

## **BRIEF TO THE SENATE COMMITTEE**

### **HOUSE OF COMMONS**

**41<sup>st</sup> Parliament, 2nd Session**

### **Protection of Communities and Exploited Persons Act**

**Bill C-36**

**Presented by Living in Community**

**August 2014**

### **Background of Living in Community**

Since 2004, Living in Community<sup>1</sup> has been working to make all community members in Vancouver healthier and safer in relation to the impacts of sex work on neighbourhoods. With representation from diverse groups such as the Vancouver Police Department, the City of Vancouver, Ministry of Justice, Ministry of Social Development and Social Innovation, Vancouver Coastal Health, neighbourhood houses, community policing centres, business improvement associations, youth and sex worker organizations, sex workers and residents, Living in Community provides a unique model for how to address complex and challenging sex work-related issues.

Living in Community recognizes that there are very divergent values and beliefs about sex work, but that those beliefs and values do not need to enter into approaches about how to address sex work and sexual exploitation. Instead, the focus of solutions is on a holistic approach that recognizes that each and every community member – sex workers, youth & children, business owners, etc. – have a right to health and safety. This is achieved through a four-pronged approach including legal and policy responses, community development, direct support services and prevention and education. In the Living in Community model, prevention of sexual exploitation of youth is a critical component, as is direct services to support men, women and transgender

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<sup>1</sup> For more information about Living in Community, see [www.livingincommunity.ca](http://www.livingincommunity.ca)

persons engaged in sex work, and policy responses that support healthy and safe communities. No response can be looked at in isolation.

In 2012, the British Columbia Missing Women's Commission of Inquiry recommended "[t]hat other communities be encouraged to undertake the type of collaborative community engagement strategy employed by Living in Community to develop an integrated strategy for enhancing the safety of women engaged in the survival sex trade"<sup>2</sup> – some of the most vulnerable citizens Bill C-36 aims to protect. In the coming year, Living in Community will be expanding its community development model throughout British Columbia. It is our hope that municipalities and cities across Canada will adopt this model within five years.

In this brief, we present our community-based model that is a wholly alternative approach to the provisions of Bill C-36. With a decade of achievements and successes to draw upon<sup>3</sup>, our approach centers on community collaboration and participation, inclusiveness and an understanding and respect for diversity in relation to sex work and sexual exploitation issues in order to protect all community members. Because the proposed legislation is focused on adult sex workers, we do not include sexually exploited children and youth in this brief.

## **Overview of Bill Amendments**

Bill C-36 proposes to criminalize (1) the purchase of sex, (2) communicating for the purpose of selling sex by both seller and buyer, (3) gaining material benefit from sex work and (4) advertising sexual services.

## **Discussion**

Research has shown, and the Supreme Court of Canada has agreed, that bans on communication may lead adult street-based sex workers to abandon safety precautions and to move into more dangerous and isolated parts of the city where they are more likely to work alone in order to avoid police detection<sup>4 5</sup>.

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2Oppal, W. T. (2012). *Forsaken: The Report of the Missing Women Commission of Inquiry*. Available online at <http://www.missingwomeninquiry.ca/>

3Living in Community. (2014). *2014 Action Plan Update*. Available online at <http://livingincommunity.ca/wp-content/uploads/2011/09/2014-Action-Plan-Update1.pdf>

4Pivot Legal Society. (2004). *Voices for Dignity*. Available online at <http://www.pivotlegal.org/pivot-points/publications/voices-for-dignity>

5Canada (Attorney General) v. Bedford, 2013 SCC 72 (CanLII), [2013] 3 SCR 1101. Available online at <http://canlii.ca/t/g2f56>.

As a result of their criminalization, sex workers will continue to face barriers to reporting violence and will not avail of the same protections under the law accessible to other community members<sup>6</sup>. Finally, without the ability to advertise, sex workers will now have severely limited means for working safely indoors, a safer alternative to street-based sex work<sup>7</sup>.

Although there are diverse perspectives around the Living in Community table about the most appropriate legal response to prostitution, there is agreement that Canadian legislation which prohibits the means which sex work is carried out pushes the sex industry underground and creates harms not only for sex workers but for communities as a whole. Criminal justice-centered attempts to displace and arrest sex workers and abolish sex work in Vancouver resulted in community conflict<sup>8</sup> and tragic consequences for sex workers, their families and the entire community<sup>9</sup>; many of these approaches are replicated in Bill C-36. As has been shown in Vancouver, when sex work is displaced, it does not go away, rather it only moves to another community where the impacts continue<sup>10</sup>. That so many women were murdered and disappeared from Vancouver's streets was unacceptable for Vancouverites and became the catalyst for change that led to the establishment of Living in Community and a shift away from the type of provisions introduced by Bill C-36.

The harms that sex workers may experience that will be directly correlated to Bill C-36 have been discussed extensively in the media. However, there has been little discussion as to the negative effects and the harms Bill C-36 will cause other community members including children and youth. For example, the law enforcement crackdowns that will result from Bill C-36 may temporarily address nuisance and safety concerns, but such crackdowns only push the problems

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6Pivot Legal Society et al. (2014). *My Life Should Not Cost Me My Life: The Case Against Criminalizing the Purchase of Sex in Canada*. Available online at [http://d3n8a8pro7vhmx.cloudfront.net/pivotlegal/pages/615/attachments/original/1401811234/My\\_Work\\_Should\\_Not\\_Cost\\_Me\\_My\\_Life.pdf?1401811234](http://d3n8a8pro7vhmx.cloudfront.net/pivotlegal/pages/615/attachments/original/1401811234/My_Work_Should_Not_Cost_Me_My_Life.pdf?1401811234)

7Krusi, A., Chettiar, J., Ridway, A., Abbott, J., Strathdee, S., & Shannon, K (2012). Negotiating Safety and Sexual Risk Reduction With Clients in Unsanctioned Safer Indoor Sex Work Environments: A Qualitative Study. *American Journal of Public Health*, 102(6), 1154–1159.

8Beddall, J. (2000, October). Boys in the Hood. *Vancouver Magazine*, 44–51.

9Oppal, W. T. (2012). *Forsaken: The Report of the Missing Women Commission of Inquiry*. Available online at <http://www.missingwomeninquiry.ca/>

10Lowman, J. (2000). Violence and the Outlaw Statue of Street Prostitution in Canada. *Violence Against Women*, 6(9), 987-1011.

from one neighbourhood to another and do not provide long-term solutions for the community as a whole. Nor do the proposed approaches address the poverty, violence, lack of affordable housing, mental illness and addiction issues that underlie many sex work-related issues and can contribute to other community members becoming involved in the sex industry themselves.

## **Recommendations**

Living in Community can attest that Vancouverites do not want other Canadian citizens to experience the loss of life and community divisiveness and conflict that occurs when ideology supersedes evidence-based approaches. Rather, we recommend a redefinition of community and a four-pronged approach that includes legal and policy responses, community development, direct support services and prevention and education.

The basic premise of the Living in Community model has been that the definition of community includes everyone: sex workers, residents, business owners and employees, youth and school children. Sex workers should not be viewed as a threat from outside - a perceived threat that C-36 reinforces by accessing long-standing discourses that position sex workers as vectors of both physical and moral contagion<sup>11</sup>. This discriminatory perspective has no place in Canadian society. The 'othering' that the proposed legislation will entrench pits sex workers against other community members.

Living in Community recommends a means of engaging diverse groups in non-judgmental, open and authentic dialogue to create pragmatic solutions that are agreeable to all. For example, Living in Community's bottom-up approach has demonstrated that when street-based sex workers (many of whom are mothers with school-aged children themselves) are made aware of inadvertent impacts on neighbourhoods, they themselves adjust their activities to ensure peaceful co-existence for all; heavy-handed criminal-justice approaches are an unnecessary means to achieve the same outcome. Conversely, when business owners understand issues related to street-based sex work, they may offer their amenities or telephone to sex workers in need.

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<sup>11</sup>Strega, S., Janzen, C., Morgan, J., Brown, L., Thomas, R., & Carriere, J. (2014), Never Innocent Victims: Street Sex Workers in Canadian Print Media. *Violence Against Women*, 20(1), 6-25.

Issues associated with the sex industry are the responsibility of the entire community since all impacted are community members with the same right to co-exist in a shared space. A collective effort is required to implement a unique, innovative, progressive action plan for change - a plan that is in direct contrast to Bill C-36. While Living in Community acknowledges that criminal justice responses are required in particular circumstances (e.g. sexual exploitation and human trafficking), community development, direct support services (i.e. not solely exiting services) and prevention and education are as equally important. Our recommendations are outlined in detail in our 2007 Action Plan<sup>12</sup>. An update to the 2007 Action Plan and Living in Community's successes between 2007 and 2014 are outlined in a subsequent document<sup>13</sup>.

## **Conclusion**

Solutions to the possible harms surrounding sex work in communities cannot be found through the legal system alone. Rather, these solutions need to be found in consultation with all community members, including sex workers whose voices have been largely excluded from the consultations that informed Bill C-36. At the request of the committee, Living in Community would be pleased to provide further information about our model that balances perspectives on the sex industry. We are also available to answer questions about our brief.

## **Supporting Documents**

Beddall, J. (2000, October). Boys in the Hood. *Vancouver Magazine*, 44–51.

Canada (Attorney General) v. Bedford, 2013 SCC 72 (CanLII), [2013] 3 SCR 1101. Available online at: <http://canlii.ca/t/g2f56>.

Krusi, A., Chettiar, J., Ridway, A., Abbott, J., Strathdee, S., & Shannon, K (2012). Negotiating Safety and Sexual Risk Reduction With Clients in Unsanctioned Safer

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<sup>12</sup>Living in Community. (2007). *Action Plan*. Available online at <http://livingincommunity.ca/LICActionPlanJun07.pdf>

<sup>13</sup>Living in Community. (2014). *2014 Action Plan Update*. Available online at <http://livingincommunity.ca/wp-content/uploads/2011/09/2014-Action-Plan-Update1.pdf>

Indoor Sex Work Environments: A Qualitative Study. *American Journal of Public Health*, 102(6), 1154–1159.

Living in Community. (2007). *Action Plan*. Available online at <http://livingincommunity.ca/LICActionPlanJun07.pdf>

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Lowman, J. (2000). Violence and the Outlaw Statue of Street Prostitution in Canada. *Violence Against Women*, 6(9), 987-1011.

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Pivot Legal Society. (2004). *Voices for Dignity*. Available online at <http://www.pivotlegal.org/pivot-points/publications/voices-for-dignity>

Pivot Legal Society et al. (2014). *My Life Should Not Cost Me My Life: The Case Against Criminalizing the Purchase of Sex in Canada*. Available online at [http://d3n8a8pro7vhmx.cloudfront.net/pivotlegal/pages/615/attachments/original/1401811234/My\\_Work\\_Should\\_Not\\_Cost\\_Me\\_My\\_Life.pdf?1401811234](http://d3n8a8pro7vhmx.cloudfront.net/pivotlegal/pages/615/attachments/original/1401811234/My_Work_Should_Not_Cost_Me_My_Life.pdf?1401811234).

Strega, S., Janzen, C., Morgan, J., Brown, L., Thomas, R., & Carriere, J. (2014), Never Innocent Victims: Street Sex Workers in Canadian Print Media. *Violence Against Women*, 20(1), 6-25.