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Brief to the Canadian Senate in Response to Bill C-36

This response to Bill C-36 considers what is at stake in the criminalization of the negotiation between sex workers and clients. In practice, these encounters are impossible to police, and the criminalization of flirtations and conversations creates a climate of permissiveness that allows anyone to interfere with sex workers as they go about their daily life and meet with friends, clients, and lovers in coffee shops, restaurants, and on the street. This criminalization intensifies inappropriate police and government interference, as well as vigilante-style gossip and social stigma; it implies that sex workers' inclusion and citizenship are not entitlements, but goals that they must struggle to obtain before becoming positively incorporated into community life. My response focuses on street based sex work and supports sex workers' entitlements to work and protest on our streets.

Bill C-36 generates a moral and philosophical debate about sexual citizenship and belonging for sex workers and their right to occupy and assert themselves in urban space. Activists, sex workers, academics, and politicians engage in a strange choreography

around this ambiguous legislation that does not line up with sex workers' experiences of their work and sex lives and cannot be properly enforced. Sex workers discretely negotiate with their clients on the street in most parts of the world, especially in the global South, and exercise good decision-making about where they wait for clients and how they interact with passersby. Conservative and middle class anxieties about street based sex work stem from the nervousness that sex work will become a normal presence on downtown streets and selling sex will be cheekily incorporated into mainstream values.

I conducted ethnographic research with street based sex workers in coastal Ecuador in 2005-2006. Almost all of the women selling sex in Machala's downtown market negotiated with their clients discreetly and did not upset the lively balance of street life or the multiple uses of the space. This community is famous for their sex workers' rights activism and diverse people take to the streets to march with sex workers to defend their entitlement to work and protest on the street, regardless of the sometimes hostile political context or degree of state violence that they are confronting. Many market vendors, politicians, and influential people support sex workers' rights to work on downtown streets, although some do not.

Much like in Canada, Ecuadorian sex workers are careful about where they wait for their clients and attempt to control how the encounter unfolds. Selling sex includes flirtations in public space that do not cross any uncomfortable lines for most people. Children sometimes work or play nearby and may smile at or not notice a flirtatious encounter between a sex worker and her client, regardless of whether or not they fully understand the subtext of the encounter. In contexts where sex work is incorporated in a

positive way into daily street life, there is usually less police violence and fewer complaints and points of conflict between sex workers and other members of their community. Sex workers should feel confident and comfortable enough to walk into institutions and offices to tell officials what they need and how they would like a situation to be handled, with an understanding that many problems are not easily fixed. Progressive sex work legislation insists that some police, bureaucrats, NGO workers, clients, and invested groups must undergo a radical shift in values and ethics.

When sex workers have more contact with people in their communities, the mystery and stigma that surrounds selling sex is lifted, and everyone feels safer and more comfortable. Some people worry about their partner's wandering eyes and that the normalization of sex work will make infidelity acceptable. Others worry that the increased visibility of sex workers in their communities will increase violence and police regulation in the area, making marginalized members of their communities nervous. These points of insecurity and jealousy hinder progressive political decisions.

I have not conducted research on street based sex work in Toronto, although I know several people who sell sex on the street in the city. Many reports include interviews with street based sex workers where they describe their exposure to the elements, social stigma, and different forms of violence. Their encounters with clients, the police, NGO workers, and the wider public are often heavily racialized, classed, gendered, and sexualized in complex ways, and some people reinscribe differences in an attempt to rob sex workers of their individuality, collective political power, and choices.

Information about sex work in Canada is often compiled using the language of public health in ways that sometimes exaggerates sex workers' victimhood as an act of

political domestication—refusing to see sex workers as complex subjects who often possess incriminating information that extends to the highest levels of government and corporate offices. Many activists, sex workers, and researchers believe that sex work is harshly stigmatized and sex workers are pushed out of community spaces in order to ensure that they are not able to share the important and sometimes sensitive information they possess, especially after selling services to influential community members, business people, and politicians.

Many sex workers describe selling sex on the street as a mix of erotically charged fun and vulnerable exposure. They sometimes describe the intensity of people's looks as many passersby assume that they know who they are and what their lives are like and may morally judge their choices and aspirations. Some policies and public health interventions that suggest that sex workers supposedly suffer from inherent low self esteem or mental and physical health problems overlook the insecurity of their working conditions and their nervous awareness that anything can happen to them on the street while the perpetrators of violence and harassment are often granted impunity and the justice system may "look the other way." This bill must be thrown out and sex workers' need to know that they have public support to assert themselves on the street and in police and government offices.

The debate that surrounds this legislation is, in part, about the struggle to maintain the diversity of street life in Canada. Many people in Canada express their nostalgia for the lively street culture that we have slowly eroded through legislation such as Bill C-36. After marginalizing and excluding diverse people from urban space, many have become dissatisfied with the highly scripted and predictable encounters that accompany the

barren middle-class aesthetic on downtown Canadian streets. Legislation against informal labour and loitering has removed any uncontrolled interactions from urban spaces, and controlled busking is sometimes performed for the inhabitants of large cities, but in ways that are carefully controlled and contained. Defeating or radically altering Bill C-36 will ultimately set a different standard of respect and dignity for everyone on Canadian streets and demand the removal of the false authenticity of the staged street life that we are presented with everyday.

Criminalizing encounters between sex workers and clients will allow unwanted intrusions into all aspects of sex workers' lives, imposing unhealthy regulations and generating negative vigilante gossip and distrust. In order for legislation about sex work to be successful, the guidelines that are established should make sense to people working in the sex industry and emerge from participatory decision-making; policy makers should not assume to know how social life should be regulated or draft policies that justify the stigmatization and policing of marginalized people. These policies should not objectify and target sex workers, but engage with the diverse people and groups that comprise and interact with the sex industry, which includes many of us. Overturning this bill is ultimately a social and political struggle to ensure the diversity and vitality of our Canadian streets in the neoliberal era through a constellation of investments, attitudes, routines, and sometimes conscious social justice projects that we all participate in fashioning.