



A submission from the Association for Reformed Political Action (ARPA) Canada

to

The House of Commons Standing Committee on Justice and Human Rights

regarding

Review of the Protection of Communities and Exploited Persons Act

February 16, 2022

The Supreme Court of Canada struck down Canada's prostitution laws in 2013, giving Parliament one year to pass new legislation. In 2014, Parliament passed Bill C-36, the *Protection of Communities and Exploited Persons Act* (PCEPA). Among other issues, the Preamble to Bill C-36 expressed Parliament's concerns about exploitation, objectification and commodification of the human body that is inherent in prostitution.<sup>1</sup> At the same time, the stated objectives of Bill C-36 are to protect those who sell their own sexual services and help them exit prostitution, protect communities from the harms caused by prostitution, and reduce demand for prostitution.<sup>2</sup> The existing legislation appropriately protects vulnerable people. We thank the members of this Committee for the opportunity to provide a written brief and encourage Parliament to retain Canada's existing prostitution legislation, while providing ways for it to be strengthened and improved.

### **The Problem of Prostitution in Canada**

Canadians are concerned about prostitution in Canada. First, it denies the inestimable value of individual human beings who are made in the image of God and reduces a beautiful and unique person to a commercial object. Humanity possesses an inherent and inalienable dignity and worth, which separates human beings from all other creatures. This dignity is given to all humans, regardless of age, ability, sex, race, or any other characteristic. The exploitation and abuse in the sex trade denies the humanity of vulnerable people.

The vast majority of prostituted women are controlled by pimps and suffer incredible harm. One study of prostituted women in 9 countries found that 70-95% have been physically

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<sup>1</sup> Preamble, [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*."

<sup>2</sup> "[Prostitution Criminal Law Reform](#): Bill C-36, the *Protection of Communities and Exploited Persons Act*, Department of Justice, (Sept. 14, 2018).

assaulted, 60-75% were raped in prostitution, 89% said that they wanted to escape their situation, and 69% met the criteria for PTSD.<sup>3</sup> Decriminalizing prostitution will not, as some suggest, create an equal playing field for female entrepreneurs who wish to engage in a legitimate business of sexual services. Rather, it normalizes harmful activity. One study demonstrates that many of the men who purchase sex are aware of the harms they inflict on women and on the community, and very few indicated that there could be positive effects for the prostituted women and the community.<sup>4</sup> 41% of sex buyers agreed that even a small fine would deter them from doing so.<sup>5</sup>

The connection between prostitution and human trafficking is hard to overstate. The legalization or even toleration of prostitution has historically led to an increased number of women and children being trafficked into the commercial sex trade.<sup>6</sup> One study, testing the theory that legalized prostitution could reduce trafficking by making it a safer, more attractive job for domestic sex workers, found the opposite was true: countries that legalized prostitution experienced higher inflows of trafficking.<sup>7</sup> In a chilling example of this effect, another study in the Netherlands reported that in the first 5 years of legalizing prostitution, the number of child prostitutes in the country increased 300% from 4,000 to 15,000.<sup>8</sup> Other countries that have legalized and regulate prostitution have seen rampant drug trafficking and human trafficking, sexual exploitation, and child prostitution. Ultimately, this normalizes the treatment of women as a commodity and encourages demand for prostitution.<sup>9</sup>

Incidences of human trafficking in Canada remain high, with 1,708 police-reported incidents between 2009 and 2018. 45% of the victims were between the ages of 18 and 24, and 28% were under the age of 18.<sup>10</sup> Between 2019 and 2020, the Canadian Human Trafficking Hotline identified 415 cases of human trafficking, reporting 593 victims and survivors.<sup>11</sup> One report also clarifies that the majority of prostitutes in Canada entered prostitution between the ages of 14 and 20.<sup>12</sup>

Prostitution and sex trafficking exist because of the demand, which causes traffickers to step in and provide greater supply. Humans are treated like commodities subject to the changes in

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<sup>3</sup> Melissa Farley et al., "[Prostitution and Trafficking in Nine Countries](#):" An Update on Violence and Posttraumatic Stress Disorder," *Journal of Trauma Practice* Volume 2, No. 3-4, (2003), pp. 33-74.

<sup>4</sup> Melissa Farley et al., "[Comparing Sex Buyers With Men Who Do Not Buy Sex](#):" New Data on Prostitution and Human Trafficking," *Journal of Interpersonal Violence* 32(23), (August 2015), 16.

<sup>5</sup> Farley, "Comparing Sex Buyers with Men Who Don't Buy Sex," 15.

<sup>6</sup> Monica O'Connor and Grainne Healy, "[The Links Between Prostitution and Sex Trafficking](#):" A Briefing Handbook," Joint Project Coordinated by the Coalition Against Trafficking in Women (CATW) and the European Women's Lobby (EWL), A Swedish and United States Governmental and Non-Governmental Organisation Partnership, (2006), 29.

<sup>7</sup> Seo-Young Cho, Axel Dreher, and Eric Neumayer. "[Does legalized prostitution increase human trafficking?](#)" *World Development*, 41 (1), (2013), 2.

<sup>8</sup> Janice G. Raymond, "[Ten Reasons for Not Legalizing Prostitution](#) and a Legal Response to the Demand for Prostitution," Binghamton: Hawthorn Press, (2003), 7.

<sup>9</sup> Meaghan Tyler, "[Demand Change](#):" Understanding the Nordic Approach to Prostitution," *Coalition Against Trafficking in Women Australia*, (2017), 7.

<sup>10</sup> Adam Cotter, "[Trafficking in Persons in Canada, 2018](#)" *Statistics Canada*, (June 23, 2020).

<sup>11</sup> "[Human Trafficking Trends in Canada, 2019-2020](#)," *Canadian Centre to End Human Trafficking*.

<sup>12</sup> Benjamin Perrin, "[Oldest Profession or Oldest Oppression?](#)" *MacDonald-Laurier Institute* (January 2014), 2.

supply and demand.<sup>13</sup> The evidence of violence, trauma, psychological suffering and oppression stands as a testimony to the destructive nature of the sex trade. In 2002, Canada ratified the Palermo Protocol, which includes a commitment to “adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.”<sup>14</sup> Canada’s PCEPA legislation appropriately targets and discourages that demand to combat the exploitation of vulnerable Canadians.

## Canada’s Prostitution Legislation

Canada’s *Protection of Communities and Exploited Persons Act* is based on the Nordic model, which was first introduced in Sweden in 1999. Evidence from Sweden shows that this approach has been successful at reducing harm to vulnerable people. A special inquiry commissioned by the Swedish government in 2010 recognized that both human trafficking and prostitution are fueled by demand, and that it is primarily men who purchase sex, thus predominantly affecting women and girls. The inquiry found that street prostitution had been reduced by half and was one third of the amount of street prostitution in Norway and Denmark. They also found that indoor prostitution had not increased overall as a result of the decrease in street prostitution, and that human trafficking was lower than surrounding countries.<sup>15</sup> A recent study of just over 6,000 Swedish men demonstrated that Swedish men who have grown up with the Swedish model of prostitution buy sex at half the rate of the older generations, indicating a significant drop in demand and cultural acceptability.<sup>16</sup>

Many survivors of prostitution and human trafficking have expressed support for models that criminalize the purchase of sex, and share their experiences of abuse in the sex trade. One survivor, Rebecca Mott, expressed her support for the Nordic model:

“I had walked into prostitution... but I was 14, and had lived with mental and sexual violence since before I had words... I survived prostitution by killing all my emotions... In all cases, we must know the creators and source of this hate and violence to the prostituted is male demand, and those who supply and profiteer from that demand. That is why I and other exited women fully back the Nordic Approach as a first step to full human rights and dignity for all the prostituted.”<sup>17</sup>

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<sup>13</sup> Lisa Thompson, [“The Critical Role of Market Dynamics in Combating Sex Trafficking,”](#) *National Centre on Sexual Exploitation*, (March 11, 2021).

<sup>14</sup> [“Protocol](#) to Prevent, Suppress and Punish Trafficking in persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,” *United Nations Human Rights Office of the High Commissioner*, (November 15, 2000), Article 9(5).

<sup>15</sup> [“The Ban against the Purchase of Sexual Services.](#) An evaluation 1999-2008,” *Swedish Institute* (2010), 5-9.

<sup>16</sup> Charlotte Deogan et al., [“Are Men Who Buy Sex Different from Men Who Do Not?:](#) Exploring Sex Life Characteristics Based on a Randomized Population Survey in Sweden,” *Archives of Sexual Behavior* 50, (2021), pp. 2049-2055.

<sup>17</sup> Rebecca Mott, [“Prostitution Survivor Testimony,”](#) *Nordic Model Now!* (March 2016).

The PCEPA aimed to criminalize the purchase of sexual services and those who profit from the sale of sexual services rather than those who provide sexual services. Since the introduction of the PCEPA, fewer women have been accused, only two have been convicted of an offence, and none were sentenced to custody. Alternatively, there was a large increase in the number of men accused and charged. Additionally, the number of incidents related to profiting from the sale of sexual services has increased. The number of police-reported incidents also increased following the new legislation.<sup>18</sup> In the five years prior to the PCEPA, 54 victims of homicide were identified as sex trade workers, and in the five years following, that number was 35. This indicates in part the new offences created by the PCEPA, but also the need for people to be protected from exploitation.

A recent poll conducted by Nanos Research found that 49% of Canadians support Canada's existing legislation on prostitution, and only 11% oppose the legislation. 46% of Canadians approve of the approach to addressing prostitution, and 61% agree that Canadian governments should provide funding to organizations that help women in prostitution with counselling and support services.<sup>19</sup> Speaking of the Nordic model in Sweden, Catharine MacKinnon says that "the stigma of prostitution may be shifting to the johns. Although the drafting and implementation of the law could be improved, as could judicial recognition of its fundamental principle and benefits for exit, this is the only legal approach to prostitution that has ever even partly worked in the history of the world."<sup>20</sup>

## Recommendations for Improvement

Canada's existing legislation around prostitution appropriately recognizes the harm caused to women by those who purchase sex and the need to reduce demand to prevent further and increased exploitation. Where Canada's approach can be improved is in the enforcement and implementation of this legislation. Canada can learn from Sweden's example in this area as well. Initially after passing their prostitution law, police were concerned about their ability to enforce it. Sweden then passed a sex trafficking law in 2002, which helped police enforce the law and discover further information for the prosecution of human traffickers.<sup>21</sup>

### 1. Better Enforcement

Canada's legislation can be improved through better enforcement. Of course, some of the challenges with applying this legislation include the need to coordinate efforts between Federal and Provincial levels of government, while also increasing partnerships with the private sector in order to have a coordinated, communicative approach to prostitution and human trafficking.

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<sup>18</sup> Mary Allen and Cristine Rotenberg, "[Crimes related to the sex trade](#): Before and after legislative changes in Canada," *Statistics Canada*, (June 21, 2021).

<sup>19</sup> "[Canadians are five times more likely](#) to support than oppose Canada's current prostitution legislation," Conducted by Nanos for London Abused Women's Centre, (July 2020), 2-4.

<sup>20</sup> Catharine A. MacKinnon, "[Trafficking, Prostitution, and Inequality](#)," *Harvard Civil Rights-Civil Liberties Law Review*, 46, (2011), 302-304.

<sup>21</sup> Heather Monasky, "[On Comprehensive Prostitution Reform](#): Criminalizing the Trafficker and the Trick, but Not the Victim – Sweden's Sexkopslagen in America," *William Mitchell Law Review* 37, Issue 4, (2011), 2029-2030.

Because of the different approaches by different levels of government, the range and quality of services for victims of trafficking can vary dramatically throughout the country. As a result, individual Provinces play a large part in establishing appropriate enforcement methods.<sup>22</sup>

For example, recently, the province of Ontario improved enforcement through the *Combating Human Trafficking Act, 2021*. This Act provided further tools to law enforcement to monitor human trafficking in hotels as well as tackling sexual service advertisements and improving the law to further protect minors from sexual exploitation.<sup>23</sup> Proper enforcement methods allow law enforcement to target those who purchase sex and exploit vulnerable women. There remains some distrust of law enforcement based on situations in the past where prostituted women were arrested and pimps and johns were not penalized.<sup>24</sup> The Canadian approach to addressing demand instead of criminalizing those who provide sexual services helps to reduce the stigma and distrust around prostitution and aids those who are exploited.<sup>25</sup>

## 2. Better Education

Education is an important part of helping Canadians understand the harms of prostitution and human trafficking. Evidence from Sweden shows that the younger generation of men properly sees purchasing sex as inappropriate, while fewer in the older generation see it that way.<sup>26</sup> Appropriate legislation combined with education can have a positive impact by reducing demand. Canadians need to be informed about harmful commodification of women and encouraged to understand how to recognize signs of sex trafficking or under-age prostitution. A recent survey indicates that only 33% of Canadians know that buying sex is illegal in Canada.<sup>27</sup> If a law is not properly understood or enforced, it cannot be effective.

Teachers and students in our education system should be provided with resources to understand and identify signs of human trafficking and exploitation. Education falls under provincial jurisdiction, but the Federal government should coordinate with provinces to ensure that Canadians understand the existing law and how to help those who are being exploited.

## 3. Better Exit Support

Canada can improve on ways to help women exit prostitution. There are some people who choose to enter the sex trade and seek to advance it. However, it is critical to have systems in place that help those who wish to escape from the sex trade. One study of prostitutes in 9 countries revealed that 89% want to escape prostitution. In Canada, that number was 95%.<sup>28</sup> This includes assisting women and others seeking to exit the sex trade with shelter, addiction counseling, job training and health care. One report reveals that Covid-19 has had a major

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<sup>22</sup> [“Trafficking in Persons Report, 20<sup>th</sup> Edition,” U.S. Department of State, \(2020\), 143-144.](#)

<sup>23</sup> [Bill 251, Combating Human Trafficking Act, 2021, Legislative Assembly of Ontario.](#)

<sup>24</sup> Monasky, “On Comprehensive Prostitution Reform,” 2038.

<sup>25</sup> MacKinnon, “Trafficking, Prostitution, and Inequality,” 274.

<sup>26</sup> Charlotte Deogan et al., “Are Men Who Buy Sex Different from Men Who Do Not?”

<sup>27</sup> “Canadians are five times more likely to support than oppose Canada’s current prostitution legislation,” 5.

<sup>28</sup> Farley et al., “Prostitution and Trafficking in Nine Countries,” 51.

impact on social services for those who wish to escape human trafficking in Canada and that approximately 20% of service providers indicated they were no longer able to offer any or all of their services at the beginning of the pandemic.<sup>29</sup> Effective coordination and collaboration between law enforcement, health care and housing providers, mental health and substance use agencies, and the various levels of government is critical to helping people exit the sex trade and receive adequate supports.<sup>30</sup>

## Conclusion

Canada's *Protection of Communities and Exploited Persons Act* appropriately targets demand for sexual services and seeks to protect those who are in the sex trade. Additionally, it properly addresses concerns about exploitation and commodification of human beings. Parliament has a duty to protect vulnerable people from abuse and exploitation by retaining this legislation, while also seeking ways to improve enforcement, education, and exit supports.

On behalf of ARPA Canada,



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*The mission of ARPA Canada is to educate, equip, and encourage Christians to be politically engaged and to bring a biblical perspective to Canada's civil governments. As part of its mission, ARPA Canada works to promote awareness and engagement on issues like prostitution and human trafficking. ARPA Canada intervenes in important court cases to help develop the law around human rights and fundamental freedoms, and makes regular presentations to, and prepares written submissions and briefs for, all levels of government on a broad spectrum of different issues.*

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<sup>29</sup> "Human Trafficking Trends in Canada, 2019-2020," *Canadian Centre to End Human Trafficking*.

<sup>30</sup> A. Noble et al., [Getting Out: A National Framework for Escaping Human Trafficking for Sexual Exploitation in Canada](#), Toronto, ON: Covenant House Toronto & The Hindsight Group, (2020), 33.