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CANADA

# **Standing Committee on Justice and Human Rights**

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**EVIDENCE**

**Wednesday, July 9, 2014**

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**Chair**

**Mr. Mike Wallace**



## Standing Committee on Justice and Human Rights

Wednesday, July 9, 2014

• (1530)

[English]

**The Chair (Mr. Mike Wallace (Burlington, CPC)):** I will call this meeting to order.

We are the Standing Committee on Justice and Human Rights, and this is meeting number 40 and we are televised. Per the order of reference of Monday, June 16, 2014, we are dealing with Bill C-36, An Act to amend the Criminal Code in response to the Supreme Court of Canada decision in Attorney General of Canada v. Bedford and to make consequential amendments to other Acts.

We will have a couple of announcements before we get to our witnesses. I'm going to make one announcement, and then Madam Boivin has a question for the committee.

The Department of Justice has sent out the summation, whatever you want to call it, of the note on the summary conviction issue. Everyone has it, or you should have it anyway. I just need to know whether you need us to add some time on Tuesday for the officials to talk about this particular issue. Our analysts have looked at the submission from the justice department and are in 100% agreement, but if you need the officials to come here for that, I need to add it to the agenda. If not, we'll just assume that we are satisfied with the response.

Madam Boivin, on that issue.

[Translation]

**Ms. Françoise Boivin (Gatineau, NDP):** They don't need to appear before the committee. We know that both groups agree with us in that someone who is found guilty of the proposed offence would receive a criminal record in connection with that decision. That is exactly what we think too. The confusion has more to do with the fingerprinting.

On our end, that settles the debate on this issue. We don't need officials to come and explain it.

[English]

**The Chair:** Is everyone okay then?

**Mr. Sean Casey (Charlottetown, Lib.):** No, I have not seen the document to which she refers.

**The Chair:** It was sent to everyone by e-mail.

**Ms. Françoise Boivin:** They sent it this morning.

**The Chair:** It went to my assistant who then sent it to me.

I'll come back to it tomorrow. I just need to know whether to put it on the agenda or not.

If you could let me know, Mr. Casey, if you want them on the agenda for next week, we'll make sure that happens.

I think there's another item.

[Translation]

**Ms. Françoise Boivin:** Exactly, Mr. Chair.

I have a motion to read to the committee: It is as follows:

That the Chair ask the Minister of Justice to table the Ipsos Reid survey on prostitution before Tuesday, July 15, 2014.

We asked the minister about the scientific survey commissioned by the Department of Justice. The committee has the authority to request that all documents be tabled. Don't laugh, Mr. Chair!

Since we'll be doing our clause-by-clause study next Tuesday, I am eager to see the survey results. It's a bit frustrating to have to wait until the end of July just because the department wants to use all of the time at its disposal to table the document. It could table it much sooner.

It seems logical to me that the committee would want to have the survey results tabled. I'm not asking for the results with respect to pot, just the ones pertaining to prostitution. That's all I'm looking for.

[English]

**The Chair:** You're asking me to ask the minister to table it prior—

**Ms. Françoise Boivin:** Yes, before Tuesday so we can read it.

**The Chair:** The motion is:

That the Chair ask the Minister of Justice to table the Ipsos Reid survey on prostitution before Tuesday, July 15, 2014.

Mr. Dechert.

**Mr. Bob Dechert (Mississauga—Erindale, CPC):** Mr. Chair, the minister was clear. The survey will be released in accordance with Treasury Board guidelines.

We oppose the motion.

**The Chair:** Mr. Casey.

**Mr. Sean Casey:** I support the motion, and not only will I not be offended but I will be very well pleased if the minister responds to the chair more positively than he did to me.

**The Chair:** Madam Boivin.

**Ms. Françoise Boivin:** I would urge my colleagues from the Conservative Party.... I understand that the minister said something, but I think that you all have your own voice on the committee. I don't think it's untoward to have a piece of information that could guide us, since how Canadians think is often an argument that is used. There is nothing wrong with the committee having as much information as possible.

I really don't get why members of the committee, who are all of equal voice—not when we add them, but anyway—won't do something that would be very useful for the committee.

**The Chair:** There is a motion on the table for me to request that the survey be delivered to the committee prior to Tuesday.

(Motion negatived)

**The Chair:** Thank you, Madam Boivin.

Witnesses, sorry for that slight delay. We'll make sure we make it up to you.

We're here for our final panel of the day.

As individuals, we have Jeanne Sarson, and Linda MacDonald. From Exploited Voices Now Educating, we have Trisha Baptie; and from the Northern Women's Connection, we have Larissa Crack and Heather Dukes.

By video conference, we have two groups. The British Columbia Civil Liberties Association is being represented by Josh Paterson; and PACE Society, by Sheri Kiselbach and Laura Dilley.

We will hear from our witnesses in that order.

Are you working separately or together?

• (1535)

**Ms. Linda MacDonald (As an Individual):** We're working together, but I'm starting.

• (1540)

**The Chair:** Okay, you can start, then.

**Ms. Linda MacDonald:** Thank you.

We are nurses from Nova Scotia. We have 21 years of grassroots experience. We're human rights defenders. We're also members of the Canadian Federation of University Women, which is an NGO of approximately 8,000 women across Canada, and they support us in what we're speaking about today.

We'd like to say that Bill C-36 is historic/"herstoric". It's transformative in that it's socially, legally, and relationally a new way of looking at prostituted persons in that they are persons, not a nuisance, and that the demand is criminalized.

Our goal here today is to expose a population of women we have been working with and supporting for 21 years who are invisible to this country. They are women who have endured grave brutality. They are involved in forced prostitution, which means no choice. They were forced into human trafficking. And what we're focusing mainly on today is the non-state torture that they endured.

Non-state torture is an Amnesty International term. The UN definition of non-state torture is severe pain and suffering; it's

purposeful, it's discriminatory—in this case, gender discrimination—and it's intentional. The intentionality, indeed, shatters the relationship with the self of the prostituted and tortured woman.

Who are the torturers, in our work? We found them to be parents, family, guardians, spouses, pimps, traffickers, and johns.

Where is this torture occurring? It's primarily in-house. It's definitely organized crime.

You're wondering about the type of torture. What we're going to do, as a way of explaining it, is read the story of a tortured woman. Her story was published in the work we do in the Canadian Centre for Victims of Torture.

Her name is Lynn. She is now dead. She said:

I was called bitch, slut, whore and 'piece of meat'. Stripped naked and raped —'broken in'—by three goons who, along with my husband, held me captive in a windowless room handcuffed to a radiator. Their laughter humiliated me as they tied me down spreadeagled for the men they sold my body to. Raped and tortured, their penises and semen suffocated me; I was choked or almost drowned when they held me underwater, threatening to electrocute me in the tub. Pliers were used to twist my nipples, I was whipped with the looped wires of clothes hangers, ropes, and electric cords; I was drugged, pulled around by my hair and forced to cut myself with razor blades for men's sadistic pleasure. Guns threatened my life as they played Russian roulette with me. Starved, beaten with a baseball bat, kicked, and left cold and dirty, I suffered five pregnancies and violent beatings-forced abortions. They beat the soles of my feet and when I tried to rub the pain away they beat me more. My husband enjoyed sodomizing me with a Hermit 827 wine bottle, causing me to hemorrhage, and I saw my blood everywhere when I was gang-raped with a knife. Every time his torturing created terror in my eyes, he'd say, 'Look at me bitch; I like to see the terror in your eyes'. I never stopped fearing I was going to die. I escaped or maybe they let me escape, thinking I'd die a Jane Doe on that cold November night.

That was Lynn's story.

In Bill C-36, there's an expansion of weapons in what can be used as restraint. Lynn's example shows that handcuffs could be used as a restraint in her case.

The other way we can expand on what torture is, what the ordeals are of the women we have worked with, is in our brief as well. It's a questionnaire that we developed and that we send to women who are interested in filling it out. Bridget Perrier was one of these, and she was willing to have me disclose that today.

This is another woman in Canada. We have identified 48 different forms of torture: forced impregnation; smeared with urine, feces, or blood; placed in a freezer.... All these are listed. This one Canadian woman endured 47 of the 48 that we have listed.

She summed up her statement by saying that she was sold to hundreds of perpetrators for sex and stating that "the goal of torture is to control and or break the human spirit through any heinous means possible."

I would like to say to you that from what you've heard and in my opinion, I cannot call torture "work".

**Ms. Jeanne Sarson (As an Individual):** I will continue.

I will now expand on the continuum of the persons who are forcibly trafficked, prostituted, and tortured. What and who are the johns buying, renting, or procuring?

Our answer has come to be that some prefer to rent children, including infants, for their pleasure of inflicting sadistic, sexualized, non-state torture. They are demanding, buying, and renting the so-called “sexual services” of underage prostituted girls who were groomed to normalize and sexualize torture and be rented out by parental pimps. You have to remember that children are where the money is.

I now share Sara's story of her drawing on page 7 of the brief. You can see her sitting on the counter of her father's store with an endless line of johns waiting to buy and rent her, and her father saying, “Bring her back when you're done”. That's a statement of her commodification and objectification. She was two.

To illustrate her continuous harm from forced prostitution and trafficking, I move to when she was 12 years old. A john rented her; drove her to his boat; took her to sea; and raped, beat, and water tortured her by repeatedly caging her and dropping her in the cage into the sea. During the continuous harm of forced prostitution and trafficking we estimate Sara suffered at least 24,000 torture vaginal, anal, and oral rapes. This does not account for the bestiality and the object and weapon rapes. She escaped in her late-twenties. For Lynn, in the story that Linda just told, we estimated that maybe she suffered 8,000 torture rapes.

We recommend to the committee that it ask that section 269.1 of the Criminal Code of Canada, on torture, be amended so that everyone, including pimps and johns, is held to account if they commit acts of torture and that torture be listed in Bill C-36, under paragraph 753.1(2)(a), to go along with the sexual assault.

We also support Bill C-36 to make sure that it does not criminalize prostituted women and children. As for the \$20 million in funding, it will be inadequate. Many people have said that.

I would like to close on a cheap and preventive strategy that promotes the social paradigm shifts that we're talking about and promotes the human rights of women and girls. This is an example of me teaching grade 7 classes on human rights and the fact that the teachers came because of their concern about the misogynistic jokes from the boys about prostitution and human trafficking.

I use the Universal Declaration of Human Rights, which Canada very proudly spent much time promoting in New York after the war. It says that everyone should be equal. If you opened it, which I do in class—and all the children get a copy, you will see that in your brief—the children ask about torture porn and about snuff. The girls talk about prostitution, so I have to tell them the stories that Linda and I have known for 21 years.

If you look at the universal declaration—and we're talking about women's and girls' equality—article 5 says that no one should be subjected to torture. The children are shocked when I have to say that only some people have the right not to be subjected to torture. The only people that have that right are those who are tortured by state actors. That means representatives of the government, which means MPs, police, and military. If it's a john or a pimp, and you're a private citizen who is tortured by a john or a pimp, you cannot take them to court and claim that you were tortured. For the whole concept of human rights equality, totally for women and girls, I ask

that you ensure that section 269.1 of the Criminal Code is amended and included in your bill.

Thank you.

● (1545)

**The Chair:** Thank you for that presentation.

Our next presenter is from Exploited Voices Now Educating.

Ms. Baptie, the floor is yours.

**Ms. Trisha Baptie (Community Engagement Coordinator, Exploited Voices Now Educating):** Sorry, it's a little overwhelming in here.

**The Chair:** Take your time, take your time.

**Ms. Trisha Baptie:** My name is Trisha Baptie, and I want to thank you for inviting me to be a part of this process. I would also like to acknowledge the Algonquin peoples, who are the traditional caretakers of the land on which we stand.

I am here today as a representative of an organization called EVE, former Exploited Voices Now Educating. We are a volunteer, non-governmental, non-profit organization comprising former sex industry women. Our mandate is to have prostitution recognized as a form of violence against women, driven by the demand for paid sex. We seek the abolition of paid sexual access to women's and children's bodies, and participate in political action, advocacy, and public education campaigning in order to pursue this goal.

EVE operates under a feminist model, acknowledging that prostitution is born out of sexism, classism, racism, poverty, and other forms of systemic oppression. Since EVE was established in 2008, members have worked alongside of a wide cross-section of groups—feminists, grassroots, academics, aboriginals, faith-based/community-based groups, and government officials—to advocate for the criminalization of the demand for paid sex, and the decriminalization of persons selling sex.

I am not only here because of my group's vested interest in this topic, but also because I have a 15-year history in prostitution. I was prostituted from the age of 13 to the age of 28. The last 10 of those years were in Vancouver's notorious Downtown Eastside, the Downtown Eastside where I made many of my dearest friends, some of whom I would lose to Robert Pickton.

I entered prostitution when I was in my first group home after I was signed over to government care. I didn't call it prostitution at the time. I had no cognition that what I was experiencing was prostitution. I knew it was some form of inequality, as I was forced into the situation by a lack of alternatives. But no one stood up for me, no one told me that what was being done to me was not okay, and especially no one stood up to the men and said to them that they were breaking the law.

I had no idea at 13 years old I would be trapped in that world for the next 15 years, working indoors and outdoors, working licensed and unlicensed, preferring the streets of Vancouver's Downtown Eastside to working for someone else and giving my money away. At no point in time did I consent to the abuse I suffered. Consent was not freely given. It was bypassed because johns had the money I needed to keep myself and my family alive. Like so many other women and girls who find themselves in that circumstance, the choice of prostitute was one made under severe constraint. It was a choice between whether my kids would go hungry, or not. To me at that time there was no choice at all.

Money does not equal consent. It temporarily alleviates a dire need, the need to feed children, the need to feed addictions, the need to pay rent. Whatever the reasons, we had to be out there. Men took advantage of that desperation for their own sexual gratification, and used money to appease their guilt.

When Bill C-36 was released, I was encouraged when I read the first section of the summary that dealt with this exact behaviour. As a former prostitute, I'm aware that not every man is violent, but the threat of violence was ubiquitous in the sex industry, as it was impossible to discern which johns would attempt to cause physical harm, and when they might choose to do so. I feel justified in using gender language in this when I discuss my experiences because in 15 years of prostitution I was never bought by a woman.

We were particularly encouraged that the preamble of the bill contained statements like concerns about the exploitation that is inherent in prostitution, and the risk of violence, as well as recognizing the social harm caused by the objectification of the human body and the commodification of sexual activity. These statements are consistent with our experiences in prostitution. These words acknowledge that prostitution is a system based on inequality.

I want to make it very clear that it was never the laws that beat and raped and killed me and my friends, it was men. It was never the location we were in that was unsafe, it was the men we were in that location with who made it unsafe. We are glad to see that this behaviour will no longer be tolerated.

● (1550)

Some people want to make prostitution safer, but I know, we know, that you can't tell whether someone is a violent john until he deals out the first blow. This is true of unfamiliar johns as well as regulars. The claim that a prolonged screening time with potential buyers will protect women from physical harm allows society to wash its hands of the responsibility to take care of the most vulnerable and marginalized. What we demand is not safer, but safe.

The ban on the purchase of sexual services is an integral part of a movement towards real safety for women in Canadian communities. This is how we truly keep prostitute women safe. We do not allow men to buy them.

This policy sets a new tone for Canadians in how men treat and regard women. Canada, in passing this legislation, will be setting a standard for how men treat women. It will create a new social fabric for our young people to stand on, one that clearly says women and our girls are not for sale.

If we stand in agreement with prostitution we reinforce male privilege. We would effectively be saying that we will always have a demographic of women who will be offered up for sale. That notion contradicts the statements in the preamble of this bill that correctly note that prostitution disproportionately impacts women and children, particularly women and children of colour.

We do have concerns about this bill. We believe that section 213, the communicating provision, is redundant, as the culpable party—the sex buyers—would already receive criminal sanction. If, in fact, the government wants to encourage those who engage in prostitution to report incidents of violence and to leave prostitution, as stated in the preamble, the sellers of sex should face no fear of criminalization at all. A criminal record is a barrier to exiting from prostitution as it limits the ability for people in the sex industry to gain employment elsewhere.

We also fear this provision could cause prostituted women to be unduly targeted by their community, reducing them again to the category of public nuisance rather than human being.

In regard to the \$20 million, we recognize this is a great start towards combatting prostitution, but we are very aware of how much this is just a drop in the bucket. We need funds dedicated to helping women exit prostitution, help support women until they feel they are able to make the transition to leave, as well retraining of the police about how to implement the new prostitution laws. We also need funds to do public education so the public can understand the changes made to the laws and explain how Canada is on a new trajectory for ending this form of abuse.

We resist the notion that men should be allowed to have sex exclusively on their terms at all times. We need to uphold the idea that mutual desire, comfort, and safety are a requisite component of sexual encounters. Anything short of this reinforces rape culture. For when men pay for sex, it is all about them, and has nothing to do with the person inside the body they are abusing.

We anticipate this law will have a normative function. Rather than give men free rein to ask women if they are for sale, rebrand pimps as businessmen, and attract organized crime, we will send a message that we value the women in our country and will not tolerate this gender violence.

If we want to build strong, safe, happy, and vibrant communities, we must put an end to this form of abuse and injustice. We rally to change male behaviour rather than accept women's subjugation. This subjugation causes physical, emotional, and mental harm for individual women and women collectively. A safe community for one and all is one that does not have prostitution.

• (1555)

**The Chair:** Thank you very much. Thank you for that presentation.

Our next presenters are from the Northern Women's Connection. Ms. Dukes, the floor is yours for 10 minutes.

**Ms. Heather Dukes (Co-founder, Northern Women's Connection):** First of all, we would like to say that it's an honour to be here today in front of all of you. Thank you for granting us the opportunity to communicate on the importance of Bill C-36, being passed as the Canadian model.

The Northern Women's Connection believes that Bill C-36 is an excellent piece of legislation. It provides protection to women who are manipulated, coerced, and threatened into the sex trade. It will allow women to finally have the opportunity to learn that there may be a chance to exit this vicious cycle of violent sexual abuse.

When women learn that predators are criminalized, they will gain personal power and the ability to direct that power toward the very people who are profiting from their sexual services, financially, sexually, or for other unmentioned illegal returns.

Many women, including me, have worked hard to never have to use sex in order to survive and meet basic daily needs again. This is often difficult for women who are plagued with barriers in our society, such as housing, child care, precarious employment, and low accessibility to service due to being located in northern Ontario.

At six years of age, I was placed in the care of a 16-year-old male, who had the free will to treat me like his sexual object. I was also raped of my entire childhood, and my perceptions of life were damaged. I came to believe that it was the norm for young girls to engage in sexual behaviour.

This personal and systematic belief system, which is common among sexually exploited women, creates a structure that forces women to engage in precarious sexual activity in order to meet basic needs. After 20 years of addictions, and caressed with faces of death several times, I knew I had hit a place of complete demoralization. I came to a place where I had to surrender to finally receive professional help. I had to change my entire life.

Fortunately, I live in a country that has provided me with services for rehabilitation. The services I personally used, which are vital services for women who have experienced trauma, are mental health wards in local hospitals, withdrawal management centres, detox, treatment centres, and addiction counselling. I participated weekly in sexual assault counselling. However, I was not offered any tailored services in order to restore a healthy sexual life. I suffered daily about my past sexual behaviour.

The \$20 million that has been offered through Bill C-36 will help create services that will specifically support the diverse needs of sexually exploited women. It was not until after I began attending

Algoma University and was receiving an education for a degree in social work, that I finally realized that this was a common issue and that I was not alone.

The Northern Women's Connection is asking all members of Parliament to pass Bill C-36, so women can finally start receiving the help they need to change their entire lives, without ever believing that they are alone. In northern Ontario, we're going to need funds for education and reintegration.

Thank you.

• (1600)

**Ms. Larissa Crack (Co-founder, Northern Women's Connection):** As a survivor of sex trafficking and the co-founder of the Northern Women's Connection, which is a new grassroots agency that directly works with women who have experienced oppression, marginalization, and trauma as a direct result of the sex trade, I am in full support of Bill C-36.

The protection of communities and exploited persons act, Bill C-36, works to offer solutions to women and at the same time targets johns, pimps, and any other party who would benefit from the exploitation of vulnerable women, children, or boys and men.

The day that Bill C-36 was announced was a momentous day for women's rights and equality within Canada. For the first time, Canada has offered legislation that acknowledges the gender inequality and inherent violence that is aimed towards women within prostitution. Bill C-36 is Canada taking a stand and demanding that women are treated with the respect and dignity they deserve, instead of being looked at as a nuisance. With slight amendments, such as fully removing the criminalization of women—this is expanded on in our brief—we are confident that Bill C-36 will be a solid platform for Canada.

As a survivor of child sexual exploitation, I was somewhat privileged in the fact that I was able to access the minimally available services and supports that women over the age of 19 are not allowed to access, or there are no services present in order to help them. I was 17 years old when I exited the sex trade. As a minor who had been involved, I was looked upon as a victim and a child incapable of having made the choice of entering the sex trade. If a few more years had passed, I would have turned from a victim to a willing participant. A few more years in the violent and forceful means that started and kept me in the sex trade would have been completely ignored in lieu of my new-found ability as an adult to make informed choices.

With the average age of entry into the sex trade, as stated by the John Howard Society, being between the ages of 14 and 16, how does a girl go from being a victim of exploitation to a woman capable of making decisions about her situation within the matter of a year? Bill C-36 recognizes that all women are exploited on one level or another, and therefore should all be able to access resources and services to aid them in exiting their situation.

Despite the pro-legalization lobby's attempt at discrediting Bill C-36 by making false claims and erroneous assertions—these include, but are not limited to, a man's right for paid sex, disabled men's need for paid sex, and a woman's right to sell sex—legalization and decriminalization would only create further harms for women.

The first two claims place a man's sexual desires as being more important than the inherent harm and distress caused to the woman in the same transaction. No person's sexual desires should be allowed to come before the protection and safety of another human being, including those who have disabilities or other factors that minimize their opportunities to have partnered sex.

The third claim, that a woman has the right to do what she wants with her body, to an extent is very true. But there comes a point where the able and willing must put their wants and desires to the side—when the majority of those involved in the sex trade are there completely through exploitative means. The small percentage of women, as stated by a study completed in 2014, who truly fit into this privileged category is no more than 10% of the population. This small subgroup of women within the sex trade should not override the needs that the other 90% of the population has, which is to be protected and free from criminalization.

Bill C-36 finally recognizes that the role of legislation is to protect those who are vulnerable, not to further the harms by advocating for the privileged minority through the fallacy of legalization. Despite the pro-legalization lobby's attempt at stopping Bill C-36, sexual transactions and the ability to perform sexual fantasies have never been, and will never be, either a mandatory part of sexual expression or a human right.

The Northern Women's Connection believes a shift in the thinking paradigm of Canadians in regard to the sex trade is very possible if educational services are put into place that would recognize prostitution as an oppression that relies on such structural barriers and inequalities as poverty, colonialism, racism, addiction, and lack of resources for women.

●(1605)

Violence has been, and always will be, associated with prostitution. This holds true for a large proportion of women involved in the sex trade who admit to experiencing abuse and violence as a direct result of the sex trade. It doesn't matter if women are given 2 seconds or 20 minutes to assess and screen the men looking to buy sex. When women are required to identify violent offenders, their immediate safety will be put at risk. Predators can be manipulative, charismatic, and smooth talkers; all of which would make it easy for them to move past any so-called safety practices put in place by sexually exploited women, and we cannot put this onto the backs of women who are placed in this position.

As a 17-year old first exiting the sex trade, I spent years healing from the trauma and abuses that occurred during my involvement. Early in my recovery, I was diagnosed with PTSD to the same extent as war veterans, due to a combination of prostitution itself and the violence that becomes a normal part of the overall experience.

I have been held at gunpoint and watched my friend get murdered in front of my eyes. I was tied down for days at a time and injected with numbing drugs while men paid to rape me. I was drugged. I've been beaten and thrown out of the vehicles of men who didn't want to pay for the service they had received and suffered multiple injuries from the pimps who wouldn't accept anything under a predetermined amount of revenue.

After all of these abuses that I have endured, the worst part is now living with and hearing others talk about the sex trade as if it were a choice, a form of employment that could become normalized if Bill C-36 is not passed, and constantly hearing that what I went through could have been prevented by having a bodyguard or by having the privilege of working inside.

I had a bodyguard, who made sure that I was always making an income, who enforced the rules that I was expected to live by, which often included ensuring I serviced violent and abusive men. I also often worked inside, which prevented social workers and police from even knowing that I was there and which gave a quiet, undisturbed place for me to get violated, abused, and raped without anyone ever knowing that it was happening.

Hearing these lies and knowing the truth about the inherent violence involved in the sex trade is a form of exclusion that continues to victimize and marginalize the hundreds of women I have known and worked with over the past 10 years who have stories similar to mine.

Pro-legalization lobbies have put forth a large amount of energy and resources in the hopes of swaying the general public. These extreme measures are not surprising, considering the large amount of profit that the sex industry stands to lose if Bill C-36 becomes a reality.

Supporters of Bill C-36 stand firm in their position due to understanding the need to support and protect women while criminalizing those who are at the heart of the problem, while the pro-legalization lobby stands firmly behind profit margins without considering the human cost associated with it.

**The Chair:** Thank you.

Thank you very much for the presentation from the Northern Women's Connection.

Now we are going to the video conference from British Columbia, and the British Columbia Civil Liberties Association.



Mr. Paterson, the floor is yours.

**Mr. Josh Paterson (Executive Director, British Columbia Civil Liberties Association):** Thank you, Mr. Chair.

I'd like to thank all the previous witnesses for their very moving stories and recognize the courage that it takes to join this difficult discussion even when we may have different policy perspectives.

The BC Civil Liberties Association is an autonomous non-partisan charitable society established in 1962. Our mandate is to defend, maintain, and extend civil liberties and human rights in Canada. We intervened in *Bedford v. Canada* and we have publicly opposed the criminalization of sex work and related activities since 1978. We believe the decriminalization and regulation of sex work will afford those involved in sex work the dignity, safety, and autonomy that they deserve.

As the court remarked in *Bedford*, some people do make the free choice to engage in sex work, and their choices should not be criminalized. Other people, the court observed based on the findings of the trial court, do not have meaningful choices other than sex work because of financial desperation, drug addiction, or compulsion. The criminal law in our view is not the tool that should be used to extricate people who do not want to be in sex work from their circumstances. In either situation criminalizing these people, their clients, and their associated activities puts sex workers' health and safety in danger and pushes them underground into the same precarious situations that have grounded the decision in *Bedford*. We think that it would replace the unconstitutional criminal provisions recently invalidated by the Supreme Court with new criminal provisions that would be similarly unconstitutional.

We do think that the significant harms that can be associated with sex work, many of which we have heard very movingly about just in the past few minutes, including terrible abuse, violence, and exploitation, can be and should be properly dealt with using existing criminal provisions.

I'd like to use my limited time to focus on a few discreet issues, but I would like to say at the outset that we take the position that the new provisions taken together are likely to violate the sphere of personal autonomy protected under section 7 of the charter and the freedom of expression guarantee in section 2(b). Further, we do not believe they will be found to be justified under section 1 of the charter. We adopt Pivot's position from yesterday in these respects.

Contrary to what's been suggested in the media often, and I think in discussions here, the Supreme Court did not place on Parliament an obligation to legislate. The declaration of invalidity was suspended for a year in order for Parliament to consider what the court called a complex and delicate matter and because of the public concern that would result if suddenly the provisions were washed away without any public debate or consideration. We think it is clear from the court that there is absolutely no legal requirement to replace the struck-down criminal provisions with other criminal provisions. We would also say there is no policy requirement either.

That is not to say of course that Parliament can't place certain limits on sex work including time and place, and there may be very good reasons for which to do that.

In the rest of my remarks I'm going to focus a little bit on some of the pieces that we think are unconstitutionally vague about this bill.

At the outset the Supreme Court has made clear that a vague provision is one that doesn't sufficiently set out the area of risk to people who are conducting themselves under the law and neither does it give sufficient instruction to officials and sufficient grounds to courts to limit enforcement discretion. There are so many pieces in this bill that are unclear and I'm going to zero in on just a few.

In terms of the prohibition on communications, as the committee will know proposed subsection 213(1.1) states that it's an offence for anyone, including sex workers, to communicate in a public place or in any place open to public view that is or is next to a place where persons under the age of 18 can reasonably be expected to be present. What does that mean? Is that any building next to a public road? What counts as being present? Passing by in a car? Walking past? This is a huge area of discretion that is being left to the police, the Crown, and the courts.

Justice Canada says that even social networking sites could count if children might be reasonably able to view them.

The Department of Justice put out a technical note a few days ago saying that existing criminal law provides guidance on language like this. But if you look at the provisions that they mention the situations there are very different. Those provisions relate to prohibition orders on sexual offenders and conditions on sureties to release suspected sexual offenders. Critically the Criminal Code in those sections—and you can look at them, it's section 161(1) and section 810(1)—is substantially more precise. It specifies public parks, swimming areas, daycare centres, school grounds, playgrounds or community centres where persons under the age of 16 years are present or can reasonably be expected to be present.

• (1610)

There was a whole Supreme Court case on this, which found that the original language that Parliament had passed was too broad and unconstitutional. It's that precision that makes a huge difference.

Here, because this communications provision specifically targets sex workers, sex workers effectively will remain criminalized in their activities in what is potentially most of any city, downtown or suburb. The claim that this bill will not criminalize sex workers is simply not sustainable. Making matters worse, the minister has stated that this provision could even be used to criminalize underage sex workers who work in pairs because someone else who's under the age of 18 would be present. Justice lawyers, on the other hand, have said the opposite. Now, this disagreement alone confirms the confusion around this provision. The BCCLA naturally doesn't condone underage sex work, but we don't think vulnerable minors should be liable to criminal prosecution, either. In the result, we think that this provision will be constitutionally overbroad.

Turning to the material benefits provisions, I understand that there was some discussion in the committee over the last few days about what counts as a "commercial enterprise". Proposed subsection 286.2(4) creates some exceptions from the material benefit prohibition, but proposed subsection 286.2(5) creates an exception to the exception, one that is confusing, vague, and problematic. What it says is that, essentially, if you're receiving a financial or material benefit knowing that it's from sex work, you are exempt, if you're a family member, a roommate, a spouse, in what's called a "legitimate living arrangement". But you can be liable if you receive that benefit in the context of a commercial enterprise. There's no clarity as to what that means in the bill.

Justice Canada's technical paper says that not just brothels and strip clubs are considered commercial enterprises. It could include all kinds of associations, including informal ones. So informal groups of sex workers working for themselves but working together, sharing certain services, sharing space in common, could very well be counted as commercial. Justice's paper says that, well, they don't think that individuals and cooperatives would be included, but on the language in the test set out by the courts for defining commercial enterprises, I can see no reason why sex workers might not be targeted by this, potentially, if they come together in some sort of cooperative or organization. For this reason, the bill continues to render it nearly impossible for sex workers to improve their health, safety, and working conditions by working together cooperatively, because it appears that anyone who derives a benefit through such an arrangement could be caught by the exception to the exception and that they may be criminalized for receiving material benefits.

This is an instance, we think, where it's not acceptable to just rely on the assurances of the crown or police discretion to say, well, we don't mean to do that; we're not going to enforce it in that way. The Supreme Court has made it clear, in a case called Taylor, that rights and freedoms guaranteed by the charter cannot be left to the administrative discretion of those employed by or retained by the state. The law has to stand on its own. We can't rely on police discretion to render it constitutional.

Ordinarily I might say this could be clarified in an amendment, but there are so many problems with this bill that we think the only proper approach is to withdraw it, not to have piecemeal amendments.

Finally, I'll move to advertising. Under proposed section 286.4, the bill makes it an offence to knowingly advertise an offer to provide sexual services, but it provides an exemption for advertising

one's own sexual services. It's pretty clear, we think, on the face of this bill, that this criminalizes any publication or website owner that carries such advertising. Newspapers, websites, TV, Internet service providers, or anyone else who carries ads will be prohibited from doing so. The implication here is that it will be effectively impossible to work indoors because it will be effectively impossible to let anyone know about your service. The Supreme Court of Canada confirmed that working inside was the safest way for sex workers to conduct their work.

We also think it could make criminals out of any sex workers who work collectively and advertise collectively, because they would then be participating in advertising someone else's services, not just their own. Of course the provisions around seizing newspapers and shutting down websites we think will be potentially quite challengeable under the freedom of expression provisions of the charter.

To conclude, the BCCLA recognizes the myriad social problems surrounding the sex trade today, but we continue to maintain that the criminalization of sex work is not the solution to these problems.

● (1615)

By advocating that Parliament not use criminal law to address sex work generally, the association does not condone coercive or violent activities related to sex work. We don't condone trafficking or juvenile prostitution. But rather than attempting to legislate moral standards, we believe that a regulatory system should aim to reduce harm against all citizens equally. Removing the sex trade from the ambit of the criminal law would properly recognize marginalized sex workers' rights and allow them to reclaim the dignity, autonomy, and safety that every citizen deserves.

Thank you very much.

**The Chair:** Thank you, Mr. Paterson, for that presentation from the British Columbia Civil Liberties Association.

Our final presentation this afternoon is from the PACE Society.

Who is speaking on your behalf?

● (1620)

**Ms. Laura Dilley (Executive Director, PACE Society):** We both are, but I'll start first.

**The Chair:** Okay, Ms. Dilley, the floor is yours.

**Ms. Laura Dilley:** Thank you.

Thank you for inviting our organization to come before the committee today. The Providing Alternatives Counselling and Education Society, by, with, and for sex workers, provides peer-driven violence prevention and support services for sex workers in Vancouver, British Columbia. We're located in the Downtown Eastside neighbourhood and have been providing services for the past 20 years. We operate under a non-judgmental, asset-based, and harm reduction model that recognizes the human rights of sex workers—female, trans, and male. This approach is based on self-identified needs.

Our sex worker-driven approach reflects an international movement that includes groups, such as Maggie's, in Toronto; Stella, in Montreal; POWER, in Ottawa; and the Canadian Alliance for Sex Work Law Reform. This movement emerged in response to the discrimination, violence, and persecution that sex workers experience due to stigmatization, and laws criminalizing sex work and sex workers.

Since the beginning, this movement has sought to address the inequalities that sex workers experience under the law. Our organization was an intervenor in *Bedford v. Canada*. Our violence prevention coordinator, Sheri Kiselbach, who I will have the pleasure of introducing to you shortly, along with Pivot Legal Society and sex workers united against violence, had previously launched a parallel constitutional challenge of Canada's sex work laws.

While we met the *Bedford* decision with great joy, knowing, in the words of Valerie Scott, that sex workers have for the first time been recognized as persons under the law, we are steadfast in our opposition to Bill C-36. As the committee has heard from our sister sex worker organizations, legal advocacy groups, and researchers, Bill C-36 will recreate the devastating harms that sex workers have experienced under the laws that were struck down in the *Bedford* decision. In pushing sex workers into unsafe settings and undermining their ability to screen clients, Bill C-36 will create the conditions that will lead to more murdered and missing women.

We're not recommending any amendments to Bill C-36 because, in short, we believe that the legislation is fatally flawed. Echoing previous testimony by Pivot Legal, the British Columbia Civil Liberties Association, and others, it would not withstand a constitutional challenge. As we know from past experience, constitutional challenges take years to wind their way through the courts. Let me be clear. It is absolutely unacceptable that sex workers in our community and across Canada be subjected to untold violence due to laws that are unconstitutional.

We call upon the committee and the government to reject this bill in its entirety until the current laws expire in December. However, we acknowledge that the government is unlikely to do so. We, therefore, call upon the government to immediately refer Bill C-36 to the Supreme Court and publicly release all legal opinions that the government has solicited on the bill.

Given that the minister has publicly acknowledged that Bill C-36 will face a future constitutional challenge, the government should recognize the critical importance of expediting this legal process. After all, I cannot stress this enough. The government is obligated to pass laws that comply with the Charter of Rights and Freedoms. If

instead the government continues to pursue legislation that recreates conditions that perpetuate violence, then they will be inflicting structural violence on sex workers in Canada.

Now it's my pleasure to introduce Sheri Kiselbach, PACE's violence prevention coordinator. For more than 40 years, Ms. Kiselbach has been involved in the sex industry, first as a sex worker, and now as an advocate and educator. Ms. Kiselbach is a national expert in violence prevention among sex workers and has worked tirelessly to promote sex worker rights in Canada. Ms. Kiselbach's experiential knowledge, wisdom, and expertise are precisely what should have informed the legislative process, had the government been committed to advancing a bill that respects the human rights and dignity of sex workers.

**Ms. Sheri Kiselbach (Coordinator, Violence Prevention, PACE Society):** Thank you, Laura.

I was involved in sex work for 30 years in many venues of the industry. I was not sexually abused as a child. I was not exploited. I was an adult who chose to enter the industry. The laws did not protect me when I reported numerous violent crimes, including attempted murder. Instead, I was treated with contempt, ridiculed, discounted, and dismissed. I was treated as a criminal, as though I deserved to be treated this way.

Regrettably nothing much has changed in protecting sex workers or upholding their criminal justice rights. In fact this shocking new bill stuns and horrifies me. It lacks insight, totally disregards evidence-based research, and is a deliberate, unrealistic attempt to abolish prostitution in this country.

I believe the root of this decision is how the government views prostitution. These discriminatory views, moral values, and judgments discredit sex workers. It marks us as other, as being in some very significant way not like us. It assumes we are involved in the industry because of a history of mental illness or abuse, that we need to be rescued or fixed somehow. It views us as helpless victims, that sex work is so degrading no one would ever choose to do it, that we are objectified and reduced to a commodity bought and sold on the market.

A sex worker certainly isn't the only one who is made into a commodity. All of us are objectified under capitalism into commodities for sale on the market that sells us. A person has the right to sell their sexual services just as much as they have the right to sell their brains to a law firm when they work as a lawyer, or to sell their creative work to a museum when they work as an artist, or to sell their image to a photographer when they work as a model.

It assumes we are amoral without common decency, that we are social nuisances, that we are damaged or dirty, that we are home wreckers, that we are coerced and exploited, that we are too dim-witted to know what is good for us, that we are unqualified or uneducated and not capable of doing any other work, that no decent Canadian would engage in such work, and that only a desperate person would stoop to sex work, that it is shameful and degrading work.

This bill reinforces this hophobia, this systemic marginalization, and the idea that prostitution is a social ill and a form of men's violence against women. It will prevent us from accessing important health, social, or police services for fear of judgment or punishment if our occupation is discovered. This narrow preconception discriminates against and creates naive, insulting stereotypes of those who do sex work. This is hypocrisy at its finest.

Under the guise of protecting women and children in this country, this new bill is irrational and undermines our constitutional rights. It will create a multitude of harms. The broad statement that all prostitution is always and by definition abusive and exploitive is not based in reality. You are ignoring the experiences of thousands of human beings.

The fact is, sex work is work, an activity that generates income. Sex work is not just about sex. Stigma for all sex workers must be recognized as a major contributing factor, not only the negative emotional impacts and accessibility issues, but also as a destructive factor that comes down to life and death.

If you are so afraid of being outed and do not seek police involvement as an option when your life is in danger, then it is stigma—not sex work—that kills. There is also an assumption that all clients who frequent sex workers are bad and should be penalized, that they are perverted consumers of a degrading practice. This view is disjointed and disconnected beyond belief and is fundamentally inaccurate.

• (1625)

Men who frequent sex workers are ordinary men who come from all walks of life. A john, or a client, is different from a predator and there needs to be a distinction here. A predator looks at people's vulnerabilities and ruthlessly exploits others. They may present themselves as clients, but their intention is to inflict harm, not to purchase a service. They may seek out sex workers specifically, as the criminalization of sex work reflects and reinforces that laws do not protect us.

This bill prevents sex workers from having a relationship with a pimp, without knowing what a particular relationship entails or if the relationship is agreeable to both parties. Usually a pimp is portrayed by the media as an evil person or a slick fellow who cons young girls and grown women into selling their bodies and giving them all their

money, and that society must protect the poor, mentally defective sex worker from any relationship in which the other person benefits financially from commercial sexual activities. This concept is so outrageous it is offensive, but, unfortunately, it is the prevailing view of most of society, of some feminists, and other individuals who wish to rescue sex workers from the clutches of pimps.

Would anyone ever consider interfering in the relationships of the many actresses who get involved with totally unsuitable partners? How should society prevent women from selecting potentially abusive husbands? Should there be some sort of governmental agency to sort out who, for its female citizens, would be suitable as boyfriends, husbands, and significant others, to prevent unsuitable and potentially dangerous relationships?

Clearly, that goes well beyond what a government ought to do regarding the private and personal relationships of its citizens. Why, then, does this government feel it is its duty to stop a sex worker from having a relationship with someone simply because it finds the concept of a pimp to be morally repugnant? Many sex workers freely make a decision for themselves and do rely on their pimp to protect them from harm.

The problem here—

• (1630)

**The Chair:** Ms. Kiselbach, you're past your time. You need to move to a summary. You're at about 12 minutes. You don't have 10 minutes each—

**Ms. Sheri Kiselbach:** I'm at 12 minutes?

**The Chair:** Your organization is at 12 minutes. It's not 10 minutes each. It's 10 minutes per organization.

I did the same thing time-wise for our previous witness' organization.

Please summarize.

**Ms. Sheri Kiselbach:** Okay, can you bear with me for about three short paragraphs?

I'm not going to summarize Bill C-36. That's already been talked about quite a bit.

It's long been recognized that criminalization is not an effective deterrent to prostitution. Laws trying to stop true slavery or trafficking are getting mis-applied to sex workers, clients, and others involved in the sex industry. This exposes us to an increased risk of violence and denies us any protection against assault or access to medical, legal, and educational services. It denies us our human rights.

All laws should fit the actual needs, capacities, and circumstances of sex workers. Canada's continuing failure to decriminalize sex work means the federal government sanctions violence against sex workers and all facets of the industry.

We are strongly opposed to sex workers having to endure yet another failed experiment. Increased safety and dignity for Canadian sex workers must be at the centre of new legislation.

Sex work is work, and it should be treated as such. We will never truly gain equality, freedom, and dignity until the illegal status of our work is reversed. We deserve not only the right to choose how we make a living but also the right to be free from fear, mistreatment, and at the root of it all, free from the misconceptions that have long plagued the industry.

A quick note: my recommendation is decriminalization, as it views prostitution as a legitimate and necessary business. It allows sex workers control over their work and their work environment.

I had a few more things, but—

**The Chair:** Thank you very much. You'll probably be able to get to them through the questions.

Now we'll do our question-and-answer rounds.

Our first questioner, from the New Democratic Party, is Madam Boivin.

**Ms. Françoise Boivin:** My goodness, I don't know if it's the time, the fact that it's been three days into the hearing....

First of all, I want to thank you all for your testimony, your experiences that you shared with the members of the committee. At the same time, I feel like I could pull my hair out.

[*Translation*]

I feel like we're hearing diametrically opposed views from groups on both sides I consider to be very feminist. There is agreement on a number of other issues.

That said, it's not that easy for us, the committee members, either, to sort all this out in our heads. On the one hand, we have one person telling us this is their occupation, and on the other, we have people telling us prostitution is a form of exploitation and goes hand in hand with violence. For every person who asks us to deregulate prostitution, another asks us to criminalize it, either wholly or partially.

As you can imagine, it's not straightforward. Perhaps the answer is crystal clear for some of you, but my 54 years on earth have taught me that very little in life is black and white.

•(1635)

[*English*]

I grew up with two solitudes. I used to think it was English and French. Now I'm convinced that it is prostitution, in a lot of aspects, because I don't know how we'll be able to end up reconciling all of these views. The bottom line is that we are trying to find the best solution.

What I was aiming at is that, for me, actions speak louder than words. We can talk until we die about equality and about the fact of respect. We can write it in the best charter we want but if, at the end of the day, the action does not follow then there is a big problem.

I will say to your panel, as I've said to other panels, that I find there is a lack of credibility with the law when I don't see what

should be attached to it being attached to it. I see some of your groups saying to me—and pretty much everybody agrees that there are a couple of issues within the prostitution file where we seem to have an almost perfect agreement, except for the Conservatives—that the amount is definitely not sufficient. Pretty much everybody agrees with that. Thank God for that.

The fact that we should not criminalize sex workers—victims for some, workers for others—but that we should criminalize; we can find you all agreeing with that.

If we can't decriminalize completely, and remove those sections from the bill, my worry is that we have solved nothing.

My other worry is that if we don't attach what you so eloquently explained, Trisha, about your life and what happened and the life of your friends and what you've seen.... But when you said that you have to feed your kids or be in prostitution, my only question at the end of this week is: If Bill C-36 is passed, what will the person who has to answer that question do? It won't miraculously stop overnight, definitely not with \$20 million, so what do you answer to that?

For your ladies who talked about torture, I so—

[*Translation*]

You have my heartfelt solidarity.

But are you telling us that the Criminal Code doesn't already cover it and that people who inflict torture can't be charged for it?

As I see it, torture is already covered by the Criminal Code. Torture in any form is not accepted in Canada. So there's a problem somewhere.

[*English*]

I was glad, Mr. Paterson, that you made the point that the Supreme Court of Canada did not say that we had to do something by December. It said that these three sections in the Criminal Code were invalid, but they are giving us a year before it comes into effect. If we want to do something then, do it, but we'd better do it in a way that doesn't put the lives of people in danger.

Maybe it's a lot of rambling, but we've heard a lot. I feel for you and I feel as if people are trying to push us on one side versus the other. There is no one side or the other. There is one side; it's called equality. If we believe in it we have to change a lot of things in Canada and it's not Bill C-36 that will change anything.

I don't know if anybody wants to.... I see Heather nodding. Maybe you can comment with the few minutes I left you. I'm so sorry.

**Ms. Heather Dukes:** You're basically asking, if this law were passed—

**Ms. Françoise Boivin:** As is....

**Ms. Heather Dukes:** —as is, and how is it going to help in line with my friend's comments about meeting basic daily needs to feed your children, right?

**Ms. Françoise Boivin:** With just \$20 million and still criminalizing women....

**Ms. Heather Dukes:** Right. I'm sitting here with a different aspect than you are and I'm stating that this is a historic event, at least we're getting something, a "beggars can't be choosers" type of thing. It's a start. Thank you very much, it's a start.

We're all aware that the average rent is \$600 to \$700 for a one-bedroom apartment and that if you're on social services you get approximately \$350 for a one-bedroom apartment.

• (1640)

**Ms. Françoise Boivin:** But you're not afraid, Heather, that by saying that it's a start—because I've lived through Parliament and when I went to the UN as the Status of Women critic I heard that a lot, "Well, it's a start"—but 10, 20, 30 years down the road women are still not there and it's giving the Conservatives, the government, a license to say, "You know what, it's a historic moment. People are happy we're addressing prostitution", and do nothing else?

**Ms. Heather Dukes:** But the paradigm shift in attitude, the social change, is where it's going to make the difference.

**Ms. Françoise Boivin:** Is it really?

**Ms. Heather Dukes:** I believe so.

**Ms. Françoise Boivin:** Okay. That's fair.

**Ms. Heather Dukes:** As we were saying, the stigma gets removed. Yes, stigma kills. I've seen the faces of death, as I said, several times, and I see it coming with the women in the next generation. They're not taking their medication as they should be. They're not doing the things they could be doing to live a healthy lifestyle. It's due to stigma: I don't want to take those pills. I don't want to take anti-depressants. I don't want to go see a counsellor for trauma. It's because of the stigma, correct? However, if we start with this society change, changing the attitude at an upper level, the federal government, there will be a domino effect. It'll eventually get down to the people, the average middle-class people, who could be a big part of this in terms of the stigma.

**The Chair:** Thank you very much for that answer and that question.

Our next questioner, from the Conservative Party, is Mrs. Smith.

**Mrs. Joy Smith (Kildonan—St. Paul, CPC):** Thank you, Mr. Wallace.

First of all, I want to put the focus on all of you. That's what's important.

Jeanne and Linda, it's so good to meet you; we've dialogued for so long. It's amazing what you've done over so many years.

Trisha, you're my hero. You always have been. You've been through so much and you've helped so many people. You're a very brave woman.

Larissa and Heather, I say the same to you. I don't know how you got the money to get here today. I have to find out, because you were so worried that you didn't have the money to get here. I have to thank you for what you're doing.

Honestly, for the first time we have a bill in Canada that actually criminalizes the buying of sex. That is the first thing that's ever happened in Canada. The second thing is what Heather referred to, the changing of the paradigm. When I came to Parliament in 2004,

they were telling me that there was no human trafficking, that there was no such thing, and that, hey, there were no underage people.

The ICE unit has been listening to this today. My son was in the ICE unit. They kept saying to keep talking about the kids, because the torturers get the most money with the kids.

The whole world is listening today. In Parliament, the whole world saw the NDP and the Liberals vote against Bill C-36, so they really believe what they're saying. What we're trying to do, though, is start a new paradigm in Canada where your voices are heard, where something is done. I'd like you to comment.

Perhaps I'll start with you, Larissa, because I've had a lot of dialogue with you and Heather. Can you tell me, in terms of criminalizing johns and the buying of sex, will that help in the safety of women, first of all?

**Ms. Larissa Crack:** First of all, to go on from what Heather said, it removes the stigma from the women. I think this kind of touches on both of your questions. When I was first able to exit the sex trade, one of my biggest barriers to being able to be reintegrated into society and move out of the sex trade and not continually go back to it was people's perception of me. I understood that society did not want me around and didn't want me as a neighbour, as a friend, as a co-worker, as a colleague, as an employee. I was not welcome in everyday society.

**Mrs. Joy Smith:** And now that's flipped.

**Ms. Larissa Crack:** That's what this can do: it can flip that.

As soon as we start recognizing women as being exploited, and not having it be situational and circumstantial and out of their control due to social barriers and structural issues—

• (1645)

**Mrs. Joy Smith:** It'll make it safer.

**Ms. Larissa Crack:** —it will make it safer for them to come out to share their stories.

**Mrs. Joy Smith:** Yes.

The chair is going to cut me off pretty soon, Larissa, so if you'll forgive me, I'll go to Trisha now, okay?

Trisha, I'm going to ask you a different question. I hear that the johns are good guys. I hear that they don't get you in trouble.

I know that you finally got your pardon, and I'm so happy about that. But the fact of the matter is...tell me about those nice johns.

**Ms. Trisha Baptie:** I'll just quickly tell a story. I had done a date, and I was in a car. I thought he was reaching underneath his seat to get a wallet to pay me. I kind of remember the crowbar as it came through the air and cracked me in the chest, but I don't specifically recall it. I don't remember being thrown out of the car. I don't remember the man who picked me up off the ground and phoned 911 to come and get me. So he was a really great john—up until the point he pulled the crowbar out.

You never, ever know when that crowbar will happen. That's why we need to criminalize all johns, because there's no way of knowing who's violent and who's not.

**Mrs. Joy Smith:** Thank you, Trisha. Thank you for bravely coming today.

Jeanne and Linda, I've been told time and time again, and I hear this noise...and I keep thinking that some time I'd like to follow the money with all of the organizations, with everybody wanting to protect the sex workers.

Now having said this, when you talked about torture, you made such a great point. Thank you for bringing that to this committee.

But when you saw the victims of torture, were they all adults?

**Ms. Linda MacDonald:** The ones that were beaten up?

**Mrs. Joy Smith:** Yes.

Were they all adults?

**Ms. Linda MacDonald:** They weren't adults when the torture started, but they were adults when we met them.

**Mrs. Joy Smith:** When you met them, but not when the torture started?

**Ms. Linda MacDonald:** No, most of them were infants actually.

**Mrs. Joy Smith:** Yes, that's what I thought from our dialogue back and forth over the months.

You two are angels. That is what you are. I don't know what those people would have done without you. Thank you so much for what you've done and continue to do.

I have to ask you also, out of the percentage of women who were tortured, what percentage in your mind—over the 20-some years that you've been in this—were young sex workers, or young people who were trafficked essentially?

**Ms. Linda MacDonald:** The majority.

**Mrs. Joy Smith:** The majority of them.

**Ms. Linda MacDonald:** Absolutely.

• (1650)

**Mrs. Joy Smith:** Finally we're getting the stories out, aren't we?

So why is Bill C-36 good? It's because it criminalizes the buyers of sex. There is the human right to be safe in this country. You brought up that wonderful thing that you give to the kids...you know, the Charter of Rights and Freedoms. Everyone has a right to be safe in this country and that underlines this whole thing.

We've done an extensive consultation of Canadians, and without a doubt they are on the side of Bill C-36. What do you think when you

come to Parliament and you hear this confusion and the muddlement? What do you think? What can we do to clear that confusion up so that we have all parliamentarians on side? This is not a perfect bill. No bill in its infancy is a perfect bill. I'm supporting it because I think it's a good start, not because I'm on the side of the government. I think it's a very good bill, and it does change the paradigms.

But how do we get this message clear about how important this is for the protection of women and children in this country? If December 19 comes along and we don't pass this bill, everything is legalized.

How do you feel about that?

**Ms. Linda MacDonald:** I'd be sick about it. I think we have to remember that the majority, and it goes from 90% to 97% of the women who are prostituted, endure violence. We have to always remember to think of the majority, not the 3% to 10% who say it's work.

As far as torture is concerned, if women knew that there was a law naming torture—not assault, because assault minimizes torture—they would start naming their torturer more. They are not comfortable naming torture in this country because of the wording of it.

Laws change thinking and change language. It changes our behaviour with police, teachers, and health workers. I am a care coordinator, and I listened to Lynn's story as a care coordinator. I taught the whole health care team to treat her as a torture survivor instead of as an angry woman. That's what we have to do is to start naming the reality of the violence in prostitution.

**The Chair:** Thank you very much for those questions and answers.

Our next questioner, from the Liberal Party, is Mr. Casey.

**Mr. Sean Casey:** Thank you, Mr. Chair.

Mr. Paterson, first of all, I want to thank you for focusing on the wording contained in subsection 213(1.1), which talks about places where children ought reasonably to be present.

I want to read to you what the minister said to us on Monday about this, and then I'm going to invite you to comment and talk to us a little further about it.

He said the following to us on Monday:

...Bill C-36 would also criminalize communicating for the purposes of selling sexual services, but only in public places where children can reasonably be expected to be present. Mr. Chair, this is an approach we have borrowed from other sections of the Criminal Code, mainly those that protect children. There is a legal definition or interpretation already in place in the Criminal Code that deals with places where children can reasonably be expected to be present.

Mr. Paterson, as you know, what the minister didn't say is that those sections of the code that he relies on for comfort and certainty are new. They were enacted by this government and have never been challenged.

How much comfort do you take in the constitutionality of section 213, given that scenario?

**Mr. Josh Paterson:** Thank you, Mr. Casey.

We don't take a great deal of comfort in the constitutionality of this section as I said in my remarks. We do think it is overly broad.

Certainly part of the language here was borrowed from elsewhere in the code, but the government has unfortunately left another important part behind. We're only borrowing half of that provision, and if this provision here were to say something that narrowed it so closely to swimming pools or daycare centres, perhaps I might come to a different conclusion as to how I think this would go constitutionally.

As it stands, even indoor venues could potentially be caught by this because they only need to be next to a public place where children might reasonably be expected to be found. I have a hard time thinking of anywhere—for example here in downtown Vancouver or in Ottawa, or anywhere else in a major urban centre—that might not somehow fit into this great, capacious definition that's been provided for us here.

**Mr. Sean Casey:** One of the constitutional aspects that troubles me that you didn't speak to or I don't think you spoke to, and I would invite you to do so, is that there's a reverse-onus provision in the material benefits section, which I would argue violates the presumption of innocence. I can refer you to the section, but I expect you have it. Do you have any opinion, any comment to offer with respect to a potential charter challenge in this respect?

**Mr. Josh Paterson:** Thank you for the question, sir.

Anytime there is a reverse-onus provision, we're put in potentially more difficult constitutional waters. I'm just pulling it up here on my computer. Of course, there is a presumption in that section that you are guilty of a criminal offence under certain conditions, and the courts tend to frown on those kinds of presumptions. We have as a tradition in our law, the presumption of innocence rather than the presumption of guilt, is generally what the law favours. It's certainly what we favour as an association, and so we certainly have a concern about that piece as well.

I might add that there were other pieces too in there that we have some significant concerns about. The whole piece around providing services proportionate to their value, this kind of thing, as one of the exceptions to criminality for deriving a benefit—we think that is a very difficult exercise for police, for the crown, for the courts to engage in some sort of economic analysis of whether the service, say the secretarial, or the security, or whatever service of an individual, is hitting the mark in terms of fair market value.

To talk about the negative of that, which is if relationships are clearly exploitative and otherwise criminal, might be a better way of putting it.

The more you read this act, the more things come out where there could be wildly different interpretations, which I think make it very difficult for people engaged in sex work, and make it very difficult for the police to really understand what it is they are being asked to follow.

• (1655)

**Mr. Sean Casey:** To the witnesses physically present here in Ottawa, once again we have a unanimous panel of witnesses with respect to the problem in this bill: the extent that it criminalizes sex workers or prostituted individuals, depending on which language

you prefer, in section 213. All of you have said, either in your written briefs or in your testimony, that that is a problem.

Some of you may know that the only defence to that we've heard in the testimony this week, other than from the minister and his officials, is that even though we have the right to lay a charge or to give a judicial record of conviction—I'll be careful with my language—to a sex worker or a prostituted person, we don't necessarily exercise that right. We use it as a tool to get to talk them, so we can separate them from their pimps or from their bodyguard, and by holding out the prospect that we're going to charge them, we can get to talk to them.

To each of you, does that make it okay?

**The Chair:** Who wants to start?

**Ms. Trisha Baptie:** May I ask you to clarify it, just to make sure I understand the question? You're asking if we agree with section 213 staying on, because police say they need it in order to exit a woman from a precarious situation, that it's a tool they can use to do that.

**Mr. Sean Casey:** Or at least to hold her long enough to talk to her about it.

**Ms. Trisha Baptie:** I would say that the police can charge the men as a tool to keep the woman in a situation that may be safer than the one she was formerly in. I don't think there need to be any criminal sanctions against the woman whatsoever in order to provide her some level of safety. I think criminalizing the woman in any way will actually impede the relationship that can be formed between the prostituted woman and the police officer.

I know that, for me, the relationship I had with a police officer by the name of Dave Dickson in Vancouver was because he didn't take us in and because he treated us with respect.

I don't think we need to have section 213 on the books.

**Mr. Sean Casey:** Thank you.

**The Chair:** Does anybody else want to speak to...?

**Ms. Larissa Crack:** I have to fully agree. Within the exiting strategies I used.... I went through a treatment program that had a police officer who treated the women with respect and who worked really hard at making these relationships. He became the middle person between the rest of the police force and the women, just creating these relationships.

It allowed women to talk to them and to open up. Women were more able to go through the court processes...for pimps and for their johns...when they had a police officer beside them who was supportive and understanding, and as she said, treating them like human beings and not criminals.

I think the government has made it clear. It's understood, within Bill C-36, that women are seen as exploited. So to turn around and criminalize people who are exploited doesn't make sense on any level.

**The Chair:** Thank you very much for those questions and answers.

That's the time. I'm sorry, Mr. Casey, but that's all we have time for in your section.



From the Conservative Party, Ms. Ambler.

**Mrs. Stella Ambler (Mississauga South, CPC):** Thank you, Mr. Chair. And thank you, to all of you, for being here today. We very much appreciate your time, the effort you made to get here, and hearing your stories, which are very important for us to hear.

Ms. Baptie, perhaps I will ask you about something you talked about, the fundamental shift in attitudes. I'm not sure if you used the words "culture change". But some of our other witnesses have talked about the culture change that's needed, which, as has been pointed out, is pretty much diametrically opposed to what other witnesses are saying.

I have a 15-year-old son, and I would prefer he grow up in a country where buying sex is not legal. We heard this morning from a witness from Australia who said that in Australia it's not that way. It's a case of it being completely acceptable on all sides, that it's all good and that it leads to a freer attitude and to clients who are respectful.

Has that been your experience, or do you think we need this fundamental shift? Do you think it will actually help women and people who are involved in prostitution?

• (1700)

**Ms. Trisha Baptie:** I think we have to have a fundamental shift. I think we need a core shift in the way men view women and in the way women are viewed.

I was in Sweden. I actually went to Sweden maybe three or four years ago to do a film with the National Film Board of Canada called *Buying Sex*. We looked at the shift in attitudes in Sweden since the law had come into play.

I wanted to talk to the teenagers, because they are the ones who had grown up under this new model of law. I wanted to know their views on prostitution. I talked to some painfully middle-class, middle-of-the-road teenagers. They view prostitution as violence against women. It's not something they want to see tolerated in their country. They even went so far as.... One girl said that she wouldn't date a boy who had ever viewed pornography. She had so much confidence in what she could expect from men that she could make that a demand for herself.

**Mrs. Stella Ambler:** Thank you.

Tell me, what do you think when you hear Ms. Kiselbach's story, which is so different from your own, a story where we hear her talk about pimps not being all bad sometimes, and that the relationships aren't all abusive? What do you think about that?

**Ms. Trisha Baptie:** I think that is Ms. Kiselbach's experience, and I'm not here to argue with that. I can only talk from my perspective and say that I've never met a pimp who was beneficial for a prostituted woman. You're economically relying on someone else for your well-being.

I don't think that will encourage them to leave the trade or live a healthier lifestyle or anything like that.

**Mrs. Stella Ambler:** Right, thank you for that.

I do want to give you an opportunity, Mr. Kiselbach. I'm relieved to hear that there are stories, because we haven't heard.... Well, we've heard some sex workers say they chose it and that they're happy

about their choices. You're clearly not dim-witted, obviously, and you're happy and healthy, and you've told us that prostitution is not exploitative by nature.

Do you think though that you're a typical case? Do you think you're a typical prostitute, sex worker, or do you think the folks we've heard from, like Larissa and Heather and Trisha, and cases of torture that Jeanne and Linda deal with, are more typical experiences than your own?

• (1705)

**Ms. Sheri Kiselbach:** I would actually think—but I don't have great statistics around this—that I am representative of about 80%. I think about 20% are exploited and used, and that's a very sad state of affairs. I don't want anybody to be exploited at all.

But I want to make something very clear. The person I referred to as my "pimp" is not my wording. That was the only way I could get a person to protect me. In the eyes of the law he was considered a pimp, but in our relationship that person was not considered a pimp. I was not exploited or anything like that, but I needed that person to do that.

**Mrs. Stella Ambler:** Was this a person you worked with who helped you in your business? That's how—

**Ms. Sheri Kiselbach:** No, this was someone who was just there to protect me, because after a huge, violent thing that happened to me in which a person was charged with attempted murder, I choose to set boundaries around my sex work and what I would and wouldn't do. I no longer would do car dates, and if a person did not want to come to my home, we didn't go. I had a safety person there for me. Because of the safety person—when I was hurt without a safety person—it changed drastically when that person was there. Other things did happen that were forms of violence, but that person was there to protect me. But, unfortunately, in the eyes of the law, that person could have been, would have been, charged with living off the avails, and procuring, which he was not. It was my adult decision.

**Mrs. Stella Ambler:** Under Bill C-36 someone who is involved in prostitution would be allowed to hire that safety and security person, a body guard. The bill does recognize the importance of that. I would say though—

Am I out of time?

**The Chair:** Last statement.

**Mrs. Stella Ambler:** It's interesting to hear that you have experienced some violence, and I'm sorry to hear that because I did think it was a happier story, but I would ask this. You told us that stigma, not sex work, is what kills in prostitution. Would you agree that in your case it wasn't stigma that hurt you, that it was a human being?

**Ms. Sheri Kiselbach:** It was a human being, but it was the way the laws are situated around me that made this human being not be a client but be a predator and have a plan and do that to me, knowing that I am marginalized and have no rights.

**Mrs. Stella Ambler:** Would you encourage other young women

**The Chair:** That's your time for both of you. Thank you very much for those questions and answers.

It is now the New Democratic Party turn, Madam Péclet.

[*Translation*]

**Ms. Ève Péclet (La Pointe-de-l'Île, NDP):** Thank you, Mr. Chair.

I want to begin by thanking Trisha, Larissa and Heather for sharing their stories with us today. It mustn't have been easy for you.

You're bringing a lot to the discussion today, and I wanted to thank you for that. I applaud you for having the courage to appear before the committee.

You talked about the exploitation, trafficking and violence women endure. But it's already an offence under the Criminal Code to exploit someone. In a nutshell, any situation that endangers a person's safety is considered a crime.

Human trafficking is also a crime under the Criminal Code. Anyone who is using assault, aggravated or otherwise, to control another person, or who is exerting physical or mental control over someone else would be sentenced to life in prison.

How would Bill C-36 enhance the existing provisions to punish these acts? It is truly unfortunate that you had to go through what you did, and I am deeply sorry for that.

How exactly does Bill C-36 differ from the current provisions making it a crime to exploit or traffic minors or adults?

• (1710)

[*English*]

**Ms. Trisha Baptie:** It is changing behaviours and it's changing a mindset. When I was growing up there were no domestic assault laws. Now there are domestic assault laws. The way my sons grow up and the way men treat women in this country is different because of those laws. Laws set a trajectory in the way we want our country to go.

So if we criminalize the purchasing of sex we are changing the trajectory in the way this country is going and saying men can no longer sexually subordinate women any longer for their own benefit.

[*Translation*]

**Ms. Ève Péclet:** I agree with you wholeheartedly.

I'm 25 years old. I was elected when I was 22. I'd stake my life on the fact that none of my friends, male or female, consider violence against women as acceptable, or that men have the right to torture or exploit women as you described for us today.

As the president of the Young New Democrat Federal Caucus, I often get to speak to young people about how important it is to condemn violence against women. It's a shame that today's society and government accept the fact that a woman has to resort to selling her body simply to feed her family. That shouldn't be allowed; it's unacceptable.

That brings me to another point.

We could pass all the legislation in the world, but it wouldn't change the fact that inequality, at its root, is a financial and societal issue. In the bill's preamble, the government merely mentions the inequality between Canadian men and women, an issue the committee has heard a lot about. But the government doesn't talk

about wage inequity for women or their lack of equal access to jobs in companies.

The government's \$20-million investment over 5 years amounts to \$4 million a year, and roughly \$200,000 per province per year. That's the case for Manitoba, for instance.

Does the government really have your full support on this matter? Whoever wants to answer can go ahead.

[*English*]

**Ms. Larissa Crack:** I can only speak for myself. I would definitely like to see more money put in and allocated by the government. If the bill were passed today as it is, I would still stand behind it because it's a start. As organizations, as people that work with women, we have worked for a long time with next to nothing. We have become very resourceful. We have become all of these things. So \$20 million isn't enough to fully do the work that we want to do, but it's a start. It was brought up that the United States put \$10 million in for a population a lot bigger than ours. For the Canadian government to offer \$20 million, right off the hop, is huge. I don't think we should minimize that and forget about the other 95% of the bill that is beneficial, that is good, for the 5% that maybe needs a little bit of changing.

• (1715)

**The Chair:** Ms. Dukes, you had your hand up.

**Ms. Heather Dukes:** We're definitely not in a position to tell the government how to do their job. We are grassroots. We're non-profit. Larissa and I work in a position where we have received no funding at all as we're working with women. If you could try to empathize with where we're coming from, I don't think it's politically correct for us to say to you, "This is what's going on and we want you to do this, this, this, and this". We need to have some type of dialogue and this open relationship in order for both parties to understand.

We don't want to sound like we're being ungrateful also. Is \$20 million enough? Probably not. I feel that when we discuss social services, there are a lot of negative attitudes towards it. There may not be enough money in all areas.

As Larissa said, for them to actually say, "Okay, there's a problem—we see it and we're willing to do this", is an excellent attitude, as far as I'm concerned.

Thanks.

**The Chair:** Thank you very much for those questions and answers.

Our next questioner, from the Conservative Party, is Mr. Dechert.

**Mr. Bob Dechert:** Thank you, Mr. Chair.

Thanks to each of our guests for your very important testimony and answers to our questions today.

I'm going to return to the words of Chief Justice McLachlin. I think they really are important and special. They're unusual and not something that the Supreme Court normally says. She said:

The regulation of prostitution is a complex and delicate matter. It will be for Parliament, should it choose to do so, to devise a new approach....

They could have just left the provisions that they had struck down last December. Presumably, if those provisions were making the lives of sex workers more dangerous last December, they are still making those lives dangerous today, six months later. They left them in force. They said:

Considering all the interests at stake, the declaration of invalidity should be suspended for one year.

That's not what they typically do. She gave it back to parliamentarians to actually do something.

I was sent here by the people of my constituency of Mississauga—Erindale to do something, to make choices, and to make better choices. I think all of us, as members of Parliament, are sent here by Canadians across the country to actually do something and not to do nothing.

Ms. Scott and Ms. Lebovitch, who were two of the litigants in the Bedford decision, said earlier today that we should do nothing; let the suspension end, let the laws fall, and let legalization roll.

[Translation]

Let the good times roll.

[English]

Some people we've heard from on this panel, such as Ms. Dilley, and Mr. Paterson from the B.C. Civil Liberties Association, say pretty much the same thing: let the decision take its effect and don't do anything.

I want to ask each of you: Do you think that we, as parliamentarians—you're talking to 10 members of Parliament here today and I guarantee you there are many more watching right now—should choose to do something, or should we choose to do nothing?

Can I start with you, Ms. Dukes?

**Ms. Heather Dukes:** If you don't do anything, then how can I help others? If there isn't change on your end, then there can't be any change on my end.

I stated in my testimony today that I had to change my entire life. I understand that when you say something you have to defend it with behaviour. I'd like to continue helping others in this area but I might hit a lot of roadblocks if we don't see the passing of this bill.

**Mr. Bob Dechert:** What do you say, Ms. Crack? Should we choose to do something?

**Ms. Larissa Crack:** We have to do something. I missed a part of my speech when we ran out of time, but I talked about how I was trafficked through legal establishments, and how through that, I disappeared. I'm worried that if nothing happens, many more women and children will effectively disappear.

**Mr. Bob Dechert:** Ms. Baptie.

**Ms. Trisha Baptie:** We have to do something. Just like we owed it to my mother to implement domestic violence laws when she was being beaten, we need to protect the women who are involved in prostitution right now by passing laws that stand and interfere with the abusive behaviour inflicted on them.

• (1720)

**Mr. Bob Dechert:** What do you say, Ms. MacDonald?

**Ms. Linda MacDonald:** We absolutely have to do something. This is an evolutionary process of seeing violence against women and children from spouses, etc., and child and human trafficking, being addressed in new legislation.

There are statues of the "Famous Five" close to where we are now, and in the 1920s they fought for women to be considered persons. Until prostituted persons are treated as persons instead of as a nuisance, and recognized for the suffering they're going through, it's a travesty in this country, in my opinion.

**Mr. Bob Dechert:** Ms. Sarson.

**Ms. Jeanne Sarson:** I think we're asking you to do something. At least I'm here saying that you change 269.1 on torture because, certainly, it makes a difference to the people whom we have talked to.

Actually, around funding, it makes a difference for funding in some ways because what Linda and I have found as nurses is that for the people who know that some victimization is so serious as to represent torture, if the health care providers know that, they can intervene more effectively.

We have examples that we can see that it's cheaper, so you don't have to spend as much money on care because you're more effective in the beginning. When we're talking about dollars and cents, I think we have to do something, and you can do something and it can improve quality of care and still spread the funding more effectively.

Yes, we have to do something. We should not let this die.

**Mr. Bob Dechert:** I think what I'm hearing from an overwhelming number of people, especially from all the survivors we've heard from over the last several days, is that doing nothing is not an option.

I want to give Mr. Paterson an opportunity to respond. He said there may be a time and a place where prostitution can be regulated, and that may be a good reason to restrict or regulate.

I'd like him to tell me how we would do that, in his opinion, and if he thinks the chief justice was giving us the option to do something. She's clearly suspended the effect of her ruling for one year and said to think about it and decide if we need to do something.

So he said there might be a reason to regulate it in some way. I wonder, when he tells us what he would suggest we do, relate it to what is actually in the jurisdiction of the federal Government of Canada.

Mr. Paterson.

**Mr. Josh Paterson:** Thank you very much.

Yes, it is very clear that the court does say that maybe you do want to do something. It is your option—as you yourself recognize, Mr. Dechert.

What we say is, that something, whatever it is, ought not to be within the criminal law or using these criminal law provisions. So one of the reasons we say that—

**Mr. Bob Dechert:** What other law would you suggest?

**Mr. Josh Paterson:** If I may, sir, and I'll come to that, one of the reasons we say so is that it's very clear in the law as it currently stands, and this has been recognized by the justice committee in its own study in 2006, that there's an exhaustive list of different criminal provisions that are already there to get to just about every single harm that we have heard of, from the panel in Ottawa today—

**Mr. Bob Dechert:** But if I may just interject, sir, she said—

**Mr. Josh Paterson:** —from Ms. Kiselbach.

**Mr. Bob Dechert:** Hang on. Let me ask this question. I think it's very important.

The Supreme Court struck down three provisions of the current Criminal Code. It didn't strike down any of those other provisions that you're talking about.

Last December, it said that in relation to the three things that we're striking down today, we're going to suspend it for one year and give it back to Parliament, give them the option to consider whether they should choose to do something to replace those three provisions that we're striking down.

What do you think we should do to replace those three provisions?

**Mr. Josh Paterson:** There are I think two things. The first is that by not having those provisions there... And I'm not going to go through an exhaustive list, as there is a list in your report from 2006 of all the different possible offences from trafficking, to extortion, and whatever. You are well familiar with them. By not having the provisions that were struck down in Bedford, we think it is actually more likely that sex workers who are suffering, who are in vulnerable situations, the kinds of people who were victims of Robert Pickton, will be able to come forward and avail themselves of the existing protections of the criminal law, because they will not be concerned that somehow they or their clients are going to wind up being affected by new criminal provisions. That's thing number one.

Thing number two, sir, in answer to your question—and this is where you mentioned federal jurisdiction—is that we take the position that there is likely a fair degree of overlap with provincial jurisdiction here, because the kinds of measures that we would be suggesting.... We don't have any particular prescriptions, but it may very well be appropriate that there be time and place restrictions, that there be zoning restrictions, that there be different health and safety restrictions. I'm sure the committee has heard about things in New Zealand. We don't endorse what New Zealand did wholesale because we haven't studied it, but there are various different options out there. Some of those would involve the federal government and some of those would—

• (1725)

**The Chair:** Mr. Paterson, we're way over time. I'm sorry for that. Maybe the next questioner will get to you.

From the New Democratic Party, Mr. Jacob.

[*Translation*]

**Mr. Pierre Jacob (Brome—Missisquoi, NDP):** Thank you, Mr. Chair.

I want to thank the witnesses here today and those participating via videoconference.

I will be sharing my time with my colleague Ève Péclet.

My first question is for Mr. Paterson.

In your opening remarks, you said Bill C-36 should be withdrawn because it was impossible to improve.

I'd like you to explain your main reasons for saying that.

**Mr. Josh Paterson:** Thank you, Mr. Jacob.

We are convinced that the bill is unconstitutional and violates sections 2 and 7 of the Canadian Charter of Rights and Freedoms. In our view, there is no way to fix the problems with the bill.

That is why we would like the government to withdraw the bill or even refer it to the Supreme Court for its opinion. Otherwise, the community will have no choice but to institute legal proceedings that will once again eat up a considerable amount of time and resources. And in the meantime, the same problems and harms will persist in society.

For that reason, we are saying it's time to put an end to this bill, to take a step back, assess the situation and try a different approach.

**Mr. Pierre Jacob:** Thank you, Mr. Paterson.

My next question is for Ms. Dilley.

You said in your opening statement that you really focus on violence prevention. What steps could the government take that would go a long way towards helping you prevent violence?

[*English*]

**Ms. Laura Dilley:** Thank you for that question. I'm going to refer it to my colleague here who is our violence prevention coordinator at PACE and who would be more suitable to answer that question.

**Ms. Sheri Kiselbach:** I think one of the very important things is to be able to communicate with customers what you will and will not do, and negotiate your terms—where you want to be taken, where you don't want to be taken—in a way that you can do it thoughtfully and you don't have to be rushed, and you can use your senses—your eyes, your intuition—to really take your time to consider if this is safe or not.

When a person is forced to jump into a car, then you are almost trapped in that car and you have no options, and then it can turn into a dangerous situation.

When you're not able to communicate exactly what is going to transpire, that's when the dangerous situations occur. But the client may have thought, because I'm talking vaguely, because of the law.... If I can't say exactly what I'm going to do, they may think I'm going to do something else and I'm not willing to. There have to be very clear negotiations to help keep you safe.

That, for me, is the number one safety thing about the communication law.

Also, to be able to work indoors with others is another safety mechanism that sex workers should be able to have at the forefront. We can help each other in many ways in creating our own safety. When you're indoors you have control over your own environment. I need control of my environment, so that will help keep us safe.

I think there is a great distinction we need to make: the difference between predators and a client. A predator is no longer a john or a client. He is just that—a predator. Predators have a plan. They've done this before. They know what they're doing.

Looking back on my experience, I had very violent episodes happen to me many times. I didn't see cues to assault because the predator had a plan. This was all planned out.

So people can learn these kinds of things and we can learn about our safety, too. I wish I could educate more sex workers about their safety before, during, and after sex work, and what they can do to help negotiate terms and to be safe and to be able to defend themselves.

• (1730)

**The Chair:** You have one more minute.

[*Translation*]

**Mr. Pierre Jacob:** Thank you kindly, Ms. Kiselbach.

I am going to give the rest of my time to Ms. Pécelet.

[*English*]

**Ms. Ève Pécelet:** I have just a quick question for Sheri, if I may call you Sheri.

The first part of the question is, how does criminalizing the client help women you deal with every day get out of prostitution?

My second question is—and it's the same question I've asked everybody about the resources—do you think the existing laws... Would it change something to adopt Bill C-36, or are there problems in the existing laws?

I don't have much time left so I'd like your comment on that.

**The Chair:** Who is it you are asking?

Sheri Kiselbach.

**Ms. Sheri Kiselbach:** If you criminalize clients, sex work is not going to stop. It's just going to be pushed further and further underground, and that's where the exploitation and coercion and abuse is more likely to thrive and nobody will know about it. That's my fear.

It's not going to stop. I don't understand why the government thinks they can stop prostitution or sex work. It's going to keep happening, so we need to keep the sex workers safe.

If you criminalize the clients, they are going to be afraid and they'll ask the sex worker to go down this alley and meet, or let's do this, let's do that. They're going to be hiding, plus we're going to—

**The Chair:** We're all out of time, Ms. Kiselbach, but you can finish your statement and then we'll be done.

**Ms. Sheri Kiselbach:** Plus, when customers do see abuse and exploitation, many are willing to report those things if they don't fear the law.

**The Chair:** Okay, thank you very much.

I want to thank all of our witnesses for being here today. We have one more day of witnesses, all day tomorrow, and then we'll be doing clause by clause on this bill next Tuesday.

Thank you for that. Have a good evening.

This meeting is now adjourned.

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