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Opinion summary

Prostitution: Time to Take Action

May 2012

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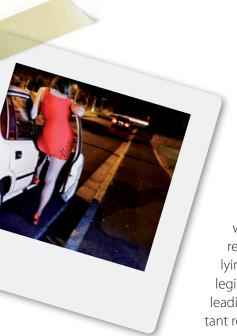
The debate over prostitution flares up periodically and ignites intense debate. Should prostitution be decriminalized and considered a legitimate profession so as to improve the conditions under which it is practiced? Can it be made safe? Is it a victimless crime? Can the words "choice" and "consent" be used in talking about prostitution? So many questions, and no easy answers. Two opposing positions dominate the debate: One advocates liberalizing and professionalizing prostitution to bring it out of shadows and remove the attendant stigmatization; the other sees it as one of the worst forms of sexual exploitation, and must be battled relentlessly.

In 2002, the Conseil du statut de la femme took part in a collective initiative to reflect on this topic, publishing a research paper titled Is Prostitution Work or Exploitation? Further Consideration is Needed. Ten years later, it is time to answer the question and take a clear position in this thorny debate, rife with complex issues.

Action is needed more urgently than ever, now that laws on prostitution are being contested in the courts on the basis of the Canadian Charter of Rights and Freedoms. On March 26, 2012, a controversial decision handed down by the Court of Appeal for Ontario upheld an earlier ruling (Bedford v. Canada, 2010) which invalidated

provisions in the Criminal Code of Canada outlawing the operation of bawdy-houses and procuring, but upheld the prohibition against soliciting for the purposes of prostitution. This historic decision was appealed to the Supreme Court of Canada on April 25, 2012. If Canadian law is found contrary to the Charter, it will result in complete decriminalization of prostitution in Canada. This decision, fraught with consequences, will have social repercussions for all women and men.

Laws on prostitution are being contested in the courts on the basis of the Canadian Charter of Rights and Freedoms. The Conseil du statut de la femme is of the opinion that it is not the court's place to dictate laws pertaining to prostitution — this is a choice society must make.



treated as criminals.

The Conseil is of the opinion that it is not the court's place to dictate laws pertaining to prostitution. The issue cannot be reduced solely to its legal dimension, which centers on the individual. It is a societal choice whose myriad long-term repercussions require a broader vision and the consideration of numerous underlying issues. In the event that the Canadian government decides to amend current legislation to avert Charter-based challenges and avoid ending up in a legal vacuum leading to de facto decriminalization, the Government of Québec will have an important role to play in shaping the new law.

The Government of Québec has made gender equality a fundamental social value, notably by entrenching it in the preamble to the Québec Charter of Human Rights and Freedoms. Quebec has also developed policy to help bring about true gender equality, and it is time for the fight against sexual exploitation to become a priority issue. Further, the application of justice is Quebec's prerogative and it has a duty to enforce the law without penalizing society's most vulnerable members. We believe that as a society, we must assume our responsibilities, taking action at all levels so that prostitutes cease being

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Purpose and Presentation of the Opinion

This opinion is intended to present a wide-angle analysis of current issues related to prostitution in order to identify courses of action based on the principle of gender equality and respect for the dignity and fundamental rights of all women, prostitutes or not.

The report consists of two sections. It starts by painting a portrait of the realities of prostitution in a globalized world, providing references to help readers better understand the present polemic, underlying issues, and many prejudices associated with prostitution, which are too often overlooked in the ensuing rhetoric.

This is not about moral considerations—it is, first and foremost, a question of women's dignity and the protection of their basic rights, which prostitution routinely violates. The second part of the opinion describes the legal and political environment with regard to prostitution. We begin by reviewing the Canadian legislative framework, then examine two diametrically opposed models for legal reform and their social consequences: the experience in Australia, where several states have opted to legalize or decriminalize prostitution, and the approach adopted by Sweden, which has fought sexual exploitation by focusing its attack on the male demand that stokes the trade. Using the data gathered, we analyze the Ontario court decision and arguments

made in favor of decriminalization, then put forth an alternative solution that empowers all those involved to help stop the spread of prostitution and the selling of women's bodies. We conclude by formulating a series of recommendations intended to prevent sexual exploitation and help women escape the bonds of prostitution.

We would also like to clarify that the position defended by Conseil du statut de la femme in this opinion is not based on moral considerations. While some people are offended and shocked by prostitution, we do not believe that it is an issue of public morality — or even a question of maintaining order and protecting public health — as it has often been considered until now. It is first and foremost a question of women's dignity and the protection of their basic rights, which prostitution routinely violates.



In preparing this opinion, we met with social workers and police officers involved in efforts to control pimping. We sat down with the major advocacy groups working with prostitutes in Québec, who have diametrically opposing views of the issue. And we also spoke with women who have been involved in prostitution, some of whom consider themselves as "sex workers," while others disavow the notion that what they do constitutes a profession. This opinion is therefore based on a comprehensive analysis of the all available information and on the positions and arguments advanced by protagonists on all sides in this debate.



We are aware that the women involved in prostitution have diverse opinions and life experiences. Today, as in the past, their lifestyles mirror society's class differences — they may work as high-class call girls or turn tricks in squalid surroundings. We must also acknowledge that for some women, prostitution can be lucrative. None-theless, the facts are clear: the vast majority of women engaged in prostitution find themselves caught in situations of exploitation and violence that they did not choose — and are hard to escape without outside help. We have thus chosen to focus on the consequences that this activity has on the lives of its most vulnerable participants because we believe that the role of the government and law is to protect those who are most vulnerable.

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Part 1: The Issue of Prostitution

The claim that prostitution is "the world's oldest profession" arises from the idea that male sexuality is uncontrollable when, in actuality, sexuality is largely influenced by culture and there are various ways of satisfying sexual urges (Chapter 1). This myth reinforces the notion that prostitution is inevitable, and combating it is useless. Lest we forget, it was once difficult to imagine abolishing the slave trade, which was viewed as a normal, even essential aspect of so-called civilized societies. And not that far back, it was considered unthinkable to speak out against domestic violence or discrimination against women. While it's true that efforts to eliminate these ills haven't fully succeeded, who today would dare claim that the struggle was for naught?

The myth that prostitution is "the world's oldest profession" arises from the idea that masculine sexuality is uncontrollable. It reinforces the notion that prostitution is inevitable, and that combating it is useless.

The Conseil du statut de la femme believes that prostitution is neither inevitable nor an appropriate response to male sexual impulses. Standing down willingly in the face of prostitution under the pretext that "it's a fact of life" is indefensible on a human level.

In today's world even pimping has gone global, as shown by the widespread human trafficking that fuels the rapid growth of the sex industry (Chapter 2). The United Nations Office on Drugs and Crime (UNODC) estimates that nearly 80% of the 2.4 million victims of human trafficking

are subjected to sexual exploitation. The business of trafficking rakes in nearly \$27.8 billion per year, and is especially profitable for organized crime groups that engage in money laundering. According to a report on global sexual exploitation (Rapport mondial sur l'exploitation sexuelle, published in 2012 by France's Fondation Selles), there are 40 to 42 million prostitutes worldwide, 80% of them women or girls, 75% between the ages of 13 and 25 — and most controlled by human trafficking networks. These estimates illustrate the scope of both domestic and international trafficking-related prostitution, which some do not hesitate to describe as modern-day slavery. Canada is a known trafficking destination and transit nation. And even though the phenomenon is not yet widely documented, Quebec has not escaped either (Chapter 3). Police investigations in recent years have uncovered the existence of organized networks that increasingly exploit young women — both adults and minors — who are transported from one city to another to work in strip bars, erotic massage parlors, escort services, or on the street. Social workers are also observing very active recruitment of young girls and teens by pimps, many with street gang connections, who lure their victims into "the life" by using a host of strategies, including seduction, emotional manipu-

lation, and violence. This phenomenon is facilitated by the prevailing discourse that tends to trivialize prostitution and play up its glamorous aspects, positioning it as a form of sexual emancipation or some kind of harmless everyday job in the "sex trade," which helps make prostitution socially acceptable in many peoples' eyes.

Women can be pushed into prostitution—and kept there—by a combination of factors, primarily poverty, racism, social exclusion, and various forms of violence. While the paths that lead to prostitution are diverse and the conditions prostitutes work in vary—from the height of luxury to abject misery—disturbing similarities can be traced in the lives of women who engage in it.

Research shows that over 80% of adult prostitutes in Canada first began selling sex as minors, with an average starting age of 14 or 15. Aboriginals account for between 14% and 85% of Canada's young (primarily female) prostitutes depending on locale, which is disproportionate to their share of the population. Studies also show that most prostitutes endured sexual abuse (rape, incest, pedophilia) or physical and psychological violence within their families before turning to the sex trade. The connection between prostitution and physical, sexual, or psychological violence therefore seems obvious. Victims of such abuse often develop destructive behavior and low self esteem, leaving them especially vulnerable to prostitution.

Studies also show that violence is the norm, not the exception, in the prostitute's world, regardless of where the person works. Most female prostitutes (between 63% and 76%) have suffered repeated physical aggression in conjunction with their activities, including rape, beatings, and serious injuries (fractures, hemorrhages, concussions, etc.), and murder is not uncommon. In Canada, the mortality rate for prostitutes is 40 times the national average. Most prostitutes (68%) display symptoms of post-traumatic stress disorder (mental distress, hallucinations, depression, suicidal tendencies, etc.), not unlike military personnel or people who have experienced severe trauma.

Along with the violence doled out by pimps and clients, or johns, studies show that frequent sexual intercourse — repeated eight to 20 times a day with complete strangers, each time simulating pleasure and emotion where there is no desire — results in a fragmented, incomplete sexuality devoid of genuine human communication. The sexual act is completely dehumanized, and most prostitutes confess that they find it deeply revolting. To survive, many admit that they depend on alcohol or drugs to deaden their emotions, leading to substance abuse problems that only intensify the odds of contracting infection. Prostitutes also admit that they distance themselves psychologically, suppressing their emotions to tolerate the act of prostitution. Over time, this survival strategy brings on a split personality (or dissociative identity disorder) which translates into emotional and relationship problems that may become permanent. Doctors have also noted that subjects may become oblivious to their own bodies, resulting in tolerance of extremely elevated pain thresholds and leading suffers to neglect themselves physically and forego medical treatment.

> Over 80% of adult prostitutes in Canada first began selling sex as minors. The average age for entering prostitution is between 14 and 15.

Data clearly show that prostitution seriously impacts the physical and psychological integrity of those who engage in it, willingly or not. Our discussion therefore cannot ignore the damage associated with prostitution. This harmful practice benefits the pimps, traffickers, and others who profit from selling the bodies of women and children. While various paths may lead to prostitution, we know that it primarily entraps the most vulnerable members in society—those who are poor, victims of racism, or aboriginal. In addition, prostitution reinforces all social inequalities, especially those based on gender and class differences, thwarting the goal of a more just society. This is why prostitution cannot be reduced to a simple question of individual choice, regardless of the material benefits that some women may temporarily derive from it.

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Our analysis is supported by numerous testimonials from women who have endured the harsh reality of prostitution. Here is what two of them had to say:

What got me into prostitution was the suffering I just couldn't bear. It's the sexual abuse I experienced when I was young; I'm talking in diapers. There were three of us at home, three kids who were sexually abused at really young ages. That led me to having a lot of — to being very ashamed of myself, feeling like I wasn't feminine, and then to feel like total garbage, you know. I rejected who I was. I turned to drugs to deal with the pain, but most of all because I just couldn't stand the suffering. Except that I needed money for that, and the only way I could get money quick was turning tricks. At first I was really insecure, I didn't like my body and I felt awful. But then I started getting a kind of, I guess, recognition, from men who told me I was beautiful, that I was kind, and nice, and all that. It's flattering, especially for someone who's never got much affection. But when I was working...I was like totally not there. It's like I lost consciousness when I was a kid and just came to a while ago, and now I'm really waking up, you know. On September 15 I took two jars of pills to make the pain go away and to end it all, you know — but then I woke up three days later in a psychiatric hospital.

Marie-Claude, age 40, speaking in the documentary L'imposture by Ève Lamont

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We had a rough time as kids. Our father was an alcoholic, and violent, and my mom, she...that's the reason why she left, because he was a mean drunk and she put up with 17 years as his victim. And then there was the incest too. (...) I quit high school, I was in grade 10 and I met a girl who was a nude dancer. She said to me "You can make money real quick." My self-esteem was pretty much at zero, so I decided to follow her lead and I started dancing in clubs with her, for about a year and a half. I went for an audition and — oh my god — I was like so shy, but then everyone clapped and I felt like they loved me, you know, like they all felt the same, that's it. I thought that everyone in the place liked me, you know. Of course, they were all guys. At the start everything was cool, it was like...wow! But with all the exploitation and all the leeches that want to get their hands on you there, it eats away at you, you know. I mean, you're not even human any more, you're just worn out, you're like their robot, you know. It's like all of a sudden you're — you haven't even made any money, and you already owe it, you know.

Deborah, a survivor who died in 2010 at age 50 from a drug overdose, speaking in *L'imposture* by Ève Lamont

Part 2: Legal and Political Perspectives

In Canada, judicial opinion with regard to prostitution has evolved over the last 15 years, moving in the direction of greater liberalization (Chapter 4). Decisions involving lap dancing gave freer rein to this practice, which is akin to a form of prostitution, and the Ontario decision in the Bedford case has brought the total decriminalization of prostitution one step closer, with no regard for social consequences.

The Conseil feels that this ruling failed to consider the principles of dignity and gender equality that are set forth in sections 15 and 28 of the Canadian Charter — and routinely violated by prostitution — and also overlooked the connection between prostitution and human trafficking, even though it is recognized in such international agreements as the Palermo Protocol, which Canada has signed. The Conseil du statut de la femme consequently disagrees with the ruling of the Court of Appeal for Ontario, but by no means supports the status quo as defended by the prosecutors for the Crown and the province of Ontario.

The experience of countries that have chosen legalization or decriminalization demonstrates clearly that such a policy does nothing to remedy the many social problems linked to prostitution—and may even intensify them. The experience of countries that have chosen legalization or decriminalization demonstrates clearly that such a policy does nothing to remedy the many social problems linked to prostitution, and may even intensify them (Chapter 5). Australia's case shows that decriminalization only legitimizes sexual exploitation and stokes the demand for paid sex, encouraging trafficking that in turn bolsters the sex industry. Australian policy did not succeed in bringing prostitution out of the shadows or freeing it from the clutches of organized crime. In fact, illegal activities are increasing faster than legal ones, with the control exerted by organized crime continuing and the amount of street prostitution increasing rather than decreasing. In addition, adult and underage prostitutes are experiencing continued violence and abuse, whether they work legally or illegally, and the industry has basically escaped government oversight. As for public health issues — especially lowering the incidence of HIV/AIDS, the goal in whose name decriminalization was promoted in recent years — we must first ask ourselves in what way an effective HIV/AIDS awareness campaign would necessarily depend on decriminalization and, secondly, if this single issue justifies ignoring all the other problems that arise from prostitution. As the Human Trafficking Working Group at University of Queensland, Australia, pointed out, decriminalization addresses only superficial problems, rather than attacking the underlying issues tied to the very existence of the sex trade which impact the basic rights of those involved in prostitution.

On the other side of the regulatory coin, Sweden became, in January 1999, the first country in the world to adopt an innovative policy that targets the demand fueling the prostitution market rather than trying to manage the conditions of this exploitation. The Swedish position views prostitution as violence against women—in the same category as domestic violence and rape—and affirms the principle that women's bodies aren't for sale. Swedish law therefore prohibits the purchase of sexual services and contains a series of social measures intended to help women escape from prostitution.

The results of Swedish legislation have been extremely promising. Even if prostitution hasn't yet vanished, the comprehensive Swedish policy has succeeded in reducing street prostitution by 50% and halted its expansion, while providing support for women who want to exit this milieu. A vast awareness campaign on prostitution's adverse effects has helped change mentalities and discourage men, especially young men, from paying for sex. Sweden's experience shows that it is possible to take action against prostitution, which need not be considered inevitable, and confirms that the law can be a valuable tool for change when linked to appropriate social measures. The fight against sexual exploitation requires a concerted, long-term effort if we are to progress from a culture where prostitution is trivialized to one that respects the rights of women and children to live free of prostitution.

In Chapter 6, the Conseil analyzes the three main arguments in favor of decriminalization: enhanced safety, control over the sex trade, and the right of consenting prostitutes to exercise freedom of choice. The realities of prostitution show clearly that such arguments are founded on false premises. First, while the argument that decriminalization would keep women prostitutes safer may sound appealing at first glance, it overlooks the fact that prostitution relies on a system of global procurement that exploits the vulnerabilities of impoverished and marginalized women and children, many of them victims of racism, and all of whom are over-represented in the sex trade. As shown in Part 1, the path into prostitution is rife with manipulation and violence that starts when new participants are recruited and serves as a tool to keep them in the trade. As countries that have embraced one form of legalization or another have found, "safe prostitution" is a dangerous conceit.

Second, there is no support for the argument that decriminalizing prostitution helps improve the working conditions of sex workers and frees the industry from the grip of organized crime. This is borne out by the experience of countries that have opted for decriminalization, only to see the sex trade continue to prosper under the control of criminal gangs with links to drug and weapons trafficking. Closer to home, the example of lap dancing, which underwent de facto decriminalization after the Pelletier ruling (R. v. Pelletier, [1999] 3 S.C.R. 863), clearly

illustrates the degradation of strip club working conditions and the tight hold that criminal gangs maintain on agencies responsible for hiring nude dancers. Decriminalization is basically a gift for the pimps and organized crime members who profit by selling women's and children's bodies.

The fact that some prostitutes benefit in the short term from the sex trade should not make us forget the vast majority (over 90%, according to estimates) that are driven by poverty and violence into a life of sexual exploitation that exposes them to severe physical and psychological harm.

The third argument — that decriminalization allows consenting women to exercise freedom of choice — is debatable. Some individuals proclaim that prostitution is a choice ("It's my choice, my right!") and maintain that restrictive laws interfere with their liberty and rights. Given the sad realities of prostitution, it is paradoxical to hear the freedom-of-choice argument used to support the liberalization of a system that exploits women. Indeed, many authors refute the political significance some would attach to the concept of consent. Consent is an individual choice, not a collective one that dictates the kind of society we wish to build and bequeath to future generations. The fact that some prostitutes benefit in the short term from the sex trade must not make us forget the vast majority (over 90%, according to estimates) that are driven by poverty and violence into a life of sexual exploitation that exposes them to severe physical and psychological harm. In a culture marked by the commodification of sex and the trivialization of pornography, is it any surprise that a growing number of young women are ready to sell themselves for sex, ignoring the attendant dangers and harm?

The Conseil believes that it is necessary to rise above the rhetoric pitting those who call themselves "sex workers" and advocate the professionalization of prostitution against those who oppose it and denounce it as exploitation. It must be acknowledged that even when prostitution is initially chosen freely and deliberately as a liberation from certain taboos — as "sex work" advocates maintain — it nonetheless has devastating long-term effects on practi-

tioners. Over time, prostitutes eventually lose their own sense of identity and human dignity as they integrate the image that their clients project onto them, a pattern borne out in prostitution survivors' accounts supporting the case for abolition. In addition, the sex trade impacts male-female relationships in ways we cannot ignore.

Legitimizing prostitution represents a clear step backward with regard to equality, impacting the dignity and rights of all women, whether or not they are prostitutes. In countries where prostitution has been legalized, numerous women have testified that this choice has adversely affected their intimate relationships and the climate in which they work. Legalizing prostitution turns it into a legitimate entertainment that entices more and more men to enjoy paid sex and concurrently encourages a view of all women as "potential prostitutes." Thus the prostitution model that reduces women to sex objects available to satisfy every male fantasy becomes the norm. Relations with the opposite sex are ultimately debased, in all aspects of social, political, and economic life, undermining women's legitimate desire to be respected and treated equally. This is why legitimizing prostitution represents a clear step backward with regard to equality, impacting the dignity and rights of all women, whether or not they are prostitutes.

The Conseil therefore believes that it is time to stop viewing prostitution as a public nuisance or public health issue, as has been the case so far, without considering its social effects and the welfare of those trapped in its web (Chapter 7). It recommends taking a cue from Sweden and introducing a law that would decriminalize women engaged in prostitution while criminalizing all those who exploit them. This step must be part and parcel of a comprehensive overall policy that appeals to the responsibility of all members of society with the following aims:

- Combat pimping, without criminalizing women.
- Support women so they can escape rather than remain stuck in prostitution.
- Change attitudes, to make prostitution socially unacceptable.

\mathcal{C} onclusion

In light of the analysis above, the Conseil du statut de la femme refuses to view legalization or decriminalization as solutions to the complex problems associated with prostitution. We believe that doing so would only magnify these problems, as shown by the experience of countries that have opted for this choice. Moreover, the Conseil rejects the existing legal status quo that criminalizes women who are prostitutes and penalize them twice by making it more difficult to quit prostitution. The Conseil believes that prostitution must be considered a form of exploitation and violence against women.

The Conseil therefore believes that prostitution, which is often linked with human trafficking, must be combated and the fight against sexual exploitation made a priority. We must act on two levels to do so: on the legal level, by continuing to penalize those who exploit others for purposes of prostitution, and on the social level, by providing prevention and protection for those at risk, and by working to change attitudes.

The Conseil rejects the existing legal status quo that criminalizes women who are prostitutes and penalizes them twice by making it more difficult to quit prostitution.



To start, we must recognize that the damage done by prostitution at both the individual and societal level violates the dignity of women and the right to gender equality and basic rights, therefore justifying legal measures to halt its practice. This is the first step on the road to adopting a broad, coherent policy intended to protect the rights of the most vulnerable women and children so they can live without resorting to prostitution.

The Conseil believes that promoting awareness among law enforcement agencies and other stakeholder groups is essential if repression and harassment of prostitutes are to be stopped. It also calls for an end to laxity in enforcement and for closer monitoring of the owners of establishments profiting from prostitution (escort agencies, strip clubs, erotic massage parlors, etc.). This will require the allocation of sufficient human and financial resources to agencies responsible for enforcing the prostitution and human trafficking laws, in addition to providing sufficient protection for victims. The Conseil proposes these recommendations.

Prostitution, which is often linked to human trafficking, must be combated and the fight against sexual exploitation made a priority. We must act on two levels to do so: on the legal level, by continuing to penalize those who exploit others for purposes of prostitution, and on the social level, by providing prevention and protection for those at risk, and by working to change attitudes.



A) Legal

- 1. That the Québec Minister of Justice brings Québec's voice at the table of Canadian ministers of justice, to suggest that prostitution-related priorities be reordered as follows :
 - With a view to decriminalizing the victims of prostitution, amend Section 213 of the Criminal Code on communicating for the purposes of prostitution so that it no longer targets prostitutes but continues to apply to customers.
 - As in Sweden, introduce a law criminalizing the purchase of sexual services and maintain the sections of the Criminal Code that prohibit procurement and soliciting (Section 212) and keeping a common bawdy-house (Section 210). In addition, amend sections 197, 210, and 211 to apply to owners, tenants, and customers, but exclude prostitutes.
- 2. That until such amendments are introduced, accusations against pimps and customers should be brought under the existing sections of the Criminal Code, and prostitutes should be excluded from such sections. The Government of Québec should take the necessary action to make law enforcement agencies and the legal community aware of this situation.
- **3.** That the Government of Québec should exert pressure to have advertising for sexual services removed from newspapers, electronic media, websites, and public spaces (billboards or other vehicles).

B) Social

- **4.** That the Minister of Culture, Communications and the Status of Women should implement Measure 86 of the 2011–2015 Government Action Plan on Gender Equality calling for public awareness campaigns to help prevent sexual exploitation and the provision of assistance to women who want to quit prostitution. Sufficient financial funding must be secured for this purpose.
- 5. That specialized services be made available for those seeking to quit prostitution, including women's shelters, drug and alcohol treatment centers, psychological counseling, help with job training and social and workplace reintegration, and legal assistance to help women convicted of soliciting for the purpose of prostitution ask that their records be expunged. Such services must address the specific needs of aboriginal women, who are over-represented in this group.
- 6. That front-line organizations created to help women quit prostitution should be subsidized.
- 7. That given the special vulnerabilities of human trafficking victims, financial resources should be put in place to support front-line initiatives designed to help victims escape from sexual exploitation and offer them economically viable alternatives.
- 8. That additional projects be implemented on the model established by two successful existing programs: Mobilis, a program to protect minors at youth centers from pimps, and Les Survivantes, a program involving a special police squad that tracks pimps and helps women get out of prostitution.

- 9. That educational programs be implemented for girls and boys especially among vulnerable and at-risk populations to keep women from entering into prostitution and prevent its spread.
- **10.** That training and awareness should be provided for all stakeholders, law enforcement personnel, and legal professionals whose jobs involve direct intervention with prostitutes and trafficking victims.
- 11. That like Sweden, the government should conduct an extensive information campaign targeting the general public, and buyers of sex in particular, to discourage the purchase of sexual services and show the harm arising from prostitution.





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