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Chair

Mr. Mike Wallace

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• (0930)

[English]

The Chair (Mr. Mike Wallace (Burlington, CPC)): I call this meeting of the Standing Committee on Justice and Human Rights to order. This is meeting number 41 and we are televised. As per the orders of the day, as 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 have a variety of witnesses here again this morning and I appreciate their coming. I will go through and introduce them. Each organization will have 10 minutes to present, and then we'll go to the rounds of questions.

First of all we have, from the Asian Women Coalition Ending Prostitution, Ms. Jay and Ms. Lee. From Hope for the Sold, we have Ms. Brock and Mr. Brock. From the Vancouver Rape Relief and Women's Shelter, we have Ms. Smith-Tague and Ms. Kerner. From the Aboriginal Legal Services of Toronto, we have Ms. Big Canoe. By video conference from Boston, Massachusetts, from u-r home, we have Ms. Pond.

With that, we will give the floor over to the Asian Women Coalition Ending Prostitution. You have 10 minutes to present. The floor is yours.

Ms. Suzanne Jay (Member, Asian Women Coalition Ending Prostitution): Thank you and good morning. We appreciate the opportunity to include the perspectives of Asian women into the consideration of Bill C-36. We have also provided a brief.

The Asian Women Coalition Ending Prostitution has the goal of changing societal attitudes towards women, especially women of Asian descent. We work to advance equality for women and to create opportunities for Asian women to have meaningful participation and to take leadership roles in civil society. We see prostitution as a form of male violence against women that prevents women's equality and that encourages racist violence. We also believe that prostitution can be eradicated.

We're a feminist volunteer group. Our members have provided prostitution prevention education in the school system and legal advocacy to women involved in the live-in caregiver program. We've been front-line workers in feminist anti-violence centres. We've provided concrete aid and support to battered women and raped women, including prostituted women.

We were interveners in the Bedford case, where we provided a critical race analysis to help inform the Supreme Court's considerations.

I'll start by saying that we applaud the intent stated in the preamble setting protection of women's dignity and equality as an objective of the bill. This is consistent with the principle that all Canadian law is to be understood and interpreted in the context of the Charter of Rights and Freedoms. The bill's preamble demonstrates an understanding of the systemic nature of prostitution and the consequence of undermining women's equality on the basis of race, national or ethnic origin, colour, and sex.

We also appreciate that the bill acknowledges the danger that's inherent in prostitution and the profound exploitation done by the pimps, the brothel-keepers, the procurers, the advertisers, and the customers of prostitution to women, especially as it affects Asian and other racialized women. We recommend strengthening this acknowledgement by noting in the preamble the disproportionate impact of prostitution on racialized women.

We support the section of the bill that criminalizes advertising of sexual services because of the role that advertising plays in normalizing and entrenching racist and sexist stereotypes. For example, when we gathered online ads that were posted over a 24-hour period from the adult services section of the Vancouver Craigslist website, we found that 67% of the women advertised in the 1,472 ads we gathered were described or displayed by photo as Asian.

The Asian population of metro Vancouver is only 30%. It's reasonable to assume that Asian women comprise approximately 15% of that population but we're massively disproportionately overrepresented in that advertising. The advertising describes Asian women as providing a girlfriend experience. They're Japanese school girls, really young China dolls, Asian cuties, and they are paired with photos.

The pimps, procurers, brothel-keepers, advertisers, and others who are involved in the sales and marketing of prostituted women cater to these deeply racist demands. It's in their commercial interest to continue to normalize these stereotypes into Canadian society in order to grow the market for their product.

We experience negative consequences when our characteristics, whether they are real or imagined, are sexualized and commodified to promote sexual services. These stereotypes dehumanize and sexualize Asian women and they block our access to our Charter of Rights regardless of whether or not we are prostituted.

From our experience, prostitution overlaps with wife battering, rape, and incest. These are all acts of sexist violence that are usually committed by men in private venues, such as the home, where privacy is used to confine women, reinforce the attacker's authority, and hide the violence from public view. Being indoors does not increase women's safety from male violence in general. However, indoor venues such as Asian massage parlours do enhance safety for men. They shield the pimps, brothel-keepers, procurers, and customers from scrutiny and they hide the violence that's used to control women and the violence that is inherent to prostitution.

We support the tailored legislative approach offered by the bill. It accurately targets the men who are the source of the harm in prostitution.

• (0935)

We also appreciate that the bill differentiates between those who depend on a woman's income without caring about how it's earned. That includes dependent children, hairdressers, and other service providers. These people are very different from the people who are parasitically invested in having a woman enter and stay in prostitution. Those people include pimps posing as bodyguards, pimping boyfriends, brothel-keepers, and prostitution advertisers.

We also think it's important that the bill prevents these men from using a marriage licence or a family or other intimate relationship to escape criminal responsibility for their violence and exploitation.

We call for an amendment to remove the sections that criminalize communication in public areas because it undermines the objective of equality.

We agree that it's harmful for children and adults to observe a blatant act of racist and sexist exploitation, particularly in a situation where one feels they can't effectively intervene. However, it's more harmful for children and adults to observe or know that an exploited person will be punished by the state for their own exploitation. We'd much rather that they were offered the protection of the law and the charter.

Arresting and charging male customers and pimps—and not the women—will effectively address the harms caused by communication in a public place.

I'm now turning the mike over to Alice Lee, who is another member of our group, to talk about human trafficking.

Ms. Alice Lee (Member, Asian Women Coalition Ending Prostitution): Good morning.

Thank you for the invitation to appear in front of you today to make this presentation.

I was selected to be part of the U.S. State Department's international visitor leadership program to exchange expertise on human trafficking and prostitution with the FBI, state officials, and NGOs.

We praise Bill C-36 because it recognizes that human trafficking and prostitution are closely linked and related. Human trafficking is intrinsic to the Asian woman's experience of prostitution, regardless of what country she comes from.

The interconnected nature of human trafficking and prostitution is logical, given that we adopted the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, as well as the CEDAW convention. The bill demonstrates leadership nationally and internationally through its commitment to dignity and equality. It is clear to us that Canada rejects the dehumanizing claim that racialized women freely choose prostitution and that somehow we're not harmed by prostitution.

We welcome the political leadership that the bill offers in allowing the police to effectively act on evidence of organized crime in human trafficking and human trafficking into prostitution.

We're especially aware that, currently, the human trafficking law we have only applies to the traffickers, but does not apply to the buyers. The bill makes it illegal for a man to knowingly buy a trafficked woman. The bill also helps prevent the transformation of organized crime into regular members of a legitimate business community.

Those who exploit Asian women for prostitution use various methods to control them. We know pimps will confiscate immigration documents or passports. They are known to encourage and force women to overstay visas, leaving women with illegal immigrant status. They are also known to threaten women who are not regularized with deportation or arrest.

By potentially removing the automatic criminalization of prostituted women, Bill C-36 offers some improvement in response to women in situations of exploitation. However, current immigration contradicts the spirit of the bill to defend women from exploitation. The bill does not change the balance of power created by our current immigration laws. We need this to change in order to enable women to successfully exit prostitution who might not have permanent status, citizenship, or a non-punitive means to be regularized.

The recent cases of abuse and exploitation of employers in Canada under the temporary foreign workers program demonstrates the vulnerability caused by poverty and a lack of secure immigration status. This is also an example of a gross imbalance of power in favour of the employer.

We recommend granting women in exploitative situations landed status upon arrival in Canada regardless of how each woman arrived. This will reduce women's vulnerability to being recruited or trapped in prostitution and will also contribute to her chances of successfully exiting the sex trade.

In conclusion, Bill C-36 establishes a progressive new legal paradigm. However, a made-in-Canada approach to prostitution must be much more robust if we want to create conditions that will allow us to abolish prostitution. Criminal law is limited in that it can only address violence and exploitation after it happens.

The Asian Women Coalition Ending Prostitution calls on our federal government to provide comprehensive social supports. These measures will both serve women who are exiting prostitution, as well as prevent women from being pushed into prostitution in the first place. These are the viable alternatives that we need so that we can counter the systemic inequalities that are in prostitution and be able to access our charter rights.

● (0940)

The Chair: Thank you very much for the presentation from the Asian Women Coalition Ending Prostitution.

Our next presenters are from Hope for the Sold.

The floor is yours.

Mr. Jared Brock (Co-Founder, Hope for the Sold): Thank you, Mr. Chair.

Is it 10 minutes?

The Chair: I'll let you know; don't you worry.

Mr. Jared Brock: All right.

Thank you, honourable members of the committee for having us here today. My name is Jared Brock, and I am a writer and a filmmaker. I must be honest that this is the most dressed up I have been since the last time I attended a wedding, so my wife thanks you.

This is my wife Michelle, and together we run a charity called Hope for the Sold. Our mission is to fight sexual exploitation one word at a time. We do that through writing, speaking, and making movies. We're not lawyers and we're not politicians; we're not professors. We're active citizens who like to ask tonnes of questions.

Ms. Michelle Brock (Co-Founder, Hope for the Sold): About four years ago, people across Canada started to ask a question that we didn't have an answer for. That question was, should prostitution be legal?

We wanted to focus on sex trafficking and to keep prostitution as a separate issue altogether. But as we continued to meet with and hear the stories of survivors, burnt-out front-line workers, and parents of victims, we started asking what it could look like to go far upstream and put systems into place that would prevent sexual exploitation from happening in the first place.

As we started to look at the issue through the lens of prevention, we realized that we could no longer ignore the legalization conversation and that sex trafficking and prostitution were in many ways connected.

Mr. Jared Brock: We made a documentary about the issue, which is called *Red Light Green Light*, and it took us to 10 countries to look at how different countries have dealt with the prostitution issue.

We interviewed numerous victims, the heads of anti-trafficking units, in Stockholm, Amsterdam, and Bern, as well as researchers, after-care workers, etc. There were over 50 interviews in total. Basically what we would like to highlight here today are some of the things we learned on our journey, and to introduce you to some of the people we met.

We met a detective who investigates trafficking incidents in Nevada's legal brothels. He explained that Nevada has a prostitution

culture that is fuelled by a booming demand for paid sex. Because of all this demand, pimps have started recruiting teenage girls in malls, luring them to the Strip with promises of cash.

We interviewed an after-care worker who told us that one of her biggest challenges is that grade 12 boys are pimping grade 9 girls out of high school bathroom stalls.

● (0945)

Ms. Michelle Brock: We met Juliana, who was trafficked from Brazil and forced to work in a sauna, in Switzerland, which has a legal prostitution context. Despite being a legal brothel, the conditions inside the sauna were horrific, and hidden from the eyes of police by a legal facade. When we asked if she had ever been forced to have sex without a condom, she broke; she whimpered and nodded yes. She told us that she is still dealing with many gynecological problems, while her trafficker got off with a fine.

Mr. Jared Brock: We met a girl in the Netherlands, named Eline. Her husband-trafficker forced her to groom other girls and made her cover for him whenever they dealt with the police. As the head of the anti-trafficking unit in Amsterdam put it, "If I can force you into prostitution, then I can also force you to tell a good story to the police if they come to investigate".

Ms. Michelle Brock: In some legal regimes, sex workers have panic buttons in their rooms and train each other how to get away from violent clients. While not every john is violent, it's not unreasonable to say that violence is inherent to prostitution. This is because of three things. It thrives on anonymity, preys on vulnerability, and seeks to fulfill a one-sided fantasy. These three characteristics are present whether prostitution is legal or illegal, indoor or outdoor. While decriminalizing the purchase of sex may have an illusion of empowering women, in reality it leads to a deeper entitlement by men.

We had an opportunity to interview a john who had spent over \$300,000 on porn and prostitution. When we asked him what effect legalization would have, he said it would just create more men like him.

We acknowledge that there are some people who, as adults with an education and other options, choose to go into the sex industry. These people might have a little more power and resources to carefully select their clients or negotiate safe sex practices and hire bodyguards. But considering that the industry disproportionately targets the most vulnerable, it would be foolish to think that the majority of those in prostitution would have that kind of relative bargaining power, even within a fully decriminalized context.

In many of the countries we visited, demand for paid sex had caused an illegal sex market to grow alongside the legal sex market, and the most vulnerable continued to be exploited. Since many of the women targeted by Robert Pickton were in the most vulnerable category to begin with, decriminalizing the purchase of sex would not have given them the relative bargaining power to resist him.

While harm reduction efforts are vital and definitely should continue, our government is going to have to pour more and more resources into harm reduction efforts until it seriously looks at the question of why these are needed in the first place.

The question we really need to ask is this. What are the wide-scale, long-term effects of making it easier to pay for sex?

Mr. Jared Brock: I think what it comes down to is this. So far this debate has been framed as a rights issue, that people have the right to sell their bodies. We don't particularly disagree with that, but I think we need to reframe this as a proportional rights issue.

For example, my right to kill ends with everyone else's right to life. My right to purchase sex ends with everyone else's right not to be exploited. There are many things that are against the law and where harm doesn't actually have to happen, but as a society, we've decided are risky behaviours. A great example of that is drunk driving. Far more often than we'd like, things go wrong and people get hurt. So even though most drunk drivers get home safely, we've decided as a society that it's simply too risky. It's unacceptable because of the risk it poses to other people.

Ms. Michelle Brock: Accordingly, we think that the intent of Bill C-36 is sound: to decrease demand for paid sex. This being said, we believe that section 286.1, regarding selling of sex around children, is too ambiguous. An amendment or further specification could bring the bill in line with its great preamble, which recognizes that people in prostitution are vulnerable and should not be treated as criminals, regardless of their location.

Mr. Jared Brock: In our minds, it's not unreasonable that Canada should decriminalize the selling of sex because those involved are overwhelmingly victims of circumstance. We don't criminalize rape victims; we don't criminalize victims of domestic abuse. Prostitution is inherently violent and should be placed in the same category.

For us, the key piece of this legislation is reducing demand for paid sex. If no one pays for sex, no one is trafficked for sex. While obviously there is always going to be someone who is willing to pay for sex, if we can deal with the 80:20, we can prevent the abuse of literally tens of thousands of people in our lifetime. Plato once said that "Excess of liberty...seems only to pass into excess of slavery". Allowing people to purchase sex will lead to the enslavement of others. This is not the kind of liberty that our nation should seek.

• (0950)

Ms. Michelle Brock: At various points in the Bedford case, and in the past few days in this committee, there has been a debate over the average age of entering into prostitution. Some argue it's 14; some say 18.

When Mr. Lowman said before this committee that it was a preposterous claim that the average age is 14, I was reminded that one of our interviewees pointed something out. He said that even if you go with a conservative estimate of 18, that means roughly half of them began as minors, and that's considered, by definition, trafficking.

Mr. Jared Brock: While Mr. Lowman would also like this committee to believe that the vast majority of women in the sex trade are not trafficked, it's likely that he doesn't fully appreciate the nuance of the word "choice", nor is it likely that he shares the same definition of trafficking that is widely accepted around the globe.

Can we really believe that the vast majority of women in the sex trade have, for the complete duration of their commercial sex experience, worked completely free from threat, use of force, coercion, abduction, fraud, deception, the abuse of power, or positions of vulnerability? I frankly find that very difficult to believe.

Ms. Michelle Brock: One thing that we learned on our filming journey is that laws have normative effects. We interviewed a police investigator in Sweden who was in his twenties when the sex purchase law came into effect. He remembers how it started a national conversation, even with his friends, about whether it was a human right to pay for sex.

Mr. Jared Brock: I also think it's important that we need to speak to the issue of the Bedford case. Ms. Bedford being a case in point for why we should criminalize the purchase of sex in order to prevent trafficking, as a nation.

While it's rarely mentioned in the media, Ms. Bedford first entered prostitution as a 16-year-old—that's trafficking—to pay for her drug addiction and that of her 37-year-old, drug-dealing boyfriend. Over the course of 14 years, Ms. Bedford engaged in prostitution of all types, indoor and outdoor. By her own admission, she was raped and gang-raped too many times to talk about. Ms. Bedford is a textbook example of the type of vulnerability that traffickers will exploit when there are men who are willing to pay for sex. Many victims come from similar backgrounds, which involve foster care, child molestation, physical abuse, group homes, etc. Today Ms. Bedford is no longer in prostitution, and various reports state that she plans to become a madam if we fully decriminalize...thus profiting from the selling of the sexual services of others.

Let's take a moment to truly understand the situation. We have a former trafficking victim turned potential madam trying to dictate national policy. Ms. Bedford says that she has the right to sell her body. Again, we don't disagree; we just think that everyone else has the right not to be trafficked.

Would full decriminalization have saved Ms. Bedford? Would more demand in the market somehow have kept her safe? How about the thousands of women like her?

Ms. Michelle Brock: Well, obviously, we can't dive into the intricacies of every facet of this issue in 10 minutes.

We encourage each member of the committee to see *Red Light Green Light* at some point over the summer. Please feel free to get in touch with us through our charity's website, hopeforthesold.com. We'll send you a free copy and maybe some popcorn too.

Mr. Jared Brock: Here's the big question that we need to ask as a nation: what are we doing here? Is prostitution really the best that we can offer to our most vulnerable women and children?

Look, if our goal as a nation is to make it easier to pay for sex, then let's toss Bill C-36 out the window right now. But if our goal is to create a more gender-equal country, to forge a nation that supports proportional rights, a nation that actually prevents sex trafficking, then let's seriously consider Bill C-36 as a great first step in the right direction.

The Supreme Court's core demand was to safeguard the personal safety of prostituted individuals. Let's take it a step further and safeguard the personal safety of every single person in Canada, for generations to come.

Personally, Michelle and I want to raise our future girls in a society where they're not at risk of being trafficked, and we'd like to raise our future boys in a society where they don't think they have the right to purchase other people's bodies.

Thank you for your time. I am 39 seconds over.

The Chair: You're right.

Voices: Oh, oh!

The Chair: Thank you very much for that presentation from Hope for the Sold.

Our next presenters are from the Vancouver Rape Relief and Women's Shelter.

The floor is yours.

Ms. Keira Smith-Tague (Front-Line Anti-Violence Worker, Vancouver Rape Relief and Women's Shelter): Hi. I'll start, and then I'll be followed by my co-worker Hilla.

Good morning. My name is Keira Smith-Tague, and I'm a front-line anti-violence worker at Vancouver Rape Relief and Women's Shelter. Vancouver Rape Relief is Canada's oldest rape crisis centre. Since opening in 1973, our centre has responded to over 40,000 women calling our 24-hour crisis line and seeking our support to escape all forms of male violence against women, including prostitution. Our transition house provides safe shelter to over 120 women and their children escaping violent men each year.

Rape Relief is a collective of women of varying age and class, many of them women of colour and aboriginal women. Our collective, both historically and currently, includes women who have exited the sex industry. Our authority and knowledge on prostitution as violence against women is grounded in and advanced by our front-line work with women currently or formerly prostituted. We view prostitution as a form of male violence against women within a spectrum of men's violence, alongside rape, incest, wife assault, and sexual harassment. As such, we are deeply invested in amendments to the federal government's Bill C-36.

We know from members of our group and from women who access our services that the sex industry is both an expression and reinforcement of women's inequality in society. As such, many of the stated purposes of Bill C-36 in the preamble are consistent with our analyses. We are encouraged by and in support of this intent. We are in agreement with the acknowledgement of the disproportionate impact on women and children of prostitution, as it is consistent with our front-line knowledge of the sexist and gendered nature of this industry. It has already been said a few times, but I do want to repeat it. Almost all of the buyers in prostitution are men, and almost all of those sold are women and children. This fact alone shows the stark power imbalance between men and women in this industry.

The argument that's been made throughout these hearings, that normalizing this practice by fully decriminalizing or legalizing it will enhance women's inequality, is absurd. Women are already born into a world with a disadvantage to men. We live in a society where men have more power than women socially, economically, and politically. Overwhelmingly, men use that power against us, often along with their physical force or threat of it. We see this perfectly reflected in their entitlement to buy us.

Before I even talk about the violence and exploitation that is an alarming reality in prostitution, I wanted to make clear the very foundation of this industry as a sexist and misogynist one, and on that basis alone should not be condoned or legalized. In both the Bedford case and this process, men's demands to sex are being argued as their rights, and are being promoted and advocated for over the rights of women to equality in Canada. It's women's lives that are at stake, not johns' and pimps', and we expect responsibility from all political parties to ensure that you're invested in promoting women's equality first and foremost.

I want to talk a bit more about consent, as it has come up over the past few days. The notion that the relationship between prostituted women and the men who buy them is a transaction between two willing, consenting adults cannot be applied to prostitution. In the Criminal Code of Canada, it explicitly states that consent cannot be obtained if there are "threats or fear of the application of force to the complainant or to a person other than the complainant" or "the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority".

Consent cannot be bought. The very act of exchanging money or materials in return for sexual services reflects the coercion necessary by men in order to buy women.

We know from women who call our lines and live in our house that the source of the harm in prostitution is from the men who buy them and sell them, so of course we're completely in favour of those men being held accountable and criminalized for their behaviour. We are encouraged that the government has acknowledged the profit and power of advertisers of the sex industry, and are in support of the inclusion of them under those to be criminalized for their exploitative behaviour as well.

We know that the growth of trafficking is fuelled by the local demand by men, which increases the trafficking of women and girls both domestically and internationally. Therefore, we agree that it is necessary to denounce and prohibit the purchase of sexual services because it creates a demand for prostitution. Direct criminalization of purchasing sexual services in any location is positive, sends a clear message to men that buying women is not acceptable in Canada, and is consistent with the government's intent to reduce the demand. We find it appropriate to situate the new law under crimes against the person in the Criminal Code alongside other forms of violence and trafficking.

● (0955)

We commend the federal government's intent to encourage those who engage in prostitution to report incidents of violence and to leave prostitution. As we know, issues such as poverty, racism, childhood sexual abuse, and addiction overwhelmingly affect women in prostitution, both before entering and continuing afterwards. We also know that most women who enter prostitution enter as children and teenagers.

There are provisions in this bill that we find extremely concerning and think are inconsistent with what the government's stated intent was to achieve in the preamble. The provision that would criminalize women communicating in public places for the purposes of prostitution where persons under the age of 18 can reasonably be expected to be present is inconsistent with the understanding that prostitution is a practice that overwhelmingly targets, exploits, and coerces vulnerable women, and therefore their continued criminalization is in contradiction to the objective to protect them.

We are disappointed that this particular provision will target and punish the most marginalized, those women forced to prostitute in public space who are overwhelmingly aboriginal women and largely impoverished, and we believe it is a dangerous step back in protecting them from men's violence. If the intent of the law is to protect exploited persons, then the location in which they are exploited should not determine whether they face criminal sanctions.

Rape Relief has argued that government funding be provided to alleviate women's impoverishment and help support women to leave prostitution. So we are encouraged that some federal money is included as an initiative alongside Bill C-36. However, we do not think \$20 million is significant enough in reality to provide women with alternatives to prostitution. In order for women to have economic options other than prostitution, there must be funding and attention to the current conditions of women's lives in Canada. Women don't have enough money to live on in B.C. and across the country. We see this first-hand with our residents and their children and the numerous women calling us for shelter each day and night.

Women need a guaranteed livable income, adequate and affordable safe housing options, affordable child care, and more women-only detox beds in treatment centres, to be established in addition to the funding already allocated to exiting services. On top of these changes, we recommend that funding be allocated to existing women's groups already providing front-line services and should not be diverted to policing.

If passed, Bill C-36 has the potential to set a precedent in Canada that the buying and selling of women and girls by men will not be

tolerated and for this we are hopeful the government will listen and follow the lead of women's groups and survivors. Vancouver Rape Relief and Women's Shelter stands firm in calling for legislation to criminalize pimps, johns, and profiteers for their violence against women, but we absolutely cannot endorse any criminalization of women in this bill, and for this we call on the justice committee to remove this provision. As long as men view women as commodities that can be bought or sold and women face being penalized for their own exploitation, women will not have full access to participate as equal members of society.

● (1000)

Ms. Hilla Kerner (Collective Member, Vancouver Rape Relief and Women's Shelter): Through the hearings and beyond we heard a few opinions that criminalizing the men—the buyers and the johns—will put women in more danger, and Françoise, based on your Twitter last night, I am worried that you accept these opinions. Those who made this claim called for a harm reduction approach via complete decriminalization or legalization of prostitution, and I'm using quotation marks when I'm saying “harm reduction”, because these methods will not reduce the harm, on the contrary.

We heard that women will be safe if they can work indoors and my allies in the Asian Women Coalition Ending Prostitution made a clear argument about men attacking women in private behind closed doors. Men control women privately behind closed doors, and promoting indoor prostitution as a safety method is false. It will protect the pimps and the johns, not the women. We heard that if we criminalize the johns, “the screening”—again, in quotation marks—will be rushed. Women will not be able to use their intuition to decide whether or not the john is dangerous.

We reject the idea of privatization of women's safety and security, and we don't believe it will work in reality. We know from our front-line work that it's impossible to know who is a dangerous man. You cannot tell a rapist, a pedophile, or a wife beater by his look or by his manners in public.

A “sex workers” advocate—again, I'm using quotation marks—told us yesterday, as a way to assure us, that we need not to fear from the johns since they are ordinary men who come from all walks of life. This is not reassuring at all. Rapists and wife beaters, the father who rapes his daughter, and the boss who harasses his female worker, are all ordinary men from all walks of life, often professional and educated, as someone used those phrases yesterday. I repeat my ally's statement that the cause of the harm in prostitution is the men. Therefore, it's illogical that, in an attempt to reduce the harm, we encourage these very same men to have a paid access and control over women's bodies.

In prostitution, as in rape, wife battering, sexual harassment, and incest, we need laws that will deter and will hold men accountable for their sexist attacks on women. As in other forms of male violence against women, we expect the state—we demand that the Canadian state—will protect women from men's violence.

● (1005)

The Chair: Thank you for the presentation from the Vancouver Rape Relief and Women's Shelter.

Our next presentation is from the Aboriginal Legal Services of Toronto.

The floor is yours.

Ms. Christa Big Canoe (Legal Advocacy Director, Aboriginal Legal Services of Toronto): Good morning. Aboriginal Legal Services of Toronto would like to thank the members of the committee for inviting us to make submissions regarding this bill.

ALST, the acronym we use, is a multi-service legal agency serving Toronto's aboriginal community. Our only clients are aboriginal clients, or families who have aboriginal interests. Our guiding principles include that aboriginal individuals require equitable treatment in the Canadian justice system, access to legal and related resources within the justice system, as well as understanding of the system and their options within those systems. Aboriginal Legal Services' Anishinaabemowin name is *Gaa kina gwii waabamaa debwewin*, which translates into "All those who seek the truth".

The Supreme Court of Canada has granted us intervener status in 15 cases in which systemic issues affecting aboriginal peoples were addressed. As it relates to this bill, Aboriginal Legal Services' most noteworthy intervention was in *R. v. Bedford*. I was the counsel for Aboriginal Legal.

Aboriginal Legal Services objects to the passing of this bill because of the acute aboriginal overrepresentation in the criminal justice and penal systems, and the overall impact this bill will have on a number of aboriginal sex workers, their families, and communities.

We agree with a number of positions taken by POWER and Pivot in their written submissions, and the Lowman submission, "Tripping Point". Because we do agree on some of those points and because I have limited time, I will only focus on two areas of concern today. We do not believe that Bill C-36 is consistent with the Gladue principles, nor is it charter compliant and consistent with precedent.

There seems to be a suggestion that two completely different and incompatible views have been presented to this committee: one from current or former sex workers, saying that the work is fine, empowering, and a completely autonomous choice; and the second view saying that sex workers are vulnerable, poor, addicted, and just surviving. From our perspective as front-line workers, not only in the Canadian justice system but in providing services—aboriginal community, justice-driven services—we say that these can both be true.

They can both be true because different people have different experiences. As my colleague and co-counsel on the Bedford intervention, Ms. Emily Hill, has pointed out to me, this committee should mostly be worried about the impact of the law on the second

group, which everyone seems to agree includes an overrepresentation or disproportionate number of aboriginal people.

Another important point that Aboriginal Legal would like to make is that the government can do everything it's planning to do to support exiting for those who choose to, without also criminalizing sex workers. Neither of these groups of sex workers should be criminalized or put in harm's way because the law fails to account for their lives, liberty, or security of the person.

Our main concern that we believe the passing of the bill will raise can be talked about in two parts. The first part focuses on overrepresentation and Gladue principles, and the second part focuses on sex workers' rights to ensure safety.

Before we begin our discussions on these two points, we submit that laws and policy are not benign. We've heard in the media and through some of the witnesses here that it's not the law that rapes or hurts individuals. But we have to recognize that law and policy are not benign. Historically, laws in Canada have been used as tools of oppression that have attempted to assimilate aboriginal people. The state's legal and policy attempts at eliminating aboriginal people are significant. The treatment of aboriginal people in law and policy has arguably led to poor social determinants of health and hosts of issues that aboriginal people experience.

This was cited in "Forsaken", the report by the Oppal commission:

The long-term impact of these colonialist policies continues to be keenly seen and felt by the over-representation of Aboriginal peoples in nearly every measured indicator of social and physical suffering in Canada.

Law is not benign; law is purposeful, and law impacts us both beneficially and negatively.

Looking at the first part, when I was talking about aboriginal overrepresentation, this bill as it currently exists will criminalize sex workers through the communication provision. There is an overrepresentation of aboriginal sex workers—which all the witnesses seem to agree on—engaged in street-level and survival sex work. The acute overrepresentation of aboriginal women in the penal system, and the harm that incarceration or institutionalization causes aboriginal women, also applies to their families and communities. What we know of specific statistics is that three out of five federally sentenced women are aboriginal women.

● (1010)

What we also know is that a lot of those aboriginal women start off with minor records and administrative breaches that accumulate over time and see them coming back into the system, so that when they are charged with something they get longer sentences. This is known. It's well-documented. It's in a number of reports on aboriginal men and women.

One thing that we're excluding here, because the preamble and a lot of the submissions are focusing only on women, is that we also know there's a disproportionate number of aboriginal men and transgendered individuals as sex workers. It's important to understand that aboriginal men and women are affected when they're over-incarcerated. They serve longer custodial sentences, usually to warrant expiry; that means to the end of their sentences. They experience higher levels of discrimination while they're in custody and they're more likely to receive high-security assessment by virtue of being aboriginal.

These same factors are the factors that see enforcement and police over-policing certain parts of town that have aboriginal people. These are the same factors that relate to the discrimination that we saw in the Oppal report and in other reports such as the Aboriginal Justice Inquiry in Manitoba.

The Correctional Service of Canada is not meeting legislative goals. The disproportionate numbers of street-based sex workers, including those engaging in survival sex, are aboriginal and will be affected if criminal charges occur. The survival sex workers are the most vulnerable and the most marginalized of all prostitutes, and aboriginal survival sex workers experience higher levels of violence both in terms of incidence and severity.

In the past, we've presented submissions before the Senate on various bills that have recently come in. The omnibus bill, C-10, and more recently, Bill C-394. Essentially, our largest concern is that passing this act will result in the retreat, or undermining, of the principles as set out in section 718.2(e) of the Criminal Code, which the Gladue principles derive from. One of the biggest things that we're concerned about is the increased reliance on minimum sentences. This means there's less opportunity for appropriate and fit sentences, and this prevents judges from considering them as sentencing options.

For those who are incarcerated in the penitentiary system, which is three out of five aboriginal women who are federally sentenced.... Let me restate that. Three out of five federally sentenced women are aboriginal. For those who are incarcerated in the penitentiary system, realistically, they come out worse than they went in. We know this. They come out maybe no better, but often worse, with gang affiliations and substance issues and abuses they didn't have, and then they're released into the community without proper programming. The Supreme Court of Canada, in Gladue, stated that:

It is clear that sentencing innovation by itself cannot remove the causes of aboriginal offending and the greater problem of aboriginal alienation from the criminal justice system.

On Monday, Minister MacKay responded to one of the member's questions in that regard. He said that the law was consistent with Gladue, or that all laws have to be consistent. We respectfully disagree. The law, or the bill, hasn't taken into account the acute impact it will have on overrepresentation of aboriginal people if the communication clause that will criminalize sex workers is left in.

Based on what we know, incarceration in incremental amounts does not deter aboriginal offenders. That includes people who sell sex. The law, as it exists, and the law, as it exists pre-Bedford, doesn't deter the actual sale of sex. Arguably, what will happen is that criminalizing one element of it will do what happened in

Vancouver, or the Downtown Eastside, where we saw aboriginal women largely, but a lot of sex workers, pushed into the darkened corner. These are the types of submissions that POWER and Pivot made in their written submissions, which we agree with.

In Bedford, our intervention focused on the constitutionality of section 213 of the Criminal Code. It was our position that the communicating provision violated both section 2 and section 7 of the charter and that such violations were not saved by section 1 of the charter. We also had the position that the state had a much larger role in depriving street-level sex workers' rights to life, liberty, and security of the person and that the limited choices available to survival sex workers were constrained as a result of government action, the law, and the law not being benign.

One thing that we learned in Bedford, and we've heard talked about, is gross disproportionality and it's the only thing I'm going to focus on due to my limited time. Bedford spoke to the gross disproportionality between the infringement of the law and the objects of the legislation.

• (1015)

The object has been recognized to protect the neighbourhoods that experience harms associated with street-based sex work. That's what was determined in Bedford. The court said that the court must balance the harms that those neighbourhoods face with harms that street-level sex workers face.

We, at the time, submitted that the inconvenience and discomfort do not reach the same harm level as that experienced by sex workers who experience violence, sexual violence, and death. Quite frankly, we don't see a difference between what the bill is proposing and the law that was struck down as being grossly disproportionate.

Simple wordmilling by saying that it's about safety and not about nuisance is not enough. It's not the true measure a court will have to balance in determining constitutionality of charter rights, and it will always have to balance the safety of the person at risk.

I'll close with what Chief Justice McLachlin said at paragraph 121 of Bedford, which is:

Gross disproportionality under s. 7 of the Charter does not consider the beneficial effects of the law for society. It balances the negative effect on the individual against the purpose of the law, not against societal benefit that might flow from the law.

It is our opinion that the scope has not narrowed so much. This committee should ask themselves whether the legislative object has really substantially changed, or has there been some wordmilling.

The Chair: Thank you very much for that presentation from the Aboriginal Legal Services of Toronto.

Now, via video conference from Boston, we have u-r home.

Ms. Pond, the floor is yours.

Ms. Deborah Pond (Chair of the Board of Directors, u-r home): Good morning. I would like to thank the standing committee members for this opportunity to speak about the tabled legislation, Bill C-36. This bill will impact the lives of prostituted individuals, their children, and generations to come.

I'm speaking today on behalf of the board of directors of u-r home, and as a retired police officer with the RCMP. u-r home is a faith-based, grassroots organization registered in Ontario as a not-for-profit.

u-r home was established in response to a community need for safe and secure housing for individuals choosing to exit their exploited situation. This need was identified by police officers, community agencies, front-line case workers, survivors of sexual exploitation, and prostituted individuals as a critical component in supporting their desire to exit their exploited situation.

u-r home's objective is to establish safe and secure housing and support services for victims of human trafficking, including forced sexual exploitation, forced labour, and forced marriage. We will build mentoring and supportive relationships with trafficked and prostituted women in their restorative journey as they seek to understand their inherent worth and dignity as valued persons in our society. We believe in the inherent right of every person in Canada to live with dignity, equality, respect, and freedom from oppression. We do not subscribe to the belief that prostitution is an acceptable solution for the women, children, and men who are forced into prostitution due to racism, poverty, lack of opportunities, child abuse, or inequality.

We view prostitution as a form of sexual exploitation and work towards its abolishment. In a majority of occurrences, prostitution and human trafficking intersect, resulting in forced sexual exploitation. Project Safekeeping, an RCMP report, states the majority of pimps employ control tactics that would categorize them as human traffickers according to the Criminal Code.

Prostitution is not a victimless crime. It consumes the most vulnerable and marginalized persons in our society. We recognize that women, especially first nations women and youth, are overrepresented in prostitution. We believe that those who are prostituted are treated by the buyers and pimps as commodities with little value, and that the cycle of violence is inherent in prostitution.

u-r home applauds the government for its thoughtful work in the development of Bill C-36 in support of prostituted individuals. The government is taking a proactive approach in not criminalizing the prostituted, who are victims of violence at the hands of the buyers and pimps. Yet it stops short of total decriminalization of prostituted individuals. I know of no other offence in our Criminal Code that criminalizes the victim. I would encourage each of you as committee members, as you study Bill C-36, to amend and remove the provision that criminalizes those prostituted victims.

Regarding the purchasing of sexual services, this new offence would prohibit the purchase or attempted purchase of sexual services. In an article by UN Women on ending violence against women and girls, it encouraged drafters of sex trafficking laws to include criminal penalties for buyers to address the demand for the sale of women and girls for sex, and that penalties should be

sufficiently severe to deter repeat offences. We believe that the same can be said in the drafting of our new prostitution laws.

Prostitution is built on the economic laws of supply and demand. If there is no demand from men for sexual services, prostitution would not flourish. In the study of Canadian adult sex buyers, it describes that buyers actively attempt to hide their sex buying from others, and experience some degree of anxiety or worry at the thought of being outed as sex buyers. The report further indicated that the buyers of sex had worried about being arrested for communicating in a public place for the purchase of sex.

Police and front-line agencies are seeing a trend of younger girls being forced into prostitution. Why? The buyers are demanding young girls. They want sex with a young virgin, so the pimps are supplying the demand by recruiting vulnerable young girls, often from group homes. We support the strong message that in Canada it will not be acceptable to purchase the body of another human being for one's own personal sexual gratification. If this legislation is passed, the buyers' conduct and the purchasing of sexual services would be illegal for the first time in Canada.

• (1020)

Profit, greed, and power are the driving forces for pimps, traffickers, organized crime groups, gangs, and businesses engaged in such criminal activities as forcing women, youth, and men into prostitution. Research shows that daily profits from one prostituted woman can be over \$1,000 a day, earning as much as \$280,000 a year, tax-free. A drug trafficker sells one kilogram of cocaine once, but a pimp sells a prostituted woman for an average of seven years, earning potentially millions of dollars in profit.

Addressing the purchase of sexual services is only one avenue to deter the exploitation of individuals. Seizing, restraining, and forfeiting the proceeds of crime—of everyone benefiting—is another effective tool that police officers can apply that will reduce sexual exploitation of vulnerable individuals. Forfeiting the assets and illicit wealth will take the profit from those who benefit.

We believe the advertising of sexual services both online and in print media that depicts women in sexual and degrading poses reinforces the sexual objectification of women. It has been said that women who grow up in a culture with widespread sexual objectification tend to view themselves as objects of desire for others. This internalized sexual objectification has been linked to problems with mental health, clinical depression, habitual body monitoring, eating disorders, body shame, self worth, life satisfaction, cognitive and motor functioning, and sexual dysfunction. Hatton, in a 2011 study, found that "Sexualized portrayals of women have been found to legitimize or exacerbate violence against women and girls, as well as sexual harassment and anti-women attitudes among men and boys".

With regard to offences in relation to offering, providing, or obtaining sexual services for consideration, the government has outlined a legal framework in this legislation that encompasses its view of those who are prostituted as victims, vulnerable, and in need of support and care. We believe it is inconsistent of the government to establish new legislation whereby prostituted individuals are regarded as victims in certain situations but not in other instances.

We do not support the offences as described in the proposed changes to section 213. These offences will criminalize the most vulnerable marginalized individuals in our society—those who engage in street prostitution, the majority of whom are women. These women, who are poor, often homeless, addicted, and suffer from serious health issues and post-traumatic stress disorder, need care and support, not revictimization. We do not believe the risk of violence that is inherent in prostitution would be diminished, but this offence would force those involved in street prostitution to make choices that could risk their personal safety.

Research and disclosure by prostituted women support the findings that they experience violence in many forms from both buyers of sexual services and individuals who exploit them for profit, and not from the law. Police in Christchurch, New Zealand, have stated, “At least monthly we are dealing with a working girl being victimised in some way, if not more.” The law needs to focus the responsibility of the inherent violence in prostitution and victimization of vulnerable individuals where it belongs, the buyers of sexual services and pimps.

The continuation of the criminalization of vulnerable individuals will only create additional barriers to exiting prostitution—namely, criminal convictions. This type of barrier has already created loss of opportunities for jobs and completion of college programs where, for many young women, the co-op programs require a clear vulnerable screening check by police. We believe those who are prostituted are not choosing prostitution. There is no criminal intent.

I understand that the \$20 million is not part of Bill C-36, but I would like to address some comments in relation to this proposed funding.

We recognize the importance of a public awareness campaign and training for police on the application of the new laws, but these initiatives should receive separate funding. The training for police is critical to ensure the consistent application of the new laws across the country, unlike the current situation. Currently, some police services view prostituted individuals as victims and in need of rescuing from their pimps and buyers, and work in this manner. Other police services criminalize those who are prostituted, thus creating inequality in the application of the law.

We support the \$20 million in new funding. As many others have suggested, however, we strongly urge the government to dedicate sustainable long-term funding to the development of robust exit strategies and programs.

● (1025)

Survivors of prostitution have stated and shown that it is a difficult process for individuals to leave prostitution. Many of the social barriers that have been factors for entering prostitution such as poverty, housing, health, lack of opportunities, abuse, addictions,

and survival can also be barriers for exiting. We know that legal prostitution for many is not a one-time event but individuals may exit and re-enter a number of times before they are successful in overcoming the barriers that keep them entrenched in prostitution.

It is essential that survivors of prostitution and prostituted individuals be included in the development of these exit strategies and programs. Many survivors have commented on the importance of developing relationships with a few trusted workers. Therefore, it is imperative that there is a continuity of resourcing and funding for staff retention in organizations that provide support and services to sexually exploited individuals.

Whether or not you amend Bill C-36 as suggested, as an organization we would support the bill as tabled. We would continue to advocate for the total decriminalization of all prostituted persons.

I would like to conclude with the words of my friend Beatrice Wallace Littlechief, who speaks of being prostituted as a child and exiting prostitution many years later as a forever changed woman:

At 14 years old, I was forced to sell my body to a middle aged white man who said as I wept, that he would take it easy and then proceeded to have sex with me. I was also in fear of my life if I didn't follow through. I was alone and scared and only wished that there was someone there to help me. He thought this was ok to do this to me, but somehow mainstream society thought I was the one in the wrong.

As the streets hardened me and death evaded me, I think back to those early days and compare them to today with Bill C-36 coming to reality, and I am filled with joy and hope that this is going to save so many girls, especially First Nation girls like myself, from ever having to experience sexual slavery. We are vulnerable and left to fend for ourselves with pimps and evil just lurking and ready to grab us and eat us alive. There will be protection and exit strategies in place to help save these girls and woman who are trapped.

For those that think prostitution is a chosen profession you are only fooling yourself, because what if your 14 year old came to you and said, I got a job as a prostitute, you would definitely not be jumping up for joy.

I personally want to thank the government for finally stepping up and seeing myself and others in this plight as humans, as equals that deserve protection. I have been out for a long time but the scars are still there and always will be, but now there is finally hope.

Thank you.

● (1030)

The Chair: Thank you very much for that presentation.

Now we got to our question-and-answer rounds. Our first questioner, from the New Democratic Party, is Madam Boivin.

[*Translation*]

Ms. Françoise Boivin (Gatineau, NDP): Thank you, Mr. Chair.

I want to thank everyone for joining us this morning.

I would like to remind you that the title of Bill C-36 is the following: 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.

It is the committee's role to ensure that, following the Supreme Court's decision in the Bedford case, Bill C-36 will not eventually be back before the court and that all the work we are currently doing will not have to be redone. Despite everything, the minister feels that this bill will be back before the court, and that is very disappointing for me. This would mean there will be a lot of insecurity, questioning and divisions for years to come.

As a lawyer, I am trying to highlight the clearest possible provisions that best reflect what we are trying to do. My favourite expression is the following:

[English]

Put your money where your mouth is.

[Translation]

I would like to raise a few short overhead questions. I would like everyone to answer them fairly quickly.

Do you feel that prostitution cases where women are clients also constitute acts of violence?

[English]

I say that to everyone, so maybe it could just go in the order of their testimony.

The Chair: Okay. The Asian Women Coalition, would you like to answer that question?

Could you repeat the question for them, Madam?

Ms. Françoise Boivin: I heard from pretty much everybody who supports the bill that prostitution is an act of violence against women. So my question is if the buyer is a woman...because we know it exists. I received numerous emails again last night from guys who are in prostitution as prostitutes. Do you believe it is an act of violence against the male prostitute?

Ms. Alice Lee: I take the position that I don't condone any exploitative behaviours, whether it's male or female.

Ms. Michelle Brock: Yes, I think I would agree with that. It's still commodification of a person and an exploitation, in many cases, of a position of vulnerability.

Ms. Hilla Kerner: Of course, it's based on criminal exploitation, but unlike violence against women, we do not have the problem of social phenomena, of women using their political, economic, and social power in the world to control men; otherwise, it's true.

Ms. Christa Big Canoe: Obviously, we don't take the same position that the other friends and colleagues here have. We would say simply that in applying equality, it should work both ways, regardless. However, we don't see them in that same position in every circumstance.

Ms. Françoise Boivin: It is true that it's definitely not as often.

Ms. Pond.

Ms. Deborah Pond: Yes, I see that women can also be exploited, and exploit others in those situations.

[Translation]

Ms. Françoise Boivin: That's consistent. I simply wanted to make sure that the logic applies across the board.

[English]

Ms. Pond, I appreciated your mentioning the fact that there will be a big need for police training. Because we heard a lot of stories, and heartbreaking stories at committee of situations where people, young people, were taken by gang-related organizations, criminal organizations, and brought into prostitution, which resembles human trafficking a lot, which is already in the Criminal Code.

What really came to my mind was the fact that they felt pretty much hopeless. Even the police felt almost hopeless on that aspect.

A lot of witnesses made a correlation with domestic violence, and when you talked about training it reminded me of how, at the time, domestic violence was happening, and so on and so forth, and nothing was happening criminally. Now we see more and we address that issue. But we address the issue not by creating a new infraction, because the infraction was already there. It was just to give the tools and also the training, the education, to say that domestic violence was not okay.

When police went to the door and said, "Oh, it's domestic. It's between the spouses," and then turned around...we stopped that behaviour. Courts changed their behaviour, the way they addressed the witnesses in those cases. There was a section in the Criminal Code that was added, but more to the aggravating factor. If the infraction of aggression, of hitting somebody, was done against a spouse, it became an aggravating aspect.

So I'm very happy you talked about the importance of training and also giving them the tools to go after the root of what I'm hearing a lot here, which is human trafficking and exploitation.

It brings me to my question on the Bedford decision, because at the same time, Justice McLachlin said that it is a very dangerous business, and I'd be very surprised if anyone would argue it is not. It is a very dangerous business. Even if there is some type of consent from the person, it is a dangerous business. That's the issue the court was addressing foremost.

Ms. Big Canoe, you were really talking about the importance of having legislation that would still answer the court in Bedford.

I wonder, because I'm thinking a lot about the issue, could we have maybe defined a bit more what exploitation was all about, and that would have been deemed correct in the sense of the Bedford decision, and maybe also criminalized the buying of sexual services from a trafficked person? Do you think it would have—

• (1035)

The Chair: That question is for Ms. Big Canoe, I believe.

Ms. Christa Big Canoe: Mr. Chair, to the member who has asked the question, it's not a simple answer, so I will try to keep it as concise as possible. There are a couple of things.

You had stated that we already have trafficking laws. We do actually already have trafficking laws, and if you go to StatsCan, they'll show you how many have not been convicted or prosecuted, which also touches on your enforcement issue. Why is it that the laws we already have aren't effectively prosecuting those who are engaged in trafficking?

So to you, in response to your question, I put: what will this bill do? If the hope is to achieve the same thing as the current law, what will it do?

When we talk about exploitation in terms of the Bedford circumstance and the issues that were discussed in Bedford, I'm not sure it's as simple as simply defining or putting more parameters around what exploitation is. I think—

Ms. Françoise Boivin: It did explain that, you know, we have to

[*Translation*]

I will say it in French, as that will be easier for me.

We have to distinguish between the person who is exploiting and the person who is protecting. That's my understanding of the Bedford case. That's what the court stated. So there must be cases where people can be protected.

Is there no way to clarify section 212 of the Criminal Code concerning pimps? That would have helped the court formulate a better response.

[*English*]

The Chair: I'm sorry, Ms. Big Canoe, but the member's time is up, so you probably will get that asked in another round.

Ms. Christa Big Canoe: Okay.

The Chair: Our next questioner is from the Conservative party, Ms. Smith.

Mrs. Joy Smith (Kildonan—St. Paul, CPC): Thank you so much. I know we have limited time so I'm going to be very clear and concise, hopefully.

Jay—I'm sorry, I never knew you as Jared—do you want me to call you Jared or Jay?

Mr. Jared Brock: [*Inaudible—Editor*]

Mrs. Joy Smith: Jay and Michelle, thank you for everything that you're doing across Canada and thank you to all of the witnesses for your very profound explanations of what your beliefs are today.

You have talked an awful lot, Jay and Michelle, about across the world. I remember, years ago, when we were talking about this whole thing and you set out to do this film and find out what the real goods were. You've just finished a tour across Canada.

Can you very briefly explain to the committee what you found out about human trafficking across Canada in light of the fact that some people still believe there is no human trafficking in Canada?

• (1040)

Mr. Jared Brock: Yes. We just finished an 80-city tour across Canada, which took us a total of 37,000 kilometres, seven months in a car together. So it was a very good test of our marriage. We celebrate six years in three days, so that's exciting. That's good.

The Chair: Mr. Brock—

Mr. Jared Brock: Yes, thank you.

At so many events, girls would come up to us afterwards in tears to thank us for helping people to realize that it's not their fault. We would have guys come up to thank us for talking about sexual

addiction. We met trafficking victims across Canada, in towns as small as 2,000 people and in cities as big as Vancouver, Montreal, and Toronto. It's crazy.

Mrs. Joy Smith: Thank you, Jay. I know you could go through an awful lot more. Watching the film, maybe you can say a few things about that.

By the way, the real test in your marriage is not going across country. The real test in your marriage is living in that trailer in the middle of the woods. That's a real test of your marriage.

Deborah, it is so nice to talk to you today. Our conversations over the years have been so beneficial, but I want to ask you something because you've been an RCMP officer. You've been on the streets. Why in the world are some of the police telling us that they have to have the ability to arrest for the good of the victims? Because that's what you're seeing reflected in the bill....

Ms. Deborah Pond: I think probably for many of the police it's just that this is a tool that they've always felt they've needed, and I think they just need to understand there's a change.

It's much like when I was a police officer and the charter came in. I thought it would be so difficult to arrest criminals on the street, and I think this is just an understanding of building that relationship with the victims so that when they have that interaction, they're able to separate them from their pimps, from the person who is buying the sexual services. They need to develop that relationship understanding that they are there to help them. They're not there to arrest them. They're not there to charge them. They're there to give a road out of an exploitative situation.

Mrs. Joy Smith: Thank you very much.

Keira and Hilla, you've been amazing over the years. I've just loved partnering with you in so many ways, and you are in the real world, on the ground.

For the committee today, what is the most important message this committee has to get, because you deal with trafficking victims every day of the week? That's for either one of you.

Ms. Keira Smith-Tague: I think I'll just be repeating what I've said, but I think we do have to send a very clear message to men that it's not acceptable to buy women, at all. But I think equally that women shouldn't be criminalized. It will be the same message I've already said. I do think that the justice committee has a responsibility to listen to the consensus among almost all of the witnesses about decriminalizing the women and removing that provision.

Mrs. Joy Smith: Thank you.

Alice and Suzanne, what can I say to you two? You're amazing.

I have a question that I need to ask you because in Vancouver, in B.C., and even across this country, women of colour, Asian women, and aboriginal women have a disproportionate visibility in prostitution and human trafficking. Now, you made some comments about what could protect these women the minute they come off the plane, the minute they hit the ground. We've talked about how some come off the plane and are immediately put into brothels.

Could you please repeat that for us? You touched on it a little bit in your presentation. Could you repeat that, please, for the committee?

Ms. Alice Lee: Yes, especially for Asian women it hasn't been recognized, either in the Bedford case or so far in the discussion here, that a high number of Asian women are in brothels, massage parlours, and also the illegal brothels, the homes, the apartments, and that's true across the country and around the world. All you have to look at are the countries like Thailand, Cambodia, all that.

There are very specific needs. Women who have no language skills or immigration status are put in an extra vulnerable position.

Mrs. Joy Smith: So coming off the plane, what are the two things that you think they need immediately to just ensure they don't get trafficked or forced into prostitution?

•(1045)

Ms. Alice Lee: I think that they need to be able to have landed immigrant status, which would make a huge difference for women to be able to not be vulnerable to trafficking or prostitution, as well as concrete supports.

Mrs. Joy Smith: Thank you.

Do I have one more minute?

The Chair: You have more than a minute.

Mrs. Joy Smith: Oh good. I've been rushing through this. It's killing me.

There's one thing that I wondered about, and over the years no one has ever done an analysis to follow the money.... I would like any one of you to comment on this. Prostitution and human trafficking are big money-makers, it doesn't matter how you look at it, whether it's the perpetrators who sell or whether it's the advertisements or whether it is all the people who are helping the sex workers.

Is there anybody here in this committee today who would like to comment on the money that's being made to hold these people in bondage with human trafficking?

The other question I have is on the appearance of youth, because we've also heard from people that there's no youth involved in this at all. So those two things, would anybody like to address them?

Ms. Hilla Kerner: About the appearance of youth, it's obvious, and we know this not only from the women who call our front-line, 24-hour, crisis line, but also from our own members who are women who have been in the sex industry in strip bars and prostitution, and exited prostitution. The majority of the women who called us entered into prostitution at very early ages, some in extreme situations at seven years old and 12 years old. So women themselves, including the women in the Bedford case, did testify that they entered into prostitution at a very early age. This is, I don't even think, contestable information.

The Chair: Anybody else?

Suzanne.

Ms. Suzanne Jay: Yes, I'd like to point to an RCMP report on human trafficking. Although I don't have specific numbers, there are studies about the money that's involved in human trafficking into prostitution, but it's an illicit activity so it's difficult to pin down

those numbers. The most accurate ones are probably from police, and we can glean some of the understanding of how much money is at stake by looking at regimes where they've legalized and what the revenue flows are there.

The RCMP looked at human trafficking in Canada, and they saw that human trafficking and prostitution proliferate in cities where there's a large enough Asian population that organized crime will operate there. The massage parlours are a network across Canada that is obviously controlled by organized crime, and they don't do things for fun; they do things for profit.

The Chair: That's your time, Ms. Smith.

Thank you very much. Thank you for those questions and answers.

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

Mr. Sean Casey (Charlottetown, Lib.): Thank you, Mr. Chair.

After the opening statements, I thought we had yet another panel of witnesses who unanimously agreed that Bill C-36 is flawed to the extent that it continues to allow for criminal charges against persons who were prostituted or sex workers.

I'm a little less clear on that after your answer to Ms. Smith, Ms. Pond, so I'd like to start with you.

The question you were asked by Ms. Smith relates to testimony that we've heard at this hearing from police officers, who have justified the continued ability to criminally charge victims on it being a tool that they need to be able to detain them and talk to them, even if they're not going to charge them. Am I correct that you feel that section 213 should not be in Bill C-36, that the continued ability to charge those involved in the sex trade is not something that should continue?

Ms. Deborah Pond: I believe it should not be in Bill C-36.

I believe that officers can have other tools. The women, the youth who are criminalized would....

They need to be able to treat them as witnesses. They can talk to them as witnesses. They do not have to arrest them if they're not going to charge them. I think they just need to understand that they need other tools to do that.

•(1050)

Mr. Sean Casey: So it is unanimous.

Ms. Big Canoe, everyone here stated their objection to section 213, which gives the police the ability to continue to charge—and it continues to make it an offence for those involved in the sex trade to communicate for the purpose. Everyone here agrees that it's bad policy. You're the only one who has made a comment on its constitutionality, and that, as you indicated, formed the basis of your case before the Supreme Court of Canada.

Given that your position before the Supreme Court of Canada was that the old provision was unconstitutional, what we've heard before this committee from all lawyers who have testified, except for those who worked for the Department of Justice and the minister, and the lawyer for the Evangelical Fellowship who disagreed with her client, was that the change in the objectives will save the new provision.

I think I understood your opening statement to say that you disagree with that position—that the change in the objectives will not make this new provision constitutionally sound. Is that right?

Ms. Christa Big Canoe: Mr. Chair, if I could address the member's question, yes, I agree with your characterization. I don't believe it meets the constitutional muster, as it's currently drafted. In fact, it basically does the same thing.

People will rely on the preamble, or they'll say things. But when you actually have to weigh in a court.... It could happen at numerous levels, but if it makes its way back up to the Supreme Court, the court will have to apply the constitutional and fundamental principles of justice, which require them to weigh and balance the risk and harm and the objectives. The objectives are so broadly stated that, in my opinion, the challenge will likely be successful on those grounds.

Minister MacKay had mentioned on Monday that people are going to challenge it just because they want to challenge it. We don't enter into litigation lightly. We go in based on human rights and constitutionality. Quite frankly, diminishing those rights and weighing life, liberty, and harm, death of individuals, with something written in law that's not constitutional is an easy decision to make. We spent months at it in Bedford.

I think it's safe to say that a number of allies will probably do it again if it's passed through this way, and on the same basis that we challenged it in the first place. Legislation should meet the constitutional muster. It should be something that you know is going to succeed. In this case, it is my opinion it's highly challengeable and it would be likely successful that it might be seen as a constitutional breach.

Mr. Sean Casey: I want to thank you for addressing the principles in Gladue. I've been trying to get witnesses to talk about it all week. Now we have the expert in front of us, so I want to ask you about that.

You were very clear that you felt Bill C-36 runs afoul of what the Supreme Court of Canada had to say in Gladue. Can it be salvaged? Are there amendments you would propose that would make it consistent, or is it fundamentally flawed?

Ms. Christa Big Canoe: Mr. Chair, if I could address the member's question, a direct answer would be that parts of it are fundamentally flawed. The reason they're fundamentally flawed is in relation to the mandatory minimums that exist and actual charges that exist, because things like exploitive relationships aren't necessarily defined as well as they could be.

For example, aboriginal people, communities, who aren't necessarily in an exploitive relationship as it relates to sex work, or someone who is engaged in sex work, could also face criminalization. Because of that, it's fundamentally flawed. Mandatory minimums fail to leave the decision to a judge to take into account the circumstances of the aboriginal offender before them.

Mr. Sean Casey: I asked the minister about compliance with Gladue, as you indicated in your statement. Immediately after that question, I asked him whether he would agree that first nations are uniquely vulnerable when we're talking about prostitution and exploitation. He agreed with that. But then I asked him whether there

were any specific measures taken in the legislation to account for that unique vulnerability, and he said that all of the sections are intended to protect all vulnerable individuals.

How would you react to that?

• (1055)

Ms. Christa Big Canoe: With respect, I would disagree. Minister MacKay also said that, and relied on, the \$20 million that has been so notoriously discussed through these meetings about not being enough. His response was that, in addition, there is the legislative monetary response and that they would partner with first nations and other aboriginal agencies.

First nations aboriginal agencies, aboriginal individuals, are diverse in this country. There are over 600 nations. There is Métis. There is Inuit. So, for example, in that diversity of opinion...and Mr. Piragoff also talked about things like the consultation of this legislation. His response was that they had spoken with a few first nations. Never is "a few" enough first nations to actually get that consultation. So who will the partnerships be made with? Minister MacKay's response was, well, there's the money.

Quite frankly, in the proposed legislation, I'm not seeing any type of clause that allows for an exclusion or for a direct application of paragraph 718.2(e) or the Gladue principles to come in place. In fact, Mr. Piragoff stated that it will have to comply with whatever is put in place.

What you're asking to do in law is you're saying that one provision of the same code is going to be equal to the other, but what he is saying is that it's going to be paramount because it's a mandatory minimum. Technically, they are both provisions of the same code and in this case, constitutionalism sort of trumps.

Mr. Sean Casey: We heard testimony earlier in the week from Ms. Ekberg. Do you know who I'm talking about?

Ms. Christa Big Canoe: Yes, the Canadian that assisted with the development of the Swedish legislation.

The Chair: That's right. We all know who we're talking about, at least.

Mr. Sean Casey: She talked about Canada's international obligations, and the UN declaration, and the absence of any recognition of that in the preamble. I take it by the fact that you know the pronunciation of her name that you probably also watched her testimony.

What would be your response to her recommendation to include, in the preamble of the bill, a recognition of Canada's international obligations toward first nations?

Ms. Christa Big Canoe: I am going to reference only the UNDRIP, the United Nations Declaration on the Rights of Indigenous Peoples. Interestingly, and I don't have time to get into it, there is a whole level of autonomy and self-governance, and a lot of models. It's one thing to say to respect it, but then that also allows first nations and aboriginal communities...who may define things like sex work or prostitution much differently than Canadian law does. So I doubt that the committee would necessarily want to include that. However, there are actual international obligations, as a signatory to it, to actually be in compliance with it. I don't think dropping it into the preamble necessarily means you are complying.

The Chair: Thank you for those questions and answers.

Our next questioner from the Conservative Party is Mr. Wilks.

Mr. David Wilks (Kootenay—Columbia, CPC): Thank you, Mr. Chair. Thank you to the witnesses for being here today.

My questions will be directed towards Ms. Pond.

Thanks for being here today. I am also a retired member of the force, and I remember pre-charter as well. I think that it is still an evolving document that challenges police from time to time.

Having said that, you mentioned that there are other tools available to police if section 213 were not there. Could you tell me what tools would allow the police to extract a person of vulnerability from a place if they would not have the authority, legally, to do that through the Criminal Code?

Ms. Deborah Pond: I think we've seen the example of how the York Regional Police police individuals who are involved in prostitution. We've discussed it with them. They have built those relationships with these individuals. They have intervened where they have charged the pimps, charged the traffickers. They have developed that trusting relationship to be able to have the women come as witnesses if they are still in the exploited situation. They have built up and maintained contact with them. When the young woman has decided that they want out of the exploited situation, they then contact the police. The police are able to provide services to different agencies, and a venue for them to be able to exit.

With regard to the profits being made by individuals, they have the proceeds of crime legislation where they're able to go after an organization or individual who benefits from the profit-making with regard to prostitution. They're able to seize those illicit assets and wealth and are able to take that out of the organizations that are benefiting.

● (1100)

Mr. David Wilks: That's pimps and organizations, whether it be through organized crime and/or other means.

Getting back to the victim, in most cases the first point of contact is with the police through some form of violence, normally always in cases of a form of violence, and a lot of them are in a position where, if they are under the control of a pimp or a person in authority, they feel very compelled not to speak to the police through more threats of violence.

Would you agree with that statement?

Ms. Deborah Pond: Yes, I would agree, but I think still the police are able to separate. It's like when you go into a domestic violence

situation, you don't leave the person who has perpetrated the violence against the victim. You separate them. You talk to them separately.

I think it's the same case here. You would take the victim and you would be speaking with them separately from the pimp or the trafficker. If it means—

Mr. David Wilks: If I may, Ms. Pond, I think there is a slight difference between the example that you provide. That is, under normal circumstances under a domestic dispute, there will be an assault...by two people in a residence, to which you know who the perpetrator is, and you can arrest for that assault because it's an offence to which you can prove whom the person is that did the assault. Given the example of a police officer being called to a scene to which there is a person in distress, they enter the building or a place, they see a person, male or female, who has obviously been assaulted—let's use the case of a black eye or something that can visibly be seen as a black eye, or a physical assault—and there is another person there who is telling the police, “Get lost. This is none of your business. It has nothing to do with you.”

Then you ask the victim, him or her, “Can you tell me what happened?” Under the circumstance that they will say, “There there is nothing wrong, so please leave”. What authority would the police have to speak with that person if it were not for section 213, in relation to an offence under section 213?

Ms. Deborah Pond: In relation to section 213, if they are communicating in public, they would not be able to arrest them in relation to that. They would have to talk to the individual. Again, we separate the individuals who are involved in those types of instances. You would talk to them separately, and get the information from them.

You do not arrest an individual to just take them out of the situation and then release them unless you're going to investigate to charge them. You're still detaining them. If you're detaining them, you're technically arresting them.

Again, you would need to talk to the individuals separately. You would be able to gather your evidence and your information to be able to assess what the situation is. You may have to walk away, and you may have to have the contact again with that individual, with the victim, to be able to determine what is happening.

Mr. David Wilks: You brought up something that is quite concerning for any police officer and that is that you may have to walk away, and I believe that is not what any police officer would want to do.

Having said that, from the perspective of police training, as you know, police training has evolved throughout the years, whether it be the RCMP or others. They've got into a lot of role-playing within the RCMP at Depot to be able to give first-hand ability to recruits. Do you think there is a potential for some form of that type of training that would assist police officers coming out of Depot to better understand the magnitude of this type of crime?

•(1105)

Ms. Deborah Pond: I certainly think role-playing and any kind of training that police do, whether it's RCMP or other police departments, it would be essential for police to be able to determine how they need to act in certain situations. It gives them a sense of being able to walk into a situation with more confidence. As you approach situations you know as an officer that you think about what you're going to say and what you can face. As they do these role plays and as the police do internal training, I think it's essential for the police to do this, and they are doing that now. I often hear police talk about the kind of training that they're having for human trafficking and prostitution and other events. As they develop, yes, I believe they need to do this.

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

Our next questioner from the New Democratic Party is Madam Péclet.

[*Translation*]

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

Many thanks to all our witnesses for agreeing to appear before us.
[*English*]

I'll try to do my best.

Ms. Big Canoe, I think you've touched on an important paragraph on the decision, paragraph 121, which talks about the balance between the individuals at risk.... You were pretty eloquent on making the difference between the existing laws that we have relating to exploitation and trafficking, which I would just like to cite that it is imprisonment for life for someone trafficking in persons, which is article 279.01.

I would like you to continue on the fact that there are statistics on human trafficking and on exploitation and the difference between the legislation we have here and the legislation already in place.

Ms. Christa Big Canoe: Yes, in response to that, article 279.01, which you were talking about, is actually a provision that allows for the prosecution of human trafficking. Interestingly, when we've done research on it to understand what the differences are...because what we're hearing from a lot of witnesses is the interconnectedness. What we're not hearing are the distinct differences between trafficking and sex work.

Essentially, when we look for numbers, we're not finding a large number of convicted traffickers. The point I was making earlier is: why is it that law that already exists in Canada isn't being enforced or used? Often, in articles in the academic realm of this, what you hear is talk about the difficulty enforcement agencies have nailing it down, because trafficking is elusive and everything. So the question I had to this committee is how that is going to change by the provisions that you're now proposing. Also, what can be done to change that, if it's not already occurring?

In terms of exploitive relationships, one of the things that Bedford does define is what an exploitive relationship is and what it isn't, but it doesn't do it well. There was an earlier question your friend had asked in relation to that, about whether it would be better if we

defined that. It's already defined in law and it's already defined in international law, what exploitive behaviour is. It doesn't seem to me that this particular proposed bill has actually looked at that well enough to understand or to distinguish the differences between sex work. Bedford was about sex work; it wasn't about trafficking. We have laws in Canada about trafficking that aren't actually being used well. Maybe addressing those laws would be of assistance.

What is exploitive and what's defined as exploitive? So relationships that help.... An example of this is when a city has massage parlours and they allow for licensing. Is the city living off the avails of prostitution? Is that going to be one of the exemptions under this new legislation? Is that exploitive? Is the city making money? Is it capitalizing or commodifying the same way the friends on the panel have discussed it? Because there's a big difference between exploitive nature and exploitive relationships.

•(1110)

Ms. Ève Péclet: It's just really important and interesting to note that the section of the buying and the section of benefiting financially was put in the trafficking section of the Criminal Code, and not as crimes against the person. So it was put in the trafficking section of the Criminal Code.

My next question would be for Mr. and Ms. Brock. Thank you very much for everything, and I can't wait to see your movie, so I hope I'm going to be able to get a copy of your work on the net. I can't wait to see it. My question would be concerning...because you've been on the ground so you've talked to people and you know what's going on. As I was asking Ms. Big Canoe, we have a problem with implementing laws. We had the same problem with domestic violence, which, before, we had laws that existed but they weren't implemented. Trust me, studying law, I've seen the progress on implementing the laws.

What would you say was the biggest obstacle for the police officers and for people on the ground to be able to get people out of trafficking? What are the resources needed? It just leads me to my question about the \$20 million for five years, which is \$4 million for five years. We know that one province in Canada, which is Manitoba, spends at least \$8 million per year for that. I'm pretty sure that provinces like Ontario and Quebec spend probably much more, but I wasn't able to ask the question. So what's different between Bill C-36 and the existing laws? Is it really going to change something? Or do we need more resources on the ground to be able to target the pimps, to target the traffickers?

Thank you very much.

Mr. Jared Brock: Well, Mr. Chair, who doesn't want more money from the government.

We went to 80 cities, and they're looking to the federal government for a signal. What I think Bill C-36 does is it sends a signal that human beings are not to be bought and sold. We see that there are victims of circumstance, so let's decriminalize. But at the same time—and this is the key for us—we need to end demand for paid sex.

So we spoke with the head of anti-trafficking in Stockholm, and he said that it's a great tool to address demand. Now women can come to the police and they're not criminals and they can ask for help. If they want to get out, they have the opportunity. But at the same time, the police can really go after demand. So they're seeing that as a tool, as a weapon to fight trafficking.

The Chair: Did you want to add anything?

Ms. Michelle Brock: Just really quickly, to add to that too, I think it is really difficult to actually catch traffickers because the supply chain is pretty long and often crosses borders. So when you start going after their profit, that's when things start to change. Going after johns would be easier for police but would also cut into the profits of traffickers, so we feel like that might be another tool that police could use.

The Chair: Thank you for those questions and answers.

The next questioner from the Conservative Party is Ms. Ambler.

Mrs. Stella Ambler (Mississauga South, CPC): Thank you, Mr. Chair.

Thank you to all of you for being here today, and we really do appreciate that you've informed our study of the bill in this way.

I wanted to continue along Madam Péclet's line of questioning because I was going to ask Michelle and Jared Brock also about supply and demand, and whether we can really reduce demand. You mentioned that in Sweden when the new laws were enacted, it started a national conversation. I think that's what we're doing here as well, and that's what the bill will do.

But is that what causes the reduction in demand, the knowledge that it's no longer acceptable to buy sex? Is it that simple? Where do these men go who have cash in their pockets and they're looking to buy sex? What happens? Do they just magically disappear? I don't know.

Mr. Jared Brock: Men go where it's easiest to pay for sex.

Mrs. Stella Ambler: So if it's difficult, what happens?

• (1115)

Mr. Jared Brock: In the context of, let's say, Sweden, there are some men who will always want to pay for sex, so they'll either find a way in Sweden or they'll travel abroad. However, for the average guy, say myself, if prostitution was legal, it'd be very easy to hop out to a brothel. But if I have to get on a plane, fly to another country, come home, and then explain the bill to my wife, there's a higher bar set.

Again, we're never going to deal with all of it, but let's tackle the 80:20, the college bachelor parties. I met a guy who every Christmas takes his son to Cuba on a sex vacation, and that's their father-son bonding time. We can deal with that. If it's illegal, they wouldn't be going there. I'd love to traffic-proof every nation on earth, and I think criminalizing demand, going after demand, will deal with a large part of that.

Mrs. Stella Ambler: Thank you, and thank you for making that documentary. I'm interested in seeing it as well.

Thank you very much.

Mr. Jared Brock: Do you want popcorn?

Mrs. Stella Ambler: Yes, with popcorn, please—butter, as well. Thank you.

My next question is for you, Ms. Big Canoe.

We heard earlier in the week from the Native Women's Association of Canada, and they used different terminology. They did not use the term “sex worker” to describe people involved in prostitution. While Ms. Audette was careful to explain that she didn't represent native women in Canada per se, she did say that she walks with them and reflects their views and their thinking.

I'm wondering about a couple of things. Do you represent, or have you represented, any aboriginal women who are involved in prostitution or who have been victims of prostitution? Do you think of aboriginal women as sex workers or prostituted women?

I have a whole bunch of questions, but let's start there.

Ms. Christa Big Canoe: Mr. Chair, if I can answer the member's questions, they are very good questions. Thank you for asking them.

Yes, we do represent only aboriginal clients. Some of them are sex workers. Do we keep statistics on that? No, because we meet our clients where they are at. We allow our clients to self-identify. In order to meet clients where they're at, particularly in a solicitor-client relationship, we have to let them come as they are or define who they are.

When I use the word or language, “sex worker”, it's probably informed exactly by the type of work we do in representation. We actually do a large amount of victim representation through the Criminal Injuries Compensation Board and have a number of victims who are still in domestic violence. From an aboriginal perspective, we still don't see the police responding to aboriginal women around domestic violence, and a lot of times things are going through a sort of victim advocacy process.

So to echo what the president of NWAC was saying, yes, we walk with our women. I'm first nations. I come from a first nation community. I work with mostly aboriginal staff, aboriginal clients, and we have an understanding. Ours are informed in different ways. As the president of the national organization, I'm sure she has the opportunity to see more parts of the country. My experience is informed by the clients I represent, who are not just in Toronto; we do inquest work throughout the province and in other parts of the country. It's informed, and the one thing that's really important is respect for that diversity or those opinions.

I, too, do not give the voice of all aboriginal people. But Aboriginal Legal Services is known to be an ally of sex workers, and we use that word—and we choose that word—because we always accept our clients as they come to us.

The Chair: One last question....

Mrs. Stella Ambler: Do you agree that johns should be criminalized and that the buying of sex should be illegal in Canada?

Ms. Christa Big Canoe: That would be our opposition to the bill, that the criminalization—

Mrs. Stella Ambler: In principle, you disagree that we should criminalize the mostly men who buy sex.

Ms. Christa Big Canoe: Yes, because of the adverse impact it will have on sex workers. The adverse impact it will have on sex workers is the driving of the most vulnerable, the street-level sex workers or survival sex workers, into darker corners or into places where they become unsafe.

Contrary to what the Supreme Court had to say about them having the measures—and I don't say “screening” in quotations because it's an actual valid exercise. In doing that, you've pushed—

Mrs. Stella Ambler: We've had witnesses here who've said there is no such thing as “underground” or “in dark corners” because when johns want to purchase sex, they have to find the prostitutes.

The Chair: Very quickly.

• (1120)

Ms. Christa Big Canoe: The only example I can give that I think everyone will know is Pickton, in Vancouver. When police were not prosecuting communications as long as prostitutes weren't in certain parts of town.... When you know where to find the sex, in industrial sections or down dark alleys or different places, it's out of sight of affluent neighbourhoods, but it's in dark places that put those women at risk. That's what the Supreme Court, in Bedford, also acknowledged.

The Chair: Okay, thank you very much.

Thank you all for those questions and answers.

Our next questioner, from the New Democratic Party, is Mr. Jacob.

[*Translation*]

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

I want to thank the witnesses for participating in today's meeting.

My first question is for Suzanne Jay and Alice Lee, of the Asian Women Coalition Ending Prostitution.

In your opening remarks, you talked about social services, comprehensive support and systemic inequalities.

What kind of initiatives do you think the government should implement in that area? Do you have any ideas for programs or projects that should be implemented to address those systemic inequalities?

[*English*]

Ms. Suzanne Jay: Thank you for the question.

Bill C-36 is a very good first step in this. As for social services and remedying systemic inequalities, we've talked about providing women who enter Canada under exploitative circumstances with landed status. We also believe that a guaranteed liveable income would go a long way to preventing prostitution and addressing the vulnerabilities of women to recruitment.

Detox programs, universal child care, and settlement programs for women who are immigrating here would also decrease women's vulnerability, but also enhance their ability to participate in civil society and access their equality rights.

Did I miss anything?

Ms. Alice Lee: Education and access to education....

Ms. Suzanne Jay: Access to education, including English language training....

[*Translation*]

Mr. Pierre Jacob: Thank you very much.

Did you want to add anything? It seems that you don't. Okay.

My second question is for Michelle and Jared Brock.

You talked about gender equality. I would like you to elaborate on this. How can that help fight exploitation against women?

[*English*]

Ms. Michelle Brock: I agree, and it was addressed a little bit earlier already, that there is a systemic gender inequality present in both western countries and around the world. I don't know if I have anything else to add. I think that there are systemic things that can be put into place to equalize the playing field between men and women. I wouldn't say I'm an expert on that specifically, but I think that I would agree with anything....

Is there anything you want to add?

Mr. Jared Brock: I think that we need to level the gender playing field. This has been discussed, obviously, by the experts on it.

When we look at the idea of decriminalizing the majority of women and criminalizing the majority of men, I think it helps to level that playing field. I think this is a good gender equality measure. We can debate the details of everything else, for sure, but I think that main hinge piece will go a long way towards creating a more equal society, and that's what we're going for here.

Ms. Michelle Brock: I think when we were in Sweden we were talking to a man and he was talking about gender equality, which is a very strong value in Sweden. He was saying that we need to start asking the question, as men, what do men have to gain from gender equality? It's a good question to ask and obviously there are some things like building stronger communities, having more fulfilling relationships, but that was an interesting question we heard in Sweden that we've been thinking about.

• (1125)

[Translation]

Mr. Pierre Jacob: Thank you.

Since I have some time left, my third question will be for Keira Smith-Tague.

You talked about guaranteed income, affordable housing and accessible child care. I agree with you. However, you also talked about the insufficient amount of \$20 million.

I would like you to further explain your opinion on this \$20-million amount over 5 years, for the whole country.

[English]

Ms. Keira Smith-Tague: The \$20 million is not even enough for existing organizations across the country, as I said—we heard from the London Abused Women's Centre earlier this week that their budget alone for a year \$800,000. It won't be enough. But what I think is completely missing is the comprehensive social supports that already need to be in place in the country, that have been erased over many years.

There have been cuts to women's centres and funding cuts all across the board for mental health services and medical services, as well as welfare cuts and legal aid cuts. So across the board women face not only the reality of often not having enough money for them and their children, but also not being able to access the criminal justice system with representation. They're not able to actually live free from violence with the realities of the conditions of women's lives. So I think we need to address that, as well as put in funding for exiting services and all the other things I named.

The Chair: Thank you, Ms. Smith-Tague, for your time, and thank you for those answers.

Our final questioner for about four minutes is Monsieur Goguen.

Mr. Robert Goguen (Moncton—Riverview—Dieppe, CPC): Thank you, Mr. Chair, and thank you to all the witnesses for your testimony. It's very helpful.

I want to talk to Ms. Big Canoe about the Gladue principle. You obviously followed what one of the justice officials, Mr. Piragoff, said. I got the impression from his testimony that he was saying that the Gladue principle was a constitutional override that applied to all laws. Have you done some research on that as to whether or not he's right? There seems to be a school of thought that it is.

Ms. Christa Big Canoe: Mr. Chairman, if I may answer the member's question, it's not a constitutional override per se. The Gladue principle is derived from another provision in the Criminal Code. The Supreme Court of Canada enunciated it first in Gladue, and then reiterated more recently in Ipeelee in 2012, what those principles are and what a court has to take into account. Where there's a problem is when you look at sentencing. You'd almost, by analogy if I may, look at it as a conflict of laws of sorts, not on the same scale as the jurisdictional ones, but as it relates to two provisions, and specifically as it relates to the sentencing or other applications of Gladue to aboriginal offenders.

Mr. Robert Goguen: What is wrong is the overrepresentation of

Ms. Christa Big Canoe: The overrepresentation is actually well known and documented in terms of... This is where Ipeelee, the decision by the Supreme Court, comes in, recognizing those principles in sentencing, and even beyond sentencing, when they have to be considered. So one of the questions the committee should be asking is this. Does this legislation look to or meet some of those principles, particularly as it applies to any of the mandatory minimums or criminalization such as 213?

Mr. Robert Goguen: I follow your thought. I was going to ask you if the law was made specifically subject to the Gladue principle would it have changed your point of view with the law? But I get the impression that you're against criminalizing the johns and the pimps because somehow you believe that it will increase the risk of danger for the prostitutes. That was my take on it.

Ms. Christa Big Canoe: There are two issues there, actually. The one is, yes, you characterized that correctly. But also, because there are not good definitions around the exploitive nature or relationship, where there are relationships that are not exploitive, there's potential to also prosecute or criminalize aboriginal people who are in non-exploitive or support capacities of sex workers. You don't prevent overrepresentation or over-incarceration by incarcerating more aboriginal people.

Mr. Robert Goguen: I think there are some exceptions to that, but I take your point.

I'm a little taken aback, because, look, the very object of this is to put an end to paid sex, and we've heard time and time again that prostitution is equal to human trafficking. You know, there have been very few convictions on human trafficking laws—it's very recent—but I'm told there are 187 cases before the court. So we have the aspect of 213, which basically I guess would permit to charge the women. We've heard the testimony of many police officers, Mrs. Pond being one of them. Okay, they charge them to separate them from the pimp to get their testimony, to basically form the foundation of an exit strategy for the women.

If we don't have that power, what is the most persuasive way for aboriginal women to somehow get out of the market, to have that exit strategy? Please don't say "more money". Specifically, are there programs in your mind that are effective?

•(1130)

Ms. Christa Big Canoe: Mr. Chairman, if I may answer the member's question, thank you for asking it, because I think the committee needs to recognize that an exit strategy does not have to tie to criminality or to the Criminal Code or to police enforcement. It's often situated with the best agencies, or aboriginal agencies, or agencies that are familiar with the organizations and the communities, so that's one means. There's always a money pitch, right?

But even without the money, it shouldn't be a mechanism of criminal law to assist the social determinants of health, to assist the right programming. So in criminalizing it, we actually do harm. It touches on section 7, life, liberty, and security. If you're incarcerating the sex worker or as other people are defining them, the victim, in order to save them or protect them, you're still breaching their constitutional section 7 rights. There has to be a better means, a better mechanism. Exiting should be done at the choice of sex worker, and with the communities that are best equipped to handle their geographical or demographical groups.

Mr. Robert Goguen: That being the case, what in your mind is the most effective way of accomplishing the exit strategy? I know that's a tough question, but we're here to listen and learn.

Ms. Christa Big Canoe: Fair enough. I'd have to look to my practice experience and knowledge of community. One of the big driving factors is accepting clients and individuals as they are and in the place they are in. When we have clients who want assistance, we provide assistance and referrals to shelters and other services. But when they don't want that type of assistance, we're not forcing it upon them.

So I don't have a perfect answer for that question, because it's not an easy question.

Mr. Robert Goguen: No. Could I ask your indulgence to reflect on it a little bit and forward your views to the clerk, please?

The Chair: Thank you.

Thank you very much for those questions and answers. That is our time for this panel.

I want to thank our witnesses for joining us today. This is the last day we will be having witnesses come to talk to us about Bill C-36. Your testimony today was excellent and helped us tremendously.

With that, we will adjourn until the next meeting, which is at one o'clock. Thank you very much.

The meeting is adjourned.

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