

**British Columbia Coalition of Experiential Communities**

**Submission to the Senate Committee Hearings on Bill C-36**

**September 4, 2014**

**A Clear Pattern of Exclusionary Practices: Sex  
Worker Voices Silenced**

## **Introduction: The British Columbia Coalition of Experiential Communities**

The British Columbia Coalition of Experiential Communities (BCCEC) was formed as a result of two regional meetings held with British Columbian sex industry workers in 2002 and 2004. We formalized our consortium of sex worker activists in 2005. BCCEC members have over 40 years combined experience in advocacy, direct service delivery and community development, while those with sex work experience have a 60-year combined history in all facets of the sex industry.

BCCEC is a volunteer organization that works without funding and in a highly dedicated fashion toward the elimination of oppressive systems and forces that create harm for individuals in the sex industry. We fully embrace diverse perspectives and experiences in the sex industry. We do not support enforcement or rehabilitation models that promote the continued criminalization of sex workers or their clients or that perpetuate sex worker dependency on social programs.

BCCEC members have been major contributors to the work of sex worker organizations in Vancouver, Kamloops, Prince George and Surrey. Most notably:

- PACE Society, a longstanding Vancouver-based sex worker service and advocacy organization.
- The Mobile Access Project, a provincially funded mobile service that delivers overnight support services to sex workers in Vancouver,
- The Naked Truth, an online support and information forum for dancers that also sponsors fundraising events like “Dancers for Cancer”
- New Hope, a Prince George sex worker drop in and support program,
- Living in Community, a Vancouver coalition of sex worker representatives, community organizations, health services, business improvement organizations and law enforcement agencies that works toward harm reduction and community awareness of issues related to the sex work industry.

Since 2004, we have engaged in significant community-based research, which has supported sex worker participation in a variety of public policy and legal reform efforts. Our membership has testified, given evidence to or informed many public processes including:

- The Vancouver Agreement 2003-2005
- House of Commons Justice Committee’s Parliamentary Subcommittee on Solicitation laws 2005
- *Downtown Eastside Sex Workers United Against Violence Society and Sheryl Kiselbach v. Canada* 2008
- Sex Industry Worker Safety Action Group 2008
- Missing Women's Commission of Inquiry (British Columbia) 2010 - 2012
- *Bedford v Canada* 2010 - 2013
- City of Vancouver Task Force on Sex Work and Sexual Exploitation 2011 - 2014

We have further built the sex worker community's capacity through work related to the development of occupational health and safety materials (Trade Secrets) and via substantial investigations focused on determining the potential value of cooperative and/or industry-based associations for sex workers.

Finally, over our 10-year history, we have engaged hundreds of British Columbia sex workers of diverse cultures, gender identities and experiences in the sex industry. Together, we have established and participated in research projects and information-gathering activities by and for sex workers that have served to influence policy and practice among sex worker serving organizations, the Vancouver Police Department and the larger community. We are particularly proud of our collaborations with law enforcement and researchers, and as you will see from our publications, we have a long history of building relationships and collaborating with government officials. We are eager to partner with others in an effort to affect positive change in the lives of all community members.

Our publications include:

1. [Research Ethics: A Guide for Community Organizations](#) (2006)
2. [Tips for Individuals Participating in Community Based Research](#) (2006)
3. Building Capacity Among Survival Sex Workers for Influencing Harm Reduction Policies and Programs (2006) Download at: <http://bccec.wordpress.com> under 'Publications'
4. [...From the Curb: Sex Workers' Perspectives on Violence and Domestic Trafficking](#) (2006)
5. [Protection for All: Bad Date Reporting and Response Strategies](#) (2007)
6. [Bad Date Reporting and Response: Experiences and Insights from Sex Workers and Community Stakeholders, Discussion Document](#) (2007)
7. [Labour on the Margins: Sex industry Safety and Stabilization](#) (2007)
8. [Developing Capacity for Change: Cooperative Development Exploration Report](#) (2007)
9. [Leading the Way: Strategic Planning Toward Sex Worker Cooperative Development](#) (2008)
10. "The 411: Supports, Services and Information for Sex Industry Workers who are Victims of Crime" 2011 and "Violence and Collaborative Safety Planning with Sex Workers" 2011 (Both Available upon Request)
11. Opening The Doors: Defining Self-Regulation in the Sex Industry 2011 (Available on request).

# **A Clear Pattern of Sex Worker Exclusion**

## **Introduction**

My name is Susan Davis and I am an active sex worker of 28 years and I am a member of the British Columbia Coalition of Experiential Communities (BCCEC). I am speaking up to share my experiences of exclusion. I am speaking up for BCCEC members who must stay silent due to stigma. I am one of thousands of adult sex workers who will be directly affected by the outcome of your work.

As a sex worker and activist, I have fought for over 12 years for inclusion in society. During this time, I have been called every ugly name under the sun and have had my life threatened. I have been attacked when I speak publicly, named a representative of organized crime, labeled a “privileged” sex worker and called a supporter of child exploitation. In sum, I have had my honor and character defamed on many different levels.

I am none of those things. I am an active sex worker and an advocate for sex worker rights and the decriminalization of sex work. I have worked in escort agencies, massage parlors, independently from home and on the street in Halifax, Montreal, Toronto, Surrey, New Westminster, Burnaby and Vancouver's Downtown East Side where I met Canada's most prolific serial killer. I have served time in prison, survived numerous attempts on my life and survived addiction to intravenous drugs – until this day, 20 years later, I am clean.

Contrary to the self-serving notions that are put out by those opposed to sex work, my experiences are not those of some minority of “privileged” sex workers. In fact, I ask you how any sex worker can be deemed “privileged” in the context of criminalization - which is exactly what Bill C-36 proposes. In spite of all the evidence and the benefits, which could come from decriminalization, including countering exploitation, encouraging safety and promoting balance and tolerance towards sex workers, we have a government bill that will only endanger sex workers. Apparently, this is now the Canadian way.

This country was founded on principles of inclusion of all creeds, colors, religions and perspectives. Members of the Senate must model this philosophy and require that active and former sex workers are meaningfully involved in all legislative activities that affect their lives. Legislation enacted with the exclusion of voices like ours are bound to cause harm in the form of violence, extortion and stigmatization. Leaving sex workers out of this process reinforces an ideology that pushes us to the margins of society where our voices cannot be heard and our pain can be ignored. Do not render Canadian sex workers invisible.

## **Conservative Government Record - Exclusion of Sex Workers in Policy and Law Reform**

I speak to you on the issue of the exclusion of sex workers from the federal Conservative government's approach to sex work, both on a human, a policy and a law reform level.

It is the right of all sex workers to exercise agency in defining and describing their lived experiences and their working conditions. We have fought long and hard for inclusion in any efforts that could impact our human rights, health and safety and the stability of our community.

Over time, sex workers have developed complex solutions to the safety issues facing our community and, as important; have sought to distinguish adult consensual sex work from survival sex, human trafficking and youth exploitation. We educated ourselves on the process of public policy development coming to understand why participation in the public arena was important to our movement. We learned about policies governing ethical research. We learned about federal government policy meant to place the voices of victims of crime first. We learned about the Charter of Rights and Freedom, which is intended to protect the freedom and rights of all Canadians. The first time I read the Canadian Charter of Rights and Freedoms, I was angry. I actually cried when I realized that almost every clause was being violated in respect to the members of my community.

As we moved forward, sex workers also learned more about the biased and unethical research so often used to justify the actions and policies that place our community at risk. We attempted to engage with the individuals and organizations we believed were undermining our attempts to balance the debate sex work engenders, mostly to no avail.

For example, it came to our attention that Benjamin Perrin, a law professor at the University of British Columbia who recently served as Prime Minister Stephen Harper's lawyer, wrote a 2006 non-peer reviewed report on human trafficking entitled "*Falling Short of the Mark: An International Study on the Treatment of Victims of Human Trafficking*" in which not a single sex worker was interviewed. The report's statistics are extrapolated from other areas of the globe, Cambodia and an "African War Zone," and applied to the Canadian sex industry landscape. Exploitation does occur in the Canadian sex industry, but not in a way that is comparable to a third world nation or a war zone.

A subsequent Perrin non-peer reviewed report entitled *Faster, Higher, Stronger: Preventing Human Trafficking at the 2010 Olympics* (2007) used highly questionable evidence to construct baseless concerns about a feared onslaught of trafficked sex workers for the 2010 Vancouver Olympic Games. These notions, which have become widespread, were entirely dismissed in *Trafficking in Human Beings and the 2006 World Cup in Germany* (2007), a study authored by the UN International Organization for Migration that investigated claims of an association of mega sport events and trafficking for sexual exploitation. The study included an examination of the 2006 German World Cup and the 2004 Athens Olympics Games and found all such fears were completely groundless. Nonetheless, Perrin's "work" became the foundation of far reaching public education and fundraising campaigns that exploited the fear of women being trafficked and exploited during the course of the 2010 Games. As has been well documented, nothing of this sort occurred. However, the misinformation seriously undermined Canadian understanding of sex work and trafficking issues in Canada, while casting sex workers as nothing more than victims. Subsequently, a study, funded by Public Safety Canada, found that "there was no concrete and verifiable evidence of trafficking in persons for the purposes of sexual or labour exploitation linked to the 2010 Olympic Games<sup>1</sup>."

More seriously, Mr. Perrin's perspectives on trafficking were taken up in full by the Conservative government, most particularly by Conservative MP Joy Smith.

Joy Smith embraced Perrin's work using it, and other suspect work, to further what we believe to be her deeply moralistic and ideologically based goal of the abolition of prostitution. The

---

<sup>1</sup> Global Alliance Against Traffic in Women Canada. 2013. "2010 winter games analysis on human trafficking." Pp. vi.

statistics on violence and exploitation in the sex industry MP Smith uses to support her arguments are directly grounded in a bias that can only be deemed systemic.

In the September 2010 Ontario Superior Court decision – the Himel<sup>2</sup> decision – that first struck down many of the criminal code provisions on prostitution, Justice Himel highlighted the testimony of certain federal government witnesses who the government presented as expert witnesses. Himel ruled much of their testimony inadmissible.

Himel noted in her decision that “The evidence from some of these witnesses tended to focus upon issues that are, in my view, incidental to the case at bar, including human trafficking, sex tourism, and child prostitution.” Himel went on to say that none of these issues are directly relevant to assessing potential violations of the Charter on the matter of prostitution in Canada’s *Criminal Code*.

Notably Himel deemed Dr. Melissa Farley’s evidence “to be problematic” and found that her advocacy against prostitution, “appears to have permeated her opinions.” And further that, Dr. Farley’s “choice of language is at times inflammatory and detracts from her conclusions,” - for example that “prostitution is to the community what incest is to the family.” In the end, Himel assigned “less weight to Dr. Farley’s evidence.”

Himel went on to find that opposition to prostitution colored the testimony of other government expert witnesses. She found that “Drs. Janice Raymond and Michelle Poulin were more like advocates than experts offering independent opinions to the court. At times, they made bold, sweeping statements that were not reflected in their research. For example, some of Dr. Raymond’s statements on prostitutes were based on her research on trafficked women. As well, during cross-examination, it was revealed that some of Dr. Poulin’s citations for his claim that the average age of recruitment into prostitution is 14 years old were misleading or incorrect.”

Yet, at the Justice Committee hearing on Bill C-36, challenges to the data that Smith, and the other Conservative committee members, relies on were ignored. This cherry picking of data and the support for findings deemed supportive of a personal goal of abolition of prostitution undermined sex workers voices at the hearings. More broadly, it is a deliberate and highly inappropriate exclusion of the factual data crucial to understanding and improving the lives and safety of sex workers in Canada.

## **Failed Attempts to Engage with the Conservative Government on Sex Work Issues**

Once we became aware of Ms. Smith’s position on sex work and her grossly inappropriate conflation of human trafficking with sex work, we made many attempts to engage with her to discuss our concerns. It was our hope that we could share our collective experiences and research findings with her to, hopefully, find a way to balance the need to fight exploitation with the rights of adult consensual sex working people. She refused to meet with us.

We also attempted to engage with Rob Nicholson, then Minister of Justice (February 2008). This effort related to a joint federal/provincial/territorial justice ministers’ project focused on creating

---

<sup>2</sup> See Himel, S., Justice, Superior Court to Ontario, *Bedford v. Canada*, 2010 ONSC 4265, 2010-09-28, Section 353, 354, 355, 357.

a National Strategy on Missing and Murdered Women, an issue of deep concern to Aboriginal women across Canada. Noting many of the missing and murdered women were/are Aboriginal sex workers. Throughout this work, which included the development of a research paper to inform the justice ministers' process, not a single sex worker was consulted over the course of this work.

Over time, the justice ministers' work led to federal funding to address these issues, much of which was allocated to the community on a national basis (some funding was directed to the RCMP to improve law enforcement efforts). While noting the funding was profoundly inadequate (\$25 million over 2010 -2015), we remain outraged that not a penny of this \$25 million in funding has gone to sex worker organizations. Noting, as part of this effort, we sent letters to all of Canada's justice ministers (13 in all). Four responded to letters to simply note our concerns. Not one sought any further contact with us.

Minister Nicholson finally responded to our correspondence in June 2008. He informed us that we would not be included in any future planning on these issues. He further informed us the federal government intended to continue enforcing the laws against sex work in attempts to fight exploitation. Of course, the Supreme Court of Canada subsequently struck down these laws deeming them dangerous to sex workers,

We then took our complaint of inappropriate exclusion to Susan O' Sullivan, the Federal Ombudsman for the Victims of Crime (February 2011), specifically in regard to the lack of inclusion of sex worker perspectives in the National Strategy on Missing and Murdered Women. Commissioner O'Sullivan communicated our concerns to the federal government, but also told us she was unable to act in any direct way because any joint federal/provincial/territorial government actions were beyond her mandate.

In September 2011, we again contacted the Ombudsman in a further attempt to urge MP Joy Smith to meet with us to, at a minimum, honor the federal victim's first policy. Meetings with Ms. Smith were set and then cancelled. We are still waiting for Ms. Smith to engage in a meaningful dialogue with Canada's adult consensual sex working people.

In sum, despite our repeated attempts to broaden and deepen the conversation, we could not convince government representatives to engage with us. We note here that the federal government constantly describes sex workers as victims while as constantly congratulating itself for its work on behalf of victims of crime, as in its stated policy of placing the "Voices of Victims First." Clearly, sex workers are not even on the government's agenda when it comes to speaking with us about our experience and needs.

More broadly, the federal government has never truly engaged with sex workers on any of the issues where we should be included. It is our firm belief that the continued failure of the federal government to include sex worker voices demonstrates the systematic exclusion of sex workers from any development of the policies, laws and strategies the government asserts are meant to increase sex worker safety.

We also want to underline that all of the demanding work we undertake to participate in the political arena is work that we bring forward on an entirely volunteer basis. That our efforts are so baldly spurned by elected representatives who are supported by generous salaries, ample expense budgets and by all manner of paid staff is both deeply shameful and offensive.

## **Bill C-36: Exclusion of Sex Workers Voices**

Our understanding of the parliamentary process is that committees are struck to uncover the facts and to report back to Parliament thereby educating parliamentarians while allowing fair and unbiased decision making on matters before them –matters that very often impact the safety of all Canadians.

In our view, Bill C-36 is founded on personal moralistic and ideological beliefs and is grounded in biased, and potentially unethical, information and research. Neither has any place in federal law reform efforts. Indeed, many experts question whether the bill will pass constitutional muster as its criminalizing intent and provisions will not address sex work safety or violence against sex workers. Indeed, the bill is an unmitigated disaster for the very people the government claims it wants to protect.

We also note here that the government's constant focus on the protection of children and youth bares scrutiny. Bill C-36 is aimed at adult sex work and bears no relationship to youth at risk or youth engaged in prostitution, noting we already have laws to protect youth from sexual exploitation. Similarly, the government's constant focus trafficking for sexual exploitation should raise concern when we already have laws to detect trafficking and protect people from being trafficked for sexual exploitation. These issues can only be seen as red herrings intended to distract the public from an honest depiction of adult consensual sex work.

In our view, the Parliamentary Justice Committee hearings replicated the Conservative government's longstanding exclusionary attitudes toward sex workers. At the hearings, sex workers testifying were mocked, belittled, laughed at, and their testimony was not taken seriously. Members of the audience heckled them while the Conservative Committee Chair did nothing to stop that behavior to ensure sex workers voices were fairly included or to ensure they felt safe giving their testimony. Generally, Conservative committee members asked no questions of those who opposed the Bill – clearly demonstrating they had no interest in including all relevant perspectives and evidence on the issue.

In one extremely inappropriate comment Conservative MP Stella Ambler went so far as to tell a witness her experiences sounded like a “surreal sitcom.” An insult that sex worker witness and to all the work sex workers have collectively done in our fight for our lives. In another example, MP Joy Smith questioned Jean McDonald, Executive Director of Maggie's, a Toronto sex worker organization with 25 years of service to sex workers, on whether she was paid for her work. When she was challenged on the relevance of her question, she refused to answer.

Finally, there is the relentless exclusion of the voices of sex workers of varying gender identities. The Conservatives refuse to acknowledge the existence of male and trans sex workers. They prefer to remain blind to the specific barriers facing these sex workers. It is a further demonstration of how completely uninformed and exclusionary this process has been.

Let us remember this treatment is meted out to a group of Canadians who face extreme violence, stigma and marginalization and who are among the most, if not the most, victimized by crime in our society.

This kind of behavior should have precluded these Members of Parliament from becoming members of the Parliamentary Justice Committee. Bias and the promotion of a personal goal of



abolition of prostitution have no place in a parliamentary process.

### **Conclusion: Nothing about Us Without Us**

All over the world, people are beginning to understand the harms caused by the criminalization of sex work and the dangers of conflating sex work and human trafficking. We have many examples of government efforts to protect sex workers by decriminalizing and/or legalizing sex work (See, New Zealand, Australia and Germany, among many others). Just like all businesses and industries in Canada, a decriminalized sex industry would require measures aimed at protecting sex workers and addressing community concerns.

Sex workers themselves have developed in depth plans to ensure workers have the tools to make safe decisions about their work and address the exploitation of people in the sex industry. This work was ignored in favor a new set of laws that enforce criminalization via a made in Canada model that heavily borrows from other asymmetrical criminalization model found in European countries. These models continue to prompt serious questions on whether they reduce violence and exploitation or improve sex worker safety.

By so massively supporting one side of the discussion over the other, the government's representatives have breached the public trust. Their acceptance of questionable data and evidence, their exclusion of active sex workers voices, their exclusion of gender diversity and their clear lack of impartiality demands the Senate must send Bill C-36 back to the House of Commons to be amended or, better still, withdrawn.

In closing and as can only be expected, sex workers will continue to demand equal rights grounded in fair and impartial processes that work to respect and honor our work and our lives. We will always fight any attempt to deny us rights and further destabilize our lives and safety. We are dedicated to moving forward toward inclusion and justice, and to create safer communities for all sex workers and for all citizens. Nothing about us without us!