

## **Call for input to the report of the Special Rapporteur on violence against women and girls to the Human Rights Council on prostitution and violence against women and girls**

The Evangelical Fellowship of Canada (EFC) is the national association of evangelical Christian denominations, churches, post-secondary institutions and organizations in Canada. Established in 1964, the EFC provides a forum for collaboration and engagement among the roughly 1.7 million evangelicals who are part of its constituency.

### **Q.2**

Prostitution is a system of exploitation that is based on structural and gender inequalities and preys on vulnerabilities.

As Justice Goldstein of the Ontario Superior Court of Justice wrote in the 2023 *Canadian Alliance for Sex Work Law Reform v. Attorney General (CASWLR)* decision,

... exploiters and traffickers target those with pre-existing vulnerabilities. These vulnerabilities include addiction issues; poverty; cognitive ability; mental health issues; immigration issues; and medical conditions. There is also evidence that exploiters and traffickers specifically target youth in foster care, group homes, and youth correctional facilities. Often these are young women and girls who have been in the child protection system or run away from home. Indigenous girls and women are especially vulnerable.<sup>i</sup>

The vast majority of victims in prostitution-related offences in Canada are women and girls. The *CASWLR* decision noted evidence that "sex work is highly gendered - the overwhelming majority of sex workers are female, and the overwhelming majority of customers are male."<sup>ii</sup>

Statistics Canada reports that in police-reported incidents of sex-trade related crimes between 2015-2019, 94% of victims were women and girls.<sup>iii</sup> The median age of women victims is 18 years. More than 4 in 10 victims in violent offences involving at least one sex-trade-related offence are 12- to 17-years old.<sup>iv</sup>

The *CASWLR* decision noted evidence from a survey of victims of procuring in Quebec that 43.5% of the victims were minors, out of 292 cases analyzed in 2018 and 2019.<sup>v</sup>

Indigenous women and girls are highly overrepresented in the commercial sex trade. A key finding of fact from the *CASWLR* decision was that significant numbers of sex workers come from marginalized and racialized groups, and that Indigenous women and girls make up a disproportionate number of those involved.<sup>vi</sup>

The Manitoba Court of Appeal in *R v Alcorn* (2021) stated that more than 70% of commercially sexually exploited children in Manitoba are Indigenous.<sup>vii</sup> The Manitoba Provincial Court in *R v Gudmandson* (2018) described the profile of women and girls affected by prostitution in Winnipeg:

“The average age of entry to the sex trade was age 13. The average length of time in the sex trade is five or more years. .... Eighty-nine percent of the girls were of Indigenous background. Seventy-four percent of them were involved with Child and Family Services. They had an average of 6.5 placements. ...”<sup>viii</sup>

The *Gudmandson* decision also stated:

The reasons that youths and women became involved in the sex trade in Winnipeg were: early child sexual abuse/exploitation, failure to be protected as children, dysfunctional home life filled with conflict, involvement with child protection, and the additional legacy of the residential school system.<sup>ix</sup>

#### **Q.5**

The *CASWLR* decision states that “violence is a feature, not a bug of sex work. It comes in various guises and forms and is perpetrated by customers, exploiters, traffickers, and occasionally by other sex workers. Regrettably, sometimes it may also be perpetrated by police officers.”<sup>x</sup>

Survivors of prostitution tell us they experience violence from buyers, pimps and traffickers, and that where there is prostitution, there is violence. This violence can be sexual, physical, or psychological. The system of prostitution is inherently violent and exploitive, and we don’t believe that violence can be reduced to acceptable levels.

#### **Q.6**

The exploitation of women and girls in prostitution is a significant form of systemic violence against women. It is a grave violation of the rights of women and children to live free from violence, and a fundamental barrier to women’s equality.

#### **Q.7**

Sex trafficking, prostitution and pornography are inextricably linked. None of these exists in isolation from the others. Pornography fuels the demand for paid sex, which funnels women into prostitution and fuels sex trafficking.

In Canada, it is primarily Canadian women and girls who are trafficked, and they are being trafficked into the commercial sex trade.<sup>xi</sup> Prostitution is the most common end point for trafficking in Canada.

Pornography is the root of many other forms of sexual exploitation. Mainstream pornography is characterized by violence and the degradation and humiliation of women. Men who view pornography are more likely to hold a callous and adversarial view of sex, be more accepting of sexual violence, see women as sexual objects, and coerce women to have sex.

Law professor Janine Benedet’s brief to a parliamentary committee stated, “In a number of Canadian cases, pimps have also filmed the prostitution so that they can sell it to other men, and retain the recordings as leverage to prevent women from complaining about them.”<sup>xii</sup>

### Q.8

Laws must address individual acts of exploitation, but also consider the systemic nature of commercial sexual exploitation. While there are transactions within the system of prostitution that may be consensual and non-coercive, these are nonetheless situated within a system of exploitation that is based on structural inequalities and preys on vulnerabilities. In our view, it is not possible to protect voluntariness and prevent abuse and coercion within that system.

The *CASWLR* decision found “a clear link between sex work and human trafficking. It noted there is considerable evidence that many sex workers are manipulated or coerced into sex work or trafficked while in it.” Justice Goldstein wrote,

I make the following findings of fact in relation to the issues of choice, coercion, and human trafficking:

- To put it at its most basic, where a customer purchases sex, there is a significant possibility that the sex worker has been trafficked, manipulated, lured, forced, and/or coerced into providing sexual services, and in continuing to provide sexual services.
- Where a customer purchases sex, there is also a significant possibility that an exploiter or trafficker has used manipulation and/or violence to control that sex worker, take her earnings, and impose a “price” on her to leave the sex trade.
- Even where a sex worker has entered the sex trade by choice, there is a significant possibility that she has become subject to the control of an exploiter or a trafficker.
- There are some sex workers who freely choose to become involved in the sex industry, even where that choice is constrained as a result of economic factors or barriers to other occupations. Some of those sex workers remain independent. Some of those sex workers fall prey to traffickers and/or exploiters and become exploited.
- There are likely some sex workers who fall somewhere on the spectrum between coercion and free choice.
- A significant number of women and girls lured or coerced into sex work have pre-existing vulnerabilities, including contact with the child protection and foster care system; mental health or cognitive challenges; substance abuse challenges; or a combination of all of these things.
- It is not possible to quantify the numbers or percentages of those who engage in sex work voluntarily, involuntarily, or somewhere in between.<sup>xiii</sup>

Justice Goldstein noted that “The evidence fails to establish that the majority of sex workers enter the trade by choice, even constrained choice.”

## Q.9

In 2014, Canada enacted the *Protection of Communities and Exploited Persons Act* (PCEPA), which made it illegal to purchase sexual services or profit from the prostitution of others, while providing immunity for those who sell their own sexual services.<sup>xiv</sup>

Since PCEPA was enacted, there has been a significant decrease in homicide victims related to the sex trade, despite overall homicides increasing.<sup>xv</sup> Furthermore, the perpetrators were less commonly sex buyers or gang members after PCEPA, and more likely to be strangers or acquaintances. As well, victims of sex-trade-related offences were less likely to have a physical injury as a result of the incident after PCEPA.<sup>xvi</sup>

The immunity from prosecution for those who sell sexual services under PCEPA means they are able to contact law enforcement without fear of prosecution.

As the *CASWLR* decision notes,

If sex workers are not calling police because they fear being charged, that is a fear that is not based on anything in the challenged offences. It is a fear based on misunderstanding or fear encouraged by exploiters and traffickers.<sup>xvii</sup>

This is a failure of public education. A public awareness campaign and education about the laws and their intent is needed to ensure the full effectiveness of the laws.

Rates of police-reported crime related to the sex trade vary by region.<sup>xviii</sup> This may be, at least in part, due to differences in police resources, priorities, and enforcement. Enforcement of the law has been uneven across Canada, with some jurisdictions fully implementing and enforcing PCEPA, and some choosing not to do so.

Justice Goldstein concluded that, overall, he finds that “Parliament’s response to a pressing and substantial concern is a carefully crafted legislative scheme that prohibits the most exploitive aspects of the sex trade while immunizing sex workers from prosecution.”<sup>xix</sup>

## Q.10

The federal government collects statistics on criminal charges for prostitution-related offences.

Other data is collected is from pro-prostitution groups who advocate for decriminalization. As Justice Goldstein points out, some of the research in Canada appears to conform with the pre-conceived notions of the researcher that sex work is not inherently exploitive and dangerous. He found that the pro-prostitution experts were often “unwilling to acknowledge the reality that exploitation and trafficking play a significant, and not just a marginal role, in the sex industry”<sup>xx</sup> and downplay exploitation and extrapolate from qualitative studies with limited numbers of selected sex workers.<sup>xxi</sup>

There is a need for the federal government to collect more data.

### Q.13

We do not believe it is possible to protect and promote the safety of women and girls so long as the system of prostitution is normalized or legitimized. Canada's PCEPA seeks to "reduce the demand for prostitution with a view to discouraging entry into it, deterring participation in it, and ultimately abolishing it to the greatest extent possible, in order to protect communities, human dignity and equality."<sup>xxii</sup> PCEPA treats prostitution as a form of sexual exploitation that disproportionately and negatively impacts on women and girls, and maintains that the best way to avoid prostitution's harms is to bring an end to it.<sup>xxiii</sup>

It is evident, however, that successful implementation of the laws must be accompanied by public awareness about the laws and their intent and significant, sustained investment in exit services and supports for those wishing to exit prostitution.

### Q.14

It is critical that survivors be included in policy development, especially in light of confirmation bias among researchers and frontline organizations, and a tendency towards advocacy for decriminalization.

### Q.15

We believe Canada must:

- Maintain and enforce the prohibition against buying sexual services.
- Initiate public awareness campaigns and education about the law and its intent.
- Commit to stable, substantive funding for exit services and supports.
- Encourage the provinces to continue or reinstate educational diversion programs for first time prostitution offenders.
- Establish comprehensive and standardized education for law enforcement.
- Undertake clear communication with provincial Attorneys General and Crown Attorneys, and encouragement to enforce the laws.

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<sup>i</sup> *Canadian Alliance for Sex Work Law Reform v. Attorney General*, paragraph 183, [https://www.canlii.org/en/on/on/onsc/doc/2023/2023onsc5197/2023onsc5197.html#\\_Toc145586659https://www.canlii.org/en/on/on/onsc/doc/2023/2023onsc5197/2023onsc5197.html](https://www.canlii.org/en/on/onsc/doc/2023/2023onsc5197/2023onsc5197.html#_Toc145586659https://www.canlii.org/en/on/on/onsc/doc/2023/2023onsc5197/2023onsc5197.html)

<sup>ii</sup> *Ibid*, paragraph 163

<sup>iii</sup> *Crimes related to the sex trade: Before and after legislative changes in Canada*, Statistics Canada, 2021, <https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00010-eng.htm>

<sup>iv</sup> *Ibid*

<sup>v</sup> *CASWLR v. Attorney General*, paragraph 182

<sup>vi</sup> *Ibid*, paragraph 482

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- vii *R v Alcorn*, <https://www.canlii.org/en/mb/mbca/doc/2021/2021mbca101/2021mbca101.html>
- viii *R v Gudmandson*, paragraph 34,  
<https://www.canlii.org/en/mb/mbpc/doc/2018/2018mbpc31/2018mbpc31.html>
- ix *Ibid*, paragraph 37
- x *CASWLR v. Attorney General*, paragraph 216
- xi <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ntnl-strtg-cmbt-hmn-trffckng-2020/ntnl-strtg-cmbt-hmn-trffckng-2020-en.pdf>
- xii <https://www.ourcommons.ca/Content/Committee/441/JUST/Brief/BR11605444/br-external/BenedetJanine-e.pdf>
- xiii *CASWLR v. Attorney General*, paragraph 191
- xiv [https://laws-lois.justice.gc.ca/eng/annualstatutes/2014\\_25/page-1.html](https://laws-lois.justice.gc.ca/eng/annualstatutes/2014_25/page-1.html)
- xv *Crimes related to the sex trade: Before and After Legislative Changes in Canada*, Statistics Canada, 2021
- xvi *Ibid*
- xvii *CASWLR v. Attorney General*, paragraph 347
- xviii *Ibid*
- xix *Ibid*, paragraph 501
- xx *Ibid*, paragraph 111
- xxi *Ibid*, paragraph 129
- xxii Factum of the Respondent, AG of Canada, in *CASWLR v. Attorney General*, paragraph 20 (a)
- xxiii <https://www.justice.gc.ca/eng/rp-pr/other-autre/protect/p1.html>