

Brief to the Senate Standing Committee on Legal and Constitutional Affairs;

Discussing Bill C-36, Protection of Communities and Exploited Persons Act, September 9th 2014

By Jim Wiggins

====

Summary:

I start with a brief description of some of my experiences as a “john”, as a client of prostitutes, over some 30 years which provides some basis for my objections to C-36. Which will, I think, badly serve not only prostitutes, but their clients and, more importantly society itself.

This is followed by some elaboration on my motives which are predicated, in part, on objections to the characterization of johns as “perverts”, and prostitution as a “degrading practice, as I think both of those are serious misjudgements, seriously flawed stereotypes, of the industry. And I also raise some objections to what I think are also misjudgements about the nature and scope of trafficking. More generally, I also raise some objections to the religious bias in those misjudgements and their potential ramifications.

The core of my argument is that the government has not broached, much less addressed the question of whether there is a moral case against prostitution; that it has simply, by fiat, asserted there is one, but has provided no evidence to support the hypothesis or claim; that it has based its assertion on an empty or badly flawed “religious and ideological framework” which is “in itself an immoral act [which] undermines the normative principles of not only policymaking but democracy itself.” [15,16]

Point of View:

While I certainly don’t know everything about the “sex industry”, including all of the various players and their motives, I have been a john or client of prostitutes, and have purchased sex over a period of some 30 years – off and on, and in various venues including on-the-street, massage parlors, in-call and out-call – so I think I may have some first-hand knowledge that may be of some use or value in these hearings.

But it seems to me that many of the previous discussions, both inside and outside the House of Commons Justice Committee, have been somewhat marred or vitiated by a tendency, more or less on both sides of the issue, to characterize those entire populations of players – primarily prostitutes, pimps, and johns – based on the worst or best attributes of some small segments of those groups– which qualifies as some questionable stereotyping at best, and as bigotry at worst.

So while it may be somewhat moot how typical I am of any particular segment, and how common it might be, my impression – based on no small amount of studying and soul-searching which motivated both my participation in the John’s Voice survey [1], and some subsequent CBC Radio interviews [2] – is still that those players and, as equally important, society itself is going to be rather badly served by Bill C-36 as it stands.

Motivations:

As for why I might be willing to stick my neck out – which very few of us have done publicly so far, at least intentionally, although there was a notable and commendable exception in Time Magazine recently [3] – I expect that the primary reason is due to the Hon. Minister Peter MacKay calling the clients of the profession “perverts” [4], and by the more general observation by my interviewer that society has a “low opinion of men who buy sex”. Which has necessitated a great deal of effort and reflection on my part to determine if there were any justifications for those judgements.

And part of that process included more than a few discussions with many of the escorts I hired – which I think illustrates the fact, corroborated by various other johns and sex workers, that buying sex is frequently substantially more than the wham-bam-thank-you-Ma’m stereotype that many in the anti-prostitution cohort seem to think is typical. People are certainly entitled to think that if they wish, but to peddle that opinion to a wider audience as if it were the gospel truth is, in my opinion, virtually criminal. I certainly very much appreciated the services rendered, which, while they were not technically on the menu, so to speak, frequently included no small number of “tender mercies”. As one female (I think) owner of an agency put it in one of our tweet exchanges, “Mental health, physical health -- and marriage counseling. Escorts do it all.” [5]

In any case, one of the more memorable of those discussions included an entirely unexpected but most welcome, remarkably flattering and quite gratifying comment from my companion for the evening who averred that I must have been a prostitute in an earlier life. Not that either she or I really believed that – it was merely, I expect, a metaphor to suggest that I exhibited a degree of understanding and empathy and sympathy that was not easily acquired any other way. Part of the process of making human connections, something which I think contributes substantially to redeeming both the profession and the industry.

But in addition to society’s low opinion on those who buy sex, another secondary or related reason for sticking my neck out is the question of trafficking and coercion, something my interviewer questioned me rather closely on. While I was and am most definitely uncomfortable with the thought that my actions may have contributed in some way to the type of horror stories the Smiths, and others, have described during the House of Commons hearings, I also have to, analogously, admit to being uncomfortable with the thought that the shirts on my back, or the food on my plate, are there because of slave or sweat-shop labour. And the solution, in both cases, seems not to criminalize, in general, the work that goes on inside either brothels or factories, or the purchase of the associated services and products, but to ensure fair compensation and safe working conditions that should reduce or limit the number of specific abuses.

While I think that many in the pro-prostitution lobby are a little too quick to discount claims and evidence for that trafficking and unconscionable coercion – maybe understandably as their livelihoods are at stake – I also think many in the anti-prostitution cohort have a problematic tendency to overinflate those, and to fall prey to moral panics of one sort or another – which is also probably understandable and evidence that their hearts at least are in the right places. But it seems the only reasonable way off the horns of that particular dilemma is for all concerned to acknowledge, to agree, that the problem exists to some degree greater than 0% and less than 100%. And to then fashion appropriate labour law to deal with the smaller number of exceptions rather than trying to insist that the exceptions are the rule – as seems to be the essential “principle” behind Bill C-36.

However, creating such laws that are equitable and effective seems, as is frequently the case, much easier said than done. Particularly since the phenomenon of “perverse incentives” [6] – “unintended and undesirable result(s) which (are) contrary to the interests of the incentive makers” – tends to be an all too common consequence of failing to understand the nature of the system one is attempting to control. And one of the more amusing but illustrative cases-in-point was a program that the French colonialists in Indochina [circa 1930] implemented in an attempt to exterminate rats by paying people a bounty for each rat tail handed in; unfortunately the actual effect was that it led to the farming of rats.

Similarly with Prohibition [7] which led, particularly in the US but also in Canada to a lesser extent, to an actual increase, rather than a decrease, in violence and crime and deaths, and to the corruption of the justice system; a situation which is all too evident, for those willing to look [8], with regard to prostitution, particularly in the US where both the buying and selling of sex is illegal. Sure seems that many are slow to learn the lessons of history, notably that governments attempting to criminalize modes of behaviour that the populace have no heart for merely calls into disrepute the government itself, as well as corrupting the system of justice designed to enforce alternative behaviours – not to mention enriching and promoting the criminal element, the predators and psychopaths, that the government is supposed to be protecting us from: perverse incentives, indeed.

But likewise with Bill C-36. While it isn't quite as bad as the decidedly odious system that prevails in the US, with no shortage of grief that follows in its train, the evidence from places which have implemented the Nordic model [9,10,11] rather clearly shows that criminalizing the purchase of sex while legalizing its sale – which, apart from being flagrantly discriminatory, qualifies as a triumph of dogma over logic – has the unintended consequence of subjecting sex workers to increased levels of violence. While the government is to be commended for modifying the Bill to mandate a review of the consequences in five years, I would argue that ignoring the evidence of the quite horrific consequences that is already on the table qualifies as something little short of criminally negligent.

But over and above those maybe narrow or limited motivations for objecting to Bill C-36 – after all, those directly affected may constitute a smallish percentage of the public – I think there are broader reasons to do so that seem to affect a substantially larger percentage of us. Considering that evangelicals comprised some 25% of those permitted [12] to appear before the House of Commons Committee on the Bill, and that the Bible, among other so-called “holy” books, anathematizes both prostitution and homosexuality, I would think that at least those in the latter group might justifiably be apprehensive about being the next item on the agenda.

In addition, considering the heavy involvement of the religious right in issues other than prostitution, such as homosexuality, choice in dying or euthanasia, and abortion, I would suggest that Bill C-36 is merely the thin edge of the wedge; and that we might all want to give some serious thought to the poem due to pastor Martin Niemöller which starts with: “First they came for the Socialists, and I did not speak out – because I was not a Socialist.” [13]

Moral Case Against Prostitution?

Which brings me to what I and no few others think is the crux of the matter, the cogent and trenchant question, “Is there a moral case against prostitution?” And a question which very few of our elected members – or members of the Fourth Estate with the notable exception of a Globe and Mail columnist, Margaret Wente [14], who was the source of that particular phrasing – seem to have been willing to broach much less seriously address. Seems to me that the government owes Canadians a clear

statement why they think the exchange of money for sex is morally wrong – apart from any sort of “because the Bible tells me so”; that might work for children but to try to peddle that to an electorate of adults is, I think, flagrantly insulting – something hardly conducive to ensuring re-election.

Apropos of which, while I haven’t read the book yet myself, “(Sub)Urban Sexscapes: Geographies and Regulation of the Sex Industry” [15] has something that’s being bandied about on Twitter [16], and which seems particularly relevant: “To base policy on a particular religious and/or ideological framework that is underscored by nothing more than a sense [of] moral superiority is in itself an immoral act and undermines the normative principles of not only policymaking but democracy itself.”

And it seems to me that the main proponents of Bill C36 are evangelical Christians, and those motivated by an apparently virulent strain or branch of feminist ideology – which has to qualify as a remarkable manifestation of the aphorism about strange bedfellows. But while they may not have done much in the way of due diligence before engaging in intercourse of one sort or another, I think it is crucially important for the public to do so before we have to deal with the consequences. And relative to the first of the pair, consider the following, as one example of many, from the Christian “Life Ministries” article “A biblical perspective on prostitution” [17]:

The Bible warns against women engaging in prostitution. Leviticus 19:29 states, “Do not degrade your daughter by making her a prostitute”. Prostitution degrades women.

A highly questionable, specious, and entirely un-evidenced attitude and philosophy that was echoed by the Hon. Minister of Justice, Peter MacKay, who “referred to sex work as a ‘so-called profession’ and ‘degrading practice’” [4]. Although one might argue, with some justification I think, that procreation could be viewed as a somewhat “sacred” obligation – even from a secular perspective – besides which “any form of recreational sex [may be viewed as] a perversion of the sex drive” [18]. However, as that seems a rather wide net that probably captures most of us, I expect it is unlikely to be all that popular. In which case, it would seem egregiously hypocritical for society in general to be throwing stones at prostitutes for a mode of behaviour that almost everyone else appears to be engaged in as a matter of course.

But, relative to the second of the pair, consider also the following comments about Gunilla Ekberg, one of those who appeared before the House of Commons Committee in support of the Bill. They’re from the Prostitution Licensing Authority [PLA] of the State of Queensland [Australia] which “released an analysis of the Swedish Model, essentially dismissing it as a load of politically-motivated codswallop unsubstantiated by facts” [19]:

Gunilla Ekberg, Co-Executive Director, Coalition Against Trafficking in Women and former Special Advisor to the Swedish Government...has previously said that: “My whole life has been about ending male violence against women”. That Ekberg could [make this] claim...indicates a peculiar zealotry. Her extremist, one-dimensional views are evident from this statement, describing clients of sex workers as sexual predators and rapists Ekberg argues that...the dominant position of men in society means that for women freedom of choice is illusory because it is not possible to choose from equal alternatives...Laws which in any way give legitimacy to the sex industry by legalising or decriminalising prostitution are decried as legitimating violence and abuse of women by males and entrenching patriarchy

And by that term – patriarchy – hangs a rather convoluted and obscurantist and post-modernist tale, but it seems to be the central dogma in some of the more virulent branches of feminist ideology. And while there may be some merit in the concept, many feminists, apparently on both sides of this particular fence, seem guilty of the “sin” of reification [20], of treating that abstraction as if it were a real thing – analogous to Adam Smith’s “Invisible Hand” [21].

But the PLA also waxes poetic about “Sheila Jeffreys, Australia’s best-known anti-prostitution fanatic” [22] which, again, typifies a more extremist if not toxic branch of feminism, but one which is, I think, all too prevalent, and all too problematic:

[That] is consistent with, “[Jeffrey’s] firm belief that men maintain power over women by the act of sexual intercourse, and that heterosexuality is therefore bad for women”. In 1979, she stated that feminists who sleep with men are enemy collaborationists and to her sexuality is the basis of oppression of women by men. Jeffreys contends that, “the right of men to women’s bodies for sexual use has not gone but remains an assumption at the basis of heterosexual relationships”.

And the latter point about “collaborationists” is also echoed by another feminist extremist, Julie Burchill. Although she took it to the next level up by arguing that prostitutes in particular “should be shot as collaborators for their terrible betrayal of all women”. [22] Interesting that she, among many others, apparently and rather arrogantly claims to speak for all women – wrapping herself in the flag of “woman-hood”.

But I will concede that sex in general is a decidedly complex issue, and that there is an element of force if not violence implicit in the act, at least as suggested by the word “penetration”. But to amplify that rather narrow aspect to absurd dimensions, and to be horrified or nonplussed, apparently, by the fact that, as the joke has it, “God screwed up by designing humans with the playground adjacent to the sewage-disposal system”, is to conflate mechanics, and hygiene with morality. An error in judgement or perception that I think is not likely to be conducive to formulating any type of reasonable or effective law.

However, I also think there’s something to be said about the other side of the coin, the claim that “sex worker rights are human rights”. While I am very sympathetic to the efforts by “the prostitution lobby” to redeem the profession – and the term “prostitute” itself – by redefining it as “sex work” through the artifice of claiming some cachet normally associated with the term “work”, I’m also sympathetic to the view espoused by the British Conservative Stanley Baldwin in 1929, in criticizing several of his opponents, that “[enjoying] power without responsibility [has been] the prerogative of the harlot throughout the ages” [23].

Seems to me that while one can be more than sympathetic to the claims by sex workers that C-36 will seriously jeopardize their safety, one might suggest that, analogously and speaking in general terms, society shouldn’t necessarily be obliged to be much interested in reducing the hazards of “jobs” that it deems immoral or detrimental to the best interests of society – hit men, for example. But that – the assertion that prostitution is intrinsically immoral – is, of course, precisely what C-36 seems predicated on, though with little evidence to justify it, and a lot of evidence to suggest the attempt is based on some specious if not odious views. But it seems to me that until prostitutes accept more responsibility for their profession and its effects and consequences, I think society is entitled to be a little circumspect

in granting rights without expecting a little “quid pro quo” in return: “rights without responsibilities is anarchy” as someone put it.

As for how that could be implemented, I would say that is a rather sticky wicket with any number of devils hiding in a thicket of details. But, offhand, it seems to me that, as many sex workers seem also to be claiming some rights to the term “profession”, they should also be willing to accept some of its frequent concomitants such as the responsibilities to formulate and accept a code of ethics, and some degree of regulation, as with doctors, or lawyers, or engineers, or dentists. While not every job that is performed in society requires or justifies that level of control and oversight, it seems that issues surrounding the concept of “safe sex practices”, for instance and among others, may do so in the case of prostitution.

In addition, it seems that all of those professions have some credible justification for claiming that they provide widely applicable, significant, and commendable benefits to society in general. But I will also readily argue that, have argued that, there can be significant benefits in prostitution – which probably extend from the physiological to the psychological to the profound – for prostitutes, for their clients, and for society; that sex workers can be and frequently are the unsung heroines and heroes of the mental health system. However, as with many if not most of our appetites, sex in general and prostitution in particular also seem to have their pathological manifestations – Krafft-Ebing’s *Psychopathia Sexualis* [18] being a case in point. Which again provides some justification for that control and oversight.

Conclusions & Recommendations:

As for recommendations, it seems to me – based on some 30 years of designing, building and repairing electronic equipment – that one can’t really fix a problem if one doesn’t understand the processes that are happening underneath the hood. And my impression is that, in general with some notable exceptions, many of those attempting to address or solve this problem have a simplistic or dogmatic or narrow understanding of all of the players, and of their perspectives and motives, as well as the consequences of the Bill in its current format.

In which case, the first order of business, apart maybe from obtaining a reference ruling from the Supreme Court, would seem to be to evaluate honestly the effects of the Nordic model in other countries. And I would also suggest that, at least, any MP planning on voting for this Bill should be obliged to read every last one of the 1500-odd blog posts by a woman – Maggie McNeill, *The Honest Courtesan* [24] – who has been a stripper, a call-girl and a Madame. While I’ve questioned her libertarianism and other perspectives so I hardly think she walks on water, I also think anyone who reads even a fraction of those will be horrified, be jarred-rigid, at the consequences of criminalizing virtually any part of the sex-trade. It – sex in general – seems to be simply too much a part of who we are, too much a case of where the rubber meets the road, to be making related laws with gay abandon, without some attempt to understand the underlying processes and the consequences of trying to control them – particularly with egregiously flawed and inequitable laws such as Bill C-36.

Thank you for your time and attention.

Sincerely,
Jim Wiggins,
#105 – 7426 138th St., Surrey B.C.

604-599-1334; rjwiggins@shaw.ca

- 1) <http://www.johnsvoice.ca/>;
- 2) <http://www.cbc.ca/news/canada/meeting-john-1.970213>;
- 3) <http://time.com/3087616/defense-johns-legalize-prostitution/>;
- 4) <http://www.theglobeandmail.com/globe-debate/columnists/dont-piano-teachers-deserve-the-same-protection-as-prostitutes/article19043328/>;
- 5) Available on request;
- 6) http://en.wikipedia.org/wiki/Perverse_incentive;
- 7) http://en.wikipedia.org/wiki/Prohibition_in_the_United_States;
- 8) <https://maggiemcneill.wordpress.com/2014/08/22/business-as-usual/>;
- 9) <http://www.nswp.org/news-story/norway-publishes-first-evaluation-the-ban-the-purchase-sex>
- 10) <http://humboldt1982.files.wordpress.com/2012/12/dangerous-liaisons.pdf>;
- 11) <http://www.thelocal.no/20120622/rip-up-prostitution-law-says-top-oslo-politician>;
- 12) http://www.thestar.com/news/canada/2014/07/15/prostitution_bill_hearings_had_strong_evangelical_voice.html;
- 13) http://en.wikipedia.org/wiki/First_they_came_for;
- 14) <http://www.theglobeandmail.com/globe-debate/is-there-a-moral-case-against-prostitution/article19537551/>;
- 15) <http://www.amazon.ca/Sub-Urban-Sexscapes-Geographies-Regulation/dp/0415855284>;
- 16) <https://twitter.com/photogroffee/status/506576225230663680/photo/1>;
- 17) http://lifeministries.org.au/pamphlets.php?content_id=53;
- 18) http://en.wikipedia.org/wiki/Richard_von_Krafft-Ebing;
- 19) <https://maggiemcneill.wordpress.com/2011/06/09/down-under/>;
- 20) <http://en.wikipedia.org/wiki/Reification>;
- 21) http://en.wikipedia.org/wiki/Invisible_Hand;
- 22) <https://maggiemcneill.wordpress.com/2011/06/10/in-their-own-words/>;
- 23) http://en.wikipedia.org/wiki/Stanley_Baldwin;
- 24) <https://maggiemcneill.wordpress.com/about/>;