



**CASAC ACCCACS**

Canadian Association of Sexual Assault Centres

Association canadienne des centres contre les agressions à caractère sexuel

## **Abolition: Advancing the Frontline**

A submission to the Senate Standing Committee on Legal and Constitutional Affairs  
regarding Bill C-36 on behalf of The Canadian Association of Sexual Assault Centers/L'

Association canadienne des centres contre les agressions à caractère sexuel

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### **Abolition: Advancing the Frontline**

Senate Standing Committee on Legal and Constitutional Affairs regarding Bill C-36 on behalf of The Canadian Association of Sexual Assault Centers/L' Association canadienne des centres contre les agressions à caractère sexuel

The Canadian Association of Sexual Assault Centres/Association canadienne des centres contre les agressions à caractère sexuel (CASAC/ACCCACS) is one of the oldest coalitions of sexual assault centres in the world. It was formed in a period when women across Canada were uniting to challenge and transform the status quo of women's lives. Since its inception CASAC/ACCCACS has been a part of the independent women's movement. In 2012, the largest-ever global study on violence against women concluded that: "The autonomous mobilization of feminists in domestic and transnational contexts—not leftist parties, women in government, or national wealth—is the critical factor accounting for policy change."<sup>1</sup>

Founded in 1975, CASAC/ACCCACS member centres continue to provide frontline crisis support and intervention to women from Halifax to Vancouver, in English and French, in urban centres and rural communities.

As set out in its constitution, CASAC/ACCCACS goals include working to prevent and eradicate sexual assault; promoting legal, social and attitudinal changes regarding sexual assault; providing communication and education by mobilizing sexual assault centres across Canada; and encouraging, directing and generating research into male sexual violence. Coercive sexuality and male violence against women are part of what prevent women from accessing full equality. A society that maintains inequalities between its male members and its female members creates and condones a context where violence against women flourishes.

The intent of the Canadian Association is to speak publicly for the thousands of women who tell us their stories on confidential phone lines, to reinforce those who

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<sup>1</sup> Mala Htun and S. Laurel Weldon (2012). The Civic Origins of Progressive Policy Change: Combating Violence against Women in Global Perspective, 1975–2005. *American Political Science Review*, 106, pp 548-569

provide services, and to act as a force for social change regarding violence against women at the individual, the institutional and the political level.

### **Our authority on Prostitution, Violence Against Women & Women's Equality**

By providing women across Canada who have experienced male violence with crisis support CASAC/ACCCACS has accrued a uniquely intimate depth and breadth of knowledge about the causes and the consequences of male violence against women—including prostitution. All our public statements on prostitution and male violence against women are informed by the women who call our lines, who trust frontline workers enough to disclose the previously private violations of rape, battery, incest and prostitution. Formerly prostituted women have joined our group in Vancouver, the group in Montreal, the group in Ottawa and many other centres to train as volunteers or to work on staff to assist women who are surviving and trying to escape the routine exploitation and violation of prostitution. I am assured in my conviction and compelled to speak because of these women, as are CASAC/ACCACS members across the country.

CASAC/ACCCACS members not only have extensive experience providing frontline crisis support to women who have experienced violence but have also published action based research on the connections between the equality promise of the *Charter of Rights and Freedoms* and violence against women.<sup>2</sup>

The federal government has recognized CASAC/ACCCACS' expertise and representational character by consulting with CASAC/ACCCACS on issues of violence against women, including prostitution.

At the request of four consecutive federal Justice Ministers (Ministers Campbell,

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<sup>2</sup> Lakeman, L. (2003) *Canada's Promises to Keep: The Charter and Violence Against Women*, CASAC: Vancouver, BC. With feminist research guidance we examined, advocated, and recorded 100 cases of violence against women through the eyes of the frontline workers to assess how those cases fail in the criminal justice system and to publish the results. The resulting report is an indictment of the impact of violence against women, of the changes restructuring Canada and of the government's antagonistic approach to equality. It also confirmed that the assistance of an advocate from a rape crisis center improves the scant likelihood of adequate investigation prosecution and conviction in criminal cases of violence against women.

Blais, Rock and McLellan), from 1993 to 1998, CASAC/ACCCACS hosted six annual 3-day consultations on the issue of violence against women as a matter of criminal law and women's equality. Sixty delegates from women's groups across the country, including prostitutes' groups advised the government.

CASAC/ACCCACS also participated in a federal consultation with the National Reference Group on Women's Issues established by the Federal Solicitor General in 1998.

CASAC/ACCCACS advised on law-reform regarding prostitution before the federal Standing Committee on Justice and Human Rights Subcommittee on Solicitation Laws. CASAC/ACCCACS participated in the final roundtable of consultants at the invitation of MP Art Hanger. We advised against legalization or total decriminalization of prostitution.<sup>3</sup>

In 2007, CASAC/ACCCACS made a presentation to the federal Standing Committee on the Status of Women on issues of prostitution and trafficking. We recognized early the relationship between trafficking and prostitution and we advised the government against legalization or total decriminalization of prostitution. Insisting instead on the decriminalization of prostituted women and the criminalization of johns, pimps and profiteers. The all-party committee agreed that prostitution was best seen as violence against women, agreed that the demand for prostitution generates trafficking, and agreed that trafficking entraps girls and women. This agreement is articulated in the Subcommittee's 2007 Report *Turning Outrage into Action to Address Trafficking for the Purpose of Sexual Exploitation in Canada*.<sup>4</sup>

CASAC/ACCCACS has also consulted internationally on issues of violence against women and prostitution, including working in coalition with the Feminist Alliance

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<sup>3</sup> *The Challenge of Change: A Study of Canada's Criminal Prostitution Laws* Report of the Subcommittee on Solicitation Laws (2006) The report is published online here: <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=2599932&Language=E&Mode=1&Parl=39&Ses=1>

<sup>4</sup> This report can be found at: <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=2738918>

for International Action to prepare two NGO reports to the United Nations Committee on the Elimination of All Forms of Discrimination Against Women in the context of that Committee's reviews.

### **Prostitution in the context of male violence against women**

The vast majority of those prostituted are women and girls and virtually all of the buyers, pimps and procurers are men. CASAC/ACCCACS member centres respond to calls from women and girls who have been threatened, raped and battered by men who purchase sex, to calls from women and girls who have been threatened, raped and battered by pimps and procurers and to women who are trying to survive the day-in-day-out dangers and violations inherent to prostitution.

The supports and interventions required by and provided to women in prostitution are similar to those required by and provided to women who have experienced all forms of sexist violence including: facilitating access to safe transportation, emergency shelter and immediate medical attention; assistance and advocacy to women seeking a response from the police; and the information and advocacy required to access the meager supports provided by provincial government ministries.

CASAC/ACCCACS has been working on the issue of prostitution consistently since 2001 when our members insisted on and passed a resolution that prostitution is a form of male violence against women. In 2005 we advanced that understanding with an articulation of our analysis of prostitution as male violence against women—a harmful practice of sexist and sexual discrimination that exploits and compounds women's social inequality, the economic inequality of women living in poverty, and the racial inequality of women of colour and Aboriginal women. Furthermore, we identified the demand for prostitution as inherently sexist—an expression and reinforcement of men's sense of entitlement to access the bodies of women and girls for sexual exploitation. The 2005 policy is a set of five interlocking policies outlining a framework through which to advance and develop practices to

end prostitution and the sexual, economic and racial inequality that it expresses and reinforces.

Starting in 2001 we explicitly called for the decriminalization of all prostituted women and the criminalization of the buyers, pimps and profiteers who create and perpetuate the demand for women to be exploited in prostitution, who are the source of the violence that is inherent in prostitution, and who perpetrate the additional violence to which women in prostitution are too often subjected.

In our 2005 policy and more recently as interveners in *Bedford v. Canada* at the Ontario Court of Appeal and the Supreme Court of Canada we reaffirmed that a criminal law addressing prostitution—in order to be consistent with the promise of equality in the *Charter of Rights and Freedoms*—ought to adopt this model of asymmetrical criminalization.

CASAC/ACCCACS knows that the criminal justice system, at all levels, too often fails to respond to and investigate women's reports of all forms of male violence and therefore to hold violent men accountable. CASAC/ACCCACS has documented this failure extensively.<sup>5</sup> However, we cannot compound this systemic failure by failing to criminalize the violent behavior of men who buy sex.

In both the 2001 and 2005 CASAC/ACCCACS resolutions we agreed that criminal law can and should serve to sanction the perpetrators of male violence against women. We also recognize that criminalizing male violence against women makes it explicit that this violence is intolerable. All of the improvements to Canada's criminal laws and policy on violence against women were made because of the demands of women and women's groups that criminal law protect their right to equality by preventing and sanctioning the violence that is perpetrated by men against them.

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<sup>5</sup> (2003) *Canada's Promises to Keep: The Charter and Violence Against Women*, CASAC: Vancouver, BC.

The government's proposed change to the criminal law surrounding prostitution offers a similar opportunity for society—through law—to stand-up for and alongside women who insist on more for themselves and for all women than being bought and sold in prostitution. The very existence of prostitution not only creates a sub-class of women commodified as objects to be bought and sold by men, it sustains the sexual and sexualized inequality of all women.

### **CASAC/ACCCACS response to Bill C-36**

CASAC/ACCCACS commends that Bill C-36 proposes to situate criminal offences related to prostitution in the section of the criminal code that pertains to crimes against the person. The women who call and answer our crisis lines across the country have known for decades that prostitution is not harmful because it is a nuisance, or a vice. It is harmful because it is a violation of a person—most often a woman.

The definition of consent in section 273.1 that follows the sexual assault offences in the criminal code provides a useful framework for CASAC/ACCCACS as a coalition of sexual assault centres to counter the assertion that prostitution is an equal transaction or a sexual activity to which women consent. Consent is defined as “voluntary agreement of the complainant to engage in the sexual activity in question.”<sup>6</sup> The brutal forces of poverty, violence and inequality that coerce the vast majority of women into prostitution affectively negate consent.

The preamble to Bill C-36 is consistent with CASAC/ACCCACS analysis of prostitution as male violence against women. The preamble signals a significant and necessary response to the demands of women and women's groups that the government radically shift their approach to criminal laws surrounding prostitution in Canada. CASAC/ACCCACS is encouraged that parliament has drafted a bill that

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<sup>6</sup> The complete text of this section can be found here: <http://yourlaws.ca/criminal-code-canada/2731-meaning-“consent”>

makes it clear that there is a vital role for criminal law to play in condemning and curtailing the continued prostitution of women and girls in Canada.

CASSAC/ACCCACS applauds the explicit acknowledgement that prostitution disproportionately impacts women and children and undermines their rights to dignity and equality as outlined in the *Charter of Rights and Freedoms* as well as the assertion that prostituted persons should be able to seek redress for the violence committed against them and encouraged/supported to leave prostitution.

CASAC/ACCCACS supports a prostitution law that explicitly aims to “denounce and prohibit” the purchase of sex in order to target those who create the demand for prostitution and to “denounce and prohibit” profiting from the prostitution of others.

The provisions that criminalize the actions of johns appropriately target the men who perpetrate the violence inherent in prostitution by demanding access to women’s bodies. They precisely target the men who are the perpetrators of the additional violence that women in prostitution are frequently subjected to.

The provisions that criminalize the actions of pimps and profiteers rightly target the men who coerce women and girls into prostitution, who capitalize on women’s economic and social vulnerability in order to recruit them into prostitution and who benefit economically from women and girls remaining trapped in prostitution.

Since our first articulation of a policy on prostitution in 2001 CASAC/ACCCACS has been insistent that any criminalization of women in prostitution is inconsistent with an analysis of prostitution as violence against women.

Therefore we oppose the government’s proposal to criminalize “communication” in certain locations in the name of protecting communities. Bill C-36 correctly asserts that prostitution is exploitive, harmful and violent which implies an understanding



that the vast majority of women do not freely choose to be in prostitution. It is therefore inconsistent that women in prostitution can choose the location in which they are prostituted. The laws that criminalize johns and pimps apply in all locations, a further provision that applies to prostituted women in certain locations is entirely unnecessary and may serve to create a mechanism by which others can punish women and girls for their own victimization. Further, this provision will likely compound current bias in the delivery of justice in which the most marginalized women—the destitute, the racialized and the addicted—who are in street-level prostitution are disproportionately targeted for criminalization.

Bill C-36 contains crucial provisions that criminalize the actions of johns, pimps and profiteers, which are consistent with an understanding of prostitution as a criminal act of male violence against women. However, from our decades of work with women who have experienced rape, wife assault, incest and sexual harassment we know that there is a systemic failure at all levels to arrest, charge and convict men for violence against women using existing laws against sexual assault, assault and criminal harassment. We also know that the criminal code provisions that were struck down in *Bedford v. Canada* too rarely resulted in the arrest, investigation and prosecution of johns, pimps and profiteers. Diligent implementation of these laws will be critical if they are to be effective in achieving their stated aims of addressing the violence and exploitation of prostitution. The federal government has the responsibility to play a crucial leadership role in setting the standards for police and prosecutors across the country in order to ensure enforcement of all laws that criminalize male violence against women. This leadership must include insisting that these cases not be diverted before conviction so that judges can seriously evaluate the evidence and impose consequences. CASAC/ACCCACS however, contends that the imposition of mandatory minimum sentences on those convicted of the offences proposed in the bill is not necessary in order to achieve or advance the stated aims of the bill.

CASAC/ACCCACS is encouraged to see that the federal government has allocated

\$20 million in new funding to programs that will assist women who want to leave prostitution. We urge the government to make good on its promise to fund grassroots initiatives. As Canada's only national coalition of sexual assault centres we know it is crucial for women who have experienced male violence to be able to access frontline crisis services that are independent from the criminal justice system.

Criminal law and funding of frontline services are crucial components of any government strategy to prevent and eliminate male violence against women—including prostitution. However, women need a guaranteed livable income, adequate, affordable and safe housing options, affordable childcare and access to women only detox beds and treatment centres. The federal and provincial governments will need to make a substantive commitment to alleviate the desperate inequality that prostitution and violence against women entrenches. Prostitution, like all forms of violence against women “prevents women’s equality. Any lack of equality makes women vulnerable to violence. Consequently working to aid women after sexist violent attack is not enough. We must end the inequality of women and the use men make of it.”<sup>7</sup>

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<sup>7</sup> CASAC/ACCCACS constitution: <http://casac.ca/content/constitution>