



Reply to Issue 9 on Prostitution and Sex Trafficking

Indigenous Women Against the Sex Industry (IWASI) Submission to the
Committee on the Elimination of Discrimination Against Women on the Occasion of
Canada's Eighth and Ninth Periodic Review

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I. Introduction

Founded in 2012 in Canada, Indigenous Women Against the Sex Industry (IWASI) is an unfunded group of Indigenous feminists committed to the abolition of prostitution and pornography. IWASI sees prostitution and pornography as forms of male violence against women and girls. The misogyny inherent in these systems of women's oppression is compounded by colonialism and racism, disproportionately harming Indigenous women and girls and women of colour. Through public engagement, education, and lobbying, IWASI advocates for the decriminalization of prostituted women and girls, and the criminalization of

johns, pimps, and sex industrialists; adequate and sustained governmental funding for comprehensive exiting and preventative services for women and girls including, but not limited to: safe and affordable housing, livable welfare, nutritious food and clean water, women-only detox and addiction recovery services on demand, access to health care, education, child care, job training, and recognition of the rights of Indigenous women and girls to land, language, and culture; and a government-funded education campaign that educates Canadians about prostitution as a form of violence against women and girls and as a form of colonial violence against Indigenous women and girls. IWASI is committed to not only advocating for legal change, but for true social change and for the reclamation of Indigenous ideologies that improve the lives of all women and girls and that recognize our rights to safety, security, land, culture, and freedom.

This submission responds to issue 9 in the Committee on the Elimination of Discrimination Against Women's ("the Committee") List of Issues (CEDAW/C/CAN/Q/9-8) and relates to Articles 2, 3, and 6 of the *Convention on the Elimination of All Forms of Discrimination Against Women* ("the Convention"). IWASI notes the Committee's recognition in General Recommendation 19 that sex trafficking and forms of sexual exploitation, such as sex tourism "are incompatible with the equal enjoyment of rights by women and with respect for their rights and dignity." IWASI fully endorses the CEDAW Committee's recommendations to a number of states parties that they discourage the demand for prostitution, including by criminalizing the buyers.¹

Other United Nations instruments recognize the interconnectedness of prostitution and trafficking and the Palermo Protocol calls on states to "discourage the demand that fosters all forms of exploitation of persons, especially women and children that leads to trafficking".

II. Canada's New Prostitution Law: More Funding is Needed to Implement the Law

Prostitution, a fundamentally gendered act of violence in which men are overwhelmingly the buyers of sex and girls and women are overwhelmingly the sellers, is a serious issue in Canada that profoundly impacts the equality rights of women and girls. On December 6, 2014, Canada adopted new prostitution legislation, entitled *the Protection of Communities and Exploited Persons Act*. Notably, this new legislation:

1. Criminalized the purchase of sex;
2. Decriminalized the selling of sex unless it occurs near a school ground, playground or daycare;

¹ See for example: CEDAW Committee, Concluding Observations: Swaziland, para 24-25(e), U.N. Doc. CEDAW/C/SWZ/CO/1-2 (2014); CEDAW Committee, Concluding Observations: Lithuania, para 27(g), U.N. Doc. CEDAW/C/LTU/CO/5 (2014); CEDAW Committee, Concluding Observations: Belgium, para 26(b), U.N. Doc. CEDAW/C/BEL/CO/7 (2014); CEDAW Committee, Concluding Observations, Finland, para 21(d), U.N. Doc. CEDAW/C/FIN/CO/7 (2014).

3. Criminalized third-party advertising for sexual services;
4. Criminalized the receipt of financial or other material benefit from another's prostitution, except in non-exploitative situations; and
5. Provided \$20 million dollars in funding over five years to assist those in prostitution to exit the industry.

The \$20 million dollar federal government funding to assist in the implementation of the law was disseminated via two streams:

- 1) the Department of Justice's Victim Fund, available to non-profit non-governmental organizations, bands, tribal councils, self-governing First Nations, and provincial, territorial, municipal, and regional governments and agencies; and
- 2) the Department of Public Safety's Crime Prevention Action Fund: Measure to Support Exiting Prostitution, available to non-profit community and professional organizations, provincial, territorial, regional, municipal and local governments and agencies, Aboriginal governments, police services, and university and educational institutions.

Many advocacy, community, and Indigenous organizations criticized the amount as insufficient to meaningfully address the issue. In 2015, then-Justice Minister Peter McKay acknowledged that many more applications were received than could be funded from the \$20 million dollars allocated to address the issue, stating, "we were, I don't want to say overwhelmed, but certainly over-subscribed for that amount of money" (Meissner, 2015). To date, the federal government has not publicly released information regarding which organizations and institutions received funding and how much each received.

Research in nine countries has shown that 89% of prostitute women (and men) said they were in prostitution because they saw no other viable economic alternatives and could not see a way to escape the sex industry (Farley, 2009). This demonstrates a majority of prostituted women and girls enter into prostitution precisely because of a lack of viable economic options. There is a critical need for additional and sustained funding in order to assist prostituted women and girls to exit the industry and build new lives for themselves.

III. Gaps in Police Implementation of the Law: Patchwork implementation

In some regions, police forces have begun to implement the new law. For example, the Cape Breton Regional Police force arrested, charged, and publicized the names of twenty-seven men for buying sex under the new legislation in 2015 (Cape Breton Post, 2015). However, most police forces refuse to implement the prostitution laws in any meaningful way. For example, the Vancouver Police Department's 2015 video explaining their sex-work enforcement guidelines states that, "sex work between consenting adults is not an enforcement priority for [the Vancouver Police Department]" (vpdonline, 2015). The video also states that, "these [non-enforcement] guidelines are currently being adapted into a province wide policy" (vpdonline, 2015). Research has shown the criminalization of the purchase of sex to be an effective measure to curb demand. Johns themselves have named criminal sanctions such as time in prison or addition of their names to a sex offender registry list, as well as loss of anonymity,

publication of their names in newspapers, the internet, and billboards, notification to their families, suspension of their driver's license, the impounding of their vehicles, and monetary fines as consequences that would deter them from buying sex (Farley, M. Bindel, J. & Golding, J., 2009). Police forces across Canadian jurisdictions must abide by and implement the law.

IV. Full Decriminalization or Legalization does not make Sex-Trafficked or Prostituted Women "Safer"

Some individuals and institutions, such as the City of Vancouver and NOW magazine, have spoken out against the new prostitution legislation, as have some human rights and sex worker rights organizations. They advocate for the repeal of *the Protection of Communities and Exploited Persons Act* and either the implementation of total decriminalization or the legalization of prostitution in Canada. These individuals and organizations claim the new legislation does not improve conditions for prostituted women, although research has shown the opposite: that the full decriminalization or legalization of prostitution does not increase safety for prostituted women. For example, after the full decriminalization of prostitution in New Zealand, 35.3% of prostituted women felt they had to accept a john even though they didn't want to and the majority of prostituted women interviewed felt that the decriminalization of johns did little to stop the violence they experienced; rather, they felt the violence was inherent to prostitution (Prostitution Law Review Committee, 2008).

Additional international examples of the full decriminalization or legalization of prostitution show these policies to be abject failures in making the sex industry "safer" for women and girls and instead have normalized and grown the industries, impeding women's equality. For example, Cho, Dreher, and Neumayer found that, "[o]n average, countries where prostitution is legal experience larger reported human trafficking inflows". Additionally, a 2009 article reported that Auckland, New Zealand experienced a 200-400% increase in street prostitution since the total decriminalization of prostitution in 2003, and 80% of prostituted women in the legalized countries of Germany and the Netherlands have been found to be victims of sex trafficking (Cho, Dreher & Neumayer, 2012, p. 67; Farley, 2009). German magazine "Der Spiegel" reported on the opening of a brothel near Stuttgart, Germany:

"...large brothels have also become established. They advertise their services at all-inclusive rates. When the Pussy Club opened near Stuttgart in 2009, the management advertised the club as follows: "Sex with all women as long as you want, as often as you want and the way you want. Sex. Anal sex. Oral sex without a condom. Three-ways. Group sex. Gang bangs." The price: €70 during the day and €100 in the evening. According to the police, about 1,700 customers took advantage of the offer on the opening weekend. Buses arrived from far away and local newspapers reported that up to 700 men stood in line outside the brothel. Afterwards, customers wrote in Internet chat rooms about the supposedly unsatisfactory service, complaining that the women were no longer as fit for use after a few hours..." (2013).

Regardless of support or lack of support for Canada's new legislation, the overwhelming majority of organizations and individuals support the decriminalization of prostituted women (and men). The disagreement largely centres on whether or not pimps and johns should also face criminal sanction. IWASI believes that the criminalization of johns and pimps is an essential component in a comprehensive strategy to successfully address prostitution.

V. The New Prostitution Law is a Move in the Right Direction

In Canada, many community, Indigenous, prostitution survivor, and anti-violence organizations that provide services to women in prostitution support the legislation. Those in support of the law commonly state it is a move in the "right direction" and want to see more enforcement, robust funding for exiting and preventative services, the removal of any criminal sanction against women in prostitution, and the addition of a public education campaign. Such a policy is commonly referred to as the "Nordic Model"; a policy that views prostitution as a form of violence against women and girls that affects not only individuals negatively but also society as a whole. The adoption of the Nordic Model in Sweden has shown great success in addressing prostitution. For example, an evaluation of the Nordic Model in Sweden from the policy's inception in 1999 until 2008, by the Inquiry on Evaluation of the Prohibition Against Purchase of Sexual Service, concluded that the legislation, "...has had the intended effect and is an important instrument in preventing and combating prostitution and human trafficking for sexual purposes" (2010). Since the implementation of the legislation, "...street prostitution in Sweden has been halved" (Inquiry on Evaluation of the Prohibition Against Purchase of Sexual Service, 2010, p. 34) and support for the legislation, which was not initially supported by the general public, has increased to 70% (2010). As a result of the Nordic Model, the amount of men who buy sex in Sweden has decreased from 13.6% in 1996 to 7.9% in 2008 (Claude, 2011). Trisha Baptie, a woman who spent 15 years in prostitution and currently heads an advocacy group of women in Canada who have been or are currently in prostitution states, "increased funding for social services is absolutely crucial for the legislation to be successful, but it's a good start to arrest the johns. We are moving in the right direction viewing prostitution as violence" (personal communication, September 2, 2016).

While some Indigenous organizations are opposed to the new prostitution legislation, many Indigenous women's organizations, including Canada's national Indigenous women's organization, the Native Women's Association of Canada, view prostitution as a form of violence and support the new legislation, calling for further action, funding for social supports, and public education in order to move more fully toward the comprehensive Nordic Model. The issue of prostitution profoundly impacts indigenous women and girls as studies have shown Indigenous women and girls are disproportionately represented in street prostitution with one Vancouver study finding 52% of women in street prostitution were of Indigenous ancestry (Farley, Lynne & Cotton, 2005). Of the prostituted women surveyed, 95% wanted to leave prostitution (Farley, Lynne, & Cotton, 2005). Farley, Lynne, and Cotton state that the prostitution of Indigenous women and girls in Canada is "...intimately associated with sex inequality, poverty, racism, and colonialism" (2005). The prostitution of Indigenous women and

girls must be viewed both historically – from the trading of sex for food rations from Indian Agents and members of the Northwest Mounted Police (Carter, 2006) – and also as both a contemporary consequence of, and system of, sex-based colonialism. As the Native Women’s Association of Canada states,

“Prostitution is not a traditional activity of Aboriginal women...[t]he state has pushed Aboriginal women from one institution to another – residential schools, foster homes, group homes, and prisons, to name a few. NWAC refuses to accept brothels as the new official institution for Aboriginal women and girls and we refuse to accept that prostitution is the solution to addressing women’s poverty” (2012).

VI. The Nordic Model aligns with the United Nations Declaration on the Rights of Indigenous Peoples

A fully decriminalized or legalized system of prostitution would be disastrous for Indigenous women and girls. In fully decriminalized New Zealand, “The trafficking of children...has increased since decriminalization, especially the trafficking of ethnic minority Maori children” (2009, p. 313). Full Decriminalization or legalization of prostitution permit the profound disadvantages that Indigenous women and girls face to take their course, including funnelling them into prostitution because they have no or few other viable social or economic options.

In 2016, Canada officially removed its objector status to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and became a full supporter of the Declaration. Article 22 of UNDRIP states, “2. States shall take measures, in conjunction with Indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination”; however, there is currently a critical lack of funding for social and economic supports for Indigenous women and girls, an overrepresentation of Indigenous women and girls in prostitution, and a lack of police and justice system response to this violence. The rights of Indigenous women and girls under UNDRIP would be respected under a Nordic Model of prostitution policy, as states would work toward ending the prostitution of Indigenous women and girls, as well as providing more economic options and ensuring their needs are met in regard to housing, food, income, and other necessities. The adoption of fully decriminalized or legalized prostitution in Canada would disproportionately and negatively impact Indigenous women and girls and impede their right to live lives free from violence and discrimination.

VII. The National Inquiry into Missing and Murdered Indigenous Women and Girls: Prostituted and Sex Trafficked Indigenous Women and Girls is an Important Issue to Address in the Inquiry

In 2015, the newly elected federal government called an inquiry into Canada’s 1182 (and growing) murdered and disappeared Indigenous women and girls. While the prostitution of Indigenous women and girls was identified by Indigenous communities as being an important

issue to address in the pre-inquiry design process, it is unclear if/how the inquiry will address this critical issue. The inquiry time frame of only two years to completion in 2018 and a \$53.86 million dollar inquiry budget will make it difficult to fully address prostitution in addition to the many other overlapping and complex issues facing Indigenous women and girls. The inquiry time frame, budget, and terms of reference have been widely criticized by Indigenous leaders as insufficient to fully address the true scope of this national crisis. In order to comprehensively examine the root causes of male violence against Indigenous women and girls, the inquiry needs to look at critically at the overrepresentation of Indigenous women and girls in prostitution, the high demand for sexualized access to Indigenous women and girls by male colonizers, and the lack of social and economic supports and options available to Indigenous women and girls. Prostitution must be examined as a form of ongoing colonial violence.

VIII. Human Trafficking

In 2014, there were 206 human trafficking cases reported to police in Canada, accounting for less than 1% of police-reported crimes (Statistics Canada, 2016). Although these cases were not all incidents of sex-trafficking, the majority involved male perpetrators and mostly young female victims (Statistics Canada, 2016). Between 2005 and 2014, there have been 53 completed human trafficking court cases, with only 30% resulting in a guilty finding (Statistics Canada, 2016). Indigenous women and girls are especially vulnerable to being trafficked. A recent study found that Indigenous women and girls make up 51% of sex trafficking victims, despite Indigenous people comprising roughly 4% of the Canadian population (Canadian Women's Foundation, 2014). It is crucial that the new prostitution legislation is enforced in Canada, as the legislation is the only mechanism available to criminalize the buyers of sex-trafficked women, thus functioning to reduce demand for sex-trafficking and prostitution.

To date, the federal government has not publicly released a breakdown of how the National Action Plan to Combat Human Trafficking's \$25 million dollar budget was spent over four years. An investigation by a reputable newspaper found that, "...more than 90 per cent of what has been spent appears to have gone to law enforcement and to addressing international trafficking. Less than 10 per cent...has been devoted to victim support, and even that hasn't been entirely put to use" (Grant, 2016).

IX. Conclusion

Canada's federal government is not sufficiently addressing the issue of prostitution. While many view *the Protection of Communities and Exploited Persons Act* as a "step in the right direction" toward the equality of women and girls, the federal government did not and has not provided sufficient support or direction for a meaningful and consistent implementation of the law across the country. The government has also not provided sufficient funding to facilitate the exiting of prostituted women (and men) from prostitution. As a result of the lack of implementation and funding, it is not possible to determine the success or failure of the legislation at this point. It is important to note here that Sweden's progressive

prostitution legislation was also not well-received when it was launched in 2009, but with support, funding, and direction from the government, the Swedish legislation has achieved great success. Canada must implement and build upon *the Protection of Communities and Exploited Persons Act* in order to work toward the equality of women and girls in Canada, including Indigenous women and girls.

VIII. Recommendations

IWASI supports the *new Protection of Communities and Exploited Persons Act* and calls upon Canada to better implement the law by:

- Increasing funding to facilitate the exiting of women and girls from prostitution and to prevent their engagement in prostitution in the first place;
- Ensuring that police forces across the country enforce the law, as opposed to formulating their own policy responses that deviate from the federal law;
- Removing any criminal sanctions against prostituted women (and men);
- Dedicating funding to public education campaigns that educate about prostitution as a form of violence against women; and
- Implementing the recommendations of the CEDAW Committee's Inquiry Report on murders and disappearances which call on Canada to immediately improve the social and economic conditions of Indigenous women and girls, and to address the failures of the child welfare system, which is a conduit for Indigenous girls into prostitution.

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