

Street-Level Sex Work in Ottawa:
Victims, Deviants, and Discourses

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Introduction

The following project is intended to address public debate surrounding the recent ruling by Ontario Superior Court Judge Susan Himel. On September 28, 2010 Justice Himel struck down three prostitution-related laws outlined in the *Criminal Code of Canada* as inherently unconstitutional. She noted that the laws violate Section 7 of the *Canadian Charter of Rights and Freedoms*, which stipulates that “everyone has the right to life, liberty, and security of the person, and the right not to be deprived thereof...”(1982). Justice Himel stated that due to the current prostitution laws “the danger faced by prostitutes greatly outweighs any harm which may be faced by other members of the public” (Himel, 2010, par.538, p.130). The unconstitutional offences include communication for the purpose of prostitution (Section 213(1)(c)), living off of the avails of prostitution (Section 212(1)(j)), and keeping common bawdy house (Section 210).

Opponents to this ruling have claimed that decriminalizing such offences would jeopardize the safety of women in the sex trade. In particular, they claim that decriminalization will directly lead to women being forced into the sex trade and subjected to sexual exploitation, and that those currently in the sex trade will be further exploited.

In order to determine whether sex workers are, in fact, victims of sexual exploitation, or chose to voluntarily engage in sex work, we interviewed 11 Ottawa-area street-level sex workers. Street-level sex workers account for approximately 10% of all sex-workers in the Ottawa-area (Mensah & Bruckert, 2010). That is, the vast majority of sex workers in Ottawa are not street-engaged. They work indoors, out of hotels or private residences. Thus, our analysis and findings may not be reflective of the realities of *all* sex workers. We have chosen to focus on street-level sex workers because the current debate is one that focuses on vulnerability and exploitation. If certain sex workers are more vulnerable to exploitation than others, then one might assume it would be street-level workers.

Research Methodology

Research Question:

Does decriminalizing prostitution-related offences lead to the sexual exploitation of women in the sex trade?

Feasibility:

Given the limited time and resources, we interviewed 11 street-level sex workers over a period of one month. Interviewees were compensated for their time with \$10.00 gift card. Participants were recruited for the study at the Elizabeth Fry Society of Ottawa and at the Shepherds of Good Hope. All participation was strictly voluntary.

Social Importance:

Given the current political debate and varying public opinions regarding the implications this ruling may, or may not, have on the sexual exploitation of sex workers in Ontario, it is important

that research is conducted. If the ruling is appealed by opponents claiming that the decriminalization of certain prostitution related activities will result in the sexual exploitation of women in general and sex-workers in particular, then we must first determine if the underlying assumptions are true. Are all women in the sex trade sexually exploited? By gathering first-hand information from women engaged in the trade, we gain a clearer picture of whether these women feel that they are victims of sexual exploitation, or whether they engage in the trade of their own volition. Moreover, the opinions and experiences of sex workers must be given consideration if the law is intended to serve their interests and protect them. By understanding the realities of women engaged in the sex trade, we are better equipped to determine the impact, either positive or negative, that Justice Himel's ruling may have, and make reform recommendations that meet the needs of those affected.

Type of Research:

We conducted *Deductive Research* as we consulted theory, collected data, and then further theorized to fully comprehend our data (Bachman & Schutt, 2007, p.45). We created a theory, narrowed down a testable hypothesis, used the interview data to test our hypothesis, and then confirmed our original theory.

Conceptualization:

Street-level sex trade work: when using this term, we are referring to women who are involved in the sex trade, and who are working on the streets to seek clients and conduct business.

Prostitute: according to the *Criminal Code of Canada*, "prostitute" refers to a person of either sex who engages in prostitution (s 197(1)).

*Communication for the purpose of prostitution in a public space**: the *Criminal Code of Canada*, Section 213(1) states that every person who is in a public place or in any place open to public view

(c) stops or attempts to stop any person or in any manner communicates or attempts to 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

*Definition of "public space": includes any place to which the public have access as of right or by invitation, express or implied, and any motor vehicle located in a public place or in any place open to public view (Criminal Code, RSC 1985, s 213(2)).

Note: this involves any communication with anyone about selling sex. Communication is not limited to verbal transactions: where even nodding your head about prices and/or acts may subject you to a charge.

Living off the avails of prostitution: the *Criminal Code of Canada*, Section 212(1) states that anyone who

(j) lives wholly or in part on the avails of prostitution of another person

is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.

Common-bawdy house: according to the *Criminal Code of Canada*, is a place that is

- (a) kept or occupied, or
- (b) resorted to by one or more persons for the purpose of prostitution or the practice of acts of indecency

Section 210 states:

(1) Keeping common bawdy houses – Every one who keeps a common bawdy-house is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.

(2) Landlord, inmate, etc. - Every one who

- (a) is an inmate of a common bawdy-house
 - (b) is found, without lawful excuse, in a common bawdy-house, or
 - (c) as owner, landlord, lessor, tenant, occupier, agent or otherwise having charge or control of any place, knowingly permits the place or any part thereof to be let or used for the purposes of a common bawdy-house,
- is guilty of an offence punishable on summary conviction.

*Note that this can include any place used regularly for prostitution (ex. A brothel, a hotel room, a private residence, or even a parking lot)

Sexual Exploitation: according to the *Criminal Code of Canada*, every person commits an offence who is in a position of trust or authority towards a young person, who is a person with whom the young person is in a relationship of dependency or who is in a relationship with a young person that is exploitative of the young person, and who

- (a) for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person; or
- (b) for a sexual purpose, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person.

*Definition of a young person means a person between the age of 14-18

For the purposes of our research, we conceptualize sexual exploitation as any sexual activity that is forced or imposed against *anyone's* will or consent. This could include tactics such as intimidation, threats, coercion, and/or violence.

Sampling:

In conducting this research we utilized a *non-probability sampling method*, whereby not all individuals in a population have equal opportunity of participating in the study, but rather, we select participants on the basis of their known engagement in street-level sex work. This is an ideal method of data collection as it is the opinions and realities of women in the sex trade that we seek to explore, not that of the population at large. Within this sampling method, we used *availability sampling*, whereby individuals are selected because they are available or easy to locate (Bachman & Schutt, 2007, p.121). This method is ideal for the study, as our researchers are also front-line workers who have direct access to Ottawa-area street-level sex workers.

Our sample consists of 11 Ottawa-area street-level sex workers. The target population is known as street workers, the majority of whom access services at the Elizabeth Fry Society of Ottawa. Our researchers recruited participants while they were accessing support services at the Society and the Shepherds of Good Hope.

Confidentiality

Each study participant read and signed a confidentiality form prior to being interviewed. The form outlines the purpose of our study, and explains that all information divulged during the course of the interview will remain strictly confidential. The interviews were not tape recorded, but transcribed by hand, and interviewees were identified as ‘Participant 1’, ‘Participant 2’, ‘Participant 3’ and so on. All hard copies of the data were kept in a locked filing cabinet in the researchers’ office. Once the data was coded and incorporated into a summary of findings, all recorded information was destroyed, including the confidentiality forms. Despite our efforts, anonymity could not be guaranteed as participants were required to sign the consent forms.

Literature Review

Before proceeding to the research findings, it is important to first take a look at two contrasting models of legal reform with regards to prostitution-related offences. The Swedish *Law on the Prohibition of the Purchase of Sexual Services* (1998) is based on an abolitionist approach to sex work, and the New Zealand *Prostitution Reform Act* (2003) is based on a sex workers’ rights approach to sex work. The two legal reforms, and their respective ideological foundations, are two very different approaches, both with the aim of safeguarding sex workers and preventing the exploitation of women. In this section, we thoroughly examine each model and discuss the purported advancements made as a result of the legislation. This analysis allows us to determine which approach would prove more appropriate and beneficial for the safety of street-level sex workers in Ontario.

The Swedish Model

In 1998 the Swedish government passed the *Law on Prohibition of the Purchase of Sexual Services*, which included a reform measure entitled *The Protection of Women*. These legal reforms were founded on the claim that the “criminalization of prostitution was necessary for the protection of women” (Canadian HIV/AIDS Legal Network, sec.9, pg.2.), and the belief that prostitution is inherently exploitative and therefore can never be entered into voluntarily (The Government Offices of Sweden, 2010). All sex workers are viewed as victims of sexual exploitation, and all clients or ‘johns’ are viewed as sexual predators. The law criminalizes the *purchase* of sexual services but not the *sale* of sexual services. Clients are criminalized (subject to fine or imprisonment up to six months) as a means of reducing the demand for sexual services. By reducing the demand, it is believed that the number of women in the sex trade will decrease, as will instances of victimization and sexual exploitation. This legislation was expected to act as a deterrent for two groups: johns who purchase sexual services and organized crime groups who

engage in human trafficking and procuring for sexual purposes (The Government Offices of Sweden, 2010).

An Inquiry on Evaluation was released in July 2010 to assess the progress of the *Protection of Women* reform measure. Overall, the Inquiry found that: “the ban on the purchase of sexual services has had the intended effect and is an important instrument in preventing and combating prostitution and trafficking for sexual purposes” (The Government Offices of Sweden, 2010). More specifically, in comparison to other countries, it is claimed that since the reform was passed in 1998, there has not been an increase in prostitution. Further, it is alleged that the legislation has been able to counteract the establishment of organized crime in Sweden (The Government Offices of Sweden, 2010). The Inquiry found that criminalizing the purchase of sexual services did not negatively affect those typically exploited by prostitution. Finally, the Inquiry proposed that certain measures must take place for the continued ‘success’ of the ban: increase in social work, the establishment of a national centre tasked with coordinating efforts against prostitution and human trafficking for sexual purposes, the maximum penalty for the purchase of sexual services to be raised from imprisonment for six months to imprisonment for one year, and to make a more nuanced assessment in more serious cases of the purchase of sexual services (e.g. person exploited to be regarded as an injured party) (The Government Offices of Sweden, 2010). Based on the findings of this Inquiry, the Swedish Government believes that the *Protection of Women* reform measure has served its purpose in protecting women and reducing instances of sexual exploitation. It should be noted that no empirical data was cited in the Inquiry’s report to substantiate any of the claims noted above.

New Zealand Model

It should be noted that prior to the *Prostitution Reform Act* in New Zealand, prostitution was not illegal, but certain prostitution-related activities were criminalized. This is similar to the current situation in Canada, whereby prostitution has never been illegal, however related activities are subject to criminalization.

In 2003, New Zealand introduced the *Prostitution Reform Act*, legislation which decriminalized several prostitution-related offences, including: solicitation, living off of the avails of prostitution, and the operation of a common-bawdy house. The driving force behind this Act was to safeguard the human rights of sex workers and protect them from exploitation (Parliamentary Counsel Office, 2008). Other purposes of the Act were to promote the welfare and occupational health and safety of sex workers, promote public health, and prohibit the prostitution of persons less than 18 years of age (Parliamentary Counsel Office, 2008). This Act moves away from a moralistic approach towards a public health and safety approach in order to reduce the social exclusion of sex workers and reintegrate them as acting members of the community.

For the purposes of controlling and regulating prostitution as a legitimate trade in New Zealand, many statutes were put into place following its decriminalization. Firstly, occupational health and safety provisions were enacted to prevent the transmission of sexually transmitted infections and to protect the general health of sex workers and clients. Part 2, Section 9 of the Act stipulates that a person who is providing or receiving commercial sexual services must use a condom and take all reasonable measures to minimize the risk of acquiring or transmitting a sexually

transmitted infection (Parliamentary Counsel Office, 2008). Moreover, Section 8 of the Act requires brothel operators to share health information with sex workers and clients, as well as post health information within the brothel (Parliamentary Counsel Office, 2008). Necessary workplace amenities are also outlined in the Act, and requirements such as security and safety from violence, alcohol, drugs, and smoking in the workplace (Abel, Fitzgerald, & Brunton, 2007, p.24).

Secondly, advertising restrictions were enforced to discourage the public presence of prostitution. Sex workers cannot advertise their services on the radio or television, ads cannot be published in a newspaper or periodical (except in the advertisement section), and ads cannot be screened at a cinema (Parliamentary Counsel Office, 2008). Thirdly, territorial authorities are permitted to enact bylaws regarding prostitution. As such, they may determine what constitutes proper signage in public areas, and they may determine which locations are acceptable for the commercial sale of sexual services. Fourthly, protective measures were put in place to ensure that the Act is fulfilling its primary purpose; preventing sexual exploitation and protecting sex workers. The Act strictly forbids the inducing or compelling of persons to provide commercial sexual services; it allows a sex worker to refuse to provide sexual services at any time or with any other persons, and it ensures that refusal to work does not affect entitlements. (Parliamentary Counsel Office, 2008). Fifthly, statutes strictly prohibit the prostitution of persons under 18 years of age, making it illegal to assist a minor in providing sexual services, receiving earnings from commercial sexual services, and prohibiting any person from entering into a contract or other arrangement with a minor (Parliamentary Counsel Office, 2008). Lastly, the Act requires commercial sexual service business operators to be licensed, and their establishments, such as bawdy houses, to be regulated (Parliamentary Counsel Office, 2008).

According to the *Prostitution Law Review Committee* (PLRC), there have been many positive outcomes resulting from the decriminalization of prostitution-related offences. After conducting interviews with sex workers throughout New Zealand, it was determined that the *Prostitution Reform Act* increased both women's health and safety. Regarding health, there was found to be little change in rates of HIV disclosure after the Act was passed, however this was due to continued concerns over stigmatization and the impact on health records. Despite the lack of difference in rates of disclosure, most of the sex workers in this study reported that they practised safe sex, especially for vaginal and anal sex (Abel, Fitzgerald, & Brunton, 2007, p.173). Furthermore, there have been no HIV-related prosecutions brought by public health services (Abel, Fitzgerald, & Brunton, 2007, p.174). In terms of safety, sex workers reported that they had increased power in their negotiations and dealings with clients and management, they felt more supported by the legal system, they had more positive experiences with the police and courts, and there was limited reporting of abuse to the police (Abel, Fitzgerald, & Brunton, 2007, p.173). Based on these reported outcomes, it can be concluded that the *Prostitution Reform Act* of 2003 has served its intended purpose in New Zealand.

Summary of Findings

It should be noted that there are several limitations to our findings. All but two of the participants are active drug users. Many were forthcoming with the researchers in admitting that they were under the influence or “coming down” while being interviewed. This factor may account for seeming contradictions, and the difficulty in interpreting their answers.

The phrasing of the interview questions may also be a limitation to our findings. The participants appeared to have difficulty understanding the terminology (e.g., legalization versus decriminalization). Despite our efforts, certain terms such as “pimp”, “bawdy house”, and “sexual exploitation” were perceived as vague or loaded, and often led to varying interpretation on the part of participants.

It should be noted that the researchers took every measure to ensure that the women clearly understood the confidentiality forms, and freely choose to participate in the study. It was also ensured that their ability to consent to the research was not affected by being under the influence of drugs.

After conducting the interviews, coding the data, and analyzing the findings, several themes and trends emerged. All of the participants are street-level sex workers, who conduct their business primarily out of cars, but sometimes indoor locations (i.e., hotels, apartments, etc). All but two clients were residing at a shelter, and all but one participant was actively using illegal drugs. Concerning the socio-demographic break down of participants, none identified as ethnic minorities, and they ranged in age from mid 30s to 50s. All of the participants were on some form of social assistance (i.e., Ontario Works or Ontario Disability Support Program). The majority of participants had children; however all of the children had been removed from their custody by the Children’s Aid Society.

All of the interviewees reported entering the sex trade for financial reasons, mainly to pay off drug debt and/or support their drug habit. Many also noted using the profits to pay for childcare and basic needs (i.e. food and shelter).

Other benefits of sex-work noted by participants included being one’s own boss, the amount of money earned, being able to afford luxury items/services, flexible work hours and locations, and feelings of empowerment, independence, and security.

None of the women reported being *forced* to enter the sex trade; however participant 9 explained that she was persuaded by an ex-boyfriend to enter and remain in the trade. Another woman noted that she was coerced her into selling her body when she was a minor (sexual exploitation of a minor *not* sex work) (Participant 6). This interviewee explained that she has been homeless since the age of 9, and sold her body in order to feed herself (Participant 6). The vast majority of women, however, explained that they chose to enter and remain in the trade, and reported entering the sex trade as adults.

Most of the study participants reported being approached by “pimps” in the past. Three of the 11 participants reported having pimps earlier in their careers, however none currently had pimps. As

cited previously in this paper, the women's interpretations of the term "pimp" varied, and included drug dealers, boyfriends, and any adult who profited off of their work or influenced them in their decisions regarding their work.

It should be noted that four of the 11 women who participated in the study said that they had "lookouts" at some point while working. The lookouts included other sex workers, drivers, and friends. These individuals would know the worker's whereabouts and how to contact them; often "checking on" to ensure the worker was safe.

Interestingly, Participant 1 implied that it was a police officer who encouraged her to enter the sex trade. She explained that the officer had threatened her, claiming that if he caught her selling drugs again, he would put her in jail for at least six months. Thus, she began prostituting instead of selling drugs because it could mean less jail time.

A noteworthy finding is that six out of eleven (over 50%) interviewees reported being sexually exploited by police officers. Participant 1 was asked to expose herself to a police officer in exchange for not being arrested, and Participant 3 recounted being inappropriately frisked by a male officer, and then laughed at by officers at the Elgin street police station when she asked to file a complaint. Another woman recounted being coerced by a police officer; she performed oral sex on the officer after he threatened to charge her with an offence if she did not comply (Participant 6). Other abuses of power on the part of police officers included being called a "slut" (Participant 5), being degraded and illegally searched (Participant 9), and sexually harassed (Participant 11). When talking about police brutality and abuses of power, Participant 1 stated that, "they're the biggest gang in the world".

Eight of the 11 participants expressed a general sentiment that they were treated unfairly by the police and did not trust the police; reasons included being charged with a prostitution-related offence when they were not working (Participant 6), not listening to complaints and not providing support to women in the trade (Participant 7), and being rude and derogatory (Participants 8 and 9). An extreme example of police maltreatment came from Participant 4; she recalled being gang-raped and left in an alley; after flagging down a police cruiser, explaining what happened, and asking for assistance, the police officer retorted, "I'm not a taxi service" and drove away.

Five of the 11 women specified that they felt unsafe around police officers; further expressing a distrust of police, and general sense that law enforcement often make working conditions more dangerous. One woman said, "I think that the police are harder on people that live on the streets and live on the avails 'cuz they're addicts'. They waste a lot of time going after the girl with twenty bucks looking for a twenty piece [reference to crack cocaine], a lot of time and tax money wasted putting women in jail and not going after the guy who kills the woman in the parking lots. They're not on their side" (Participant 3).

All of the participants reported being physically or sexually assaulted by clients/johns. Assaults included being stalked, harassed, kidnapped, raped, robbed, strangled, and beaten. *None* of the women felt it was safe or useful to report such incidents to the police.

When asked what the most dangerous or concerning part of their work was, primary concerns included condom use and sexually transmitted infections, and being assaulted or attacked. Secondary concerns included getting arrested, working alone, working in isolated locations, and substance abuse issues.

All of the study participants expressed having non-negotiable set prices for their services, and claimed that they would refuse clients who were unwilling to pay the set price.

Being street-involved, all but two participants reported working primarily out of clients' cars, and explained that the streets are the most dangerous environment in which to work. *All* interviewees felt that working in private establishments (i.e. homes, hotels, 'brothels') were safest for sex workers and clients.

All of the participants agreed that prostitution-related offences should be decriminalized, and all but one felt that both the sale and purchase of sexual services should be decriminalized.

Participants were asked whether or not they felt that decriminalizing prostitution-related offences would have an impact on sexual exploitation in the sex industry. Participant 1 stated, "I see no correlation. They're two separate entities". The women's answers revealed confusion; the term "sexual exploitation" was loaded and misunderstood by most of the participants. Their answers reinforced the notion that sexual exploitation and sex work are not synonymous. That is, the sex workers did not regard their *work* as *exploitation*.

In terms of safety, however, all but one woman believed that decriminalizing prostitution-related offences would make working in the trade safer for both workers *and* clients. Participant 6 explained that decriminalization would make it safer because sex-workers would be able to assess clients, cars, and dangerous situations more appropriately. Participant 7 reiterated this sentiment by suggesting that it would make work less "secretive" (i.e. not illegal) thereby lessening the dangers associated with assessing clients hastily (hence, decriminalizing 'communication').

When asked about their feelings regarding the criminalization of the *purchase* of sexual services as a means of protecting women, participants felt that this rationale would be ineffective and counter-productive.

Participant 6 stated, "It won't change it, it will still be a problem because the power is still in someone's hands". This suggests that criminalizing any aspect of the trade only serves to ensure that sex workers remain powerless. Participant 9 expressed that if only the johns were criminalized it would make sex work more complicated and dangerous.

Participant 1 feared that instead of protecting women, criminalizing the purchase of sexual services would cause a reverse effect: "Not in the least. It would turn it into a circus, you would have women at risk of harm, possibly death...I don't see any plus to it, I don't see how criminalizing it for the male or the john or whatever could hinder it...the evidence is in the women, it brings more harm to her". Thus, Participant 1 worries that sex workers would be at a

greater risk of victimization if the purchase of sexual services was criminalized, because the workers would be the ones to testify against the johns.

Participant 3 and 4 said that decriminalizing the purchase (i.e., the client or 'john'), but not the sale (i.e. the sex worker) simply 'does not make sense'. Participant 3 delved further into this claim, and provided an interesting perspective: "That just makes no sense to me whatsoever because it just means that there's gonna be, technically, because you never know, it could be less johns for them [sex workers] to survive with. They [johns] would be more cautious". This participant fears that criminalizing the johns will continue to drive the trade underground, making it hidden, and placing workers at increased risk. That is, sex work will continue to be stigmatized, and the "communication" process will still be rushed, which does not allow for workers to properly assess their clients.

Aside from making sex work safer, some of the participants explained that decriminalization would also allow for the women to be treated with dignity and respect rather than as a stigmatized individual. They stated that they would be able to have recourse, in that they could report a bad date or assault to the police and have their complaints heard and taken seriously.

All of the participants believed that safe houses/common bawdy houses with standards, safety precautions/plans, rules, and regulations would be the ideal place to work. Interviewees also noted how paramount security staff, 'lookouts', and 'working in numbers' with other women would be for their safety while working.

Participant 3 stated: "Legalize it and have a zone like they do in Europe. Have homes, have houses...just have a bunch of girls who all do it, like a business. You can control who comes in". The women cited numerous benefits to working indoors, and alongside other sex workers. More specifically they spoke about brothels/safe houses as ideal work locations because such workplaces could offer rules, safety guidelines, safety plans, security staff onsite, access to and use of condoms, and STI testing. They also explained that working indoors and in numbers would offer increased job security/stability and standard rates for service, as well as allow workers to feel safe on the job.

Many of the participants noted that legalizing prostitution and instituting labour laws would make the industry safer; "legalize it, get it off the streets...safe for both parties health-wise and enforce regular rates" (Participant 4). Participants also noted that sex trade labour laws would legitimize their work, lessening the stigmatization, and allow them to be "contributing members of society". Only one participant did not share this sentiment; she felt that labour laws would result in her having to pay taxes on her earnings, which she does not want to do.

Discussion

It should be noted again that our study participants consisted of street-level sex workers. Our findings and supporting data are not intended to draw conclusions about the sex industry as a whole, but rather, offer a glimpse into the lived experiences of street-level workers in the Ottawa-area.

There are two opposing feminist views which are paralleled by the Nordic and New Zealand models of prostitution reform. The Nordic or “abolitionist” model is founded on the assumption that prostitution must be abolished because it is inherently exploitative of women, and criminalizing elements of prostitution (i.e. the purchase of sexual services) therefore serves to protect women. The New Zealand model or “sex workers’ rights” model, on the other hand, asserts that sex work is a legitimate trade, and that decriminalizing the purchase and sale of sex serves to protect women from the harms that would otherwise be caused by criminalizing sex work-related activities.

The first perspective, known as ‘feminist abolitionism’, is held by mainstream feminists, and is the dominant perspective held by law makers and reformists. It is rooted in early radical feminism, with the view that prostitution is a symbol of patriarchal oppression (Brock, 2000, p.79). Abolitionists believe that women do not own their sexuality, but that it is instead owned and controlled by men in a patriarchal society. “They’re uncomfortable with prostitution, which they see as an objectification of women and their sexuality that is somehow related to the pervasive violence against women”, and “these are the two main points that have been exploited by feminist abolitionists (supporters of the abolition of prostitution), and often by right-wing activists, judges, and legislators who have co-opted feminists discourses about subordination of and violence against women in discussions of pornography and traffic in women” (Alexander, 1998, p.184).

Based on our findings, and that of other studies, the abolitionist perspective, however well-meaning, contradicts the identity that many prostitutes hold of themselves. The women in our study view sex work as *work*, and emphasized that they *chose* to enter and remain in the trade. This fact is often absent from legal reform debates, which are dominated by abolitionists.

Since the 1980s the abolitionist discourse has been the dominant perspective, and this “occurred in a period when feminist became a significant counter-hegemonic force and began to have an impact, however equivocal, on law and social policy”; the direct manifestation of this takeover, which continues to be seen today, is that “women who work in prostitution are silenced, as they are excluded from discourses that construct their identities” (Brock, 2010, p.180)

In contrast to the abolitionist perspective, is the sex workers’ rights movements. It is a common perspective among sex workers’ and leftist human rights movements. Worker’s rights advocates believe that “it is the laws against prostitution and the stigma imposed on sex work that provoke and permit violence against prostitutes, and ensure poor working conditions and the inability of many sex workers to move on to other kinds of work” (Alexander, 2010, p.185).

The idea that the criminal justice system is a source of exploitation and powerlessness is consistent with our findings. Over half of our study participants reported being sexually exploited by police officers, all had experienced maltreatment at the hands of officers, and about half of the participants felt that police officers made working conditions more dangerous.

Distrust of police officers is a common theme among Ottawa-area sex workers and is paralleled by other studies. This finding is not surprising since police officers administer prostitution-related laws, and these laws have been found to directly correlate with the violence experienced by sex workers. “Criminalization of prostitution-related activities devalues sex workers and places them in unacceptably dangerous situations...ending the criminalization of sex work is an important first step in affirming that sex workers deserve safe working conditions and the same right to public protection from violence as other members of our society” (PIVOT, 2004, p.18).

The sex workers’ rights perspective asserts that the government legitimizes and endorses violence against sex workers by criminalizing prostitution-related activities. Our study findings support this reasoning. Many of our participants tried to report incidents of rape and sexual assault to police officers, and *all* were turned away, degraded, and humiliated.

Government-legitimized violence through criminalization may also account for the nation-wide rates of homicides against sex workers. A 2006 Statistics Canada report found that 171 female prostitutes were murdered between 1991 and 2004, and a more disturbing trend is that 45% of these cases went unsolved, whereas a 2004 statistic shows that only 26% of homicides in general remain unsolved (Juristat, 2004). This may be because sex workers, even when victimized, are perceived as guilty, and therefore less deserving of the protections and rights of other citizens.

Power

Abolitionists and sex workers’ rights proponents are both deeply concerned with power imbalances and its affect on sex workers. An abolitionist would urge that clients (those who purchase sexual services) hold power over women in the trade, and thus the women are exploited by men. Sex workers’ rights advocates, on the other hand, explain that it is the judicial system that holds power, ultimately rendering the sex worker powerless. This sentiment is echoed in numerous studies, “so long as many or all aspects of prostitution remain a crime, the true power resides in the state, with its ability to enact and enforce laws... the state ensures that the worker’s power is fragile “(Alexander, 2010 p.191). This view is consistent with the perspective of the women we interviewed. They indicated that penalizing sex-work related activities, specifically conducting business out of a private residence and communicating with clients, only served to endanger them. Moreover, participants expressed that solely criminalizing the purchase of sexual services (i.e. the johns/clients) a means of protecting sex workers would be ineffective and even counter productive. Most participants felt that criminalizing communication for those purchasing sexual services means that sex work will continue to have a criminal element to it, it will remain “secretive” and hidden, which exposes sex workers to continued danger. Street-level sex workers in other studies throughout Canada have expressed similar rationale; “enforcing the communication law against clients could lead to the same result as criminalizing sex workers themselves. Whether police are targeting sex workers or their clients, it is an obvious inference

that sex workers will have to engage in unsafe practices in order to avoid law enforcement” (PIVOT, 2004, p.17)

This is not a claim that there are no pre-existing power imbalances among women and men in our society, nor are we claiming that bad johns/clients do not exist. Rather, we are noting that criminalizing *any* aspect of prostitution (including communication for the purchase of sexual services) exacerbates women’s powerlessness - it denies a sex worker her right to self-preservation, choice, autonomy, and access to legal recourse, thereby further endangering her.

Choice

As noted in our summary of findings, all the women in our study were living in poverty, and entered the sex trade because of financial hardship. None were forced by “pimps” as abolitionists might suggest. Rather it is the women’s social realities that contributed to their choice to enter the trade. Study participants conveyed that it was poverty, low social assistance rates, lack of child care assistance, and drug addictions led them to consider sex work as a viable option. Their options were limited by their social circumstances; however all of them *chose* to enter the trade. The obscure notion of an evil sex-trafficking pimp forcing helpless women to sell their bodies is an easy scapegoat for the government’s lack of assistance for women living in poverty.

It is very important to note that the sex workers’ rights perspective does not deny that sex trafficking exists in Canada and abroad. Rather, that that distinction needs to be made between sex work and sex trafficking, and that focusing on *all* sex workers as victims only serves to harm them.

The Dichotomy

It is clearly demonstrated that there exists a divide among feminists, a dichotomy of “prostitutes as victims of male vice, who nee[d] to be rescued”, and sex workers who chose the trade of their own volition (Doezema, 1998, p.34).

What our findings, and those of other researchers and academics, show is that it is this very dichotomy that serves to harm sex workers and women as a whole (Brock, 2000) (Doezema, 1998).

When we step away from the realities of sex workers into a black and white dichotomization of what we believe the realities of sex workers to be, we silence their voices, overlook their needs, and ultimately make decisions, enact laws, and reinforce the stigma that endangers them. For example, our participants’ inability to report assaults to the police is an example of how their choice to engage in sex work directly defines them as deviant, and therefore undeserving of protection or legal recourse when assaulted. It is for all these reasons that we must listen to the voices of sex workers, and begin to dismantle the existing paradigm. What is overwhelmingly clear from our findings is that the women who engage in this work support the ruling and believe it will help increase their ability to do their work with a greater degree of safety.

Bibliography

- Abel, G., Fitzgerald, L., & Brunton, C. (2007). *The impact of the prostitution reform act on the health and safety practices of sex workers*. University of Otago, New Zealand. Retrieved from: <http://www.justice.govt.nz/policy-and-consultation/legislation/prostitution-law-review-committee/publications/impact-health-safety/documents/report.pdf>.
- Bachman, Ronet & Schutt, R.K. (2007). *The Practice of Research in Criminology and Criminal Justice* (Third Edition). United States: Sage Publications.
- Bedford v Canada*, 2010 ONSC 4264.
- Brock, Deborah. (2000). *Victim, Nuisance, Fallen Woman, Outlaw, Worker?: Making the Identity, Prostitute in Canadian Criminal Law*. In D. Chunn and D. Lacombe (Ed.) *Law as a Gendering Practice*. Ontario.: Oxford University Press.
- Canadian Charter of Rights and Freedoms*, s 7, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.
- Criminal Code* , RSC 1985, c C-46, ss 213(1)(c), 212(1)(j)), 210.
- Doezema, Jo. (1998). *Forced to Choose: Beyond the Voluntary v. Forced Prostitution Dichotomy*. New York and London: Routledge.
- Juristat: Canadian Centre for Justice Statistics. (2004). *Homicide in Canada, 2004*. Retrieved from: <http://dsp-psd.pwgsc.gc.ca/Collection-R/Statcan/85-002-XIE/0060585-002-XIE.pdf>.
- Mensah, N.M, & Bruckert, C. (2010). *Sex work: realities, issues and challenges for service providers*. Ottawa.
- Parliamentary Counsel Office, New Zealand Legislation: Acts. (2008). *Prostitution reform act 2003* New Zealand: Retrieved from: <http://www.legislation.govt.nz/act/public/2003/0028/latest/DLM197815.html>.
- PIVOT Legal Society. (2004). *Voices for Dignity: A Call to End the Harms Caused by Canada's Sex Trade Laws*. Vancouver.
- Statistics Canada. (2006). *Risk Factors Associated with Violence Against Women*. Retrieved from: <http://www.statcan.gc.ca/pub/85-570-x/2006001/findings-resultats/4144394-eng.htm>.
- The Government Offices of Sweden, Ministry of Justice. (2010). *Evaluation of the ban on purchase of sexual services*. Sweden: Retrieved from, <http://www.sweden.gov.se/sb/d/13358/a/149231>.

The Government Offices of Sweden, Ministry of Justice. (2010). *Legislation on the purchase of sexual services*. Sweden: Retrieved from, <http://www.sweden.gov.se/sb/d/4096/a/119861>.

Appendix A

Interview Guide:

- Part A is being used for this study. Questions in part B, C, D and E are for the purpose of retrieving additional information for future reference.
- It takes approximately 15 minutes to complete Part A.
- We interviewed participants at the Elizabeth Fry Society of Ottawa and the Shepherds of Good Hope.
- Interviews were conducted in English.
- The interview consists of *open-ended questions*. This technique is preferable when the range of responses cannot adequately be anticipated (Bachman & Schutt, 2007, p.81). It is beneficial to use these types of questions as it allows for personal and full responses.

Interview Questions:

Part A - Personal Choice vs. Sexual Exploitation

- 1) Have you ever been involved in the sex trade?
- 2) Under what circumstances did you get involved in the sex trade?
- 3) What motivated you to enter the sex trade?
- 4) Do you feel that there are any benefits to engaging in sex work (ex. work hours, money, etc.)?
- 5) Did anyone ever convince you, or try to convince you, to enter the trade or stay in the trade? If so, can you tell us about it?
- 6) Would you say that you experienced any sexual exploitation from *pimps (an agent for prostitutes who keeps a portion of their earnings)* while actively working in the sex trade? If so, can you tell us about it?
- 7) Would you say that you experienced any sexual exploitation from *police/authority figures* while working in the sex trade? If so, can you tell us about it?
- 8) If prostitution-related offences were decriminalized, do you think that sexual exploitation would increase or decrease?
- 9) If the purchase of sex were criminalized, but not the sale of sex, do you think this would protect sex workers from sexual exploitation?

Part B - Safety

- 10) Have you ever been assaulted, harassed, or faced with any other dangerous situation while working? If so, can you tell us what happened?
- 11) Have you been treated unfairly by the police? If so, can you tell us about it?
- 12) Do you have any safety concerns when it comes to *clients*?
- 13) Do you have any safety concerns when it comes to *police*?
- 14) Where do you perform most of your sex work (ex. Cars, hotels, own home, clients home, bawdy house, etc.)
- 15) Do you have a pimp/boyfriend/girlfriend/lookout/friend or other individual who is present or nearby when you are working?

- 16) What do you feel is most dangerous or concerning about the work that you do?
- 17) Do you have any recommendations for how to make sex work safer or less dangerous?
- 18) If prostitution-related offences were decriminalized, do you think that sex work would become more or less safe?

Part C – Living off of the avails of prostitution

- 19) Do you have a pimp/boyfriend/girlfriend/lookout/friend or other individual who shares or gets a portion of the profits from your work?
- 20) How do you spend the profits from your work?

Part D - Communication

- 21) How do you acquire clients?
- 22) How do you negotiate a price?
- 23) How do you assess clients?
- 24) Do you believe that properly assessing clients reduces the risk of violence?

Part E – Common Bawdy Houses

- 25) Have you ever worked in a common bawdy house (i.e. any location that you bring clients to regularly)?
- 26) If not, would you consider working in a common bawdy house?
- 27) Do you believe that common bawdy-houses provide safety?
- 28) Do you believe that common bawdy-houses are more or less safe than working on the street?