, despite those provisions, where certain conditions specified in the *Criminal Code* were met; under those conditions, the prostitution activity would be exempt from criminal prosecution although the sections of the *Criminal Code* proscribing that activity would remain enforceable in other parts of the country where the exempting conditions were not met.⁽³⁴⁾

In Canada, the full decriminalization of prostitution activities could result in the eradication of *Criminal Code* provisions against communicating for the purposes of prostitution,

running a bawdy house, and “procuring” or pimping. Certain advocates adopt the position⁽³⁵⁾ that decriminalization should result in erasing the legal distinctions between prostitutes and the rest of society,⁽³⁶⁾ and therefore should not be replaced by any other regulations specific to prostitution. Under such a system, prostitution would be treated as legitimate business.

Most people advocating decriminalization recognize, however, that prostitution activities would require some form of regulation to eliminate the potentially harmful effects on communities and the people engaged in prostitution. Nowhere in the world is prostitution treated simply like any other business. Even those jurisdictions deemed to be most liberal towards sex work have implemented regulations outlining where and under what circumstances this work can take place.

Currently, prostitution activities are controlled by a variety of administrative actions at the local level in addition to the *Criminal Code* provisions.⁽³⁷⁾ For example, some municipal governments have introduced by-laws to license escort agencies⁽³⁸⁾ and massage parlours, and measures such as traffic diversion. It is generally accepted that, even if prostitution-related activities were decriminalized in Canada, there would be public pressure to regulate them. For example, a series of motions passed by the Toronto Board of Health in 1995 calling on the federal government to decriminalize prostitution included motions urging the City Council to strike a task force to implement the decriminalization and regulation of prostitution in Toronto.

Given that decriminalization could potentially lead to a patchwork of regulatory schemes across the country, the question remains whether sex workers would be safer if the

(34) Federal/Provincial/Territorial Working Group on Prostitution (1998).

(35) This position was expressed by the International Committee for Prostitutes’ Rights in its 1985 World Charter for Prostitutes’ Rights

(36) Sylvia Davis and Martha Shaffer, *Prostitution in Canada: The Invisible Menace or the Menace of Invisibility?* On-line paper available at: <http://www.walnet.org/csis/papers/sdavis.html> (accessed on 28 April 2004).

(37) For a more detailed description of prostitution-related regulations implemented at the provincial and municipal levels, please refer to Laura Barnett, *Prostitution in Canada: International Obligations, Federal Law, and Provincial and Municipal Jurisdiction*, PRB 03-30E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, January 2004.

(38) Although it is widely understood that escort agencies arrange meetings between escorts and clients that usually involve sex for payment, escort agencies are generally tolerated and even licensed under the pretence that they only arrange a meeting of two people, and that any further negotiations for sexual services are conducted between private individuals.

Criminal Code provisions against prostitution activities were removed. This is likely to remain a question of public policy concern in Canada, eliciting a strong response from advocates on both sides of the debate.

SUMMARY

Prostitution involves a wide diversity of people with different motives for entering the sex trade and different levels of ability to control their work environment. Public policy pursues the dual goals of reducing the level of violence faced by prostitutes while protecting the community from the potentially disruptive aspects of prostitution. Possible interventions available to all levels of government include legislative and regulatory frameworks, as well as social intervention approaches to prevent people from being forced into prostitution, to provide services to them when they are already engaged in prostitution, and to provide them with the possibility of exiting prostitution. It is unlikely that an exclusive reliance on either a legislative approach or a social intervention approach will succeed in protecting communities as well as the persons engaged in prostitution. The challenge to decision-makers is to find the appropriate mix of laws, policies and programs that will achieve both these goals.