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**Points of View on Prostitution. What should Canada do about it?
Interviews with Gunilla Ekberg and with John Lowman**

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Introduction

Over the last few years, the Canadian federal government has had two subcommittees to look at soliciting laws as well as at the health and safety of sex workers and that of the general public. Numerous witnesses appeared before these committees. Parallel to these discussions a study was undertaken by the RCMP to see what would be the impact of legalization/decriminalization laws on the police. Many experts were met and interviewed in that regard (LeBeuf, 2006). Following on this study, we thought that it would be beneficial to the police community and to the general public to let two experts expressed talk about their points of view on prostitution.

Prostitution has never been illegal in Canada. But it is illegal to communicate for the purpose of prostitution in public places, illegal to operate out of one's own home and illegal to have a third party managing system. Provincial laws or municipal by-laws also control prostitution through permits requirement for certain type of business.

Essentially, there are two legal options regarding prostitution :

- criminalize prostitution and/or maintain status quo
- legalize prostitution and/or decriminalize

The option criminalize and/or maintain status quo means that the law punishes buying of sexual services, not the sex workers themselves. In some countries they sometimes are given financial and social support to quit. Pimping, brothels and sex shows are illegal. Similar but not the same is the status quo where criminalization is directed at sex workers, at those who recruit abuse prostitutes (who underage prostitutes and forced into prostitution), and at customers. This is accomplished with penalties, stepped-up law enforcement and vigorous police patrols.

The option legalize prostitution and/or decriminalize means removing prostitution-related activities from criminal laws. The objective is to ensure that prostitution activities do not interfere with or disrupt public life while attention is being paid to public health concerns

and the safety of sex workers. Prostitution becomes a legitimate independent business for consenting sex workers of legal age, who operate freely as entrepreneurs within clear regulations. In a decriminalized environment, sex workers may require licenses but the criminal laws respond to all types of violence, of exploitation and abuse of minors. Forced prostitution by violence and coercion is always forbidden and penalized.

Since the issue of prostitution is complex including solutions from different jurisdictions around the world. Two experts with opposing points of view have accepted to express their opinions on prostitution including the history of prostitution laws here and abroad, how prostitution should be defined from a legal and social perspective, and the public perception of prostitution.

Both interviewees talk about the same issues, the same problems, and try to understand the best way out of forced work, but they support solutions that are incompatible to each other. The debate on prostitution can only advanced by acknowledging opposing points of view. Their perspective and this paper can also help to define the vision on how to deal with prostitution in the most efficient way in the years to come.

Mrs Gunilla Ekberg, a Canadian lawyer based in Stockholm, worked as Special Advisor to the Swedish Government on prostitution issues. She is now an International Human Rights Consultant. She maintains that prostitution is essentially male violence against women. For Mrs Ekberg., men essentially purchase women who for the vast majority had no choice but to end in such a bad situation. Many issues, like poverty and social problems for example can be conducive to prostitution without being a choice to prostitution. She sees the criminalization of the buyers as well as the pimps and traffickers in human being as the best solution to the women's situation.

Professor John Lowman teaches at the School of Criminology at Simon Fraser University in British Columbia. He is as strong supporter of the decriminalization/legalization perspective. As we will see, Professor Lowman past and current research and long time experience with studying and writing on prostitution claims that the best way to make sex

work safe is to make sure that current laws on prostitution are removed from the criminal code. As for other issues like violence, forced prostitution, debt bonding, he sees that Canada has already the necessary laws to deal with them.

Both interviews will teach us more on how they each define prostitution, how they see the issue of choice, what steps Canada should take to help women and anyone involved in prostitution to be safe and respected.

LeBeuf, M.E. (2006). *Control or regulation of Prostitution in Canada – Implications for the Police*. Research and Evaluation. Community, Contract and Aboriginal Policing Services Directorate. Royal Canadian Mounted Police. Ottawa. Available at: www.rcmp-grc.gc.ca/ccaps/research_eval_e.htm

Prostitution is male violence against women- Interview with Mrs. Gunilla Ekberg¹

MEL: Generally speaking there are two major options regarding prostitution: the legalization/decriminalization option as opposed to the criminalization and prohibition of prostitution related activities. You are a strong supporter of criminalizing all forms of prostitution. Why?

Mrs. Ekberg: I don't agree completely on how you have divided the options because when we speak about criminalization without saying who we are criminalizing it will be interpreted as if we were criminalizing the women used in prostitution, rather than the perpetrators. We have seen within the European Union (EU) where there has been attempts to say that countries that have criminalized the buyers but not criminalized the women and have absolutely no intention to criminalize the women (or men), are in fact prohibitionist, rather than abolitionist. I am always very careful which words I choose. If you talk about legalization you have to say what it is you are legalizing – and in most cases it is the prostitution industry that the legalization proponents want to make legal; i.e. pimps, brothel and escort agency owners, etc. If you talk about decriminalization, you must remember that all of us who see prostitution as a form of male violence, do not want women, girls, boys, young men, who are used in prostitution and/or who are victims of trafficking in human beings to be criminalized.

MEL: Was the criminalization of buyers of sexual services the main issue for you? How did you approach it?

Mrs. Ekberg: Prostitution is a form of male extreme sexual violence. Most men target women and girls but they also use young men and boys for prostitution purposes. We know that the perpetrators, the buyers, are always male, but that the majority of the victims worldwide as well as nationally are women and girls. Because we see prostitution

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as male violence, it is logical that those who perpetrate the violence should be criminalized. The argument always ends up being that women are making money, therefore the violence perpetrated by the buyers doesn't count when men buy women and pay to exploit them. By paying to sexually abuse women and children, men in fact pay for immunity from being penalized for a criminal offence. That is indeed a serious problem. If I may use Sweden as an example: already in the seventies when we in the women's liberation movement talked about how many of us had been subjected to different forms of male violence by males in the family and elsewhere, it became so obvious to us that what is done to women in prostitution is a form of male violence against women. It was not difficult for us to come to that conclusion, especially because some of the women involved in the discussions had been in prostitution or were still in prostitution. If you talk to women in prostitution, the absolute majority will have all kinds of insightful things to say about the men who pay to use and sexually exploit them.

MEL: Would you say that the way you looked and defined sexual services between buyers and sellers and the solution has been a revolution?

Mrs. Ekberg: First of all, I would like to emphasize that what is done to women and men in prostitution is certainly not sex. It is sexual violence. Sex must always take place on an equal basis for both parties. Prostitution certainly is not. I get very angry when people confuse sexuality with prostitution. It is the men who purchase and use women and men who prefer to perceive what they do as sex, all the while knowing that it is not. It is abuse, it is violence. If you come from that angle, the answer would be very different.

What we have done in Sweden is a type of revolution in the sense that a law that criminalizes the purchase of sexual services, seriously hampers the expansion of the prostitution industry and the profit of those that benefit from exploiting women for prostitution purposes i.e. pimps, brothel owners and others, including the buyers. The representatives of the prostitution industry knows very well that if the buyers are criminalized their income and profit will be curtailed. That is why they put so much effort into spreading the idea that prostitution is voluntary, that it is sexual liberation for

women, that it is work, and all the other faulty arguments supporting the industry. They do have very good spokes people.

In the beginning of the twentieth century there was an understanding among activists within the feminist movement that in order to end the trafficking and prostitution of women and girls, the demand as a root cause had to be targeted. For example the League of Nations, which was the international government organization that preceded the United Nations, included long discussions on the demand in their investigative reports on prostitution and trafficking of women and girls in Europe, Asia, North Africa and South America. These reports described who were the buyers, where did men purchase women and girls, and importantly, what should be done to stop the demand. The recommendations in these reports are clear: in order to succeed in abolishing prostitution and trafficking, there are three things to do: Member States must close the licensed and unlicensed brothels because they provide a market for the prostitution industry, they must remove all legislative and administrative measures that criminalize the victims, and those men who purchase and sexually exploit women and girls must be made visible and punished for their crimes.

When we started to talk about prostitution in the seventies most of us had no idea that these proposals had already been made. This history, especially the revolutionary history of women's activism against prostitution and trafficking, was erased. For us it was a logical step, and it is, of course, still logical. The prostitution industry and its defenders are quite disturbed by these proposals, understandably so as they infringe upon their ability to make a profit.

MEL: Would you agree that it is seen as revolutionary because we find very few current experiences around the world resembling the Swedish model?

Mrs. Ekberg: I disagree. I would say that there are many people, the general public, government officials, parliamentarians, NGO-representatives, police and prosecutor around the world who are very interested in focusing on the buyers. They have noticed

that of all the other measures - whether it is legalization of brothels, low or no sentences for pimps and brothel owners, or measures to combat prostitution, trafficking in women, or even doing nothing, as in the countries where the criminal law, procuring and trafficking, is not enforced, it does not work. The prostitution industry is constantly expanding in many of these countries. When we started to talk about developing and implementing preventative measures that focus on the demand in the EU, notably in a severe climate where proposals to legalize the prostitution industry were presented as the only viable option, especially in the candidate or new member states of the EU, this gave those who were concerned about the problem other and workable alternatives. We have to remember that most people are, in fact, quite uncomfortable with the establishment of a full-blown prostitution industry in their countries, and with the neo-liberal ideas that the prostitution industry somehow can self regulate their activities while causing no problems in society.

When we first started to talk about a law that criminalizes the purchase of a sexual service, it was important to discuss the idea behind such a legislation: how to insure that all women and girls, men and boys are protected by the legislation? I think this is indeed a revolutionary idea, because we wanted and still want to change a culture of prostitution into a culture of non-violence and respect for all human beings. I would like to add, that when we explain the reasons for such a legislation, it really makes sense to most people. On the other end of the spectrum, you have those individuals and groups who promote the prostitution industry and its expansion, who consequently want to decriminalize pimps, brothels, massage parlours and escort agency owners, and of course the buyers. They talk about market self regulation, of prostituted women becoming entrepreneurs by opening their own small neighbourhood brothels or escort agencies. We know that organized crime is heavily involved in the prostitution industry. I argue that the promoters of the prostitution industry and others who, sometimes knowingly and sometimes naively, are willfully blind to the reality of what the prostitution industry and its impact on the victims. The discussion is taken down to a very individualized level where we always get stuck on the point that some women who are in prostitution may say that "I like this" instead of us understanding that there are thousands upon thousands of

women and girls who hate this, who want nothing more than to get out of prostitution, but who have never been given access to any adequate alternatives in their lives.

I'd like to add that it is important to note that those who are used for prostitution purposes in Sweden, are not criminalized, but are seen as victims with the right to assistance. This is central to our policies on the problem. When I testified to the Committee on the Status of Women in Ottawa in December of 2006, I pointed out to the Committee members that it is contrary to women's human rights, to their dignity, to international obligations to criminalize women in prostitution in Canada. These women and men should have rights to access services, and given adequate assistance to be able to exit the prostitution industry - and not be kept in jail. It troubles me enormously, having lived in Vancouver for many years, to see how women in the Downtown East Side are constantly picked up by the police and jailed for being used in street prostitution - whereas the buyers are left alone by the police. They never touch the men. They just grab the women.

MEL: Have there been followers to the Swedish model recently?

Mrs. Ekberg: There was a serious debate in Finland last year. A parliamentary Committee was appointed to study whether to pass a law that criminalizes all purchases of sexual services. The Finnish parliament decided to prohibit the purchase of sexual services only from women who are victims of trafficking in human beings or victims of procuring. Lithuania has similar legislation to the Swedish one, but it is an administrative offence, and not penalized under the criminal code. Estonia will eventually pass one. South Korea has such legislation, and in many other countries in Europe as well as globally the debate is on.

I want to point out that we tend to forget the international agreements on prostitution and trafficking in human beings. Starting with the *1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*, it is very clear that governments that have signed and ratified this Convention have a full obligation to abolish prostitution and trafficking in women and girls for prostitution purposes. This is

not optional. Article 6 of the *Convention for the Elimination of All Forms of Discrimination against Women* (CEDAW), makes it obligatory for Member States to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.” Again, if you look at the UN protocol on trafficking in persons², article 9.5 clearly states that all Member States must put into place measures including legislative measures to discourage the demand. Same as with the recent *Council of Europe Convention on Action against Trafficking in Human Beings*, where it is stated that signatories must criminalize those who utilize the service of somebody that is the victim of trafficking, and undertake to implement preventative measures against the demand, such as awareness raising. Again, this is not optional. States have to do this.

It is interesting to follow the debates around the Pickton trial³ in Vancouver as we speak together. We talk about the protection of the women from the Vancouver Downtown East Side, self defense, opening shelters, safe sex measure etc, all of which of course is very important. Much more must be done to ensure their safety and to provide them with viable options outside the prostitution industry, and in particular support them to leave prostitution. But let's talk about who is Mr Pickton; He was a buyer, he picked these women up, sexually exploited them and then murdered them. Another example in Canada, in Alberta, Mr Svekla⁴ who killed several prostituted women, we don't yet know how many, was a buyer of women in prostitution. Luckily we don't have these mass murders of prostituted women here in Sweden. We haven't had any murders of women in prostitution by buyers since the 1980's. I am not saying that it couldn't happen. Of course

² See the United Nations Convention Against Transnational Organized Crime, as well as two supplementary protocols, the United Nations Protocol Against the Smuggling of Migrants by Land, Sea and Air, and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

³ Robert Pickton, a farmer from Port Coquitlam, British Columbia, Canada, was arrested and charged with six count of first-degree murder. He admitted he had killed 49 women. The trial started in January 2007 in New Westminster, a suburb of Vancouver.

⁴ Thomas Svekla from Edmonton, Alberta was charged in May 2006 with second degree murder in death of a sex-trade worker and indecently interfering with human remains. Project KARE a police task force based in Edmonton has been looking into the cases of women living high-risk lifestyles who have disappeared or been found dead.

it can, and may very well happen again. In 1985 the Canadian Fraser Commission⁵ said that women in prostitution are 40% more likely to be killed than women in the general population. I want to point out that when you visibilize and target men who purchase women and girls for sexual exploitation with criminal sanctions, you will also diminish crimes committed against these women by these men.

MEL: What has been the first public reaction in Sweden to the law? And what is it now?

Mrs. Ekberg: There is a general agreement within the population, I would say, that this law is a good law. I'll give you two examples: In Edmonton at the Vice Conference in November 2007,⁶ a women who had listened to me speak, came up to me afterwards. She said that she has relatives in Sweden, who she visited last summer. She had never heard about the legislation before, but talked about it with her relatives, working class people who are not involved in any sense in the debate. She said they were so proud of the legislation. Also, we did three polls (in 1999, 2001 and 2002) where we asked the public what they thought about this legislation. Consistently 80 % of the population supported not only the legislation, but the policies behind it.

There are a few individuals in Sweden who are opposing this legislation. They get a lot of space in the newspapers. They have repeatedly expressed that they are hopeful that the new conservative government will remove the legislation because “women are voluntarily in prostitution” and “the law destroys the prostitution business”. But people in general just don't buy these arguments.

It should be pointed out, that Sweden didn't have a well-organized prostitution industry when the discussion about the Law first came up. However, the National Rapporteur on

⁵ Special Committee on Pornography and Prostitution. Pornography and Prostitution in Canada. 2 Vols. Supply and Services Canada, Ottawa, 1985

⁶ The second Western Canadian Vice Conference 2006 was held in Edmonton in November under the auspices of the Edmonton Police service and the Prostitution Awareness and Action Foundation of Edmonton.

Trafficking in Human Beings⁷, has concluded that Sweden was just in time in passing this legislation in January of 1999, because the establishment of organized crime networks trafficking women for prostitution purposes in the Nordic countries exploded at the end of the 1990's. By passing the legislation, Sweden⁸ was able to stop a major expansion of their activities on its territory. Look, for example, at Norway today where organized crime networks run the prostitution industry, including the organized trafficking of Nigerian women all through Norway to the northern-most cities.

MEL: Lets talk about law enforcement and the police response to the legislation. How was the legislation received and how do you describe the impact it has on the police now?

Mrs. Ekberg: It was a real interesting time. In Sweden, legislative proposals of the government are sent to concerned public authorities, NGO's and others for comments, before legislation is passed. From the responses, it was quite evident that the police and the prosecutors were quite critical of the legislation. Their main concerns were: why should the focus be on the men only and how would the police and prosecutors be able to prove that these men actually had committed a crime?

When I returned to Sweden in 2001, I was hired as a special advisor on prostitution and trafficking in human beings to the government, a job that I left in November 2006. One of the first things I did, was to propose to the National Rapporteur and the National Criminal Police, to develop and implement trainings of police officers on the legislation and policy concerning prostitution and trafficking in human beings with a focus on the

⁷ A national rapporteur on trafficking might something to think about for Canada. It is very useful to have an office that has as its mandate to have an overview of what is going on in such a big country. On February 6, 2007, the Standing Committee on the Status of Women released its report, Turning Outrage into Action to Address Trafficking for the Purpose of Sexual Exploitation in Canada. In the report, the Committee recommends that "a national rapporteur be established to collect and analyze data on trafficking in persons, and that the national rapporteur table an annual report to Parliament. The national rapporteur must consult with stakeholders as to how to best implement a data collection and tracking system that would protect the integrity of police information as well as protect victims of trafficking".

⁸ When the law that prohibits the purchase of a sexual service was passed in January of 1999, two monitoring mechanisms were put into place by the government: the National Board of Health and Welfare that is responsible for monitoring the development of prostitution in Sweden and the National Rapporteur on Trafficking in Human Beings who monitors the trafficking situation in Sweden situated at the National Criminal Police.

reasons for passing such a law, on attitudes toward women in prostitution, on attitudes that police officers may have regarding the men that purchase a sexual service and on all the perpetrators: the buyers, the pimps and the traffickers. These trainings are still carried out both for police officers in service as well as at the police academy. Such trainings are really essential in order to ensure successful implementation of this kind of legislation.

Since the Law was passed in 1999, the police and prosecutors in Sweden have had a change of opinion in regards to the legislation. In Sweden, it is the international prosecutors' offices that deal with the trafficking procuring cases, especially when the activities are cross-border related. The prosecutor is the chief of investigation and works very early on with the police officers that investigate a case. When the police raid a brothel, they will find women who are being prostituted, and sometimes the pimp and/or trafficker (or at least enough evidence to be able to identify them), as well as a number of buyers who are arrested on the spot. The buyers will be prosecuted at the same trial as the pimps and/or the traffickers. After appearing in court, it becomes very clear to the buyers that they are, in fact, the reason for why the women are brought to Sweden. They are forced to see themselves as an essential link in the chain of perpetrators of international trafficking in human beings for sexual purposes.

In trafficking and procuring cases, the testimonies of the victims are often central to the process. The prosecutors may present investigative evidence obtained through phone tapping, video surveillance of men entering and leaving a brothel, and maybe of Internet communication between buyer and pimp (often disguised as emails between buyer and woman). But in the end it is always on the shoulders of the victims the women to describe what really happened. They have been in the situation and are of course heavily traumatized by their experiences and the violence that they have survived. They have to tell their stories many times, to the police officers, to the prosecutors and then again in court, as Swedish judges prefer direct testimony over video-taped statements⁹. The buyer's testimony is about how he got in contact with the pimp, what was the address of the place, who did he purchase, how much did he pay, and other important information

⁹ It can be a real problem if the victims, e.g. in trafficking cases, have returned to their countries of origin.

about the prostitution operation. This evidence can often corroborate the evidence given by the victims.

The former police chief of Stockholm County Police was one the most vocal critics of the legislation when it came into force. When he retired a few years ago he made the point of speaking to media, saying how wrong he had been concerning the legislation, which he now thinks is very useful in the procuring cases as well as in trafficking cases.

In addition to training, it is important to adequately fund the police for measures to combat prostitution and trafficking in human beings. When the police were given a clear mandate to investigate prostitution and trafficking cases in more depth, they often found involvement of organized crime, and often the same networks, that also traffic drugs.

We have had serious problems of the trafficking in Russian women for prostitution purposes to the very north of Sweden, the county of Norrbotten in particular. Norrbotten is a vast and very rural and mountainous area bordering Norway and Finland, and situated very close to the Russian border. Some years ago, a number of Swedish men went to Finland to pick up Russian women who had been transported to small Finnish villages by Russian pimps. The buyers brought women home for the weekend, sexually exploited them and then sent them back to the pimps after the weekend. Originally, the local police would not deal with this situation at all. They argued that there was no problem and that the trafficking of Russian women did not exist in the region. In the end, and after extensive discussions, the chief of the county police force agreed to develop and implement training for all police officers in the county in collaboration with the National Criminal Police. The attitudes have slowly changed and that particular police chief has had to leave his position because of the situation.

MEL: When you say the attitude has changed, does that mean also that work daily practices, law enforcement methods have also changed?

Mrs. Ekberg: Yes. The former government of Sweden, as I mentioned before,

earmarked 30 million Swedish Crowns (about 7 million \$) for the police specifically to combat prostitution and trafficking in human beings for sexual purposes. Many of the police agencies did not have the experience to deal with procuring and trafficking cases, nor the funding for these very expensive investigative operations. The police agencies in the 21 Swedish counties could apply to the National Criminal Police for funding and people for training and operative assistance.

Internal trafficking is very common in all countries and has always been part of how pimps manage their business. Men who purchase women for prostitution purposes, require access to new women and many different women. To satisfy the demands of the buyers and hence, to maximize their profits, pimps regularly traffic women and girls between cities and regions.

MEL: Is there still illegal buying of sex in Sweden? If yes what is the solution?

Mrs. Ekberg: Yes, men are still, to some extent, purchasing women and men for sexual purposes in Sweden. Please remember that change, especially of attitudes, takes time. A friend of mine pointed out, in a lecture some time ago, that Sweden is really in the midst of an important cultural change, going from a culture of prostitution to a culture where prostitution is seen as undignified to and a violation of the rights of those who are the victims of prostitution. Again, such a cultural change takes much longer than eight years. But at least we have started such a change, something that cannot be said of most countries in the world.

We have succeeded in minimizing the purchases of sexual services, curbing the entry of women and girls, boys into the prostitution industry, and assisting women to exit. The level of men buying women and men is much lower than in any of our neighboring countries. When you implement legislation that has the goal to curb demand, the first men to stop purchasing are what we call the “occasional buyers” i.e. those men who, after they leave work for the day, purchase a woman in a bar, on the street, at a hotel or other easy-to-get-to place for a blow job or a quick whatever and then go home. According to

research on buyers by professor Sven-Axel Månsson, who has been working on issues of prostitution since the 70's, the absolute majority of men are occasional buyers. Then you have the hard-core buyers who represent about 3% of the total number of the buyers. They would do anything basically to find somebody to purchase.

Street prostitution is almost gone. In Sweden, several studies about the Internet and prostitution and trafficking of women have been undertaken. The studies, including one done by the University of Gothenburg, conclude that the number of women being sold over the Internet in Sweden is comparatively low (88 to 100 women, who were advertised to up to 25 different sites), and that the selling and purchasing of women on the Internet is not caused by the passing of the law but rather is a result of the Internet explosion in all countries in the world at the end of the 90's. The practices of Internet pornography and prostitution is a big concern to all of us¹⁰.

The National Criminal Police have developed a team of police officers that work specifically on tracking the purchase of women and children over the Internet.

There is a recent case from the Court of Appeal, of a pimp of Finnish origin that sold Estonian women and girls that he had rented from brothels in Tallinn, over the Internet. He ran three apartment brothels in Stockholm. When the police raided his brothels, they confiscated his computers on which were e-mails from buyers, as well as his book keeping. He had noted the names of men who had purchased, their phone numbers, addresses, credit card numbers, and who and where they had purchased. The Court concluded that it was acceptable evidence to charge and convict the buyers. This is a big step forward in targeting the prostitution on the Internet. If you have an experienced team of knowledgeable police officers obviously they can do quite a lot of harm to the prostitution business if they focus on it, because everything on the Internet can be

¹⁰ At the European Union Presidency Conference *Violence against Women - from Violation to Vindication of Human Rights*, in May 2004 at Dublin, (Ireland), Mrs Ekberg said that “ the pornography and prostitution industry is in the forefront of technological innovation and change on the Internet. It plays a vital role in making the Internet an economically viable medium by supporting research into new and faster ways of distribution and accessing information. For example, the pornography industry supported the development of a system for on-line credit card purchases, now used on most trade sites on the Internet.”

tracked.

MEL: Do you have any idea of how many people are still involved in prostitution in Sweden?

Mrs. Ekberg: I can't give the latest actual numbers, but the National Board of Health and Welfare will publish their report later this year. They concluded in their earlier report in 2003, that the numbers had gone down from about 1500 to 500 individuals in local prostitution. The National Rapporteur¹¹ has said in her reports that victims of trafficking in human beings are 700 at the most. This is very low, if you compare with other countries. You need to keep in mind that depending on what kind of legislation you have in a country, the number of victims will be counted differently. For example in the Netherlands only women who are forced into prostitution are considered as victims of trafficking. In Sweden, even if women know and have agreed to come here for prostitution purposes, they are seen as victims and will be counted as such. The pimps will be charged and convicted whether or not women say they knew that they were to end up in prostitution. The National Criminal Police just published their annual report a few months ago. In a sense, I really don't care much about numbers because it is very difficult to establish the actual number of women who are victims. But if you look at Australia for example, the government claims that they have few victims of trafficking every year. To me it becomes almost laughable, because they have a legal prostitution industry, with an enormous number of women coming from several Asian countries and from Eastern Europe to be prostituted in both legal and illegal brothels.

MEL: How does illegal purchase work in Sweden?

Mrs. Ekberg: Pimps, traffickers and buyers target women who are economically and

¹¹ For more details see, Prostitution and trafficking in human beings. Fact Sheet. Ministry of Industry, Employment and Communications. April 2005. Available at:
<http://www.sweden.gov.se/content/1/c6/04/28/96/88110928.pdf>

racially marginalized, who come from countries where the legal, political, economic and social position of women is seriously infringed upon. We also need to remember that many if not most women in the prostitution industry are victims of prior sexual abuse by men close to them - fathers, brothers, uncles, husbands, boyfriends etc.

The poverty levels of women in Sweden are not at all comparable to those in Canada. If you make comparisons with other countries, such as the three Baltic countries, Estonia, Latvia and Lithuania, recent members of the EU, where I have worked, many women and girls live in abject poverty. Pimps and traffickers, the international prostitution conglomerates take advantage of this situation. The local prostitution industry in these countries is enormous. Low budget airline companies are cashing in on this development, by organizing regular flights to the capitals of the three Baltic countries. It is almost exclusively men who travel on these flights, often on weekend trips with the specific purpose of visiting brothels.

Moldova is another example of a destination country for buyers, and a country of origin for the trafficking on women to many of the EU countries, The country is treated as the backyard of Europe, and not yet a member of the EU.

We should start developing measures to prevent and combat the trafficking of women and girls for the purpose of forced marriage. Many women, who are trafficked for forced marriage, are funneled into the prostitution industry in the countries of destination. Women who are trafficked for the purpose of prostitution may also be married off to the pimps to facilitate their entry into the country of destination. Let me give you an example. Just before I came back to Sweden to work, I was privileged to work with women at a centre for immigrant women in Canada. We noted that some women who came to Canada to be married to Canadian men, were also brought into the prostitution industry by these same men.

MEL: According to you the issue of choice in prostitution makes no sense. There is no way a woman would choose prostitution as a way of living?

Mrs. Ekberg: Poverty is not a choice. Prostitution is not a choice. Women end up in prostitution when they live in dire and difficult circumstances. I really don't like the word. If you were to have a real choice you have to have had equal alternatives to choose from. I can't see that women who have been sexually abused as a child, or who come from a First Nations community where there are social problems, or women who come from a country where their position is marginalized, to say the least, have adequate alternatives.

I have worked basically all my life against male violence against women and girls. I have met and talked with many women in prostitution in Denmark, including indigenous women from Greenland at the beginning of the eighties, in Canada, in Sweden, in Nepal and in many other countries. I have met many women who said that it was a choice for them to enter and stay in prostitution. A friend of mine who has been prostituted always responds to the question of whether it was a choice for her to enter and stay in the prostitution industry: what did you expect me to say? I was on the street, and in a sex club, and you wanted me to sit down and analyze my condition? This while men were using and abusing me, pimps were living off my earnings, and violating me every day? Of course, she says, I had to say that I chose to be in prostitution.

It is very useful for those that support the prostitution industry to use the concept of choice. If one woman says that she chooses to be in the prostitution industry, that must mean that thousands and thousands of other women in prostitution also have chosen prostitution as work. How convenient for the buyers and the pimps.

As with everything else in the world, if you ask the right questions you will get an answer - and that answer will not be: I like this, it is my choice! We have to learn to be critical and to look behind the surface of what is said by those who speak so eloquently about how wonderful it is to be part of the prostitution industry. We have to investigate where they come from, and who they are representing.

In addition, the prostitution industry influences popular culture. Fashion, media, music, film - all is used to promote and legitimize the prostitution industry. Young women are made to believe that striptease is not harmful to them. They take striptease/lapdance courses and then enter the industry, to find themselves stuck. Instead of having an exciting experience, they find themselves being constantly sexually abused by men. Men stick their fingers into them, they touch women everywhere. But because these women walked into the clubs themselves, they think that they have chosen to be there themselves. It is very difficult for them, because of this constant interest of the promoters of the industry to say that "prostitution is sex work, sex work is choice, choice is good, so prostitution is good." Because these young women were not kidnapped or forced, they feel that they do not have the right to ask for assistance to leave prostitution.

Another thing that should be mentioned is: what do the defenders of the industry actually promote when they say to these young women that prostitution has been of your own choosing? Well, what they say is you chose it, you got yourself into it, you get yourself out. Why should we bother to assist you if it is your own choice to take part in the prostitution industry? All this is a way to normalize the prostitution industry. This benefits the industry.

MEL: As being one expert in the field, how do you see the Swedish model, with its implied changes in law police enforcement activities and people attitudes, can be implemented in such a large country as Canada ?

Mrs. Ekberg: Yes. I certainly think that it would be very possible to decriminalize the women and those who are used in prostitution and criminalize the buyers in Canada. First of all, we have to have a political vision. We have to ask ourselves what kind of society do we want to live in? What do we want for young women and for ourselves as a society? Do we want women to be drawn into the prostitution industry to be sexually exploited by men who sell and purchase them? Or do we have a vision for another kind of society where women and girls, in fact, are not violated daily, and where their human dignity and

bodily integrity is respected? I don't think it would be more difficult to make this change of direction in Canada than it was in Sweden. But you need to be willing to let go of all the false ideas about the prostitution industry and the supposed benefits to women to be used in prostitution.

It is time to start to investigate the legal forms of the prostitution industry in Canada, such as local regulations that allow licensing of massage parlours, escort agencies, lap dancing and sex clubs, as well as casinos, the exotic dancer permits that are a legal way for the industry to traffic women into Canada, the pornography industry where women are used and exploited every day. And importantly, the solicitation law in the Criminal Code must be removed.

Criminalized prostitution, not an efficient solution - Interview with Professor John Lowman¹²

MEL: Generally speaking there are two legal approaches to prostitution: the legalization/decriminalization option, and the criminalization of prostitution-related activities. You are a strong opponent of any form of criminalization of prostitution. Why?

Professor Lowman: There are several reasons. First and most important, criminalization exposes people involved in the most marginal form of sex work to violence. Street prostitutes are one of the favourite targets of serial killers. Currently we see serial killers in England and the USA and, in Canada, in Edmonton and here in Vancouver. These murders provide the worst example of what can happen under a criminal regime. Second, I do not accept the radical-feminist argument that prostitution is violence against women. I distinguish sexual slavery (which is a form of violence that should be criminalized in any decent society), survival sex (which is a form of commercial sex undertaken by young runaways and other impoverished people who have very limited opportunities for making money - the reason they are involved in sex work is a quick way of making money when they have few other options); and bourgeois prostitution, which is engaged in by people who have others choices. They prostitute because of the opportunity it affords them: it pays well. Many of people involved in prostitution have had other jobs and job opportunities. They are not trapped.

By the way, I should add a clarification about feminism and prostitution by noting that there is probably no issue over which feminists are more deeply divided. Radical feminists propose decriminalization of the sale of sex and criminalization of sex purchasing and procuring, while pro-choice feminists advocate decriminalization of both the buying and selling of sexual services.

When it comes to the state's involvement, I do not believe the state can justify

¹² You can contact Professor Lowman at: jlowman@shaw.ca

criminalizing the consenting sexual behavior of adults. Why would the state criminalize the sale of sex, which effectively means demanding that if they are going to have sex with men, women must provide it for free? One of the ways around this is to criminalize the purchase of sex, but not its sale. For example, under the Swedish model, customers and procurers are criminalized because they are deemed to be “exploiters.” The sale of sex is not criminalized because the prostitute is defined one-dimensionally as a victim. This radical-feminist approach entails a form of paternalism that insists that prostitutes who resist the victim paradigm – as most do – are deluding themselves. It effectively treats such women as children who need to be saved from themselves, ironically feeding into the sorts of stereotypes that feminists usually oppose.

In sum, criminalization does not make sense to me. When it comes to survival sex the issue is not prostitution. The issues we need to deal with are poverty, addiction, the effect of colonization on aboriginal peoples, and so on.

MEL: What solutions do you see to problems in the current Canadian situation?

Professor Lowman: Let’s reflect on Canadian laws for a moment. Prostitution, the acts of buying and selling sexual services *per se*, have never been criminal offences in Canada. In the latter part of the nineteenth and early part of the twentieth centuries a series of laws were added to the bawdy-house laws that were imported as part of the English legal system. The bawdy-house laws originated in common law relating to nuisance. We see several prostitution statutes aimed at exploitation of women added during the white slavery campaign at the beginning of the twentieth century.

The problem with Canadian prostitution law as it exists today is that we really don’t know what, as a whole, it is trying to achieve. Constitutionally, if you look at the way law is supposed to work according to the principles of fundamental justice, it must not be “vague.” This principle is usually applied to laws one statute at a time. But if you look at the package of statutes relating to prostitution they are vague to the extent that we do not know what they are trying to achieve. Take for example the Reference case seventeen

years ago which concluded that the communicating law violates the Canadian Charter of Rights, but that the violation is justified according to section 1 of the Charter ([1990] 1 S.C.R. reference re ss. 193 and 195.1(1)(c) of the criminal code (man.)). In that decision the justices on the Supreme Court of Canada could not even agree about what prostitution law is trying to achieve. In a 4-3 decision, the majority argued that prostitution law is design to eradicate prostitution. However, the minority argued that this cannot be the case, because the legislature has never criminalized prostitution itself. Consequently, one of the first things the federal government should do is to make a decision about what prostitution law as a whole is trying to achieve. If prostitution is to remain legal, as I believe it should, we have to decide where and under what circumstances it can occur.

MEL: Are we talking here about all forms of prostitution? If the law is vague it might be because there are so many forms of activities - street prostitution, massage parlors, certain kinds of nude dance, etc - are included under the umbrella of prostitution. Some activities are regulated by by-laws that allow some form of commercial sex to take place. Does that explain why the situation is so complex?

Professor Lowman: Not really. I argue that many of these different forms of prostitution have arisen in direct response to the laws. Escort services arose to take advantage of the development of certain kinds of technology - the telephone pager – at a time when police were vigorously enforcing laws against in-call prostitution establishments (such as the brothels on Yonge Street in Toronto in 1977), and indoor meeting places (such as the Penthouse and Zanzibar cabaret clubs in Vancouver in 1975). Escort services really got going in Canada in the 1980s as a result of law enforcement actions against the off-street prostitution trade during the 1970s that put much more prostitution on the street than had hitherto existed. Escort services were a response to the problems created by enforcement of the bawdy-house laws; they allow the operation of off-street prostitution in a situation where the owners and operators can deny that they are actually involved in prostitution. They claim that all they do is introduce people. Whatever they do once they meet is their business; if it happens to be prostitution, that's their personal decision. Prostitution businesses are fluid, the fluidity being a reflection of

operators finding loopholes in the law. Law enforcement efforts against off-street prostitution are usually quite expensive, and you very rarely get public complaints about the off street trade, which is one reason why police usually leave it alone: out of sight, out of mind. That's why we have two-tier system of prostitution in Canada.

I do find it significant that the actual act of prostitution has never been criminalized in Canada. It reflects our liberal political tradition which sees the state has having no place in the bedroom of the nation, to use Pierre Trudeau's famous line.

MEL: Would you go as far as to stay that prostitution is a form of private behavior that should be left to individual private choice, and that there should be no licensing or any other form of regulation?

Professor Lowman: If a person works independently and privately, should they be licensed? No. The city of Edmonton introduced a \$2000 license fee for so-called "independent escorts." Should we be doing things like this? No. If you want to have places where several people are going to work, then you have a form of collective commerce, in which case the state has a legitimate regulatory role. The question is, what kind of regulation should it be? Two models are discussed in the literature: "legalization" and "decriminalization."

Legalization is usually a combination of some form of direct licensing of prostitution combined with criminal laws that attempt to deter certain aspects of the trade, such as street prostitution. Usually legalization involves direct licensing of prostitution as such, and often involves mandatory medical checks. Decriminalization involves taking all references to prostitution out of the criminal code. Its advocates usually call for generic forms of regulation, but not the specific licensing of prostitution as such. To illustrate this point take, for example, zoning by-laws. Rather than creating "prostitution zones," zoning laws might apply to "entertainment industries" in general. If you want to have places like small brothels where 5 or 6 people work, obviously they should not be located in residential areas. Of course pubs and amusement arcades should not be located in

residential areas either.

The reason to avoid specific licensing of prostitution is because it is a highly stigmatized activity, and we do not want to contribute to that stigmatization by creating a prostitution licensing system. You don't want the licensing system itself deterring people from participating in whatever regulatory scheme is adopted, because if sex workers refuse to buy into the system, we won't be any farther ahead than we are now. To remove violence and exploitation from prostitution, we need to amend legislation relating to workplace, health and safety standards, etc. to ensure that people are working in conditions that are fair and safe. We should use generic zoning laws to ensure that prostitution does not bother people in residential areas, and so on. The Pivot Legal Society report *Beyond Decriminalization*¹³ identifies 10 areas of civil laws that could apply to prostitution if it is decriminalized, and describes the ways these laws ought to operate in a decriminalized environment. One of the points we wanted to make in this report is that, depending on how provinces and municipalities proceed to apply civil and administrative law to prostitution, they can reproduce many of the same problems that already characterize regimes of criminalization. As to violence and nuisance, we have other statutes in the criminal law that can be used. We don't need laws specifically relating to prostitution to be able to deal with the aspects of the trade we would prefer to see removed altogether.

Of course, the law is only part of the solution for many of the people currently involved in commercial sex. Yes, women involved in survival sex need a safe place to work. But what they really need are solutions to poverty, substance abuse, the effect of a couple of hundred years of colonization on Aboriginal peoples, etc. But until we get those solutions, we need to make sure that people involved in survival sex are not getting murdered by serial killers or beaten up or robbed because they are forced into the back alleys of commercial areas like the Downtown East side of Vancouver because they are deemed to be a "nuisance." We want to stop these women being murdered. The death penalty is not appropriate for nuisance (it is not appropriate for anything).

¹³ *Beyond Decriminalization: Sex-work, Human Rights and a New Framework for Law Reform* June 2006. Available at; <http://www.pivotlegal.org/Publications/reportsbd.htm>

MEL: How extensive is the sex trade in Canada? How many prostitutes are working in the different sectors?

Professor Lowman: Nobody really knows. There is an estimate for the early 1990s by Rossmo and Routledge for the number of street involved women in Vancouver¹⁴. If I remember the figure correctly, they estimated that somewhere between roughly 1300 and 2300 different people worked as street prostitutes in Vancouver in a given year. It is estimated that, Canada wide, the street prostitution trade accounts for anywhere between 5% and 20% of the overall prostitution trade. But these are guesstimates. All sorts of people are not involved on a permanent basis – they work only when they need to. You have a kind a dilettante prostitute who would works occasionally in escort services. When somebody loses her job she might prostitute for a short period. So many different things are going on. Images that you see in some literature of prostitutes being stuck in the trade, moving to lower and lower echelons as they get older, forever trapped, and ending up dieing in the gutter hold true only in some cases. Broad generalizations about prostitution can be problematic.

MEL: How do you see the issue of free choice in prostitution?

Professor Lowman: People generally choose to prostitute, but they often make the choice in conditions they do not choose. An aboriginal woman (or anyone else) who finds herself on the street at 13 years of age may insist that she “chooses” to prostitute; from her point of view she does make a “choice.” But what other choices does she have? Most people would probably not refer to her decision as a “choice.”

Clearly choice is not involved in sexual slavery. When a gorilla pimp beats a woman up and forces her to work the street, she is not choosing to prostitute. When a woman is

¹⁴ Rossmo, D.K. and Routledge, R. "Estimating the Size of Criminal Populations." *Journal of Quantitative Criminology*, 6:293-314, 1990.

trafficked into Canada and held in debt bondage, she is not choosing to prostitute. But there is a difference between “migration” and “trafficking.” Sometimes when women migrate they know what they are getting into. They make a choice because they see an opportunity to make money. Needless to say, this choice may be dictated by their poverty. At the other end of the spectrum are women who take advantage of the cultural stereotypes of sexual desirability and make large amounts of money as a result of their involvement in the sex trade. They could make money other ways. They may have degrees or they may be enrolled in university, and work in the sex trade to avoid accumulating tens of thousands of dollars of student-loan debt. When they graduate, they may go into many other kinds of work.

Having been involved in prostitution research for 30 years I still know some people who I first met 25 years ago. I’ve had an opportunity to see how their lives turned out. The stereotypes about what happens to sex workers are precisely that: stereotypes. They fit only some of the people involved.

When it comes to prostitution policy, the issue is what it is trying to achieve, and that’s where “choice” comes into the equation. From my perspective the policy goal is obvious (even if how to achieve it is not): if people are going to prostitute, we should try to ensure that it really is by choice. We should not be telling people they cannot prostitute. We should try to ensure that neither economic circumstances nor other human beings force them to do so.

MEL: Would you agree to say that choice is particularly important for those who want to exit prostitution? And what about the stigma attached to it, even if prostitution was a solution at some point in a person’s life?

Professor Lowman: Research on street prostitution in Canada shows that about 70% of the people involved started prior to the age of 18. Typically 30% grew up in a foster or group home, and they were moved around a lot. You find kids running away from home, or being thrown out. They usually have less than a grade ten. Once involved in

prostitution they get trapped, because it is very difficult to get out when you don't have any skills, and not much education. We need to create opportunities for these people to get out of prostitution. The choice really is the important component of the equation. We should be focusing on maximizing choices.

MEL: One of the most documented issues in the literature is health and safety of sex workers. You argue that the decriminalization/legalization option would improve the whole situation. How do you see the situation being improved if Canada decides to legalize or decriminalize prostitution and get rid of the communicating law?

Professor Lowman: Right now we have a situation where sex workers are completely alienated from the police because they are pitched in an adversarial relationship. Take the communicating law, for example. To report a robbery or assault a street sex worker has to admit a crime. Obviously that deters her from seeking the help of police. Also, as is documented in the just release government report *The Challenge of Change*¹⁵, some police officers take the attitude that prostitutes deserve what they get: if you don't want to get robbed or assaulted don't go out on the street corner. Indeed, this appears to be the attitude of the current government. You see the same attitude in a decision in a *Criminal Injury Compensation Act* (British Columbia) case where it was determined that a woman did not deserve compensation for her victimization because she was working when the offence occurred and, according to the decision, prostitution is "inherently dangerous." That is a political statement not an empirical one. Prostitution is *not* inherently dangerous. There is a vast difference between what happens on the street and what happens in many off street locations. You could say that unprotected sex with multiple partners is dangerous, but most prostitution involves protected sex. So, yes, there are

¹⁵ On November 2004, Canada's Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness asked the Subcommittee on Solicitation Laws to examine prostitution laws. The government released its report in November 2006. Canada. Standing Committee on Justice and Human Rights (2006). *The Challenge of change: a Study of Canada's Criminal Prostitution Laws*. Report of the Standing Committee on Justice and Human Rights. Reports of the Subcommittee on Solicitation Laws. December. Available at <http://cmte.parl.gc.ca/Content/HOC/Committee/391/reports/rp2599932/justrp06/03-cov2-e.htm> Retrieved 2006/12/16

epidemiological issues with multiple sex partners, but there are ways to mitigate this risk: you need some kind of prophylactic in the prostitution transaction. The defining feature of prostitution is the exchange of money for sex, and there is nothing inherently dangerous¹⁶ about money.

MEL: You are not saying that prostitution is *per se* an economic transaction. The economic aspect is one aspect of a sex transaction. The objective is not free sex. You buy something and the something is sex.

Professor Lowman: Prostitution is a sexual act from the point of view of the buyer, but from the seller's point of view that is not usually the case. She exchanges sex for money, but the sex is not about her deriving sexual pleasure from the transaction. Prostitution nevertheless does involve a sexual act, and there is nothing inherently dangerous about sex. Putting money into sex does not make it dangerous *per se*. What is dangerous is when prostitution occurs in, for example, isolated back alleys in the Downtown Eastside of Vancouver. Prostitutes are so highly stigmatized that serial killers can justify preying on street-involved women, and our laws give them the opportunity to indulge their desire to hunt and kill humans. What is going on in the mind of a serial killer? It is easy to prey on prostitutes because nobody cares - nobody is going to do anything about it! It is the criminalization of prostitution that enables serial killers like Gary Ridgway¹⁷, the Green River Killer, to kill so many women. His statement in court about why he chose prostitute victims says all that needs to be said:

I picked prostitutes as my victims because I hate most prostitutes and I did not want to pay them for sex. I also picked prostitutes as victims because they were easy to pick up without being noticed. I knew they would not be reported missing right away and might never be reported missing. I picked prostitutes because I thought I could kill as many of them as I wanted without getting caught.

When we look at who is victimized, all the evidence indicates that street prostitution is by

¹⁶ See, for example, Sanders, T. (2005) *Sex Work: Risky Business*, Willan Publishing

¹⁷ Gary Ridgway from Salt Lake City Utah, USA, pleaded guilty in 2003 to 48 counts of aggravated murder of women. Most victims were either female prostitutes or teenage runaways.

far the most dangerous form of commercial sex. This is not to say that everything is okay off the street. There are reprehensible situations in some kinds of off-street prostitution as well. In some situations, there is exploitation, debt-bondage, and trafficking. However, when you look at bourgeois prostitution you see a different story. I have records of two establishments both of which go back nine years. In each establishment there was just one incident where police were called. Both of these are female operated establishments, neither of which employ male bouncers to protect the women. There is very little violence because when the business is monitored, and when payments are made by credit card, there are witnesses and records. Such venues are safer for obvious reasons. We create the milieu in which violence occurs by criminalizing prostitution. Do you find serial killers wandering all over the Netherlands or in New Zealand where prostitution is legal? No you don't. You don't actually find them in Sweden either. But one of the things that is important about Sweden is it had one of the lowest prostitution rates in the world when the country decided to criminalize the customers and decriminalize the sale of sex. Why is the rate of prostitution so low? Perhaps it is because Sweden has one of the most substantial health and welfare system in the world today. By the way, in Sweden there is almost no enforcement of customer and procuring laws against anyone other than the customers of street prostitutes because these laws are very difficult to enforce in off-street locations. If introduced to Canada, how would police enforce laws against off-street venues where the sale of sex is legal, but buying is a criminal offence. It would mean the police having to entrap clients by setting up bogus massage parlours or escort services. This isn't going to happen as it would constitute blatant entrapment.

In that context I have another problem with radical feminist prohibitionism, and that is the argument that without demand there will be no prostitution. It is just as true to say that without supply there will be no prostitution. One of the interesting things we found in our interview and questionnaire research with clients is that many said the reason they buy sex is its availability: "the opportunity was there." Purchasing sexual services is often opportunistic: "I saw the women standing there, so I decided to try it." Prostitution is a supply and demand phenomenon. The idea that we should get rid of the demand is a slippery slope because it opens the door to criminalizing sellers. Regardless, if we do see

the Swedish model adopted in Canada, it won't do anything to change the two-tier system of prostitution we already have; if anything, it will accentuate it, making things even more dangerous for survival sex workers on the street.

MEL: How do you see the role of the police in a decriminalized environment? Do the police still a role to play?

Professor Lowman: Yes, the police are going to have a role to the extent that we know that certain men can be dangerous. We will always need police to protect women from these men. However, to get back to radical feminist arguments for a moment, arguing that prostitution is violence against women because certain clients are violent is like arguing that marriage is violence against women because some husbands are violent.

Police will always have a role insuring that sex workers are safe. Also they will have a role insuring that clients are safe. In studies of prostitution researchers ask sex workers about ways there are victimized, but they rarely ask clients the same questions. In our research on clients we did¹⁸ and found that both buyers and sellers are victimized. Street pimps often encourage the women who work for them to rob a client if they can get away with it. In street-pimp subculture the client represents the lowest form of masculinity because he has to pay for sex. In contrast, the pimp is the highest order of man, because his women effectively pay him for sex. In contrast, the off street prostitution trade is often organized around pleasing clients, because proprietors want them to come back.

Police presumably will have some kind of role in any kind of regulatory scheme, although it should be minimized as much as possible. Enforcement of municipal regulations does not need to be a police function. One of the most important things we need to achieve is getting prostitution off the street. In the case of those unfortunate people who can't get off the street, who don't have the skills to work in the kind of off street prostitution trade, we need some form of safe environment. Dutch "Tippel Zones"

¹⁸ See Lowman, J.; Atchison, C. (2006). Men who buys sex: a survey in the Greater Vancouver regional district. *The Canadian Review of Sociology and Anthropology*, 43,3

¹⁹ makes more sense than finding women's bodies in back-alley dumpsters.

Safe zones are only a short-term solution until we can figure out how to get survival sex workers out of the sex trade. But until we do, we need to protect them. So let's get our priorities straight by calling these zones what they are intended to be. We could call them "red-light districts," but that is not really their intention; a better name would be "murder-free zones."

The Amsterdam Toppel Zone was located on the outside the city where people would have to be bused on a daily basis. The area was quickly taken over by organized crime groups because it was never policed. It was designed to fail. But if you look at Toppel Zones in some other Dutch cities, they provide a model that we could emulate. Toppel Zones are a short-term solution because most of the people who use them to sell sex should not be involved in the prostitution in the first place.

MEL: Human trafficking and human smuggling are often linked to prostitution. It doesn't appear that we know the current situation in Canada. How do you see the impact decriminalization or legalization could have on trafficking of human beings?

Professor Lowman: Slaves were often forced to pick cotton, but when we abolished slavery, we didn't stop picking cotton. I think the same kind of attitude has to be taken to prostitution. "Trafficking" involves movement of people into the sex business without their consent. We may be able to better deal with trafficking and commercial sexual exploitation of children if we decriminalize prostitution and introduce some kind of generic regulation of the sex trade. When you look at the reasons the Dutch oppose

¹⁹ While trying to work on the legal component of the prostitution, the Amsterdam police had some problems with the illegal sectors. The police and City Hall allowed sex workers to work in an area outside the city during a designated time period. Stalls were set up for cars to park, with business conducted inside the car. Toppel zones give drug addicted and illegal immigrant sex workers a place to work. A coffee house and some NGO,s provided support to sex workers. But the police did not do anything to control what went on inside the Amsterdam Toppel zone, which meant that organized crime groups took control. Also, the decision to locate the zone on the city outskirts made little sense because it ignored the needs of the people who were supposed to use it. Consequently, the zone was closed. Nevertheless, Toppel zones still exist in several Dutch cities.

criminalization, it is because they think legal prostitution allows more effective ways of dealing with sexual exploitation of children and trafficking of women. Opponents of legal prostitution argue it will increase trafficking. But they cannot produce any plausible research to demonstrate this. The truth is we don't know what is happening in some of the jurisdictions we are talking about. It is too early to tell what is happening in New Zealand, for example, because decriminalization occurred just four years ago. We need to see some truly independent evaluation research in this regard.

I would like to add a couple of comments about prostitution and fear of organized crime. Prohibitionists argue that organized crime will get involved or become more involved if we decriminalize or legalize prostitution. The first point is that organized criminal groups already are involved in prostitution. In this regard we need to ask why organized crime is involved in the first place, and why it flourishes. Let's face it, organized crime is seen as a product of alcohol and drug prohibition. Organized crime is the product of false scarcity created by prohibition. When it comes to prostitution, off-street prostitution is "organized crime" by definition, because for it to occur off the street, prostitution has to involve some form of "organization" to make it work. Should we refuse to legalize prostitution because of organized crime involvement? To answer this question, let's see where this logic takes us.

A couple of years ago the *Vancouver Sun* reported that a member of the Hell's Angels owns a well-known supermarket in the West End of Vancouver. According to the logic of those who argue that prostitution should be criminalized to stop organized-crime involvement, does this same logic mean we should stop selling food in supermarkets because organized crime is involved? Should we stop the film industry because of rumours that organized crime is involved in the ancillary businesses supporting it? We know that organized crime is involved in "exotic" dancing. Should we stop exotic dancing because Hell's Angels own the booking agencies? In the end we will have to stop all commerce, because that is where the argument takes you.

MEL: Municipalities regulate some forms of sex exchange through their by-laws. Is the

message sent that hidden prostitution is much less of a problem than visible prostitution?

Professor Lowman: Visibility is the name of the game. When it comes to law enforcement, 90% to 95% of all Canadian prostitution charges relate to the street trade. However, only 20% of the business occurs on the street. One of the arguments the “Concerned Residents of the West End” used back in the 1980s when the Fraser Committee²⁰ recommended that two prostitutes be permitted to work out of an apartment was that once neighbours realized that two prostitutes worked in the building, they would start moving out. As they moved out, more prostitutes would move in, so that, very quickly, the whole building would become a brothel. The fact is that prostitution is happening in our midst on a daily basis on a huge scale without us noticing it. Nevertheless, we will need some form of generic regulation pertaining to “entertainment businesses.” Some commentators seem to think that decriminalization means no control. But that is not the case. Decriminalization means better control because it creates a situation where we will have to directly address issues like zoning.

As things stand, Canadian prostitution law creates an obstacle course requiring police to drive a car through the obstacles without using the steering wheel. We put them in the car, but instead of using the steering wheel, we tie their hands behind their back and require them to negotiate the corners by throwing their weight from side to side. We need to take the steering wheel if we want to drive the car through the obstacle course without killing the sex workers lining the route.

Canadian prostitution law is contradictory and self-defeating. In the early 1970s all of a sudden there was a substantial reduction in the number of street prostitution charges and huge increase in bawdy house charges. Shortly thereafter commentators started to ask why, all of a sudden, street prostitution was increasing. It increased on the street because police put it there. They have been trying to get it back off ever since. You see the potential for the same phenomenon to happen again here in BC’s Lower Mainland.

²⁰ Special Committee on Pornography and Prostitution. Pornography and Prostitution in Canada. 2 Vols. Supply and Services Canada, Ottawa, 1985

In December 2006 police in the municipalities surrounding Vancouver raided 16 massage parlors. The justification was that we must stop trafficking in women in these locations. But I doubt that is what these raids were really about. Why? First, because they just happened to coincide with the release of the government report on prostitution law, which was predicted to recommend decriminalization of prostitution. It did nothing of the sort; indeed, it made no concrete recommendations about law change of any kind, and was widely condemned as a result. Second, when you look at the profile of the people arrested, who were they? Every one was either a citizen or a landed immigrant. They were all 19 years of age or older. The police didn't find any kids, and the women they picked up did not fit the typical profile of trafficked women. Now we hear police are trying to convince the women to testify against the people running the parlours. What is the result going to be – more street prostitution? Perhaps not, because the day after the raids, local newspapers reported that all but one location had reopened for business.

MEL: Don't you think there is a misunderstanding about prostitution? Attitudes seem to be based more on perceptions than facts. What do we really know about prostitution here in Canada?

Professor Lowman: I think we have a reasonably good handle on it through research. We have much less information about the off street trade, although several researchers are studying that now, including me and one of my students. We have very good information about people involved in street prostitution. We have good information about rates of drug use, and rates of pimping. We have very good information about law enforcement.

Many observers argue that prostitution and drug addiction go hand in hand. That is not the case even in street prostitution. Most street pimps, at least the pimps who run "high track" in Vancouver, don't let the women who work for them use intravenous drugs. They want to put the money in their pocket not in the women's arms. Intra-venous drug users are spoiled goods in this subculture. There may be some forms of prostitution

where drugs are used to control women, but this is not the norm. Nevertheless many sex workers are exploited through their drug use. On the Downtown Eastside the women are exploited by the dealers who sell intravenous drugs and crack. Indeed, drugs are a more demanding “pimp” than any man.

Only a relatively small proportion of sex workers are pimped in the traditional sense of that term. We need to ask what exactly the term “pimp” means. From a legal standpoint, a pimp is somebody who procures and/or lives on the avails of prostitution. Given that many municipalities license escort services and body rub parlours where prostitution is known to occur, we might say one kind of “pimp” is a person who wears a suit and tie and sits on city council. If you look at by-laws for body rub parlors in Vancouver, for example, you will find that the annual license fee is \$7 0000. That is the third highest license fee in the city next to the race track and the Pacific National Exhibition. In contrast, a license for a massage parlor costs less than 200 dollars per annum. If you look at the difference between what the by-law allows in a massage parlor as compared to a body rub parlor, it is clear a body rub parlor is designed for prostitution. A massage parlor service must be restricted to therapeutic massage. People of different sexes are not allowed in the same room, although I don’t think that section is ever enforced. A body-rub parlour is allowed only to provide “touch” that is not “therapeutic.” There can be no locks on the doors of any room, proprietors are not allow to advertise on the outside of the building that there is any kind of sexual entertainment provided inside. When you look at the definition of a “body rub,” it can only mean one thing: sexual activity such as masturbation and oral sex. If the form of “touch” is not therapeutic, what else could it be? Some people might regard sexual touching as being “therapeutic,” but it is not in terms of these by-laws. It is quite clear that the municipality knows that a body rub parlour is a sex establishment – why else would the license cost nearly \$7,000? If you look at municipalities which charge \$5000 for an escort service license, what do you think they think is going on in an escort service? One argument is that they keep the fees high so that they can deter people from obtaining licenses. Another way of looking at it is that the municipalities want their cut too. In fact, the municipalities are in part “living on the avails of prostitution,” which is a criminal offence.

MEL: In a legalized environment, procuring and living on the avails are not illegal per se. Should these activities be kept outside the realm of criminal law?

Professor Lowman: They have to be kept outside the realm of the law to the extent that if you want to get most prostitution off the street you have to have a mechanism for clients to meet sex workers. That means generally advertising via the Internet or in newspapers and other print media. Some women would prefer to work in an establishment of some kind because they do not want to work out of their home, in which case, you either have to have a sex-worker co-operative, or some kind of third-party providing advertising, a place of business, and so on. We need to ask whether the rates third parties charge is fair or exploitative. Is there coercion? When it comes to threats, violence, and debt bondage we already have the criminal laws we need. If there are problems enforcing these laws, then change them so that they do work. Ultimately for there to be legal prostitution you have to get rid of the laws as we know them, including bawdy house, procuring, and living on the avails laws.

The courts have ruled that to be found guilty of living on the avails the relationship has to be “parasitic”. One consequence is that the partner of any prostitute could potentially be prosecuted for living on the avails. These laws contain a rather sinister moral script about prostitution. Their subtext is that nobody would want to live with a prostitute unless they make money out of her. They seem to doubt the idea that anyone can love a prostitute. Nevertheless, if there is coercion, if a person is forced to be a prostitute, the criminal law should be applied.

MEL: Can you talk about your most recent research projects?

Professor Lowman: My most recent work looks at the off-street trade and (with Chris Atchison) at clients. When you start researching clients you realize that there are as many different kinds of clients as there are different kinds of sex workers. There isn't a single client mentality. Most sex buying is clandestine activity and solitary. You do get some

group client experiences – perhaps men in a sports team go out together to buy sex. Then there is the old-style stag party where men may pay for sexual liaisons at the party. But very few of the men we interviewed talk to other people about their sex buying activity because they feel a sense of shame. We have reached the point where being a client is probably as stigmatized as being a prostitute. The cultural image is that the client is a failure as a man. He has to pay for sex, which makes him something less than other men. But there were all sorts of differences among clients we spoke to. Take, for example, the famous actor a few years ago who was exposed as a client when Heidi Fleiss was charged with prostitution offences. One journalist asked him, “What on earth is a good looking guy like you having to pay for sex for?” “I don’t pay for sex,” the actor is alleged to have replied, “I pay the women to leave afterwards.”

We should mention debates about power relationships in prostitution. Radical feminists argue that prostitution is like rape to the extent that it is more about power than it is about sex. Indeed, from their point of view, prostitution is rape punctuated by the money exchange. That is great political rhetoric but makes little empirical sense. It doesn’t do a good job of describing the experience of prostitution for many of the people involved. Is sex-buying about power? At one level it is about power to the extent that if a person has the money they have the power to buy sexual services. But they do not have the power to do anything they want, because in many cases the prostitute dictates the terms of the contract. One of the most important considerations about legislation in a decriminalized environment is that the sex worker must always be empowered to dictate the terms of the contract. Nobody who employs a sex worker should ever be able to dictate what services a sex worker performs, because a person must have the right to control the use of their body. Prostitution is not the same as other types of commerce. Prostitution should be treated as work, but it is not just any type of work. In most kind of service work the employer can dictate what sort of services the employee will perform within certain parameters. However, in prostitution, the worker must always have the final say.

One of the most important findings of our client research (not yet published) is that approximately 10 to 15% of clients do not have a sexual interaction even though they pay

the sex worker the going rate for sex. Rather than orgasm, they are interested in affection and touch. I suspect that for some men who do engage in sex, reaching a physical climax is not their main reason for visiting a sex worker. Rather, they are lonely and desire female companionship. It is very difficult to specify a percentage in this regard, but one way of understanding the mixed motivations of some men who purchase sexual services is to resort to the cultural adage, “men think with their penises.” When a man visits a prostitute the expectation is that he will have a sexual experience. It appears that many men satisfy their desire for touch and affection through sexual interactions, in which case they are not so much interested in having an orgasm as they are in hugging someone else. I doubt that this is the case with the vast majority of street prostitution liaisons which are geared primarily to produce the client’s sexual climax as quickly as possible.

In an escort notebook I obtained when I was looking at pimps (procuring and living on the avails of prostitution) in Vancouver, the woman listed the nature of the sex transactions she had over a two-month period, and entered comments about each client. Roughly 15 percent of the men who paid her just wanted to talk and hug. They knew she sold sexual services, but that’s not what interested them. They just wanted a hug. Many different research sources tell this same story. This finding makes prostitution far more complex than radical feminists would admit. Did this particular escort get the “men are pigs” style of client? Yes she did. All they were interested in was sexual gratification, and a couple of them were not particularly pleasant in the process. However, only one man got “rough.” Of this man her notebook says, “I beat him up.” I could not help but think “Good on you.”

Many commentators see prostitution as the ultimate form of objectification. But talking to the people involved, one realizes that both objectification and subjectification occur in commercial sex interactions. In some respects, the prostitute objectifies the client more than the client objectifies the prostitute. When we asked clients about their satisfaction with prostitution experiences, one of their main complaints was that many sex workers “have no heart.” They want to make the client climax as quickly as possible and leave. In this sense, stereotypical gender roles are reversed in prostitution. The traditional male

role as initiator is taken by the prostitute. She initiates, she is the one who gets the man to undress as quickly as possible, if he undresses at all. She is the one who wants him to reach orgasm as quickly as possible because, from her point of view, the interaction is not about sexual pleasure; she just wants the money. For her subjectively, it is not an act of “sex” even though the sexual organs are involved. It is not an act of procreation or recreation, and it is not about love or affection.

I should add that not all prostitution fits this mold. Some sex workers are able to be much more selective about their clients, and they report enjoying some of the sexual interactions. A woman who is able to command thousand of dollars a night for her services is able to pick and chose her clients. Quite the opposite is the two-minute blow job in a car in a back alley.

Are all clients male? In ours surveys, the vast majority of clients are men, but this may be slowly changing. We are getting more information about the growth of a female clientele around the world. There was a TV documentary a few years ago about an Australian escort service that caters exclusively to women who purchase sexual services from men. What was interesting about this program is the way it showed the difference between the cultural expression of male and female sexuality. For the female clients of this escort service, the interactions were rarely the half-hour or hour that is typical of most female escort services catering to males. The service involved a package that included dinner and other services, and the female client usually spent the night with the male escort.

I did a survey in several of my classes asking why women don't buy sex. One of the main answers was that women can get sex for free when they want it (although I question this assertion given the safety risks involved). Students suggested that cultural expectations were also at play: women are not expected to buy sex, so they don't.

SUMMARY OF THE INTERVIEWS

	Mrs. Ekberg	Professor Lowman
Definition of prostitution	<ul style="list-style-type: none"> -Prostitution is male sexual violence against women, girls, boys, young men -Prostitution is not sex -Women are victims with the right to assistance 	<ul style="list-style-type: none"> -Prostitution is exchange of money for sex by consenting adults - The act has never been criminalized in Canada - Prostitution business are fluid, and adjust to take advantage of loopholes in the law
People involved	<ul style="list-style-type: none"> -Targets are women economically and racially marginalized but also girls and young men and boys -Immigrant women - Trafficking in human beings is involved 	<ul style="list-style-type: none"> - Need to distinguish sexual slavery, survival sex and bourgeois prostitution - All sort of people are involved. Prostitution covers a large spectrum of choices, from people who sell sex out of desperation to people who do have other choices. Some are part-time prostitutes -Vast majority of clients are male; some desire female companionships, not sex
	<ul style="list-style-type: none"> -Women end up in prostitution because they did not have adequate alternatives - To promote free choice is to normalize the prostitution industry 	<ul style="list-style-type: none"> - Survival sex workers choose in conditions they do not choose - There is no choice in sexual slavery or debt bondage; policy should be designed to prevent women from being force into prostitution - Need to create opportunities to get women out of survival sex by giving them more economic opportunities.
Proposed solutions	<ul style="list-style-type: none"> -To criminalize the perpetrators/the buyers 	<ul style="list-style-type: none"> - Decriminalization enables better management of

	<ul style="list-style-type: none"> -To target the demand For Canada: need a vision to develop the model for Canada - Solicitation law in the CC should be removed 	<p>prostitution via implementation of generic occupational health and safety regulations</p> <ul style="list-style-type: none"> - Canada should remove from the CC, communicating, bawdy house, procuring and living on the avails . Use of generic criminal laws to combat violence and exploitation
<p>Why to legislate</p>	<ul style="list-style-type: none"> -Legalization, low or no sentences for pimps do not work -Women are murdered- no safety on the streets - Women have never been given access to adequate alternatives - Only women are pick up by the police, the buyers are left alone 	<ul style="list-style-type: none"> - Criminalization laws expose people in the most marginal form of sex work to violence - Serial killers prey on street prostitutes - Women in survival sex need a safe place to work - Very difficulty to enforce laws in off-street locations. Swedish model encourages entrapment - Criminalization alienates sex workers from police
<p>Consequences and impact of proposed solutions</p>	<ul style="list-style-type: none"> -The legislation seriously hampers the expansion of the prostitution industry and the profit - It will diminish crimes against women by men - Buyers and pimps are prosecuted at the same trial - Many people the general public, government officials, Ngo's support the legislation -Sweden went from a culture of prostitution to a culture where prostitution is seen as 	<ul style="list-style-type: none"> - Decriminalization would allow displacement of most street prostitution to safer indoor environments - Brothels can be safe - Better able to deal with nuisance, coercion and violence using generic regulation of prostitution trade - Decriminalization allows mechanisms for clients to meet sex workers off-street - clients are protected

	<p>undignified</p> <ul style="list-style-type: none">- The level of men buying women is low- Street prostitution is almost gone-Sweden was able to stop the expansion of organized crime	<ul style="list-style-type: none">- The Swedish model would entrench the two-tier system of prostitution that already exists in Canada (off-street prostitution is effectively legal and would remain so because of impracticality of law enforcement)
Police role	<ul style="list-style-type: none">-In Sweden at first they were critical : why to enforce only on men?- Need to develop trainings on the new policy to ensure successful implementation- Need to adequately fund the police	<ul style="list-style-type: none">- Under decriminalization police role is to protect prostitutes and clients- Enforcement of municipal regulations not a police function

Other Reports Available

<u>Date</u>	<u>Title</u>	<u>Author</u>
2006	The Netherlands Police Experience Controlling Prostitution - A Case Study	Marcel-Eugène LeBeuf, Ph.D.
2006	E-policing in Police Services Definitions, Issues and Current Experiences	Marcel-Eugène LeBeuf, Ph.D.
2006	Gang Prevention and Intervention Strategies	Jharna Chatterjee, Ph.D.
2006	Control or Regulation of Prostitution in Canada – Implications for the Police	Marcel-Eugène LeBeuf, Ph.D.
2006	A Research Report on Youth Gangs: Problems, Perspective and Priorities	Jharna Chatterjee, Ph.D.
2006	Racial Profiling in the United States: A Review of the Literature	Colin Goff, Ph.D.
2006	Inequality before the Law: The Canadian Experience of “Racial Profiling”	Ron Melchers, Ph.D.
2005	Policing in the Post 9/11 Era	Frederick Desroches, Ph.D.
2005	Organized Crime in Rural and Remote Canadian Communities – A Study of Police Officers’ Perceptions and Current Actions	Marcel-Eugène LeBeuf, Ph.D.
2005	Corruption in Policing: Causes and Consequences - A Review of the Literature	Don Loree, Ph.D.
2005	First Nations and Organized Crime	Colin Goff, Ph.D.
2005	The Changing Structure of Organized Crime Groups	Jharna Chatterjee, Ph.D.
2005	Police Information Sharing in Canada: Balancing Security, Efficiency and Collaboration	Marcel-Eugène LeBeuf, Ph.D. & Simon Paré, M.Ed.
2005	Responding to Organized Crime in Canada: The Role of Media and Social Marketing Campaigns	Tullio Caputo, Ph.D. & Michel Vallée

Other Reports Available Cont.

2004	Peacekeeping Missions and the Police in Canada: An impact study of civilian police officers and police services	Marcel-Eugène LeBeuf, Ph.D.
December 2004	Organized Crime and Human Trafficking in Canada: Tracing Perceptions and Discourses	Christine Bruckert, Ph.D. & Colette Parent, Ph.D.
September 2003	Aboriginal Organized Crime in Canada: Developing a Typology for Understanding and Strategizing Responses	E.J. Dickson-Gilmore, Ph.D. & Chris Whitehead
June 2003	On Organized crime and police cooperation in the European Union – lessons learned. Interview with Professor Cyrille Fijnaut	Marcel-Eugène LeBeuf, Ph.D.
May 2003	CCTV: Literature Review and Bibliography	Wade Deisman, M.A.
May 2003	Media Coverage of Organized Crime – Police Managers Survey	Judith Dubois
April 2003	Canada and the New Challenges Posed By Corruption in the New World Order: A Literature Review	Fernando Acosta, Ph.D.
March 2003	Criminal Networks	Vincent Lemieux, Ph.D.
March 2003	The Direct and Indirect Impacts of Organized Crime on Youth, as Offenders and Victims	Holly Richter-White, M.A.
June 2002	Canada-US Law Enforcement Border Partnership – An Evolving Situation	Marcel-Eugène LeBeuf, Ph.D.
June 2002	Media Coverage of Organized Crime: Impact on Public Opinion	Judith Dubois
June 2002	Trafficking in Human Beings and Organized Crime: A Literature Review	Christine Bruckert, Ph.D. & Colette Parent, Ph.D.
April 2002	Communities, Contraband and Conflict: Considering Restorative Responses to Repairing the Harms Implicit in Smuggling in the Akwesasne Mohawk Nation	E.J. Dickson-Gilmore, Ph.D.
1999	A Report on the Evaluation of RCMP Restorative Justice Initiative: Community Justice Forum as seen by Participants	Jharna Chatterjee, Ph.D.
August 1998	Restorative Justice And Policing In Canada Bringing The Community Into Focus	Margaret Shaw & Frederick Jané

