



WHAT'S HAPPENING WITH THE ISSUE OF **PROSTITUTION** IN CANADA?

BILL C-36

Protection of Communities and Exploited Persons Act



NOVEMBER 2014

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THE *INTERSYNDICALE DES FEMMES* HAS PREPARED THIS BRIEF DOCUMENT FOR MEMBERS OF ITS SEVEN ORGANIZATIONS TO HELP CLARIFY THE ISSUES SURROUNDING THE QUESTION OF PROSTITUTION NOW THAT BILL C-36, THE *PROTECTION OF COMMUNITIES AND EXPLOITED PERSONS ACT*,¹ HAS BEEN PASSED BY THE FEDERAL GOVERNMENT. OUR INTENT IS NOT TO TAKE A STAND BUT TO HELP MEMBERS UNDERSTAND THE POSITIONS ON BOTH SIDES OF THE DEBATE.

TWO DEFINITIONS, TWO POINTS OF VIEW...

Some see prostitution primarily as an organized form of sexual exploitation of others for profit, at the national and international level.

Others regard prostitution as simply an exchange of sexual services for financial compensation.

BEFORE BILL C-36

Before the passage of Bill C-36, Canada's *Criminal Code* did not outlaw adult prostitution itself, but made three related activities illegal: operating a common bawdy-house, living on the avails of prostitution and communicating for the purposes of prostitution.

The Supreme Court ruled that those three prohibitions violated section 7 of the *Canadian Charter of Rights and Freedoms* (right to life, liberty and security of the person) because they prevented prostitutes from taking measures to protect themselves when engaging in a high-risk but legal activity. The Court gave the government until December 2014 to change the law.

BILL C-36 IN A NUTSHELL

For the first time in its history, Canada is making prostitution illegal. At the same time, the government has announced that it will allocate \$20 million to fund programs that help people exit prostitution.

The Bill is inspired by the "Nordic model" applied in Sweden, Norway and Iceland. The goal is to eliminate prostitution in the long term by criminalizing the clients and pimps.

THE ARGUMENT AGAINST BILL C-36

Some researchers and organizations regard prostitution as a legitimate occupation or trade, and defend prostitutes' right to liberty and security. They are opposed to Bill C-36 for four reasons:

- 1 | It criminalizes the entire sex industry
- 2 | It brings back provisions that the Supreme Court has ruled are unconstitutional
- 3 | It threatens the health, well-being and security of prostitutes
- 4 | It further marginalizes prostitutes.

THE ARGUMENT FOR BILL C-36

Some researchers and organizations see prostitution as a form of exploitation that violates the dignity of women and principles of gender equality. They urge the government to implement social measures such as programs to help people leave prostitution and awareness-raising campaigns to encourage men to take responsibility so as to eliminate the demand for sexual services.

However, they believe that the current wording of Section 213² of the *Criminal Code*, as amended by the bill, will further isolate prostitutes and place their security at risk.

¹ The Bill was passed on October 6, 2014. It amends various sections of the *Criminal Code*.

² Section 213 as amended prevents prostitutes from communicating with any person, for the purpose of prostitution, in a public place, or in any place open to public view, that is or is next to a school ground, playground or daycare centre.

CURRENTS IN THE FEMINIST MOVEMENT

- NEO-REGULATIONISTS

The neo-regulationists are generally focused on improving working conditions for prostitutes, seen as workers practising a legitimate trade. In their view, prostitution should be legalized. The neo-regulationists advocate a three-pronged approach: regulate prostitution, end the stigmatization of prostitutes and grant the profession social recognition, extending to prostitutes the labour rights and social rights of which they are now deprived. The current lack of rights increases the potential for abuse and sexual exploitation of prostitutes.

- NEO-ABOLITIONISTS

The neo-abolitionists generally argue that prostitution is a form of violence directed primarily against women. They maintain that the human body cannot be treated as a commodity and prostitution is an unacceptable commercial relationship. The neo-abolitionists link prostitution with pornography, which serves to trivialize and normalize prostitution. They advocate decriminalization of prostitutes and criminalization of clients and pimps.

- COMMON GROUND SHARED BY THE TWO MAIN TENDENCIES

Both camps are motivated by a sincere desire to defend prostitutes' human rights. They also agree on the need for amendments to Canada's *Criminal Code*.

THE DEBATE ISN'T OVER

Prostitution is a complex social phenomenon, as it raises both individual and collective issues. But it's already clear that several clauses of Bill C-36 will be challenged again before the courts, as they are similar to the provisions that were struck down by the Supreme Court as harmful to prostitutes' lives, health and security. This is definitely an issue that will merit further debate and follow-up.

ABOUT THE *INTERSYNDICALE DES FEMMES*

The *Intersyndicale des femmes* is made up of status-of-women officers from seven labour union organizations: the APTS (*Alliance du personnel professionnel et technique de la santé et des services sociaux*), the CSD (*Centrale des syndicats démocratiques*), the CSQ (*Centrale des syndicats du Québec*), the FAE (*Fédération autonome de l'enseignement*), the FIQ (*Fédération interprofessionnelle de la santé du Québec*), the SFPQ (*Syndicat de la fonction publique et parapublique du Québec*) and the SPGQ (*Syndicat de professionnelles et professionnels du gouvernement du Québec*).

The *Intersyndicale des femmes* represents nearly 300,000 unionized women, mainly in the public and parapublic sectors but also in the private sector. For more than 30 years, the *Intersyndicale des femmes* has been fighting for better working conditions and a better quality of life for women.