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Chair

Mr. John Maloney

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● (1745)

[*English*]

The Chair (Mr. John Maloney (Welland, Lib.)): I bring to order the meeting of the Subcommittee on Solicitation Laws of the Standing Committee on Justice, Human Rights, Public Safety, and Emergency Preparedness.

Our witnesses this evening are, from the University of New Brunswick, Leslie Ann Jeffrey, a professor with the department of history and politics; and from St. Thomas University, Gayle MacDonald, a professor with the department of sociology.

Our routine is that we have up to 10 minutes for a presentation, followed by questions from our members here. We have a round, generally, of seven minutes each, and then we move down to rounds of three minutes. We like them to place short, quick, direct questions and get responses of a similar nature. It doesn't always end up that way, but that's what we aspire to.

Perhaps Professor Jeffrey could proceed first, and then we'll move on to Professor MacDonald.

Ms. Leslie Ann Jeffrey (Professor, Department of History and Politics, University of New Brunswick): Thank you.

I'm here today to speak to you about Canadian prostitution laws in an international context, particularly the impact of Canadian law and policies on migrant sex workers. I've been studying the issue of migrant sex workers since the late 1980s, and I've conducted studies on sex work and sex work policies in Canada—with Gayle MacDonald—and in Thailand, and I continue to research sex work issues internationally.

The question before you is whether or not changes are needed to Canadian prostitution law. I believe the evidence that decriminalization of the trade is an absolute necessity is overwhelming. Study after study has shown that the only way the sex workers will be able to live their lives without the constant fear of violence, harassment, and exploitation is if the trade is not controlled through criminal law.

While the evidence of the need for decriminalization has been mounting steadily, recently there has been some fear that decriminalization will in some way contribute to what has been called the global traffic in women, or the forced recruitment and transport of women into the global sex trade. I believe this concern over trafficking is based on a number of misconceptions and misunderstandings of what is happening worldwide, and I would like to address these issues today.

First, sensationalistic media coverage of the trafficking issue has led many to believe that most foreign women have been forced into the sex trade through violence or trickery and are held in conditions of slavery. However, what is really happening in the sex trade is the global migration of women in search of better paid work. Many women worldwide enter into the trade knowingly and migrate willingly in search of better income. Sex work may not be what they had planned to be doing or what they hope to be doing in the future, but like those who migrate for domestic or agricultural work, for the time being it is the most rational option they can see.

While they may be willing to migrate and work in the trade, they may be taken advantage of both in the migration process and within the sex trade. That is, while women may migrate willingly for sex work, they often require the assistance of others in order to migrate—for visas or passports—and these other individuals may exploit them. In addition, migrant women may enter the sex trade willingly, but may not know or accept the conditions of work in the destination country.

Thus, there are two separate issues that must be addressed in order to prevent the exploitation of migrant sex workers: first, the conditions of work in the sex trade; and second, their migration status.

The complaints of migrant sex workers are often about the conditions of work, not the work itself. Most migrant sex workers end up working in the criminalized but tolerated indoor trade, such as massage parlours and escort services. These poor conditions of work that they complain about are all unacceptable under Canadian law to some degree.

One is breach of contract. Migrant sex workers may have informal or verbal agreements about their work, but have no way to enforce this contract. They may, therefore, face non-payment or lower payment than agreed or higher demands in terms of numbers of clients.

Another is long hours. Most massage parlours operate between noon and three or four in the morning. Workers often remain in residence and on call for weeks at a time, but without labour regulations they have no recourse to challenge these hours.

Unsafe working conditions are another. Sex workers may be pressured not to use condoms or to see more clients than desired. They may also face violence by clients. Again, there is no recourse to labour codes or unions and little ability to ask police for protection because of the illegality of their work.

On these fronts, then, migrant sex workers share an interest with domestic sex workers in having the ability to enforce contracts, to demand fair payment, to control the pace of their work, and to demand protection from violence.

As migrants, sex workers may have specific difficulties that result from the problems of migration for poor women—women who face legal, social, and economic barriers to migrating. Migrant sex workers may face specific problems such as debt bondage, where debts of $30,000 to $40,000 can be incurred through agents who arrange travel, and these debts may be passed on to parlour or bar owners who take it out in wages from the women without negotiating terms of contract.

Another condition is irregular immigration status. Because there is no visa specifically for sex workers, migrant sex workers are sometimes working without visas or without proper documentation.

There is isolation. Migrant sex workers may be kept close watch over by parlour staff and lack freedom of movement. For example, their passports are often taken away. They may not have access to outreach groups, and language barriers may prevent migrant sex workers from being able to find advice and support.

Finally, there is a lack of legal information and services. Migrant sex workers may be at a particular disadvantage because they may not be informed that sex work is illegal in Canada. They may not have translators available upon their arrest or know their legal rights upon arrest.

None of these problems are addressed through criminalization. In fact, criminalization enables these conditions to exist because it makes it impossible for migrant sex workers to enforce fair working conditions and demand justice. If a migrant sex worker should go to authorities to complain about these conditions, she risks arrest as a sex worker and deportation as an undocumented migrant.

Decriminalization of the trade and its regulation through Canadian labour laws would address many of these conditions, in combination with the regularization of migrant sex workers' residency status, specific support networks for migrant sex workers, and measures for redress for those who are in fact coerced or tricked into any kind of forced labour in Canada.

Instead, some countries are opting to criminalize the trade and to introduce anti-migration measures in the name of fighting trafficking. Such measures, however, are generally counter to improving the human rights of migrant sex workers. So far, anti-trafficking measures, such as the trafficking protocol of the Convention against Transnational Organized Crime, to which Canada is a party, have focused on stricter border control measures and anti-organized crime measures rather than human rights. For women who choose to migrate as sex workers, the stricter border measures mean higher fees to possibly unscrupulous immigration brokers and therefore longer terms of debt bondage.

The Swedish solution of differential criminalization of the industry by targeting clients and procurers rather than sex workers, in combination with stringent anti-trafficking measures, has also not proven helpful. Sex workers in Sweden report that this new law has made their work more stressful and dangerous rather than less so, as they have to operate more secretively; they feel more ostracized socially; they are less willing to seek help from outreach services or police; and they are more likely to face abusive customers since the nice customers have mostly disappeared.

Indeed, the criminalization of clients, according to Swedish police, has hampered their efforts to track down exploiters and traffickers because clients are no longer willing to testify. Further, while there may have been a reduction in the number of migrant sex workers in Sweden, there are emerging indications that migrant sex workers, like other workers, have simply moved deeper underground or moved to other countries. That is, the law did not reduce the incidences of trafficking or migration, but simply displaced them.

Good policy responses, I always argue, require that we start from the perspective of those who are most affected. In this case, that means we must start from the perspective of migrant sex workers. However, many of the responses developed thus far have been of the top-down variety and have increased rather than decreased the vulnerability of migrant sex workers to exploitation. Such top-down approaches also encourage the dismissive and paternalistic attitudes toward migrants and sex workers that justify their exploitation.

Decriminalization of the trade can provide one layer of response by making all sex workers, migrant and non-migrant, able to use legal and human rights mechanisms to protect their rights. For migrant sex workers, additional measures beyond decriminalization may be required, such as addressing their status as migrant workers. A legal means of immigration for sex workers would greatly reduce the risk of exploitation during the migration process. Given that this might be a long-term plan, in the meantime Canada should also address the status of irregular migrants through the measures that have been put forward in the United Nations' International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. This convention emphasizes the protection of the rights of both documented and undocumented workers, and I think we can learn some lessons from that.

Trafficking should be addressed in terms of the use of force or deceit to recruit workers for forced labour in all sectors, including agriculture or domestic work. Trafficking victims should not be deported, as they currently are, but granted residency status. The Global Alliance Against Trafficking in Women has developed human rights standards for the treatment of trafficking victims that the government should adopt.

Above all, solutions need to be focused on empowering both migrant and non-migrant sex workers, and they need to be directed by sex workers themselves. Some of the best anti-trafficking projects are those like the Sonagachi Project in Calcutta, where sex workers reach out to each other in order to determine if there is exploitation. Decriminalization will only enhance such self-directed solutions.

The concern about trafficking is all about concern over others controlling the lives of sex workers. Therefore, we need to find solutions that enhance sex workers' control over their own lives. As two Dutch researchers have put it, only rights can stop wrongs.

Thank you.

● (1750)

The Chair: Thank you.

Professor MacDonald, please.

Ms. Gayle MacDonald (Professor, Department of Sociology, St. Thomas University): It's an honour to appear before a subcommittee of Parliament, and I'd like to thank the committee for the invitation and the opportunity to do so.

My submission will largely deal with the experiences of sex workers in two maritime provinces, Nova Scotia and New Brunswick, based on a three-year study conducted by me and Dr. Jeffrey. We interviewed 52 female, male, and transgendered sex workers from the following cities: Halifax, Moncton, Fredericton, and Saint John. Most of these workers were in street work, although we did interview some in escort work and in dancing and a limited number in S/M.

The findings from the study illustrate how continued criminalization of the trade increases the level and risk of violence against sex workers in a number of ways. We have found that continued criminalization of sex work simply does not work if the goal of legislation is to either eradicate or contain sex work. Indeed, what we have found is that continued criminalization simply relocates the work to other settings, maintains or increases the level and threat of violence experienced by sex workers, and sustains stigmatization. We have also found that police presence with sex workers is inconsistent at best and contradictory at worst.

Sex workers in our study named violence as the most significant problem they encountered. Violence was a recurring theme in our interviews. According to the sex workers we interviewed, violence came first from pimps a few decades ago and then from police, but it comes now mainly from clients and the general public. Violence predominantly from clients is a shift in the pattern of violence in sex work, one we have witnessed in Canada with the British Columbia murders of sex workers on the Picton farm, and evidence can also be found in the Sisters in Spirit study done by Amnesty International on missing aboriginal women in Canada.

Some of the sex workers we interviewed linked their experience of violence to the effects of criminalization. They pointed to the inconsistencies of the Criminal Code and to the fact that criminalization leads to continued stigmatization for sex workers. The link here is between criminalization and the accompanying stigma. It leads to a devaluing of those named as citizens. Such devaluing leads to a dehumanization that allows violence to occur. Academic work on domestic violence has indicated this. Such is the case with sex workers. If their clients believe, as the sex workers tell us, that they are criminals and therefore not worthy or deserving of respect, this gives clients more licence to commit acts of violence against sex workers.

If police do not respond to complaints by sex workers about physical violence, then sex workers are not able to access the protections police might provide to other citizens. Knowledge of this in the general public and with clients in particular might lead some clients to treat sex workers with abandon, as the assumption remains that if assault, aggravated assault, or even murder were to happen to a sex worker, the police might not readily respond.

Sex workers told us of many examples of near fatal stabbings and beatings and of situations in which they were left in frigid temperatures outside, far from their place of business or residence. They also told us they feel quite alone in this and that informing police of such behaviours did not always guarantee them protection from future violent encounters. What sex workers want is freedom from violence and basic safety provisions as they work. Such considerations are considered routine for any other type of work but not for sex work.

The other issue I'd like to speak to today is the variance in policing practices from jurisdiction to jurisdiction that our study revealed. The Criminal Code provisions lead to a variety of interpretations by police and a variety of responses. Some police forces in the Maritimes have entire task forces devoted to prostitution. Others have police from vice squads responsible for policing prostitutes. For most police officers this type of policing is directly related to public complaints rather than to any systemic application of law. There are often greater priorities for police to address.

It is clear that policing differs substantially between jurisdictions a mere two hours apart. This directly results in uneven and contradictory application of law against sex workers, a problem in and of itself. Our study revealed that policing patterns can differ within the same jurisdiction and sometimes even within the same force.

● (1755)

Two patterns emerged from our work, two different models of policing. One is a flexible, engaged model of policing that tends towards more rehabilitation; the other, a more inflexible and retributive mode of policing.

The first model leads to communication between the sex worker and the police, flexibility around arrest, and better community relations between sex workers and police. In terms of flexibility, I'd like to give you an example, a quotation from a police officer: “If I see you on this corner when I come back here again, I'll have to pick you up for soliciting.” He was telling me how he was trying to avoid arresting the particular woman.

Communications and community relations are useful to police, as sex workers often act as informers on the street, particularly around drug trafficking, which is a much greater priority for police. Sex workers are often witness to many criminal acts, because of the hours and conditions they're forced to work under through continued criminalization of the trade. As sex work is not permitted to be openly exercised, the forced undergrounding of the trade leaves sex workers in areas of the city with other offenders, which often places sex workers at additional risk. Police who understand them offer protection in exchange for information, an arrangement that suits both parties.

The second model is the more stereotypical model of a police officer rigidly upholding the law, sternly enforcing Criminal Code provisions. This type of policing tends to accompany the most harassing behaviour from police to sex workers, leads to the most arrests, and is very focused on the sex workers themselves, as opposed to others in the transaction, such as the client. Police in this model do not hesitate to pursue the sex worker until she makes a transaction, or to follow her into a public place and arrest her with great flourish in front of anyone who might be observing her behaviour. We understood and we heard from some police officers that this is not the way the clients are arrested when they are pursued.

What should be noted at this point, however, is that regardless of the model used, both types of policing in the end arrest the sex worker. Because there are few other models from which to choose, police, even if sympathetic with the conditions of sex workers—and many are—have little recourse but to eventually arrest them, as that is their mandate.

One progressive police officer we spoke to who was very willing to explore community models thought his idea to arrest johns was the solution in dealing with the trade. Dr. John Lowman's research has shown that arresting of the john simply drives the trade underground. Although this might initially make neighbourhood associations happy because the trade has moved off the street, research shows this can actually place the sex worker in increased danger because of the lack of public monitoring the street trade allows.

What policing practices reflect is the law's discomfort with concepts of sex and private and public space. Sexual transactions usually occur in private. The sex trade forces a much more public transaction. Our research shows that it is this public nature of the sex trade that is at issue for most and the fact that it can routinely devalue business and property because of its association with criminal behaviour. Sex workers respond to this by agreeing with the premise that business and residents' property need protection, arguing that if their trade were no longer criminalized, then both police and criminal presence would likely disappear and the sex trade would be a type of business not unlike any other and subject to the same conditions as other businesses, including protection from violent clients.

I have two remaining points regarding policing practices. Continued criminalization, specifically the communications provision of the Criminal Code, puts the sex worker in danger by increasing the speed of the negotiation of terms between the sex worker and her client, which is the most critical point for her to assess the client's propensity to violence. If the sex worker is rushing to avoid encounters with the police, she may misjudge—at great peril to her—the safety of a client.

My final point is that even when sex workers lay complaints with them, the police often do not follow through on them. This is a complaint police made to us, which can be explained again by the continued criminalization of the trade. It's very difficult to trace someone who is engaging in criminal behaviour if there is no fixed address, if their families do not know, and if they're continually stigmatized. If the status of criminalization were to change, sex workers would be more likely to follow up on complaints and to provide police with more information on themselves and other transactions, as they would not be so fearful of police reprisal in doing so.

In summary, I have three recommendations.

The first is to decriminalize the sex trade. Evidence over the past 20 years of studying this issue in Canada has shown that the continued criminalization of sex work is simply ineffectual.

● (1800)

The second is to employ existing harm reduction community-based models, such as the sex trade action committee in Saint John, to facilitate communication between police and sex workers.

The third recommendation sex workers made was the provision of safe houses in which to work. Such safe houses could be monitored for safety, clients could be checked, and sex workers would not necessarily have to deal with a violent client alone.

I submit this respectfully to the committee and this document from which I read.

The Chair: Mr. Hanger, for seven minutes.

Mr. Art Hanger (Calgary Northeast, CPC): Thank you very much, Mr. Chairman, and thank you very much for your presentations.

I was unable to make it over to the Atlantic provinces for other reasons, but I'm interested in what you have to say. Both of you seem to indicate clearly that there's a strong need to decriminalize. You list as part of the reasons, of course, the full issue of the stigma that's attached to this behaviour and you seem to imply that much of why the stigma is there is because of the criminal attachment or the criminal nature of the offence.

I'm trying to bring this into perspective for the broader community. The average person out there, and whether it's an average person or an average employer, for instance, has a certain view on prostitution. If some gal is applying for another job and has down on her résumé that she has worked in the sex trade for *x* number of years, you tell me how the community is going to get by that. I know for a fact, as an employer, I would have a big question mark about that, regardless of whether there was a criminal attachment or not. To me, for the community to go from this point here and leap all the way over to there is not something that's going to happen. I'm curious as to your explanation and what your research may have shown about community attitudes toward prostitution and prostitutes.

● (1805)

Ms. Gayle MacDonald: I think there are a number of points that you've raised. Thank you for them.

We don't expect that decriminalization would lead to an attitude change in the community overnight. But when we have interviewed neighbourhood associations—and there are neighbourhood associations and property owners on this sex trade action committee that I mentioned in Saint John—what we have found is that they are more likely, once they meet a sex worker and understand the conditions of the work, to be far less judgmental of people within the trade. What they don't want is their property devalued. What they don't want is someone practising the trade outside of their business, for example.

One of the things that we found repeatedly in our research and in our teaching, because we do give talks on a variety of levels on this issue, is that when we bring sex workers to speak to community groups or to classrooms, for example, it changes the attitudes almost instantaneously when people meet sex workers. There are stereotypes about who the sex worker is. I would argue the sex workers are part of the community. She may be someone's mother, someone's sister, someone's aunt, someone who's working at the grocery store, someone who's trying to make ends meet, someone on social assistance. She's not that different from other women in the community.

I agree with you that there's an incredible stigma against sex workers. Sex workers themselves—ex-sex workers who work with outreach agencies, for example—have told us of their difficulty in getting work because they can't explain five or ten years in the industry. I think that would change over time if the law were to make the first step.

Mr. Art Hanger: As legislators, what should we do? I know what I'm going to do, but what should we do? Should we say our obligation is to these individuals who are engaged in this activity? I have some other arguments I'd like to get involved in too when it comes to the activity itself, but should we appeal only on behalf of those individuals or should we go to the community and ask the community? What would be the best thing for their community, or even beyond their community?

Really, right now, with all those we've really heard from, there has not been too much from the community, apart from the fact that there are some very disgruntled people out there who have prostitutes working in their neighbourhood and those disgruntled people wouldn't agree to any kind of change. In fact, they want to see it a lot tougher. As legislators, do we just pay attention to that, or do we pay attention to the broader issue that, as you put it, they're a part of the community but the responsibility is still to the community?

● (1810)

Ms. Leslie Ann Jeffrey: As a political scientist, this was my particular interest. How do we bring together residents and sex workers? As Dr. MacDonald mentioned, we did speak to both.

I had for years written that perhaps never the twain shall meet, that we won't be able to come to an agreement between these two groups. What actually surprised me in the research was that I found much more openness in the attitudes. Once you really sat down and scratched the surface beyond residential anger, I often found that even the chairs of residential associations would say it really isn't a neighbourhood issue, that they don't care what happens if it happens somewhere else, somewhere not in their neighbourhood, not where their kids see it. They're fine with that. And these were people who had been working on the issue for a long time.

I sit on the Saint John action committee on the sex trade. I also noticed that when residents sat down in the community, as Dr. MacDonald said, they often went from anger...they were frustrated with the whole series of issues. It wasn't always about sex work. In Saint John, it was often about the fact that the neighbourhood is of great historic value, but it's a very neglected neighbourhood. So there were other residential issues: garbage pickup, needle disposal, drug trade. Those were the issues that made the residents very angry, and the sex trade issue was just on top of that.

Once we started addressing garbage disposal and needle disposal, that helped bring the residents in. As they sat there and talked about the issues, they became more and more sympathetic to the sex workers. As one member of the committee said, “I went from being a very angry resident to being angry that the government isn't doing more to help sex workers.” She had switched from one end to the other. And we noticed that among many people.

On the committee, we also have everything from the Sisters of Charity to police officers, people you would think would be morally opposed, and they were not. What I find is that Canadians across the board are concerned about human rights. Yes, they have very specific residential issues that we can't brush off, but I think they're open to discussions.

What we found in the committee was that the frustration became greater as we realized the Criminal Code limited any creative solutions we could come up with. Many people were saying, “Can't we find a safe space for sex workers to operate?” The police and others on the committee would say, “We just can't. Under the Criminal Code, we can't make that happen.” Yet this is what residents were willing to work for, so I was quite impressed with the residents.

The women sex workers as well are often moms, and the men can be dads, brothers, husbands, family. They said to us, “We know and understand that you don't want this happening outside a school. We don't want it happening outside a school either, but we're so constrained that we have nowhere else to go.” So they were actually quite open to some discussion.

There were still some hard feelings and debates, but I was amazed at how much willingness there was to talk. I think it takes political leadership to open that up and some real political insight.

Ms. Gayle MacDonald: If I could just add to that, it goes back to what I was mentioning in terms of private and public space. People are not concerned about the sex trade that happens behind closed doors. They don't seem to have the same panic about the escort trade, about outcall services that happen to be centred through a cellphone somewhere outside the jurisdiction of the regional police. What they're concerned about is the visibility. What they're concerned about are condoms in a schoolyard, or syringes somewhere on the street.

Many cities—Halifax and Saint John in particular—have done a lot of work to try to get needle exchanges going in order to separate the drug trade from the sex trade. There was one instance in policing that just came to mind as Dr. Jeffrey was talking. In Halifax police were told to crack down on a particular area, a particular stroll. Because they had a lot of pressure from a neighbourhood association, they summarily moved the women on that block three blocks north, which put them in front of a crack house. I couldn't see, for the life of me, how that solved the problem. I could understand that it solved the neighbours' problem, but I couldn't see how that would solve the problem of the sex trade generally.

Simply put, whatever we feel personally or morally, and however we want to rationalize arguments around the sex trade, nothing we have seen in Canadian legislation has worked. It is taking up a lot of police time, a lot of energy, and a lot of taxpayers' money. Police themselves are saying, “Please let us do the job that we really would like to take seriously, which is to go after drug trafficking, which is to go after people who rape, which is to go after assaulters.”

Sex trade workers only come up on the radar when the police get pressure from neighbourhood associations. Neighbourhood associations, when engaged with police, when engaged with sex worker outreach communities, are actually not as negative as one would think. They actually do come around when it is presented to them that the property issues are of equal concern to the sex workers, that sex workers are citizens of the same city.

● (1815)

The Chair: Thank you, Mr. Hanger.

Go ahead, please, Madam Brunelle.

[*Translation*]

Ms. Paule Brunelle (Trois-Rivières, BQ): Good evening, ladies. I am very pleased to hear your point of view. Thank you very much for contributing to the work of this committee.

Ms. Jeffrey, you told us that we should meet with sex workers to talk about their lives since they are the persons who are concerned in this matter. This is what we did last week, as a first step. Members of the committee even went to Halifax. This was an extremely interesting experience which allowed us to be more open and to get rid of some of our prejudices, if we still had any.

This also allowed us to see that there are major differences between the three communities we visited: Montreal, Toronto and Halifax. There are major differences as to what each community can tolerate as far as decriminalization or regulation is concerned. The attitude of the community and of the police organizations about the sex industry is very different in each city, as well as the types of organizations helping sex workers.

Ms. Jeffrey, you're the first witness to talk about migrant sex workers and I would like to have a bit more information about their issues. I have asked many questions about them in Halifax. Are there many women coming from Eastern Europe? We keep hearing about prostitutes coming from abroad, from the East. How many are there in our cities? I'm told that the next day, they are gone. We don't really know what is their situation. What is the scope of this problem? Do you believe that decriminalization would increase the number of prostitutes from Eastern countries? Do you believe that this would increase the demand for new people? Tell us a bit more about those women.

[*English*]

Ms. Leslie Ann Jeffrey: Thank you for the opportunity to answer that question. When I worked in Europe, it was a huge concern, starting in the 1980s and up to today. We have not seen as much migration in the sex trade in Canada—yet—as we have seen elsewhere. This may be just a matter of time.

There has been an argument that if you decriminalize, perhaps it will mean more migrant sex workers. The evidence is unclear. There may be many things happening. To start with, to turn the question around, if we protect human rights in Canada, will it attract migrants? Yes. It's the same kind of question, and yet, as you mentioned, people are concerned that decriminalizing somehow will contribute to the trafficking.

What we think we're seeing in the Netherlands and Germany, where you have some legalization, is a large illegal migrant trade. In Germany and the Netherlands, perhaps 50% to 60% of the sex workers are in fact foreign. Now, this doesn't mean they were trafficked—many of them chose to migrate—but because the new legalization laws are written in such a way as to protect only EU citizens, and sometimes only German citizens or Netherlands citizens, it's created another criminalized trade; it's created an opening for organized crime to do trafficking.

German sex workers and Dutch sex workers warned their governments about this, that if they did not both include migrant sex workers within the decriminalization process and add on extra protections for them, this is what would happen; they would create an underground illegal trade. And this is what happened.

So it's not so much perhaps decriminalization that causes the problem but particular policy decisions within that. If you choose to protect only nationals, you will see an illegal trade where perhaps trafficking could happen. At the same time, we're seeing migrant sex workers even under criminalized systems. I think that's just part of the globalization of women's work—it's just going to happen—but it does tell us that we need to be careful in decriminalizing to ensure that we also protect migrant workers and don't just leave them out of the equation.

In today's world, good policy is always global policy, so we do need to pay attention. We can learn from the European experiences, I think. We know that criminalization doesn't help migrant sex workers and that decriminalization can also leave problems if we're not careful to also protect migrant sex workers.

● (1820)

[*Translation*]

Ms. Paule Brunelle: Do you know anything about those immigrants coming to Canada? You said of while ago that their passports are taken from them. Are they really controlled by organized crime? Are there any serious studies about those women?

[*English*]

Ms. Leslie Ann Jeffrey: Not enough. Recently the Toronto multicultural association did an excellent study on Project Orphan, the arrest of Malaysian and Thai women in 1995-96. They made a long list of complaints, things like having their passports taken away.

It doesn't necessarily mean that organized crime is involved. Sometimes it is. Sometimes organized crime can assist in the migration and then have nothing further to do with the sex workers once they arrive in Canada. They're just making their money off the kickbacks on the migration process. Other times, they maintain control over the women.

The evidence, globally, is that most of the women who migrate in the sex trade come individually, independently, through contacts, through family, friends, on legitimate tourist visas, and then decide to stay and work. So the picture's still very unclear.

The little bit of research that we do have in Canada shows that there are probably.... When the RCMP says 600 women a year are trafficked, well, they're counting all the foreign women they know of in the trade. Whether they were trafficked or not, we don't know. We don't know the evidence.

We do know that the women are often deported and there are very few people charged with organizing that. So what seems to happen, instead of going after people who are the exploiters, it's the sex workers, again, who are arrested, as in the Project Orphan case, and then deported.

We also know that when the media talks about that as trafficking, and this happened in the Project Orphan case, and then they find out that these women knew they were going to be sex workers, they just didn't know they were going to have their passports taken away or be told they owed $30,000 to the bar owner.... When the Canadian public heard that, they were no longer sympathetic to these women. It no longer mattered that they had been exploited. All that mattered was that these were evil women who had come to Canada to work in the sex trade. It didn't matter that they had been exploited.

When we talk about trafficking, people think these are girls kidnapped from their mothers' homes and forced into the sex trade. Well, that may happen, but it's a small proportion of what's going on. It's an important thing that needs to be addressed, and in the immigration law there is a trafficking crime. But the vast majority are coming under their own steam. Our research is very fuzzy because we define it differently.

● (1825)

The Chair: Professor MacDonald.

Ms. Gayle MacDonald: I would just like to add a point. We were in Berlin last year giving a paper, and I was subsequently in Sweden looking at laws there. One of the things we discovered is that the problem is that this issue is about work. In order to address migrant workers, that's the legislation that needs looking at—the legislation within immigration that deals with migrant workers—and strengthening.

In Amsterdam, for example, where most sex work is legalized, Dr. Jeffrey is quite right: there is a problem with migrant workers. And the problem is that the Dutch government refuses to recognize them or grant them immigration status, which would give them protection, which would give them an opportunity to join the unions that protect other sex workers within that country. Given the failure of certain governments in eastern Europe, for example, there's a lot of out-migration of women looking for work that's currently around continental Europe.

The same thing happens in Canada, if you think about sweat shops, of women working in garment industries in Toronto, for example. Any legislation that will protect migrant workers will aid in the discouragement of the exploitation of migrant workers who happen to be sex workers.

The Chair: Thank you, Madame Brunelle.

Dr. Fry, are you ready?

Hon. Hedy Fry (Vancouver Centre, Lib.): I have great notes from my assistant Dave, but I did have some things that were triggered....

You said that organized crime may make its money out of the migration itself and then walk away, or it may continue on with the trade within. Where do we have information on that? Where do we have statistical information on how many of the migrant workers who were brought into the sex industry knew they were coming to work in the sex industry? Do we have that kind of breakdown information to tell us what percentages we're looking at?

Status of Women Canada did a study specifically on migrant workers who came in for the jobs of exotic dancer, stripper, etc. The results were very interesting because what these women said was that they really thought—now this is what they said, but did they mean it or not—what they were coming here to do was to be an exotic dancer, meaning, i.e., I am from Romania, so my dancing is exotic. When they came here they realized they were in a trade in which they were having to do sex acts.

Many of them were surprised, but they owed so much money already for getting here that the choice was to go back or to stay and do this work. An alarming number of these women said they would rather stay here and do that work than go back home, because home was worse. This is interesting. Do you have any data on this? Has there been any follow-up? I was Secretary of State then, and I have no idea if we've done any follow-up on it since then.

Ms. Leslie Ann Jeffrey: No, there hasn't been anything aside from studies by Status of Women Canada, which also funded the Multicultural History Society of Ontario study. That's it for Canadian studies. The Europeans have been studying it for 20 years. We just woke up to the issue when Status of Women Canada started to ask for the research, so that's really all we have.

The good thing is that so much wonderful research is done in Europe and in the global south that we can draw on it quite easily, because the same patterns that are occurring there are occurring elsewhere. The Network of Sex Work Projects brings together a whole series of studies around the world on migration and sex work, trafficking, sex work laws, and all sorts of things. There's also a website called femmigration, which is keeping track of all of that through the European Union. We do need to do more study on this in Canada, I think, but luckily for us there are a number of studies out there globally.

We can also talk to associations in the global south and the sending countries. When I did research in Thailand, I listened to them go through the debates. I met with Thai sex work outreach people in the late 1980s, and I met with them again in the late 1990s. They talked about how they had at first thought that women were in fact being kidnapped, lied to, and sent elsewhere, but after a few years of trying to rescue these women and bring them home, they discovered that it wasn't as simple as that. The women were saying to them that they didn't want to be rescued and brought home. They wanted the right to work in Japan or Canada. They wanted to be able to go home to visit their kids and then go back—a migration status issue—and not have their passports taken away. They understood there's a contract, that they'd been lent money to travel, but they felt they should be able to negotiate that contract, that it should have reasonable terms that could be legally upheld.

They had a very different set of issues, and the Thai organizations actually started to change their approach and say, okay, we understand that your issues are actually about labour rights, so let's start addressing migrant labour rights, and that's what they did. They eventually became the Global Alliance Against Trafficking in Women, but they started as something quite different, and we can draw on that wealth of research and activism worldwide. We can start there.

There does need to be more Canadian study done, but that will take a long time. In the meantime, we have a lot of background information.

● (1830)

The Chair: Professor Gayle MacDonald.

Ms. Gayle MacDonald: The real issue here is exploitation and continued criminalization. If the trade were no longer criminalized, the level of exploitation available to opportunistic exploiters would be lessened.

The Nathanson Centre for the Study of Organized Crime at York University is probably your most reliable source if you want to look for information on organized crime in Canada. But when I asked whether there was organized crime involvement in the sex trade, one RCMP officer I interviewed said, define organized crime. And when are they organized? Are they organized? Are there two? Are there ten? He said there is no question that there are groups of people who commit crime, like the Hells Angels, for example, and there have been ties to the sex trade. But if the sex trade were decriminalized, they would have to go elsewhere to do their exploitation and elsewhere to do their organizing.

Secondly, I'd like to re-emphasize Dr. Jeffrey's words on migration. When we initially started our study in the Maritimes, we were interested in looking for trafficking patterns in the Maritimes. We found none. We did, however, find migration for work. We found people moving from Halifax to Moncton to Fredericton, and another cycle from Halifax to the Miramichi area, to Edmunston, to the Boston states, to Maine. We found various patterns, very predictable patterns, of circulated work, and we found that the pattern of sex work in the Maritimes resembles other patterns of work in the Maritimes. Sex workers go where the work is. So we have stereotypes of street workers or escort workers or dancers, and we found many women we interviewed had done all three because money would dry up in one area and policing would become more pronounced in another area. There would be various reasons for their moving.

The other reason too in the escort services is that women do not often like to work in the town in which they reside, especially in the Maritimes, because there are very small communities and they would get known very quickly.

The Chair: Go ahead.

Hon. Hedy Fry: There was a time, I would say maybe six or seven years ago, when we heard of young girls who were being picked up off the street in the rural areas, who were running away from home, who didn't want to stay at home for various reasons, and who were being sent to Edmonton. That was a Hells Angels'.... They were being sent from rural Alberta to Edmonton and then to Halifax, being sent from rural areas in one province to cities in another. Now this was only seen in the newspapers. Whether there was teeth to that, whether that was borne out by your studies.... So you're telling me that it wasn't really abnormal. It was the same migration pattern for all workers.

Ms. Gayle MacDonald: My definition of that is kidnapping. There are Criminal Code provisions to provide for the types of offences you're talking about. There's no one arguing that children should be in the sex trade industry. I'm sure no one who appears before you would argue that. There are ways to protect children. They exist under provincial legislation; they exist under the federal Criminal Code. If a child is kidnapped and taken, for any reason, from her community, from her family, and trotted halfway across the country, that's an indictable offence under Canadian law, and often that has less to do with sex work than it does with the crime of kidnapping.

I'm aware of the stories that appeared in the media. One should know that for journalism, three events constitute a trend. So three events of any significance, whether they occur in the U.S., whether they occur in the Miramachi area, or whether they occur in St. John's, Newfoundland, constitute a trend for journalists. So I'd be highly skeptical of anything that appears in the media.

We've seen the racialization of the trade repeatedly by the media, with very little evidence from our study, at least, that this occurs. We've seen a lot of racialization of black men, naming them as pimps, when indeed our research found that very few, if any, of the 52 men and women we interviewed were pimped at all. So I would read those media reports with a grain of salt.

The protection of children, absolutely, has to be first and foremost a prerogative of the state, there's no question about that, but there are laws in place to deal with exploitation of children.

● (1835)

Hon. Hedy Fry: Mr. Chair, do I have some time left?

The Chair: You're finished, Dr. Fry. We'll come back.

Hon. Hedy Fry: Okay. I'll finish on the next round.

I want to follow up on that because of the difference between children and consenting women.

The Chair: We'll come back to that.

Mr. Hanger, sir.

Mr. Art Hanger: What age do you have to consent to be a prostitute?

Ms. Gayle MacDonald: Under the law, 18 years of age.

Mr. Art Hanger: Alberta passed a law on a provincial basis to remove girls off the street who were juveniles. They arrested 273 children in the first year of this law coming into place.

Now, something tells me there's something wrong with the present system if there are that many children out there who are prostituting themselves—maybe even willingly. But a child is a child is a child, and I don't believe the law should overlook any action, whether the person is willing to do it or is pressed into service by some pimp.

And those findings are about as real as you can get, but they are never publicized, I might point out. I think they should be, because we do have a real problem of young girls being exploited in this business. For me, a child who is selling their body, even willingly, is being exploited.

That's the reality out there, and more often than not they are usually heavily involved in the drug scene as well. There's the organized criminal activity right there, when you have a drug pusher pushing a girl, because he wants her to use his drugs, which is the way he gets his money back because of her habit. That's going to continue.

It's interesting that you bring up the Netherlands frequently. We've heard in this committee before that there is more illegal prostitution in the Netherlands than licensed girls working in the system, which leads to a greater problem now of enforcement, to my way of thinking, because even though it's literally legal, you have this substantial illegal prostitution, with a lot of it being migrant trade and a lot of them being children. A lot of them are children.

There's another statement you made, and I'm going to keep asking this question, because I haven't got an answer yet from anybody. You're not the only ones who have made it. You brought up the Picton farm situation, where something like 69 girls, I believe, were murdered. I would have to suggest that by far the greatest percentage of them were prostitutes.

We're talking about a safety issue.

Now, the Picton farm situation is not uncommon. We've had the Green River killings; that's down in the States, but we had the Green River murders there. There are a number of prostitutes missing in and around the city of Edmonton. I think you can probably multiply that in other areas of the country, and the list gets larger and larger.

Now, the Picton farm girls, they went over there willingly. It was party time, so they all partied with Picton. That wasn't uncommon, and his place was well known amongst the prostitutes—and their pimps, I might add. They all knew who he was. I would like to know how changing the soliciting laws is going to make those girls more safe, because, for instance, many of them rode back to his.... That was a long stretch from central Vancouver down to Abbotsford, where he lived, with ample opportunity to get to know what he was like. That's not a judgment they're making, especially if they're drug-induced, or if there's going to be money at the other end of the line.

● (1840)

The Chair: Thank you, Mr. Hanger.

Ms. Gayle MacDonald: There are a number of points you've raised, and I'd like to address them, perhaps in any order.

In regard to the Picton farm, going to a party does not constitute agreement to murder. Going to a party in which you may make money, even in which you may abuse substances, does not constitute agreement to murder. Mr. Picton murdered those women and ground them up like meat.

What kind of country are we living in that allows a person, regardless of morality, immorality, a party, behaviour, or whatever, to do that to women for that length of time and we don't notice? It is because of the dehumanization of sex workers, I would argue, sir, that it happens. That dehumanization is because they are in sex work, they are not worthy of living. Therefore, we can ignore them, as a public and as police.

In order to answer your earlier questions on the PChIP program in Alberta that you're referring to, Professor Karen Busby has done research that demonstrates it's not working. In the PChIP program, once those children were in protective custody, they ran because they had not consented to being put in protective custody. They could be put in protective custody for many reasons. Her particular criticism of the program is that it widens the net on who can be picked up, for what reason and how.

You were referring to children, and I would ask you the same thing. What's your definition of a child? I would also ask you this. Are you aware of the patterns of sex for exchange among younger women?

One of the side areas that we managed to uncover was when I interviewed people who were working with women in halfway houses. They were talking about sex for exchange, sex for a pack of cigarettes, sex for a place to stay at night, and none of the parties were naming that as prostitution. It's a younger generation coming up. My own students don't see it as prostitution. Furthermore, they only term sex as intercourse. Everything else, orally or anally, isn't considered sex. When we're having conversations with people under 20, we have to be very specific about the kinds of terms we're using.

The other argument I want to make is this. Where did you get the numbers on arrests if indeed they're not published? When the police have those kinds of numbers, they widen the net. They're looking for any kid who is out past curfew or any kid who is in trouble, which may include a lot of kids from families that are not functional for whatever reason.

I'd like to question the definition of pimping too. As one ex-sex worker told me, when she and her boyfriend were living together, they were both on drugs. She would turn tricks for both of them to get money. She asked me this. Who is the pimp, the cocaine or him?

The Chair: Your time is up as far as questioning goes.

Ms. Jeffrey, do you wish to respond?

Ms. Leslie Ann Jeffrey: Thank you.

I'll just take up two things.

How does decriminalization make it more safe? First, the attitude change can't happen until we decriminalize. It's not that it is going to make attitude change happen if we decriminalize, but we can't change the attitudes until we decriminalize.

The police have said to us they would like sex workers to come and tell them when they're raped and when they're beaten, and they won't arrest them on the spot or anything. But sex workers then tell us they know, they've talked to that officer, and he's very sympathetic, but the fact is they don't feel safe doing that, because then he knows who they are and who their clients are. It's going to increase the pressure on them. It's like they're both caught in a circle they don't want to be part of—both police and sex workers, often. They can't find a rational solution.

Criminalizing sex work has not helped. We've certainly seen the numbers. Dr. Lowman showed you those numbers. The violence against sex workers does appear to have increased since section 213, since the communication law. We also have sex workers in the studies previous to 1985 saying they felt more like citizens then, especially in the 1978-1985 period. They felt connected to the community and felt they could reach out for help. After 1985 they felt isolated and cut off. Isolation and being cut off are how violence can happen.

We can draw parallels. Do we criminalize activities a person might know are dangerous? If that were the case, we'd have to criminalize marriage. It would be the most dangerous thing a woman could do. Who are the most likely women to be murdered? Before sex workers in Canada, the statistics show it is wives and girlfriends, so if we follow the logic....

We would never do that to marriage, so why do we do it to sex work on the grounds that criminalizing it is somehow going to help?

Decriminalizing it will at least give sex workers the opportunity to organize and do things more openly, such as sharing information about who is dangerous. We do know—and I'm sure PEERS Vancouver talked about it—that sex workers did know and were trying to get the information out there, but it's difficult to communicate on these issues when you're living under a criminal cloud. That certainly may have created the space Picton needed to operate.

You're right—as I said, there is a large illegal trade continuing on. Again, decriminalization alone is not the answer in itself. It's just the first step to creating more rational policy solutions. The beauty of the global world is we can learn from all these attempts. The Dutch have said you're right—to protect only citizens in today's world is not going to be sufficient; we must find ways to protect migrant workers also. If you just protect citizens, you will create an illegal underground.

Certainly some other models that create legal protections for migrant workers in all sorts of ways might be helpful. Why I emphasize the United Nations convention on migrant workers and their families is it's a unique convention that says why don't you try doing this the human rights way; for those people who are undocumented migrants in any sector, let us all agree—and the convention is now in force for those who have signed it, and Canada has not—that they will receive, despite the fact they are undocumented migrants, a certain basic level of protection. That may include things like the right to join unions, and a whole series of what the convention lays out as quite basic things. Instead of punishing people for being undocumented, let us encourage them to become documented. If you become a documented migrant by going through the proper visa and immigration process, we will give you additional rights—things like the right to greater mobility within Canada, the right to unemployment insurance, the right to health care above and beyond emergency services. Those will be considered.

● (1845)

So instead of punishing undocumented migrants, why don't we try using the carrot approach rather than the stick? If we decriminalized, those might be the kinds of things we could look into doing in order to add that extra layer of protection so that we don't end up with an illegal, underground migrant trade, because it is very dangerous.

That's what I would suggest on that one.

The Chair: Thank you, Professor Jeffrey.

Madame Brunelle, for three minutes, please.

[*Translation*]

Ms. Paule Brunelle: Ms. McDonald, you gave us three recommendations. Could you come back to them in detail?

You talked about decriminalization, which we understand. You also talked about a community model. What did you mean? How would it work? You also talked about safe houses. What is that? Would it be a red light district?

Could you explain your recommendations in greater detail?

● (1850)

[*English*]

Ms. Gayle MacDonald: A red light district is one possibility, or decriminalized bawdy houses. If the bawdy house provisions were removed from the Criminal Code and escort services were permitted to establish themselves, that would create greater places of safety.

The problem with the bawdy house legislation is it's no longer the model of sex work in Canada. Many women are working out of their homes, but they can still be charged with being keepers of a common bawdy house. Many of them are working out of their homes due to the lack of safety on the street, but they're very fearful of being arrested in their own homes.

Police, however, are much more likely to respond to complaints about street work. There's not a lot of persecution of people within their own homes, but there's a great deal of fear by sex workers that they will eventually be caught. Decriminalization would satisfy both of those recommendations.

On the Saint John sex trade committee, I would actually let Dr. Jeffrey answer that question, although I have the model here. It was initiated by community police in recognition that police officers may not have solved the problem of the sex trade. It's the partnerships that are on this committee that are most interesting. They go from residents to the Sisters of Charity, police to researchers, representatives from business communities to addictions services, concerned property owners to social workers.

The committee meets quite regularly and talks about the issues. A couple of the leaders of this group, for example, have routinely met with police patrols and platoons and asked them what their problems are in policing the sex trade, what their issues are. They've taken those problems back to sex workers for solutions. The sex workers in turn have said what their problems with the police are, and there's this back and forth.

Ex-sex workers and sex workers act as advisers to this committee and have been brought in on regular occasions. My colleague Dr. Jeffrey is on that committee, so I can be impressed with it and be unbiased, because I'm not on it.

In other jurisdictions, like Halifax, for example, I have seen that the outreach agency, the Stepping Stone program, has a very poor relationship with the Halifax Regional Police. We have people within the Halifax Regional Police who are sympathetic to sex workers, but we have another division within the same police force that is very repressive to sex workers. The community is getting a contradictory message at best from that police force.

If sex work was decriminalized, if more cooperation was to be encouraged, I think it would be a step between decriminalization and what might come afterwards, in order to enable these community groups to be formed. The model in Saint John is working very well. People were angry coming into that model. A couple of the police officers wanted to arrest the johns until they talked to the sex workers, who said arresting johns does not work to curb the trade, it only forces it underground. Who they want arrested are the assaulters, the murderers, the rapists.

Stella, a Montreal organization you've probably heard from, separated the bad trick lists that they had into different categories. On a bad trick list for a sex work outreach agency could be someone who defrauded the sex worker, who beat her up, who sexually assaulted her. They have various levels of what might constitute a bad trick. They took all the names of incidents of sexual assault and gave that list of names to the police and said they had evidence that these men committed sexual assault, here were the rapists, and told the police to go do their job. That's one way in which community agencies and police could actually work together.

Sex workers are very interested in having drug traffickers arrested. They're very interested in having rapists arrested. They're very interested in having assaulters arrested. So are the police. There are ways in which both sex workers and the police could help each other, for example.

Ms. Leslie Ann Jeffrey: If I could just add to that, as a political scientist, what I like to study and what I'd like to study more are the policy models: how can we do this in a way that keeps sex workers safe and affords them all the rights they should have? I think there might be some models to follow.

The idea of a red light district has traditionally been opposed by sex workers, because, as they point out, usually it's government that decides where the red light district is and who controls it, and they never talk to sex workers—hardly ever. They'll create someplace where it's dangerous, for example, next to a port. We have seen examples of this.

So they have said they don't want red light districts, unless—and they are willing to talk about this, because they do see there's a problem of using space—we decriminalize and provide safety in these red light districts. So they're opposed to it if it's a way to get around decriminalizing, because it's going to be more dangerous, but if it's done in the context of decriminalization, with patrols by police and with outreach, then maybe they will talk about red light districts.

Other models that might tell us something about how this might work.... Again, I think the principle has to be that no one wants to see sex workers exploited. So how do we avoid this? We create policy solutions that sex workers design. And they have brilliant solutions. If you go to the websites of sex work organizations, you'll see they've laid out all sorts of things. I think PEERS Vancouver is talking about how to create a cooperative, so no one's the boss, no one's exploiting anyone. They'd just work like an atelier of independent owner-operators.

New Zealand has recently decriminalized. The minister might ask the Law Commission of Canada, which has a relationship with the Law Commission of New Zealand, if perhaps we should engage in some joint research on this, because in New Zealand's new decriminalization law, in part pushed by a former sex worker in the House of Commons—which might be what it takes—they try to ensure that sex workers operate independently in small organizations and small operations; they make it as easy as possible for that to happen.

New Zealand also makes it very clear that no one under the age of 18.... They lay that right out in the law. So decriminalizing doesn't stop the government from enacting certain provisions. This is what New Zealand has done.

Australia has several different examples, some of which have not worked. Not all decriminalized models, but on the eastern half of the continent there have been several decriminalized models, some of which have worked better than others. Some have done what the Netherlands has done, created huge brothels that could be controlled by organized crime. They admit that's what's happening. When you create huge brothels where sex workers don't control what's going on, it invites organized crime, and they have seen an increase in organized crime controlling these brothels. That's in Melbourne, in Victoria.

In the Australian Capital Territory and in New South Wales, Sydney, there are two other different models. Australian Capital Territory has a kind of community government board that oversees what's happening. It keeps the price for licensing a brothel very low. The problem that happened in Victoria was they set very high costs, and organized crime were the only ones that could afford to pay. So they created these massive brothels, which are not good for sex workers. In the Australian Capital Territory, like in New Zealand, they tried to keep it so that sex workers control their businesses, not someone else. Sydney is trying to do the same sort of thing, again, under a little different circumstances.

But all of these models show us what might be the ways under decriminalization to ensure that no one's exploiting sex workers, that they are in control of their own work, and in fact, I would argue that's the only way decriminalization is going to work. Sex workers on the street—and they are a small proportion of Canadian sex workers, maybe 10%—avoid the escort services. They know it's safer there, but what many sex workers on the street really hate is the management control, taking their money for their work. They've often worked in lots of other jobs, service sector jobs, personal care, and said they'd left that kind of work because it wasn't very good money, and also it was too controlling. They don't like that kind of discipline where someone else is always telling them what to do and how they can do it. They actually find the street better for that kind of independence.

● (1855)

So Canadian policy-makers need to ensure that whatever our designs are they take account of that, so we maximize sex workers' independent control of their labour. That will maybe mean several models simultaneously. I think we're always going to have a street trade, especially when drugs are involved, and what you might require for that is a kind of safe house, a safe shooting or safe drug use area where you just create a space for some women.

The Chair: Dr. Fry.

Hon. Hedy Fry: Like a safe injection site? Okay.

You don't have to convince me; I think I have heard enough over the time we've been listening on this committee that decriminalizing it has to be one of the answers.

I just wanted to go back, though, to the under 18 crowd, because one of the things that is a great challenge in that group—and I wonder if you have any studies or you can think of any solutions for it—is that a lot of the under 18s weren't kidnapped and weren't trafficked, but ran away from abusive situations at home. So they don't want to be found, and they are easy prey to some nice couple—and in many instances it's a nice couple—who picks them up and gives them a roof over their heads and are kind to them for a week or two, and then introduces them to drugs, and then has them hooked, and then exploits them. If one can identify those young people.... The fear they have is that because they're underage, they're going to be sent back to exactly what they're running away from. This is a Catch-22. How does one deal with the young people under 18 who are running away and are ripe for exploitation, for hooking into drugs, and all of those other things? How does one deal with it? It's a very difficult issue.

It's something I want to deal with. I think over 18, autonomous people can make decisions, if we provide safe places and decriminalization, etc. It has always been found, such as when we did the drug committee, that wherever you prohibited and criminalized you allowed increased underground and criminal activity to occur. You allowed people to exploit that situation.

To get it above water and to regulate it and to do all of those licence regulations would be the best thing to do. But the under 18s are the ones who concern me the most, because they're really caught in a huge cycle—a Catch-22. What do we do about that? That's my issue.

● (1900)

Ms. Gayle MacDonald: We didn't specifically look at children in this study, but I could point you to those jurisdictions that have had problems with children and that have responded very well. I would name St. John's, Newfoundland, as one place. I did a pilot study in St. John's, Newfoundland, as part of this work. St. John's has numerous, very well-funded outreach services and community houses for children, largely as a result of the Mount Cashel problem. Politically, that's where the impetus came from to provide money for kids.

In fact, the problem is the opposite one in Newfoundland; if there's a sex worker over 18, she doesn't have access to many services, but if she's under 18, there are all kinds of services.

So I think we need to look at places that have had problems and have resolved them in that way.

I think you need to look to the community groups that work with children. I'm thinking of a number of community groups that I interviewed for my study: Chrysalis House in Fredericton does amazing work with girls; there are the Fredericton Residential Youth Services, FRYS, training programs; and there are two or three services in Halifax that run excellent services for children. They are the people with the answers of what to do with children.

Part of the problem, as you well know, is the fact that families don't get help raising kids. We used to have an extended family. As the adage goes, “It takes a community to raise a child”. Communities don't care about children, and that's where education needs to happen. If there is a child alone, or a child who is frightened, or a child who's in need of help, it's the community's responsibility. If there is a dysfunctional family, it then becomes a community responsibility—but who in the community?

For many years, for example, we had the disjuncture between the ages of 16 and 18 in the provisions for children. They were designated as a child up to the age of 16 and as an adult at the age of 18, and they had no home to go to in those two years in between. In my field, community agencies responded very creatively to that; when I started in corrections, they responded very favourably in finding ways of putting community houses in place to take those kids from the ages of 16 to 18.

But if a kid doesn't want to be found and if a kid doesn't want to go back home, that's a completely different issue. What our research demonstrated, as I pointed out to Mr. Hanger in response to his question, is that we've had children, those who anyone would define as children, of 14, 15, 16 years old, doing sex for exchange and not calling it anything other than a fun night, a party. There are ways in which sexual behaviour is happening all over the place that are very different from when we were those ages.

I think what needs to happen is sex education curriculum in schools. We're having a big war on that in district 18 in Fredericton right now. There's a lot of opposition to having sex education in the schools, with the rationale that abstinence is the only way to teach children sex education. Well, if you look at the rate of teenage pregnancy in New Brunswick alone, you realize that abstinence really isn't working as a strategy.

So I think there are a number of ways we need to address this.

● (1905)

The Chair: Thank you.

Mr. Hanger.

Mr. Art Hanger: Thank you, Mr. Chairman.

You both spoke of models and you related the different models and the different countries. Some of those countries, of course, do have different models too within their own nations. Tell me now, since we are looking at this whole issue of safety, violence, and exploitation, with the different models that are out there now, there's obviously a difference in level of safety, is there not? There's no violence, or violence is literally eliminated. Where do we sit?

All the information we've gathered so far, the whole structure of the information we've been getting, is that we're going to push this inside. We want to push this inside. In a sense, 80% of the prostitution is already inside, yet nobody is really talking about what kind of violence goes on in massage parlours or strip joints or escort services. But I know it's going on. There doesn't seem to be any research done there that I've seen tabled at this committee. We're just talking about street violence, and the alternative is to push them on the inside and out of sight, out of mind, so to speak. I'm curious about what you've found in that regard and what's happening in other countries.

Ms. Leslie Ann Jeffrey: Overall, there is less violence inside than there is outside, but there is still violence inside, as you pointed out. Canada's inside is still criminal. It is still criminal, if escort owners admit that is what is actually happening.

Mr. Art Hanger: I'm not talking about that. I'm talking about what you're finding in these other countries. You're bringing these other models forward all the time.

Ms. Leslie Ann Jeffrey: Yes. In Australia, I do not see the same complaints about violence, and I'll let you know when I get back from Australia next year. I have been in contact with the researchers there and there is much, much—

Mr. Art Hanger: But you don't have any stats to table here for us.

Ms. Leslie Ann Jeffrey: No, but you could go to the Scarlet Alliance, which is the sex workers organization in Australia. Who else? There are a number of organizations, but the Scarlet Alliance is the national one.

There are less stats there because it's been less of a problem, while here it's been a huge problem. You still have to address it, but what we have found is when it's indoors, there are protections in place, if you put those protections in place. As you said, and you're right, there's a real danger that if you put it indoors and just forget about it, the same problem could occur. But if you create the right policy solution, the right series of policy decisions, you can minimize, at least, if not eliminate.... There's always going to be violence—

Mr. Art Hanger: That's what we're here for, right? When we talk about policy solutions, what I've heard from many is that they don't really want a state-controlled licensing operation. These prostitutes would be just like anybody else in a working environment where they look after their own environment. The state wouldn't really be involved any more than they would in monitoring a mechanic doing mechanical work in a garage. That is what I'm hearing. With that kind of environment, which is what you're suggesting, I find it difficult to imagine it happening in that fashion.

Ms. Leslie Ann Jeffrey: That's the model that would be put forward. It would be like any other employment place. We have heard stories from escorts saying we didn't call about a violent client because we were afraid the police would ask what we were doing, and we'd have to admit what was going on here in Canada. The idea is if it's like any other workplace, we'd do exactly what we'd do in any other workplace—we'd call the police when there's a threat.

It happens at universities, right? We have violent incidents, threats, and we call the police. We have campus security. We have ways of dealing with that. We're not afraid to ask for that kind of help because being a university student or a professor is not illegal. But if we were doing something illegal, we'd lose that protection, right? The idea is to make it part of the general employment structure so that it can call on the services everyone should be able to call on —the police, who are there to protect us from violent predators.

● (1910)

The Chair: Thank you, Mr. Hanger.

Ms. MacDonald, do you have a comment?

Ms. Gayle MacDonald: To use your example, if you're running an automotive shop, if the automotive manager beats up on the client or the client beats up on the automotive mechanic, the police are called. In other words, a parallel would be....

When you were talking, I thought where you were going was to talk about domestic violence. What protections are there for women in a marriage who are being beaten? For example, there was a time in Canada when women who were victimized were considered to have brought it on themselves or considered to be somehow participatory in the act; therefore, they were reluctant to report. They were committing no offence.

Sex workers would say that their ability to name the violent client is directly related to the criminalization of the trade. They want to be able to name the violent client. They're afraid of the violent client. They want themselves and other citizens protected from the violent client. One S and M worker who ran a dungeon in the city we interviewed her in said that she sees creepy people all the time, and she knows who is capable of murder and who is capable of great heinous acts. She has to be able to assess them in order to do her work, and she said that she would like to be able to tell the cops who, in her estimation, is a danger to society and who is just quirky and is looking for a fetish solution.

The Chair: I think we'll have to cut you off, Mr. Hanger.

Madam Brunelle.

[*Translation*]

Ms. Paule Brunelle: We keep hearing many contradictory things in this committee, which makes it rather difficult to understand the real situation. There are different perceptions.

I would like you to talk about the involvement of organized crime. Some police officers have told us that the sex industry seems to be controlled by organized crime. Others have told us that it isn't so.

Do you have any studies about that? Do you have any data? What is your thinking? Do you believe that organized crime is very involved in the prostitution industry?

[*English*]

Ms. Gayle MacDonald: Not in the Maritimes. What we see in the Maritimes are mainly women and men working independently, for themselves. We haven't seen evidence of rings of people bringing people in. There have been mentions in Moncton, for example, that there is some Hells Angels involvement. We haven't seen evidence of that. The PEERS group that's established in Moncton has indicated that might be the case. It's not as developed as other parts of Canada, I can certainly tell you that.

The sex worker in the Maritimes is very similar to a lot of workers in the Maritimes. They're fiercely independent. They work for themselves. They're fairly anti-authoritarian. They want to control the conditions of their work. So there's a lot of resistance to even the idea of organized crime controlling them.

The other thing I wanted to mention is that of the 52 workers we interviewed, the mean age was 32. Most of the people we interviewed were quite capable of taking care of themselves. They wouldn't have taken kindly to the extortion or exploitation that organized crime might involve. There is some evidence—it's only peripheral in the work I did with police—of organized crime involvement in drug trafficking, but that's not to say that's synonymous with the sex trade.

Ms. Leslie Ann Jeffrey: All I would add to that is...again, this is just one story that a sex worker in Toronto pointed out to me. She said, "You know, I worked for organized crime. They weren't half bad as an employer." They may own the bar; that doesn't mean they like traffickers. It's not necessarily true that they're controlling the women. Some might be. It's also true that this is another way to make profits for them.

The other thing, of course, is that what decriminalization does, if organized crime is making profits from that, is pull the rug out from under it. Organized crime can only make profits on illegal activities, or that's what they like to make profits on. When it's not illegal, it becomes difficult for them, except in those cases I pointed out in Australia, where the policy design was such that it created these massive, controlled-from-the-top—not by sex workers—brothels, and that invited organized crime in. If it's bottom up, if it's sex worker driven, if you sit down with sex workers and design what it would look like, that will be pretty much taken care of.

● (1915)

[*Translation*]

The Chair: Ms. Brunelle.

Ms. Paule Brunelle: In Montreal, we met with citizens from the Center-South neighborhood who were very angry, and with reason. I'm talking about people who had lived in the same house for 60 years and who had been forced to move because there were sexual activities going on in front of their house, in front of the daycare center. There were needles and condoms.

Do you believe that decriminalization would resolve this issue? What can we do for those people? How can we solve this very real problem?

[*English*]

Ms. Gayle MacDonald: I agree that's a real problem, and it's one that sex workers recognize as well.

Again, is there a model in that community of conversations between police, neighbourhood associations, and sex workers? Are they talking to each other? Do the neighbourhood associations get to talk to the sex workers in some mediated fashion so the sex workers realize that the neighbourhood does not want them there? Are the police forcing sex workers to work in that particular neighbourhood because of restrictions in other neighbourhoods, for example? Those are the kinds of questions I would raise. Finally, are sex workers asked for their solutions to that problem?

What we found, in the jurisdictions we were working in and interviewing sex workers, was they had all kinds of solutions for neighbourhood associations if they would talk to each other. So in the cities where they were talking to each other, solutions were happening; in the cities where they weren't, there was a lot of anger and a lot of distancing between the two parties.

The Chair: Go ahead, Ms. Jeffrey.

Ms. Leslie Ann Jeffrey: Decriminalization will allow for more rational policy decisions. Most sex workers would prefer to work indoors, if that were possible. I have noticed, in talking to residents, that often there are these other issues. They've been there for 60 years, but 25 years ago there probably were sex workers too, but it seemed like a different trade at the time in a particular neighbourhood. Perhaps criminalization has brought two criminal elements together—drugs with sex workers in the small portion that most affects residents—in the same place. So the trade becomes very different under those circumstances.

Our community in Saint John began to recognize that. They kept saying, "You know, back in the seventies there were sex workers here, and they were neighbours and friends. We knew who they were. There were fewer, they were older, and they were there to work. There were issues, but we got along." Now there are drugs involved in this particular neighbourhood. That's not to say that drugs are everywhere in the sex trade. I think they are no more in the sex trade than in other occupations, but it's very visible when it happens on the street in the sex trade.

Our committee realized our problem was that we didn't have a methadone clinic. Many of our sex workers, who also happen to be addicted to opiates, are desperate for methadone. Our sex work committee actually became proponents of bringing, finally, a methadone clinic to Saint John. The residents are quite happy about this change in events. What we needed to address was not sex work per se, but the drug culture around it. So there were these other linked issues that needed to be addressed to help the residents. As we address each one of these issues, it seems to make for good neighbours among sex workers and residents.

The Chair: Thank you, Madam Brunelle.

Dr. Fry.

Hon. Hedy Fry: I think we have some of that in the downtown eastside. Some of the residents say there are condoms left lying on the grass and the kids are playing. They're hanging around the schools and soliciting cars that are passing by. The kids are walking by and seeing them. It is fully associated with needles in the grass and with the drug trade. I think you've made a point.

I always find the involvement of organized crime very interesting. The very words "organized crime" mean that people are indulging in organized criminal activity. But when the activity ceases to be criminal, how would organized crime then want to be involved in something that is no longer a criminal activity?

One only has to look at prohibition in the United States during the time of alcohol prohibition. That was when the Mafia and all of the various organized criminals were involved in booze, gin joints, rum running, and all of that kind of thing. I think regulating anything is very important if we can decriminalize it and regulate it.

I think the problem is this, though. I have heard this before. I think I know what my answer is, but I would really like to hear your answer. People have said they don't want their granddaughters to do this work. If you decriminalize it and it becomes a licence to decriminalize ordinary business, a granddaughter may eventually get up one day and say she thinks this is what she wants to do for a living. We met in Montreal with women who said they chose to do it.

I think what you said, Gayle, is the issue that always interests me. What is sex work? What becomes prostitution and what becomes a one-night stand? Is it money? How much money?

I always thought *Sex and the City* glorified the whole issue by saying a good dinner with a good-looking guy was basically all there was, and it didn't matter if it was a different guy every night. Our kids are watching that on TV. They're thinking about that gorgeous woman who wears Prada and goes around in new dresses. Then she is doing this and sleeping around, saying it's fine for her to do that and not something that is dangerous. As you said, we need to really discuss sex education.

What I wanted to ask you was this. It seems as if the idea is that this is something you don't want your granddaughter to do. The fear is that if you decriminalize it, your granddaughter will do it.

I think I know the answer. I have no idea what my granddaughter would want to do one day. I have no idea what life will throw at her. All I want to know is that whatever she does with her life one day, she's not going to be made a criminal and she's going to be safe doing it at the end of the day. Some of these things are outside our own control. You can do what you want and things happen to people.

I want to know how you would answer that question.

● (1920)

Ms. Gayle MacDonald: I think the logic you point out there is an accurate one. I see this in the debate around sex education curriculum in New Brunswick schools right now. The argument from those opposing the sex education curriculum is that if you make information on sex available, they're going to do it. Well, guess what? They're going to do it whether they have information or not. Wouldn't you rather they have information and be safe?

The lack of knowledge on sexually transmitted infections for my students who are aged 18 to 22 is appalling. They don't know that the rate of chlamydia is increasing among university-aged populations. That is the single greatest population for the increase. They don't know how to protect themselves. They don't know how to recognize anything. They don't get tested often.

I have a nine-year-old daughter. I wouldn't necessarily want to see her in the sex trade because of the danger, the exploitation, and the risk of being killed. It wouldn't be my first choice for her, I would readily admit, because of the way it currently exists. Whatever she chooses in life, I would want her to be safe and not criminalized, to be able to live and not be murdered or exploited, and to be able to set her own terms and conditions on how she lives her life.

My nine-year-old and my eleven-year-old son are very well aware of the research that mommy does. We have talks at our house about sex. We have talks about the sex trade and the people who sell sex for a living. They have an age-appropriate understanding of that kind of work. I think it demystifies it for them.

We don't talk about sex directly, but we have the *Sex and the City* show. It's everywhere. We use sex to sell toothpaste, yet we don't want to have honest discussions. Sex happens everywhere. Some people do it in exchange for money, and nothing we do is going to curb the behaviour if we continue to criminalize it.

For example, I don't necessarily share this view, but if some people see sex workers as victims, why are we criminalizing victims? We don't criminalize the victims of any other offence and we don't criminalize the victims in any other scenario. It doesn't make any logical sense to assume that you can control people's sexual behaviour by criminalizing it.

● (1925)

Hon. Hedy Fry: Thank you.

There is one piece I wanted to ask about that has to do with that. It's not so much a question as it is a comment.

As a family doctor for 23 years, I found that the young people who waited and who participated in sex at a time when they were fully ready were the ones who talked about it, the ones who came to me for advice, the ones who discussed the issue, rather than the ones for whom it was a huge mystery. So I do think that's an issue.

I think it has to do with the idea that sex is wrong and that a sex worker is therefore an immoral human being. I think that is probably where that all came from. It was interesting to look way back in history and find out that the great courtesans were considered to be people you wanted to have come to your salon, not people you wanted to walk away and hide from. So, again, it's the way things have happened.

But I hear you, and I want to thank you for coming to talk to us today. You're echoing some things we heard from sex workers in Montreal when we were there, and I find that those things make a lot of sense.

Ms. Leslie Ann Jeffrey: I might also point out that decriminalizing doesn't stop policy-makers from making other choices. Sex workers said to me that they would like you to address the wage gap between women and men. They said there are women and men doing this who shouldn't be doing it. They're not happy. If you increased funding for education and social assistance rates, they probably wouldn't be doing it, and maybe they shouldn't be.

I think we need to point out to people who think we're encouraging it by decriminalizing it that this doesn't mean you stop ensuring that there isn't gender exploitation and all those other things. We do have lots of other policies to address those issues. But we shouldn't be punishing people for being in sex work or making it more dangerous for them because we're afraid. We need to use more positive policy responses.

The Chair: Thank you.

I just have a couple of quick questions. Do you find, in your study of prostitution, that Atlantic Canada is similar to or different from other regions of the country? Are there commonalities? Are there differences? In considering prostitution laws, should they be uniform across the country, or should different regions or different municipalities be allowed to make their own regulations in accordance with their needs or their problems in the situation that presents itself in that specific region or municipality?

Ms. Leslie Ann Jeffrey: As we've met across the country, I think the research has shown that the similarities are extraordinary in terms of the fact that this is work for women and for men; that violence is their greatest concern; that they're angry at the media for the way they're portrayed. Those same facts come out of research across the country no matter how we do the research. We do very different types of methodologies and get the same responses. It's quite extraordinary, from Halifax to Vancouver.

Should policies be community-specific? Yes and no. At one level we need to ensure that there are certain basic human rights respected across the country. In the good Canadian national tradition, it has to be the same, like health care. Should community associations, boards of both sex workers and community residents, come together to work out the specifics of how that's going to happen? Probably. That's probably going to have to be local, but I don't think it should be left to municipalities or municipal governments just to decide what they're going to do. There have to be Canadian national standards, based on human rights, on labour legislation, on those sorts of things. They might be worked out in particular details differently in each municipality.

The Chair: Thank you very much.

Go ahead, Professor MacDonald.

Ms. Gayle MacDonald: I just wanted to respond that sex workers make less money in the Atlantic provinces, like the rest of us who work in the Atlantic provinces. That's one key difference.

The Chair: Thank you very much for your attendance here this evening. We very much appreciate it. I agree with Dr. Fry. You're straightforward, you're frank, and you're very simple for us to comprehend. Your solutions, I think, are certainly very realistic to the situation.

Again, thank you for your presence. Enjoy a safe trip back to the Maritimes. You may be paid less, but it's a great place to be from and to go home to live—and for us to visit as tourists, perhaps.

Hon. Hedy Fry: We need the Maritimes. There's a western maritime province, you know. It's called British Columbia.

● (1930)

The Chair: Beautiful British Columbia.

I'll adjourn this session now. Perhaps we'll just take two minutes and allow people to disperse, and then we'll go to a few housekeeping matters on the next round of travel.

[*Proceedings continue in camera*]

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