



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

44th PARLIAMENT, 1st SESSION

---

# Standing Committee on Justice and Human Rights

EVIDENCE

**NUMBER 002**

**PUBLIC PART ONLY - PARTIE PUBLIQUE SEULEMENT**

Tuesday, February 8, 2022

---

Chair: Mr. Randeep Sarai





## Standing Committee on Justice and Human Rights

Tuesday, February 8, 2022

• (1610)

[English]

**The Chair (Mr. Randeep Sarai (Surrey Centre, Lib.)):** Welcome to the second committee meeting of this 44th Parliament to review the Protection of Communities and Exploited Persons Act.

First up, we'll have Ms. Levman, along with Ms. Morency. You'll have five minutes for your submissions, and then we'll go for a round of questions. We are going to keep this within 30 minutes, and then we have to go to the next panel.

Go ahead, Ms. Levman.

**Ms. Nathalie Levman (Senior Counsel, Criminal Law Policy Section, Department of Justice):** Thank you, Mr. Chair, for the opportunity to be here today to speak to former Bill C-36, as well as to what we know about the social context to which it applies and its impact.

Available data in Canada and around the world identifies that the majority of people who provide sexual services are women and girls; the vast majority of those who purchase sexual services are men, and the majority of profiteers and procurers are also men. Unfortunately, there's limited data on the involvement of LGBTQ2 individuals.

The 2006 report of the justice committee's subcommittee on solicitation laws indicated that about 75% to 80% of persons engaged in the sex trade are female, and about 20% are men or gender-diverse individuals. More recent data from research undertaken by Dr. Benoit of the University of Victoria and Dr. Bruckert of the University of Ottawa are consistent with what the subcommittee reported in 2006.

The reasons that people may provide sexual services are diverse. Their involvement in the sex trade is influenced by a variety of socio-economic factors, including poverty, youth and lack of education. While some involved in the sex trade are independent in the sense that they are sufficiently empowered to control how, when and where they provide sexual services, many others are not.

In response to the Supreme Court of Canada's 2013 Bedford decision, Parliament enacted former Bill C-36, which came into force on December 6, 2014. This bill brought into force a version of the Nordic model, first implemented in Sweden in 1999.

The preamble to former Bill C-36 identified its objectives as including protecting human dignity and equality and preventing exploitation and violence. Consistent with other Nordic approaches, the bill sought to achieve these goals by targeting the demand for

sexual services and those who capitalize on that demand. Specifically, the bill created new offences prohibiting purchasing and advertising sexual services as well as receiving a material benefit from others' sexual services and procuring others to provide sexual services. The bill also immunized those who provide sexual services from criminal liability for the role they play in the now illegal transaction for sexual services. These offences also continue to criminalize purchasing sexual services from minors and involving minors in the sex trade.

The parliamentary record indicates that the exceptions to the profiting offence—the material benefit offence—are intended to ensure that those who provide sexual services aren't prevented from hiring bodyguards and others who may enhance safety. The immunities are intended to ensure that individuals are not prevented from selling their own sexual services independently or co-operatively, including from fixed locations.

A June 2021 Statistics Canada Juristat entitled “Crimes related to the sex trade: Before and after legislative changes in Canada” indicates that since the enactment of Bill C-36, those who are convicted or charged with a purchasing offence are almost invariably men; profiteers and procurers are predominantly men, and victims are predominantly female. Both the Criminal Code and Statistics Canada refer to persons who are subjected to offences as victims.

In the six years prior to the 2014 enactment of Bill C-36, 43% of those accused of sex trade-related offences were women. In the five years after the change in legislation, 93% of individuals accused in all sex trade-related incidents were men, and 94% of victims in incidents where a sex trade-related offence was reported were female.

Relevant case law indicates that the material benefit, procuring and advertising offences have been used in cases involving complainants who are predominantly female, under 18, or young adults and vulnerable—for example, due to unstable housing or addictions. Those vulnerabilities are often exploited by procurers or profiteers, who may exercise influence over them in a variety of ways, including by getting them to agree to provide commercial sexual services through psychological manipulation.

Lower court decisions in the context of prosecutions have come to conflicting results on the constitutionality of the material benefit, procuring and advertising offences as they apply to the adult sex trade. The constitutionality of all the offences enacted by former Bill C-36 is currently before Ontario courts in the context of a civil application.

• (1615)

Justice Canada also supports initiatives designed to assist those who have been harmed in the sex trade.

I will conclude here. I look forward to attempting to answer any questions the committee may have.

Thank you.

**The Chair:** Thank you, Ms. Levman.

Now we'll go to Mr. Moore for the first round of questions, for six minutes.

**Hon. Rob Moore (Fundy Royal, CPC):** Thank you, Ms. Levman and Ms. Morency. It's great to see both of you again. I take it from your testimony about the disproportionate impact that those charged with purchase and profiting post Bill C-36 are men and the victims are disproportionately women.

You took us through how Bill C-36 was a response from Parliament to the Bedford decision. Can you expand a bit more on any information you have through the department on the effectiveness of Bill C-36? I know that's always an interesting point, when we see government having to respond to a court decision. Bill C-36 was that response. Can you expand a bit on the effectiveness of this bill when it comes to going after those who are profiting from the sale of others' sexual services?

**Ms. Nathalie Levman:** I would like to make a few comments on the data that we have on the sex trade. It comes from a range of different sources, including social sciences, criminal justice statistics, and of course jurisprudence interpreting relevant offences. The available social science evidence in Canada and internationally tells us about the groups that it studies. For example, Professor Benoit of the University of Victoria and Professor Bruckert of the University of Ottawa have studied practising sex workers in particular locations.

Their research that postdates Bill C-36 concludes that the purchasing offence makes screening clients and negotiating safe transactions more difficult, and that the material benefit and procuring offences prevent sex workers from working together co-operatively and assisting each other. I would note though that the scope of the material benefit and procuring offences is currently before the courts, including the Ontario Court of Appeal in the N.S. matter, and that courts have made inconsistent findings on whether these

offences criminalize sex worker co-operatives or sex workers assisting each other.

The parliamentary record for Bill C-36 indicates that Parliament's intention wasn't to criminalize these measures. Obviously we have to wait now to hear about how the appellate courts interpret these offences, which of course has to be done prior to assessing them for charter compliance. The studies I've referred to—

**Hon. Rob Moore:** I don't have a ton of time, but thank you for that.

Are there any cases currently before the courts in which the federal government is intervening or planning to intervene to defend or support the law that's in place, the Criminal Code provisions?

**Ms. Nathalie Levman:** Yes, there are, for sure. There's the Canadian Alliance for Sex Work Law Reform matter. The Attorney General of Canada is responding to that. I didn't get to the next part of my data, if you'd like to hear about that. The studies that I referred to focus on individuals who identify as sex workers. Others who have been involved in the sex trade may not identify that way. Those groups tend to be harder to reach. We don't know as much about people who are coerced into providing sexual services or people who have exited.

In my remarks I noted that the Juristat and the available jurisprudence indicate that the sex trade is a gendered practice, and that profiteers and procurers take advantage of women's and girls' vulnerability for their own gain. I can provide some highlights of the data reported in the Juristat, but I would note for the committee that of course Statistics Canada is better placed to provide detailed information on its own data.

**Hon. Rob Moore:** The advertisement online of sexual services is not an emerging issue anymore. It is an issue. What, if anything, is the department doing to improve the law on that front? We hear from police departments and others that greater tools are needed to remove certain ads from the Internet. Is the department doing anything in that regard?

• (1620)

**Ms. Nathalie Levman:** I believe that's an enforcement issue. We know from the jurisprudence, which I can speak to, that there are reported cases. Considering the advertising offence, it's most often charged alongside the material benefit and the procuring offence in cases in which people are procuring or profiting from others' sexual services.

The constitutionality of the provision is before both the Ontario Court of Appeal and the Ontario Superior Court of Justice. There is some data in the Juristat, as well, that the committee might find useful on the advertising offence.

**The Chair:** Thank you, Mr. Moore.

I'll go to Mr. Battiste.

**Mr. Jaime Battiste (Sydney—Victoria, Lib.):** We did a study on this at the INAN committee, where we looked indigenous women who were being exploited. Could you comment a bit on what you're hearing from sex worker-led organizations, community groups and, particularly, marginalized groups like indigenous women.

Could you give us a bit of an understanding and elaborate on what's going on and what you're hearing?

**Ms. Nathalie Levman:** The research shows that due to colonization and intersecting factors of marginalization, indigenous women and girls are disproportionately represented among those who are involved in the sex trade or who are trafficked for sexual exploitation.

Individual groups representing indigenous interests and individuals as well have very different perspectives on the impact of the laws. Some advocate for decriminalization, while others strongly support the nordic model on the basis that the sex trade is a product of colonization that has disproportionately negatively impacted indigenous women and girls.

We see from the data that is available a very disproportionate number of indigenous women and girls involved in the sex trade generally. That's from the data that's available from the missing and murdered indigenous women and girls report, as well as data from Dr. Bruckert's and Dr. Benoit's research.

**Mr. Jaime Battiste:** Ms. Morency, would you like to chime in on that as well?

**Ms. Carole Morency (Director General and Senior General Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice):** No, thank you. I'm fine.

**Mr. Jaime Battiste:** What changes do you think need to be made to protect sex workers and, in particular, the marginalized sex workers from violence?

**Ms. Nathalie Levman:** I can really speak to you only about the knowledge that we have right now. Safety issues were front and centre when Parliament was considering Bill C-36.

Parliament, back then, acknowledged that some people choose to engage in sex work and that that's likely to continue to be the case, even in a regime that's designed to end the sex trade. The record indicates that it's for this reason that the legislation doesn't prevent individuals from implementing certain safety measures, in particular those identified by the Supreme Court of Canada in its Bedford decision.

In particular, the parliamentary record indicates that the legislative exceptions to the material benefit offence mean that sellers of their own sexual services may interact with others on a personal or commercial basis in the same way as anyone else, including if they want to rent particular locations or hire persons to provide services for fair market value. The bill's immunity provision means that they will not be held criminally liable for providing sexual services independently and co-operatively, including by pooling resources to pay for services that are excepted by the material benefit offence.

Acknowledging that these are live issues before the court, I would close my remarks there.

• (1625)

**Mr. Jaime Battiste:** You mention two kinds of polar opposite approaches to this. You mention the Nordic model and you mention what's currently.... Are there any other types of systems that we should be looking at as the Canadian government? I hate to say best practices around sex work, but are there different practices that aren't either legalizing it or keeping it the way it is? I'm just wondering if you could speak to any other countries that are taking any innovative approaches to laws on this.

**Ms. Nathalie Levman:** There is a range of different legal regimes applicable to the sex trade that have been implemented around the world. The prevailing debate, though, internationally, concerns whether decriminalization or the Nordic model best addresses the risks associated with involvement in the sex trade.

You already know that decriminalization involves removal of all sex trade-specific laws to enhance and protect sex workers' health and safety, so sex trade-specific regulations may or may not apply in that context. However, the critical feature of this model is that criminal laws don't. New Zealand is the usual example of decriminalization.

The Nordic model, which is also referred to as abolition, the equality model or the end-demand model, seems to reduce the demand for sexual services as much as possible, with a view to ending the sex trade by criminalizing those who create the demand and those who capitalize on it, but not those who provide the services. This is because this approach posits that the sex trade both reflects and perpetuates systemic and structural discrimination against women and girls. Eight countries have implemented the Nordic model to date: Sweden in 1999, Norway and Iceland in 2009, Canada in 2014, Northern Ireland in 2015, France in 2016, the Republic of Ireland in 2017 and Israel in 2020.

There are two other models, and I believe you referenced a couple of them. One is legalization. It involves a regulated sphere in which the sex trade is allowed to take place, with criminal laws applying outside that sphere. Germany and the Netherlands are the usual examples of that model. Finally, there is prohibition, which criminalizes all of the involved parties, both those who purchase and those who provide sexual services, as well as anybody who involves themselves in anyone else's sexual services, including by profiting from them. All the states in the U.S. have implemented this approach, with the exception of Nevada, which has legalized brothels.

**The Chair:** Thank you, Mr. Battiste.

I'm going to go over to Madam Michaud.

Madam Michaud, you have six minutes.

[*Translation*]

**Ms. Kristina Michaud (Avignon—La Mitis—Matane—Matapédia, BQ):** Thank you, Mr. Chair.

I want to thank the witnesses for joining us today. I appreciate it.

Ms. Levman, Bill C-36 had three goals. You talked a bit about them. The bill aimed to protect people engaged in prostitution, who are considered victims of sexual exploitation; to protect communities from the harm caused by prostitution; and to reduce the demand for sexual services.

Based on the data that you have managed to collect in recent years, since the passage of the Protection of Communities and Exploited Persons Act in 2014, do you believe that these goals have been met?

I want you to provide an overview of the situation.

[*English*]

**Ms. Nathalie Levman:** I've already gone over the available data for the committee for members' information, but I'd be very happy to speak to the bill's objectives, which are, of course, articulated in its preamble as well as in the parliamentary record, which includes the Department of Justice's technical paper on Bill C-36, because it was tabled before both committees that studied that bill.

The record indicated that the bill's ultimate objective is to reduce the demand for sexual services, with a view to discouraging entry into it, deterring participation in it and ultimately abolishing it to the greatest extent possible. The record also indicates that the Nordic model generally, and Bill C-36 in particular, is aimed at protecting the equality and dignity of women and girls, because the model views the sex trade as disproportionately and negatively impacting this group, in particular the most vulnerable among them. The Nordic model also posits that the sex trade both reflects and perpetuates structural and systemic discrimination against women and girls.

The parliamentary record also points to a range of harms that are perceived to be caused by the sex trade, and the legislation is aimed at addressing those harms. They include harm to the individuals involved, in particular the most vulnerable, who may not be sufficiently empowered to protect themselves; harm to women and girls generally by treating them as a commodity; and harm to all of society on the basis that societal inequalities negatively impact everyone.

The record also indicates that the bill was intended to avoid the harms that some perceive to be caused by decriminalization and legalization, such as a larger sex trade and higher rates of human trafficking.

• (1630)

[*Translation*]

**Ms. Kristina Michaud:** Thank you.

In light of this information, can you say whether these goals have been met?

Should the Criminal Code be amended?

Should the legislation be updated because these goals haven't been met?

Can you elaborate on this topic?

[*English*]

**Ms. Nathalie Levman:** I tried to give an overview of the relevant data that speaks to all of this, including the Juristat from Statistics Canada and the jurisprudence. We have numbers for charges under each offence that can be reviewed in the Juristat itself. I think that the Juristat could be very helpful to this committee in assessing the impact of Bill C-36.

Does that assist you? It's not my role to provide a personal opinion.

[*Translation*]

**Ms. Kristina Michaud:** I understand.

Thank you.

I gather that parts of Bill C-36 have been ruled unconstitutional at the trial level because the provisions make it harder to protect the health and safety of people who sell sexual services.

Do you have any recommendations?

Very hypothetically, how could these parts be improved if they were declared unconstitutional?

Can you make any suggestions?

[*English*]

**Ms. Nathalie Levman:** No, but I could speak to the charter jurisprudence, if that could help.

[*Translation*]

**Ms. Kristina Michaud:** Yes. This will help us.

[*English*]

**Ms. Nathalie Levman:** The constitutionality of the sex trade offences has been and remains before courts. Some of these offences have been assessed for charter compliance at the trial level in the context of prosecutions. In particular, the material benefit, the procuring and the advertising offences have been considered, with conflicting results.

At the Alberta Court of Appeal, we have the Kloubikov case in 2021. That case struck down the material benefit and procuring offences. Then in N.S., the Ontario Superior Court of Justice struck down all three provisions. Both decisions have been appealed, so they are before the Alberta and Ontario appellate courts. Also, in three 2021 decisions that were subsequent to the N.S. decision, the Ontario Superior Court found the N.S. decision plainly wrong and refused to allow it.

One of the main issues the court is grappling with is the scope of the material benefit and procuring offences, and in particular whether they capture sex worker co-operatives or sex workers who help each other. The parliamentary record, as I've said, indicates that these activities are not intended to be captured, but some decisions have found otherwise, so it's a live statutory interpretation issue that has to be resolved prior to assessing the provisions for charter compliance.

It's very difficult at this stage to answer your first question, when we're not even sure what the courts will say about the scope of the offences.

• (1635)

**The Chair:** Thank you, Madame Michaud.

I'll now go over to Mr. Garrison.

**Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP):** I thank the witnesses for being with us today.

I think Mr. Moore and I are the only ones on the committee today who had the privilege of being in the previous Parliament, which enacted this bill. At the time, one of the few things on which there was unanimous agreement was that there should be a comprehensive review of the act and provisions five years after it came into force. Given that it was proclaimed in 2014, this review has been due to begin for the last two years. I'm not laying that on the government. I'm laying it on Parliament, that we're a bit late in starting this.

My first question has to do with whether the Department of Justice, in anticipation that this review was legislatively required, did its own research or commissioned research. The review calls for a comprehensive review of both the provisions and the operation of the act.

Did Justice commission any studies itself, or are you simply depending on other studies that happen to have been done?

**Ms. Nathalie Levman:** We did partner with the crime statistics division of Statistics Canada to do the Juristat. A Juristat was done just prior to the enactment of C-36 for a comparison. Soon we will be releasing a report on the experiences and characteristics of those who were served by the organizations that received the funding that was attached to Bill C-36.

We also, of course, always monitor jurisprudence, secondary sources and research, etc. That is a normal part of our work, so that we can understand what's going on and how the bill is impacting others from the point of view of stakeholders.

**Mr. Randall Garrison:** Those who have followed the public positions I've taken on this will know that I was hopeful we could involve those most directly impacted by the law, and that is the sex workers themselves, in the design and in setting the scope of this study.

What you've just told me now confirms to me the importance of the testimony we're going to hear from those witnesses, because what we have is really just a review of case law and police charging statistics, and we don't really have, from Justice, the comprehensive review that we'd really need on this bill.

Again, I'm not casting that at you. I'm just saying that we don't have that available here. I know the committee will keep in mind, as we continue to invite witnesses to the committee, that we really need to have a good balance that includes those who are most directly affected by the legislation.

**Ms. Levman,** when you reviewed the objectives of Bill C-36, the original bill, you reminded me of what my original objection was. The bill really comes from a prohibitionist stance, so its objectives are to stamp out, reduce and remove sex work. Those are laid out in the objectives as you described them.

Would you agree with me that that is the premise behind Bill C-36?

**Ms. Nathalie Levman:** All Nordic approaches aimed to end the sex trade. That is because they view the sex trade as a form of discrimination against women and girls and a problem for their equality. So yes, that is one of the objectives, but I think Nordic model supporters would tell you that it's very different from a prohibitionist model in the sense that the Nordic model posits that there is a power imbalance between the person who purchases and the person who provides sexual services, and that power imbalance is recognized by not using the criminal law against people who provide their own sexual services. In that sense it's very different from a prohibitionist model.

**Mr. Randall Garrison:** The Bedford decision, which precipitated this action by Parliament, was fairly sweeping in wiping out all the provisions that criminalized those involved in sex work.

I'm asking for a legal opinion, not a personal opinion. How would you say the court cases that are now coming forward are dealing with the Bedford decision versus Bill C-36? In other words, are any of those cases focused on whether Bill C-36 and its current provisions are consistent with the Bedford decision?

• (1640)

**Ms. Nathalie Levman:** As I said, the case law comes to very different conclusions. We have conflicting results, and I've explained that already, but maybe I can note, as you'll likely recall, that during the study of Bill C-36 some parliamentarians did express their view that Parliament isn't precluded from imposing limits on where and how the sex trade may be conducted. That's from the Bedford case itself, in particular to protect the vulnerable and society from the harms they view as being associated with the sex trade.

These parliamentarians noted that the premise of any charter assessment has changed, because Bill C-36's objectives are significantly different from those of the previous regime. The bill would make the sex trade illegal. Bedford was dealing with a regime in which the transaction for sexual services was legal. It was a legal activity, as the Supreme Court clarified.

Parliamentarians—those in favour of the bill, of course—also noted that the bill attempts to balance the interests of those who choose sex work and are in a position to take steps to protect themselves with the interests of those who are not, by criminalizing purchasing and third party involvement while also ensuring that sex workers aren't prevented from taking certain steps to protect themselves as identified by the Supreme Court of Canada in its Bedford decision.

**The Chair:** Thank you, Mr. Garrison.

I want to thank you, Ms. Levman and Ms. Morency, for your time.

We're now going to suspend for a minute while we get the next witnesses.

• (1640) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1640)

**The Chair:** Thank you both for joining us.

We're going to allow each of you to speak for five minutes. We'll start with Ms. Botting and then have Ms. Wesley after that. We'll have questions, and there will be six-minutes rounds, and we'll go from there.

I will pass it over to you, Ms. Botting.

**Ms. Carolyn Botting (Sergeant, Ottawa Police Service, As an Individual):** Good afternoon. Thank you for allowing me the opportunity to speak.

I would just like to start by saying that I am coming as a private citizen, although it will likely be discovered that I am a police officer of 25 years. Most of my career has been spent working with victims of vulnerable and gender-based violence and in relation to sexual violence. I would like to speak concerning some of the stuff that I have witnessed in regard, more specifically, to youth involved in human trafficking and procurement.

I could continue to speak, or I could just jump into questions.

**The Chair:** It's up to you. You have up to five minutes if you want to make a statement. If not, then we can go over to Ms. Wesley, and then we'll go to questions afterwards.

**Ms. Carolyn Botting:** I don't need to take any more time.

• (1645)

**The Chair:** Okay, we will move over to you, Ms. Wesley.

**Ms. Sandra Wesley (Executive Director, Stella, l'amie de Maimie):** Hi. I'm Sandra Wesley. I'm the executive director of Stella, l'amie de Maimie, an organization by and for sex workers based in Montreal.

I know Jen Clamen from the Canadian Alliance for Sex Work Law Reform was supposed to speak, so I had expected that she was going to maybe tell you more about the broad impacts of the law. Hopefully she will get a chance to come and do that.

For one, it's really important to note that groups like Stella represent all people who exchange sexual services. No one comes to start and work in and lead an organization by and for sex workers if they haven't experienced violence, if they haven't experienced diffi-

cult working conditions, or if they haven't lived the impacts of the law.

It's very important that you refuse this dichotomy of sex workers who choose sex work and maybe have happy experiences and sex workers who experience violence, who have bad working conditions. We organize to fight for our rights because things are wrong and we need to fix them. That's a very important point that I urge you to resist. Just because we do not give you horror stories and just because we do not share those intimate things with you does not mean that those things do not exist and that it's not who we're speaking about.

First, the entire PCEPA needs to be repealed. It is a law that is dangerous and that is harming people in many different ways. There's no middle ground. There's no repealing some of it or tweaking it to make it acceptable. It is a law that harms people, that puts people at risk of violence, that encourages exploitation in the sex industry and that prevents us from having good working conditions.

I also want to point out that there's not a lot of debate about the harms of this law. We just heard from Ms. Levman that, as she said, the new objectives have changed the analysis of the constitutionality of this law, which is very similar to pre-Bedford laws in some ways.

What that means in day-to-day terms is that no one is necessarily disputing that this law is killing people, that it is putting people at risk of violence, that it is putting people in poverty or that it is doing all kinds of harms to people. It's just that now, with this bigger objective of eradicating us that maybe some people think there's an argument to defend, that it's okay if some of us get murdered in the pursuit of that objective. I just want that to be very clear.

I'm going to list for you a few examples of situations that we see as we provide services to sex workers in Montreal. As we provide services, we make about 5,000 to 8,000 contacts per year with sex workers here in Montreal.

Since the law passed, sex workers can now be evicted from their homes if they work from home. We have many decisions in Quebec where the rental board has evicted people based on the fact that they now do criminal activity in their apartment and therefore that is grounds for eviction. This puts women at risk not only of the actual eviction, but also of threats and extortion from their landlords who, when they discover that they have this power now to evict them, may double their rent, may demand sexual services in exchange for money and may threaten them in many other ways. We see this every day here at Stella.

Then, in terms of employment, it means that because sex work is criminalized and our income is the product of crime, we do not have access to employment insurance. At the beginning of COVID, we didn't have access to CERB and to the new assistance that is available now. We do not have parental leave. We cannot have any recourse with employment standards or with occupational health and safety institutions. All the protections that belong to all workers across Canada are not accessible to sex workers. This has very dire consequences on women we see here every day.

In terms of money, it is very dangerous now for sex workers to use bank accounts or any sort of banking instruments. Platforms such as PayPal and other online payments will track down sex workers and shut down our accounts because of the criminal activity. FINTRAC has been mandated to monitor transactions to spot sex workers under the guise that we might be victims of trafficking, so banks are now tasked with spotting sex workers and reporting us, seizing our money and freezing our money. We see sex workers come in here all the time telling us, "My bank just froze my account because they said my phone number is associated with my escort ad and I looked like a sex worker and they investigated me." The consequences of that are really dire.

It's the same for simple things like reporting for income tax. Our income is criminal, so what do we do? Do we file a tax return with our income and risk consequences? Do we not do it? Sex workers have to face these decisions every day.

• (1650)

In terms of violence, obviously these laws greatly increase the risk of violence. For one thing, we cannot report violence without any violence against us being reinterpreted through the lens of sex work being violent as opposed to the actual crime that we want to report.

One example could involve a sex worker who is receiving threats or being harassed by a former boss. This person will come here to Stella. We'll sit in our living room with her and go through our options. She will figure out that if she goes to police to report harassment, there's a very high likelihood that she will have to disclose the relationship with this person and that police will then investigate her former workplace. Her former colleagues might be deported or arrested. The receptionist might be arrested. The workplace might be shut down, and police will focus on the fact that she's a sex worker and not actually address the harassment. It's the same thing if there is an assault by a client in a workplace.

We had a very dire example in Quebec City of a young sex worker who was murdered by a client who had been banned from a massage parlour. That massage parlour was not able to report that to police. When she met with him at a hotel, she could not put security measures in place; her objective had to be to protect herself from being detected, because she was participating in a crime at that moment.

We have another example of a Montreal sex worker who was murdered in Alberta. She was working with an agency. When things seemed to not be going okay, the driver was not in a position to be able to call the police to ask for help, because as a driver he was committing several of the offences of the PCEPA. It took three

days to convince police to go and actually look in that apartment and find her, because sex work is criminalized.

For street-based sex workers, especially indigenous women, it's very clear to us that all women who are most—

**The Chair:** Ms. Wesley, I'm just going to ask you to wrap up, because then we'll take questions.

**Ms. Sandra Wesley:** I'll just finish this one point.

Women who are the most at risk of police repression or of unwanted contact with police are the women who are the most at risk of going missing or being murdered. We have examples here in Montreal of sex workers who have gone missing, who have been murdered, who are still missing today because of this constant race to escape from police. It is the same women who face the consequences of this law who are the most at risk of violence. This law plays a huge role in this. It is not the only factor, but it is a major factor.

**The Chair:** Thank you, Ms. Wesley.

I will go to our first round of questions.

We'll start with Mr. Morrison.

**Mr. Rob Morrison (Kootenay—Columbia, CPC):** The questions I'm going to focus on are for Ms. Botting.

With your experience with frontline policing in Ottawa or in Canada, I'm curious about a few things. I really want this committee to understand what it's like on the streets. I'm glad you're here as a witness for us.

You were involved in a really interesting investigation a few years ago. I remember talking to you about that many years ago. It was a teen pimping operation involving young girls. I wonder if you can explain to the committee here how these young girls managed to control the sex workers. After that, tell us what you as a police officer or as a person learned from that investigation.

**Ms. Carolyn Botting:** I just wanted to touch on what Ms. Wesley said and how passionate she is. The safety of the people who are involved in this has to be paramount. What I have observed throughout my career is the vulnerability of recruiters, and the women and girls who are involved in this often become recruiters as a result of the abuse that they've gone through. I agree with Ms. Wesley that many people don't get into this dichotomy of the glorified sex trade work versus the horrors that most of them face. The girls I've met and the girls I work with become recruiters because if they're recruiting, then they're not subjected to the same level of violence. They're now recruiters.

In this law there is a punishment for recruiters, but our laws are such that it is very difficult to prosecute a recruiter who is the middle person and who is also a victim—like the girls who pimped out the young girls in Ottawa—and that evades the actual pimp. The pimp evades the prosecution if we're going after recruiters, so the recruiters are the ones who look like they're the pimps. With these teenage girls, we were never able to find out who was above them. I have no doubt in my mind that they were involved in prostitution.

How did they control these girls? They're young girls. They're the same age. We have to find a way to protect young girls from recruiting other young girls. They were the exact same age. They went to a party; they forcibly confined them; they drugged them, and then they turned them out onto the streets.

In the other cases that I've been involved in the pimp had young girls at the same age—15, 16, 13 years old—bringing them to parties, bringing them to hotel rooms. They were vulnerable victims from areas where we have to question ourselves where they are running from and what they are running to.

Mr. Morrison's question was what some of the solutions would be. We need to ask two questions. One is how we prosecute a person who is procuring when the bigger issue is why they are procuring and where that money is going. The other is how we recognize that the person procuring may also be a victim.

I did have a case where we prosecuted the procurer. She was a 16-year-old girl at the time. We put her through the youth criminal justice system and she testified at the pimp's trial as well. We always viewed that girl as a victim. She was sentenced to two years. What that did for that girl was get her away from everybody she was associated with, and with that in itself she got her high school diploma. She got her college education in those two years, and she's now out in society, married with children, and is actually somebody I contact every now and then.

I don't know if that answers your question perfectly, Mr. Morrison, but some of the solution would be to have social workers in the school deal with high-risk missing youth and recognize the signs. The girls I know and with whom I've become friends through working with them, I've learned from their stories and they've passed this along.

• (1655)

**Mr. Rob Morrison:** Thank you.

I'm just wondering if you could tell the committee here what tools you see that could be added to policing that would actually have a real impact on the sex trade?

**Ms. Carolyn Botting:** The one tool that was recently taken away from us, which had a big impact when I was working, was the school resource officers. When you are in a high school and getting to know the youth involved, and they're getting to understand that you have their best interests at heart, that you are a person in the community that they can go to, that's where you begin recognizing the vulnerable victims who could be involved or could be recruited, and then you're able to access those resources. You're able to work with the school; sometimes with the Children's Aid Society there's recruiting going on right inside their own group homes.

The school resource officer and the guidance counsellors are right there, working day in and day out with these vulnerable victims in the high school system. That's one tool that's been taken away from us in our own city.

**The Chair:** Thank you, Ms. Botting.

I'll now go to Madam Diab for six minutes.

**Ms. Lena Metlege Diab (Halifax West, Lib.):** Ms. Wesley, I listened intently and heard your passion. I have a few questions.

How long have you been doing this? You were speaking definitively, saying that this legislation needs to be, I guess, gotten rid of because it's not working and that, in fact, it's working in the opposite direction from what was intended when it was implemented in 2014.

You also talked about working conditions and protection for workers. There are a number of areas where largely women and girls are not treated according to the law the way other people are treated. Can you please share with us a bit more based on your experience of how long you've been working with this, exactly? What is it you would like us to see?

As you know, we're meeting today to understand if the act is working or not. Should we make amendments? If so, what kinds of amendments?

Can you tell me a bit more about your perspective?

• (1700)

**Ms. Sandra Wesley:** Whether or not it's working is a difficult question.

We highly disagree with one of the main objectives of the law. One of the objectives of this law is to send a strong message that as Canadians we have a social project to eradicate sex workers, that we hate sex workers so much that we want to make sure there is not a single sex worker left in this country at the end of this repressive regime.

Obviously, every single aggressor, every violent man and exploiter out there, hears the same message, that the Government of Canada wants to eradicate sex workers. There are plenty of cases of aggressors who don't feel that they're committing anything particularly bad when they're being violent towards sex workers, because they're doing what the government also wants to do, which is to eradicate sex workers.

We have the example in the United States last year. A man went and shot a lot of sex workers in massage parlours. He felt that he was following guidance from his community that said that you have to eradicate this industry.

For me, whether or not this bill is working.... It's more whether or not it is impacting people negatively when we analyze things from a human rights perspective. The main question we first have to get out of the way is this: Are people being harmed by this law? This is an unquestioned yes. People are absolutely being harmed by this law. The second question is this: Is it worth harming them? For us, as the people who are suffering the consequences of this law, it's obviously not worth it.

I want to add that it's very important to separate sex work from violence towards sex workers. We have a Criminal Code that is full of other laws of general application that should apply when people experience violence, whether at work or elsewhere. It is illegal to kidnap someone. It is illegal to rape someone. It is illegal to drug someone and make them do things. Those things are already crimes. We do not need sex work-specific laws that say that sex work itself is violence in order to prevent those things.

Obviously, I think it's important, when we're talking about violence, not to think that all sex work is all violence all the time, or that the majority of sex workers are just experiencing violence on a daily basis, because that's not the case. We know that we're experiencing violence and barriers to accessing care. We're experiencing health risks from this.

In the context of a global pandemic, we should be really concerned about health and the knowledge of public health experts. I hope that you will hear from some public health experts who will tell you that decriminalizing sex work is one of the main objectives in the fight against HIV. We will never end the HIV epidemic if we don't decriminalize sex work.

UNAIDS has as one of its objectives for 90% of countries to have decriminalized sex work by 2025. Canada, by choosing to ignore this and aggressively criminalize sex work, is choosing to not be a global partner in the fight against HIV.

**Ms. Lena Metlege Diab:** Miss Wesley, can I ask you another question? We heard from a previous speaker before this panel about statistics on those who are working in the industry, those facing charges, etc.

From your experience, can you speak to us about what you see through your work? Who is working in the sex trade? Who are the clients? Who's the most vulnerable or most at risk of violence? What is the misinformation that you hear on sex workers and the legal system? I think you started to talk about that.

**Ms. Sandra Wesley:** It's very important to first point out that the data regarding the justice system is very incomplete, because most sex workers are not in those files. When we are caught up in a criminal investigation, we will not disclose facts about ourselves if we don't have to, so that is very limited.

What we see at Stella, in the context that we make, is that sex workers are incredibly diverse. We have women of all ages. It is completely false to think that most sex workers are young. At Stella, the majority of the women we see are in their thirties. We see a lot of women in their twenties and forties. We see women in their fifties, sixties and much older, as well, who have been working in the sex industry for a long time, or who are starting to work in the sex industry.

We see a large proportion of trans women and non-binary people. We don't serve men, but we know that they're also very present in the sex industry. They're not seen in the statistics so much, because there isn't a big social project to see men as victims of sexual exploitation and to eradicate them. There's not as much police enforcement that directly targets men, so we don't see them as much in the stats, but they do exist in our community.

Indigenous women—

• (1705)

**The Chair:** Thank you, Ms. Wesley. We have to go to the next question. I'm sorry.

Thank you, Madam Diab.

Madame Michaud.

[*Translation*]

**Ms. Kristina Michaud:** I want to thank the witnesses for joining us today.

Earlier, I tried to get a sense of the situation from the Department of Justice officials. However, it was a bit difficult for them to express a personal opinion, which we understand. I suppose that it will be a little easier to get that perspective from you, since you have been on the ground since Bill C-36 was passed.

Have the three main goals of the legislation been met? If so, was there any negative impact?

Ms. Wesley, you spoke about the negative impact on women and girls in the profession, for example. Could you elaborate on that impact?

**Ms. Sandra Wesley:** Yes, of course.

It should be noted that protection isn't necessarily the main goal. We can't eliminate sex work and protect people engaged in prostitution at the same time. These two goals contradict each other.

We find that criminalization complicates all stages of sex work in every part of the industry. A woman working on the street is considered a criminal. She can be arrested if she works near a park, school or daycare. These places are everywhere in an urban setting. She can also be arrested if she blocks traffic while working. Her client is also considered a criminal.

Before the implementation of this legislation, when a client arrived, you could talk with the client for several minutes and look in the car to see whether it was safe. You would negotiate a price, a service, the use of condoms and the location. Once an agreement was reached, you would get in the car and leave with the client feeling safe.

Now the client can't stop for five minutes to have a conversation with a person engaging in prostitution before that person decides to get in the car. He can be arrested just for having that conversation. It's a crime to even talk about condom use. The person engaging in prostitution must then get into the car very quickly. As a result, she's completely at the mercy of a man driving a vehicle, who can take her anywhere he wants, and who can suddenly negotiate a different price or service.

At Stella, we often talk to women who tell us that a client has picked them up in a neighbourhood such as Montreal's Hochelaga-Maisonneuve and they have ended up on Montreal's south shore or in the west end of the city. Obviously, they can't jump out of a moving vehicle. This legislation creates all sorts of very dangerous situations.

Take the example of a woman who works online and who posts advertisements on a website. First, websites are always closing. She must know how to use cryptocurrency or know other ways to post an advertisement, which aren't available to many women. Often, she must enlist the help of others and risk her privacy.

If the client tries to contact her, he's committing a crime. That's why clients don't want to give their real names and they don't want to negotiate the transaction in detail. All this is done through codes. Often, after the client has made an appointment and meets the sex worker in person, he makes his requests and negotiates a price. Again, this places the sex worker in a situation where violence can occur.

In addition, all third parties are considered criminals under the legislation. There are exceptions, but there are also exceptions to the exceptions. Anyone who helps a person engaging in prostitution is committing a crime. These people must hide from the police and must protect themselves. As a result, this doesn't encourage people to create good working conditions for themselves. On the contrary, it encourages people who use poor practices to work in the industry. An employer who provides good working conditions won't necessarily want to be involved in a crime. This situation leads to several forms of exploitation.

Sex workers are being prevented from negotiating good working conditions. This violence can take many forms. Third parties may be co-workers, the driver, the receptionist, the boss or other sex workers. The spouse may also be considered someone who helps the sex worker do her job, rather than a spouse.

If the sex worker is a victim of domestic violence, she won't have access to domestic violence resources because everything will be viewed through the lens of sex work. The spouse may threaten to take custody of the children or contact a child protection agency concerning the children. These threats are often successful.

At Stella, we meet many women who live in complete fear because they have an abusive former or current partner who threatens

them. They know that, if these men actually end up in family court and claim that they're committing crimes because they're sex workers, they will probably lose custody of their child.

This strips social workers who work in child protection, for example, of all the tools that they need to address the real issues in a family so that the children stay in that family. They must stand behind their professional association, which tells them that they can't help people who commit crimes. This prevents them from working with and protecting sex workers in difficult family situations.

We can also talk about the fact that advertisements have been criminalized and the resulting devastating impact. Before, many women would place an advertisement in the *Journal de Montréal*, for example. It was a very simple and inexpensive process. You would write a little blurb, go to the newspaper in person, pay cash and post an advertisement with a phone number. The newspapers have had to stop running these advertisements because it's now a crime. Women must turn to online advertisements.

These women may not have smart phones, internet access or credit cards to pay for their advertisements. They're now expected to post more photos and communicate more with clients. You can imagine the fear felt by these women, especially those in their 50s and 60s, who lined up in our office after this legislation was implemented. They wanted to know how to do everything. They had just lost their source of income overnight. They had to find new ways of working, which could put them at significant risk.

• (1710)

[English]

**The Chair:** Thank you, Ms. Wesley.

Go ahead, Mr. Garrison.

**Mr. Randall Garrison:** I want to start by thanking Ms. Wesley for her important testimony today, and to also thank Stella for the important work it does in the community and working with sex workers.

I was trying to pick out what I thought was the most important thing you said. You said so many important things, I'm having a little trouble, but I want to focus on one thing. I'm going to paraphrase you here. You said that defining sex work as the violence prevents reporting the actual violence. I think the parallel there is that defining sex work as exploitation also prevents reporting real exploitation.

Could you give us some examples of how that works in real life, with the law as it exists?

**Ms. Sandra Wesley:** Yes, absolutely. When it comes to work exploitation, the concept of exploitation in a workplace context is not something that usually belongs in the Criminal Code. It's something that belongs in employment standards, where we as a society have given ourselves recourse in case of bad working conditions.

Sex workers don't have access to this. If our boss refuses to pay us, well, there's no tribunal we can go to for that. If our workplace is unsafe, there's no occupational health and safety commission that can come in and help us with that problem. A lot of workplace exploitation comes simply from the fact that we don't have access to those things. In every other industry, when workers in any industry have faced exploitation, we have focused on giving the workers rights as a way to end exploitation.

When we criminalize an industry, we're making exploitation the default setting in that industry. The worker's not protected. We're talking about power dynamics. A lot of people mention the power dynamics between sex workers and other people around us. Those power dynamics exist because we don't have legitimacy. We don't have rights. We can't turn to anyone. The only thing that exists that we could turn to, in theory, is criminal law. What that criminal law says is not that there's a difference between a good boss and a bad boss, or that there's a difference between a good co-worker and a bad co-worker; it says that all of it is inherently exploitative and inherently wrong.

What this means is that if someone works in, say, an escort agency, and everything is great, well, her colleagues are committing exactly the same crime as a boss who's beating the employees, taking all their money and doing all kinds of other things. What it means is that when we go to the police, if you look at the data in terms of charges that are given to people, very frequently the only charge given is a procuring or material benefit or advertising charge. If those charges don't need to prove exploitation, violence or anything bad happening, then what are we prosecuting, exactly? The best co-worker in the sex industry is committing the same crime as the worst one. That is illogical, obviously, and it incentivizes people to exploit us.

Then there's all of the other types of exploitation in our personal lives. What sex workers experience, and what is often portrayed... Sometimes there are graphics put out about pimps exploiting their partners at home. It's the exact same pattern as any domestic violence situation. In domestic violence, abusers take control of family finances. That's a feature of domestic violence that is the same whether someone is a nurse or a sex worker or any other.

In a situation of domestic violence, the person will threaten and maybe force the person to work more than they want to work, and do all these other things. It's no different for sex workers. What is different, however, is that we have a law that doesn't even allow for domestic violence to be part of the conversation, because our partners are not even seen as our partners. The law goes as far as trying to establish what would even constitute legitimate cohabitation with a sex worker. When we go to police, instead of being directed towards domestic violence services, we get directed towards anti-sex work services that will tell us that we need to stop doing sex work, and then will try to convince us that we're actually victims of sex work and not of violence.

Beyond the criminal law, this is also what we see in community services. The vast majority of domestic violence shelters across Canada operate from an anti-sex work, prohibitionist perspective. They will not allow someone who's currently working in the sex industry to access services. We see countless women at Stella who are trying to escape violence and end up in a situation where, if they go to police, the sex work will be investigated. They do not want that. They cannot go to a shelter, because they are not welcome there. They have to find solutions on their own to get out of that situation.

Obviously, if someone wants to exploit the labour of someone else, they will pick someone whose labour is available for exploitation, and anyone who's criminalized will be a good target. That's why we see also exploitation of undocumented migrants. Anyone in our society who doesn't have legitimacy, who doesn't have access to services or who doesn't have access to human rights will be the targets of people who want to abuse people. We think there are many other laws in the Criminal Code that address many types of violence.

● (1715)

I also want to bring up human trafficking, which someone mentioned earlier. Human trafficking is not, as far as I understand, within the scope of this study, and there's this tendency to conflate trafficking and sex work, to use them interchangeably or to otherwise act as if all sex work is trafficking. It's very important not to get caught up in conversations about trafficking.

If we decriminalized sex work and repealed the provisions of the PCEPA, the human trafficking provisions at that point would still stand. If something met that threshold, those laws would still exist. They're used very problematically in our communities but, at the end of the day, they still exist.

We do not need to criminalize sex work in order to criminalize something that we would consider to be trafficking.

**The Chair:** Thank you, Mr. Garrison.

I'll now go to Mr. Brock for five minutes.

**Mr. Larry Brock (Brantford—Brant, CPC):** I'd like to thank both Ms. Botting and Ms. Wesley for their presence today and for their very helpful responses to a number of questions by my colleagues.

Prior to becoming an elected member of Parliament, I enjoyed a 30-year legal career. For the last 18 of those I was a Crown attorney in Ontario. I had extensive experience dealing with the prosecution of human traffickers and other exploited victims, so this particular area is near and dear to my heart.

I'd like, time permitting, to address both of you ladies. I'd like to start with Ms. Botting.

Ms. Botting, have you had the opportunity to listen to the testimony of Ms. Wesley?

**Ms. Carolyn Botting:** Yes.

**Mr. Larry Brock:** Ms. Wesley, among other things, pitches and makes the strong argument that Bill C-36 and the legislation that was adopted is more harmful to sex workers than the stated objectives. I have information before me from the Library of Parliament that would suggest that there might be a disconnect in that particular statement, and I'd like to hear your thoughts on that.

Statistics Canada, in 2021, published that crimes related to the sex trade found a decrease in reported injuries and homicides of sex trade workers after Bill C-36.

Would you agree, with your background in policing, that the changes made by that bill have made individuals who sell sex for money safer? Please explain why or why not.

• (1720)

**Ms. Carolyn Botting:** I'm certainly no expert on the statistics, and I don't have any data to support what you have said. I also love Ms. Wesley's passion for the work she does.

My understanding of Bill C-36 is that sex trade workers are not charged under this law. At least in my city, we do not target the sex trade the way Ms. Wesley suggests, and we don't target the sex trade workers. We have not for years. We are targeting the abusers who are involved with the most vulnerable. Very often, that's youth.

My question, if I may ask, would be how does Ms. Wesley suggest we protect the youth who are involved if we don't have laws against those who procure them and they haven't met the threshold of human trafficking?

The other thing that we do in our city is work with the victims or with the sex trade workers, if they want to work with us, to provide them safe resources. We do not force them to testify the way we historically did many years ago.

I began working in this field in around 2003, and I was working on the prosecution side—I believe my first was 2005 or 2007. We do not have the practice of forcing those involved in the sex trade industry to, one, co-operate with us or, two, testify.

My biggest concern with repealing this law completely would be how we protect people when they don't fall within the laws of human trafficking, sexual assault or assault, but are simply being recruited and there's no law to protect from that.

If a girl or boy came to their school resource officer and said, "Hey, this girl in my group home or school is really attempting to get me involved and I need help," where's the law that applies to

that situation, and how do we prevent it? That's how I would respond to that question.

**Mr. Larry Brock:** That is consistent with my interpretation that each jurisdiction has a different focus in terms of how it applies the law. It should come as no surprise that provincial objectives and provincial statistics probably differ as well.

Taking that one step further again and contrasting Ms. Wesley's statement in her testimony so far, she also says it would be an error to conflate Bill C-36 with human trafficking.

I think, to an extent, you probably would agree with me that it's not really conflating the two issues. The two issues are really hand in hand, at least from a prosecutorial standpoint. I've seen numerous instances when, once victims of human trafficking had gone through that ordeal, they ultimately decided to continue selling sexual services on their own after they freed themselves from their abuser.

**The Chair:** Unfortunately, Mr. Brock, we're out of time.

I'll let Ms. Botting give a brief answer.

**Ms. Carolyn Botting:** I agree that they are similar, but they're not the same. I had a train of thought and I lost it.

Sometimes they go hand in hand.

I'll just reiterate my biggest concern. Where is the protectionary law? If Bill C-36 is a protectionary law, then human trafficking is the trafficking side, and they are not always one and the same thing.

• (1725)

**The Chair:** Thank you, Ms. Botting.

Ms. Dhillon, we will move over to you for five minutes.

[*Translation*]

**Ms. Anju Dhillon (Dorval—Lachine—LaSalle, Lib.):** Thank you, Mr. Chair.

Ms. Wesley, in practice, how would decriminalization work?

How can the government ensure that sex workers are properly protected if their livelihoods are decriminalized?

What are the benefits of decriminalization versus legalization?

**Ms. Sandra Wesley:** In our view, decriminalization is better than legalization.

Legalization creates a very strict little framework, where sex work is legal. It continues to ensure that anyone who doesn't fit into that framework is considered a criminal.

Our main goal is obviously to protect the most marginalized women in our communities. These women work in informal settings, don't comply with the very complex rules, or don't have a work permit, and so on.

Decriminalization removes sex work entirely from the criminal sphere. In addition, decriminalization provides access to all the other protections to which other workers are entitled. As I said earlier, this may include access to labour standards; the Commission de la santé et de la sécurité du travail, or CSST; employment insurance; or all the other protections available in other places.

The Canadian Alliance for Sex Work Law Reform includes 25 groups across Canada. We held an extensive 18-month consultation with all groups formed by and for sex workers in Canada.

I assume that you'll receive this document. It outlines not only the situation at the federal level, but also the provincial jurisdiction issues. Labour standards, for example, are obviously a provincial responsibility.

We took all this into consideration. It's a very cohesive document. The solution to most issues is simply to remove all the rules specific to sex work. The immigration rules must also be removed. Right now, if you aren't a permanent resident and you're involved in sex work, you can be removed from the country. We must address all these issues.

I want to briefly address what was said earlier about police repression. There are very concrete examples of this repression. Decriminalization ensures that this type of situation can no longer occur. In Montreal, there's the RADAR program. Through this program, the City of Montreal police department asks hotel staff and taxi drivers to identify sex workers and report them. This creates a sense of fear among sex workers, since they can no longer safely use hotels.

In the case of some police operations, the police officers come to the workplace. It isn't uncommon to see 10, 20 or 30 police officers detain women, ask them to show identification and conduct checks. In 2019, there was a particularly violent police operation. The police took note of all tattoos and body piercings. The women were told that this would help the police identify their bodies when they were found dead. Scaring sex workers into stopping sex work is a well-known American technique. Can you imagine the impact of this type of police operation on sex workers?

These are concrete examples. Even though police responses don't necessarily result in the arrest of the sex worker, it creates an environment of fear. The consequences are enormous. In addition, it's a serious violation of human rights.

Decriminalization would eliminate the power of police to harass sex workers in various ways and to invade their workplaces.

With respect to protection, other sections of the Criminal Code deal specifically with violence in all its forms.

Some women have criticized the Criminal Code and the prison system for not responding properly to violence against women. All types of reforms may be needed in this area.

Sex workers want to be included in this work. They don't want specific legislation prohibiting sex work. Protection and prohibition are incompatible. These two concepts simply don't mesh. It may be necessary to choose the preferred option.

I hope that this answers your question.

• (1730)

**Ms. Anju Dhillon:** Yes, you answered the question.

Are marginalized people worse off?

What more can we do to help them?

**Ms. Sandra Wesley:** The most marginalized women suffer the most consequences. They also have the most adversarial relationship with the government and they're over-represented in prison.

In Quebec, about 80% of women incarcerated in a provincial institution have sex work experience. They're often indigenous women, transgender women and migrant women. These women are most often targeted by police officers and by abusers. Both groups have similar ways of targeting their victims.

In our opinion, this should all be looked at from a decriminalization perspective.

This doesn't mean that decriminalization is necessary because some women have chosen this profession, which they love. Instead, decriminalization involves greater risks and consequences for the most marginalized people. These include women who are homeless, women who use drugs and women living in poverty. The legislation is very colonial, and it targets indigenous women.

We know that, in Montreal—

[*English*]

**The Chair:** Thank you, Ms. Wesley. I'm sorry to interrupt; you're very impassioned.

Next, for two and a half minutes, we have Ms. Michaud.

[*Translation*]

**Ms. Kristina Michaud:** Thank you, Mr. Chair.

Ms. Wesley, you spoke briefly about the case of Marylène Levesque earlier. Last year, when I was on the Standing Committee on Public Safety and National Security, we studied this tragic case. I believe that we invited you to appear.

You spoke about the violence that sex workers face, and you said that the police officers focus a great deal on this matter. This makes them reluctant to report, to file a complaint or to lay charges. How could this be addressed?

Is there a need for legislative change or a need to change the mindset of law enforcement personnel in terms of how they view sex workers?

What are your thoughts, briefly?

**Ms. Sandra Wesley:** The first step must be decriminalization. In a situation where the police officers are mandated to eliminate the sex industry and are told by the Parliament of Canada that all sex work is a type of exploitation, there isn't any room to build anything positive with the police.

Once decriminalization takes place and the police no longer have the elimination mandate, we can obviously develop a relationship with the police that may one day be more positive. It will then be possible to really distinguish between violent and non-violent acts, and between criminal acts and acts that fall under the jurisdiction of other parts of the government.

Right now, this is impossible. You can't ask a police officer to simply enforce the law based on their personal discretion. We're seeing this now. Obviously, the police officers aren't arresting every sex worker, every client and every third party. That would be absurd and would require extreme resources.

We can't have legislation that enables police officers to arrest all these people and then ask these people to trust the police and hope that they will use the legislation only in the situations where it serves a useful purpose and where violence is involved. We really need to take that mandate away from the police. At that point, we can see whether things change.

I think that we must also consider the fact that the relationship between the police and marginalized communities, particularly indigenous and transgender communities, is adversarial and that this extends well beyond the legislation criminalizing sex work.

In Montreal, indigenous women are 12 times more likely to be stopped by the police than white women.

[English]

**The Chair:** Thank you, Ms. Wesley.

Ms. Michaud, thank you.

**Ms. Sandra Wesley:** Every time I bring up indigenous women, you cut me off.

**The Chair:** I'll let you finish that off first, Ms. Wesley. I don't want to cut you off.

**Ms. Sandra Wesley:** That would be nice, yes.

I've been cut off every time I've tried to get to indigenous women, and I think it's just very important to really acknowledge that indigenous women make up a huge percentage of the women we

reach at Stella. They are the women we see the most in prison, and they are the women we see dying at the fastest rate. We are constantly having vigils for women who have preventable illnesses they died from because they couldn't access health care. We have been in situations in which one of our outreach workers on the street called 911 for an ambulance for someone who was having a health emergency. The 911 operator asked if it was an indigenous woman, and they sent the police instead.

We have women who are currently missing. We have women who have committed suicide since this law has been put in place. We have women who have been subject to incredible violence, and I think it's very important that we ask ourselves why it is that, as a society, we're starting to accept that the criminal justice system is colonial, racist and violent towards indigenous people. It is part of a genocidal project against indigenous women, but somehow we think that, when it comes to sex work, it's different and all of a sudden the system is helpful. It is not helpful for indigenous women. We need all kinds of other things that are not criminal. We need people who are not police officers in the lives of indigenous women, and we need to stop this unwanted contact with police and this hostility from the system.

I just really want you to consider that, if we actually have a commitment as a country to end the genocide of indigenous women, then we need to have a commitment to making sure that no indigenous woman is targeted by police, either as a criminal or as a potential victim, on the basis of the fact that she is selling sex to make money.

If we are outraged that we have people in our society who are in desperate poverty, who need to do anything they can do to survive, then we need to act on the poverty; we need to act on the exclusion, and we need to act on those things. We do not need to criminalize poverty or to criminalize being indigenous in a city away from your community. Those things should not be crimes, and this law is a way to criminalize being an indigenous woman, especially in an urban setting.

If there's one take-away from this testimony, it is that it's possible to be committed to ending violence against indigenous women and it's possible to have a critical analysis of how indigenous women continue to sell sex and to support decriminalization. Those things are coherent, and they all come together as one package.

• (1735)

**The Chair:** Thank you, Ms. Wesley.

I just want to say I did not want to cut you off at the indigenous part. I just have to manage everyone's time and it's a difficult task on my side, but thank you for clarifying that.

**Ms. Sandra Wesley:** Thank you.

**The Chair:** It's over to you for the last two and a half minutes, Mr. Garrison.

**Mr. Randall Garrison:** Thank you very much, Mr. Chair.

I want to return to a question that Mr. Brock posed and said he was going to have you answer, and then of course, we ran out of time. That's the question about whether the statistics show an improvement after this law was brought in, because it seems to me it's equally likely that the statistics show a drop in reporting rather than an actual improvement in conditions. I'd like to know if that's your view of the situation.

**Ms. Sandra Wesley:** Yes, absolutely. I had a chance to review in great detail the report that we've been talking about, the statistics. It's very clear to me looking at those statistics that they reflect the reality of what we see, that there's actually a decrease in sex workers reporting violence, and also a decrease in how sex workers might be counted in statistics, because even those who report violence will go to great lengths to avoid being captured in those statistics.

Obviously there are a lot of problems with those statistics, including the lack of understanding and representation of trans women. What those statistics actually show is that people are not reporting and that people are not seeing any sort of improvements in their relationships with police. The idea that violence has decreased because of this law is absurd. The same people who rely on those statistics to argue this will be the people who will come and then tell you that they need hundreds of millions of dollars to spend against this violence, which they see increasing every moment. The reality is that we are the ones actually working every day. We're the sex workers. We're in the industry. There has been no reduction in violence because of this law. There has been an increase in many types of violence, and there are no sex workers in our community who feel that criminalization of their actual work and not of the violence is a useful tool in order to protect them.

**Mr. Randall Garrison:** I'll ask you one last question. What would you hope to see come out of this study that we're doing?

**Ms. Sandra Wesley:** We don't have a lot of confidence in this process because it's not conducive to actually looking at evidence and data. Just from my brief testimony here, I've been told that I'm passionate about five times, which is code for, "Okay, we get it. You're an angry sex worker with emotions," and it's a way to dismiss what I'm saying as if it's not evidence but opinion or feelings.

We have thousands of pages of evidence and we will submit evidence to you, and I expect every one of you who have our lives in your hands, who stand between us and the ability to maybe work

without being murdered, to maybe raise our children without interference from the state, to actually read every page of that evidence that we send you and to come to the conclusion that the only reasonable thing to do at this point is to decriminalize sex work. It is inevitable. It will happen at one point, and we will look back at this time in our country when we decided that instead of encouraging sex workers who had a win at the Supreme Court, we would ignore the Supreme Court and punish them for fighting for their rights. We will look back on this as one of the moments in all of the world's history when a Supreme Court human rights decision was blatantly ignored by a government. You have the power right now to recommend that this law be repealed and to right the wrongs of this law.

One of the slogans that a lot of sex workers use is "only rights can stop the wrongs", so we're hoping that what will emerge from this is a clear recommendation for human rights, and not that there are people who disagree, and not that more research is needed. The research has been done. It is published. It doesn't matter how many people come and tell you that they don't like sex work, that they think it's wrong and that they think it's exploitation. Are people harmed by this law? The answer is yes. We have a duty. We have a charter. It's outrageous that in 2022, we're still here arguing for this very basic principle and pretending that it's not entirely a moral and ideological argument.

• (1740)

**The Chair:** Thank you, Ms. Wesley. I just want to say that even though I have not been a chair for long, I've been a member of many committees. You're very articulate and you're very clear, precise and to the point.

I want to thank both you and Ms. Botting for appearing today. I will guarantee and assure you that your views will be taken into this report, with action forthwith.

I will now thank you and you can be dismissed.

I have a quick point.

You guys can stay on or log off; it doesn't matter.

Can I have the members' consent to move approval of the budget?

**Some hon. members:** Agreed.

(Motion agreed to)

**The Chair:** We will now adjourn. We will see you on Friday.

The meeting is adjourned.





Published under the authority of the Speaker of  
the House of Commons

---

### SPEAKER'S PERMISSION

---

The proceedings of the House of Commons and its committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the Copyright Act. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the Copyright Act.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

---

Also available on the House of Commons website at the following address: <https://www.ourcommons.ca>

Publié en conformité de l'autorité  
du Président de la Chambre des communes

---

### PERMISSION DU PRÉSIDENT

---

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la Loi sur le droit d'auteur. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre des communes.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la Loi sur le droit d'auteur.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

---

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante :  
<https://www.noscommunes.ca>