

**Advancing Women's Equality, Countering the Entrenchment of
Sexualized Racism by Abolishing Prostitution**

Submission to the House of Commons Standing Committee on Justice and Human Rights
regarding Bill C-36 on behalf of the Asian Women Coalition Ending Prostitution.

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Asian Women Coalition Ending Prostitution

The AWCEP Asian Women Coalition Society for Equality, operating as Asian Women Coalition Ending Prostitution (Asian Women) works as a progressive force to change societal attitudes towards women, especially women of Asian descent; to advance equality for Asian women; and to create opportunities for Asian women to have meaningful participation and to take leadership roles in civil society. Asian Women sees prostitution as a form of male violence against women that can be eradicated.

Asian Women's membership represents a range of life experiences common to Asian women, including prostituted women, as immigrants, naturalized Canadians, permanent residents, temporary residents, foreign students and Canadian-born offspring of Asian immigrants to Canada.

Asian Women is a grassroots feminist volunteer organization based in British Columbia. Asian Women draws on members' extensive experience in front line work with West Coast Domestic Workers Association, Children of the Street Society, and Vancouver Rape Relief and Women's Shelter. Member' experience as front-line workers in these organizations enriches our understanding of the impacts of prostitution on Asian women and has helped inform our understanding of the similarities and differences between Asian women's experiences and other racial groups with respect to the many factors contributing to women's prostitution.

Asian Women members have provided prostitution prevention education within the school system to girls and boys. Members have provided legal advocacy to women involved in the Live-

in Caregiver program. Members have provided concrete aid and support to battered and raped women including prostituted women. In our work, we countered men's control over women in domestic violence and in prostitution, including men's practice of isolating women from support networks, confiscation of identification papers, control of money and finances, and threats of physical violence, to the individual woman, and often to her family or friends.

From our front-line work, members of Asian Women sees the overlap of prostitution with wife battering, rape and incest, all acts most commonly committed by men in private venues such as the home, where privacy is used to confine women, reinforce the attacker's authority and hide the acts of violence from public view.

In addition to our particular knowledge of the various Asian communities in the Greater Vancouver area, we share information and support with other women's organizations across Canada and internationally, including the Asia Pacific region, Europe, South America, United States, and Mexico.

In 2010, a member of Asian Women was one of four people chosen by the US State department as a representative of Canada to be part of the US State Department's International Visitor Leadership Program. Our member was chosen to represent Canada in this program to exchange expertise and knowledge of human trafficking and prostitution with the Federal Bureau of Investigation, Homeland Security, law enforcement officials in various states, other government agencies (such as the Departments of Labour in several states) and with non-governmental agencies.

In 2013, the Supreme Court of Canada accepted Asian Women as an intervenor in the case of Canada vs. Bedford. Asian Women provided a critical race analysis based on our expertise and experience in:

1. Human trafficking and prostitution involving Asian women in its global context, thus, including the race-specific entry routes into prostitution in a port city on the Pacific Rim close to the United States border;
2. The provision of assistance to women in prostitution including helping women exit prostitution carried out in indoor and outdoor venues;
3. Consultation with government and non-governmental groups about prostitution-related policies and social programs needed to prevent prostitution;
4. Education in prostitution prevention and exiting prostitution; and
5. The impact of racism on women as it affects our safety, health, and economic well-being.

Asian Women addressed the danger for racialized women of normalizing bawdy houses and living on the avails of prostitution; the application of the “anti-racism principle” to issues involving the commercial sexualization of racial subordination; the application of an “equality lens” to interpreting the *Charter of Rights and Freedoms*; and the need for a tailored approach that addresses the perpetrators of violence and exploitation, while avoiding the criminalization of the women subjected to violence and exploitation.

Enhancing Women’s access to the protection of The *Charter of Rights and Freedoms*

Asian Women lauds the intent stated in the preamble that sets protection of equality as an objective of Bill C-36. This is consistent with the principle that all Canadian law is to be understood and interpreted in the context of the *Charter of Rights and Freedoms*.

The commercial sexualization of racial subordination is one form of denial of access to the full protection of the *Charter of Rights and Freedoms* including women’s equality. The practice of prostitution helps to sustain various hierarchies, including racial and sexual hierarchy to diminish real access to constitutional rights for everyone experiencing the same and intersecting forms of subordination.

The preamble to Bill C-36 acknowledges the danger inherent in prostitution and the profound exploitation done by the pimps, johns, and advertisers of prostitution to women as a group. Asian Women understands this to also acknowledge the disproportionate and negative impact on Asian women and other racialized groups of women. The intent of the Bill to protect human dignity and equality underscores an understanding of the systemic nature of prostitution and the consequence of undermining women's equality on the basis of race, national or ethnic origin, colour, and sex. We recommend strengthening this acknowledgement by noting the disproportionate impact of prostitution on racialized women in the preamble.

Addressing the harms promoted by advertising racialized sexism

As a racialized group, Asian women experience considerable and damaging impacts when our characteristics, real or imagined, are sexualized and commodified to promote sexual services. The normalization of stereotypes that characterize Asian women as compliant, perpetually sexually available and subservient normalizes these as roles Asian women are expected to fulfil and entrenches the sexist and racist expectations into wider society. ¹

Enduring stereotypes such as “geisha,” “Madame Butterfly,” “Miss Saigon,” “Japanese schoolgirl,” “Punjabi Princess,” “China doll,” etc. pander to a highly racist construction of Asian women and are mainstays in advertising Asian women for sale in mainstream, commercial, “alternative” newspapers and online. Such advertising reveals the experience of racist sexual subordination that customers of prostitution demand. It is a demand catered to by pimps, procurers, brothel keepers, advertisers and others invested in the sales and marketing of prostituted women.

The Asian population of Metro Vancouver is only 30% of 2.1 million. It is reasonable to suggest that Asian women as a group may comprise only approximately 15% of the population of Asians

¹ Sunny Woan, WHITE SEXUAL IMPERIALISM: A THEORY OF ASIAN FEMINIST JURISPRUDENCE, 14 Wash. & Lee J. Civ. Rts. & Soc. Just. 275 (2008).

in Metro Vancouver.² ³Yet Asian Women’s analysis of online ads, gathered over a 24-hour period in 2011 from the Vancouver Craigslist “adult services section,” revealed that 67% of the women advertised in the 1472 ads were described or displayed by photo as Asian.

The phenomenon of Asian massage parlours has become a regular feature in towns and neighborhoods in Canada. These parlours and the associated advertising have served to normalize the prostitution of Asian women.

Bill C-36 recognizes the negative impact on society when the racist and sexist depictions are unchallenged. Bill C-36 allows for a remedy that avoids punishing those women whose experience of inequality is depicted and commodified as advertising for prostitution or “sexual services”.

Recommendation: Racialized women need the resources to challenge media that promote and profit off the promotion of prostitution. Without the tools to effectively challenge profiteering media outlets, the criminalization of advertisers may remain largely symbolic. Pimps and brothel-keepers will surely shield themselves from prosecution by organizing for individual women to advertise themselves for prostitution. It is crucial that disadvantaged groups have means to challenge mainstream, commercial and “alternative” media outlets for facilitating prostitution and for commercializing and normalizing racist and sexist practices of exploitation. An adequately funded Court Challenges program would offer that opportunity.

Making the connections: Human Trafficking into Prostitution

Asian Women applauds recognition in Bill C-36 of the connection of human trafficking and prostitution. Human trafficking is intrinsic to Asian women’s experience of prostitution, regardless of women’s country of origin.

² Statistics Canada, 2006 Ethnic population of Vancouver <http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/demo27y-eng.htm>

³ 2006 Census Fast Facts – Ethnicity and Visible Minority Characteristics of BC’s Population <http://www.bcstats.gov.bc.ca/StatisticsBySubject/Census/2006Census.aspx>.

Recognition of the interconnected nature of human trafficking and prostitution is a logical step for Canada given our May 2002 ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol). The Palermo Protocol defines human trafficking:

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

Asian Women sees Canada’s incorporation of the Palermo Protocol objectives into Canadian law as a significant development nationally and internationally particularly because this advancement is incorporated into legislation that explicitly references equality rights. We look to this equality commitment as a counter to the dehumanizing claim that racialized women freely choose and are not harmed by prostitution.⁴

⁴ Sigma Huda, Integration of the Human Rights of Women and a Gender Perspective, Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, Economic and Social Council, United Nations Commission on Human Rights, February 2006.

The RCMP recognizes the involvement of organized crime in human trafficking and human trafficking into prostitution.⁵ Bill C-36 protects police ability to interfere with human trafficking activity. It also prevents the transformation of those engaged in the organized crimes of trafficking, pimping, procuring, brothel-keeping and advertising into regular members of a legitimate business community.

Those who procure, pimp, brothel-keep and advertise Asian women for prostitution often use methods such as confiscating immigration documents or passports, creating illegal status such as encouraging or forcing women to overstay visas, or threatening women who are not regularized with deportation or arrest. Procurers and pimps also use the system of mail-order brides and Canadian immigration requirements that force women to stay with men who may pimp them or otherwise enter the sex industry.

Bill C-36 offers some improvement in response to women in these situations by not requiring their automatic criminalization (under specific circumstances). However, current immigration law contradicts the spirit of Bill C-36 to defend women from exploitation. Bill C-36 does not change the balance of power, created by current immigration law, to enable a woman to successfully exit prostitution if she does not already have permanent status, citizenship or a non-punitive means to be regularized. Recent cases of abuse and exploitation by employers of people in Canada under the Temporary Foreign Workers Program (TWP) underline the vulnerability caused by poverty, lack of secure immigration status and gross imbalance of power in favour of the employer.

Recommendation: Grant women “landed” status upon arrival to Canada regardless of how each woman arrived. This will reduce vulnerability to recruitment or coercion to remain in prostitution made possible by irregular or precarious immigration status. Review and change immigration requirements to correct the conditions that place women at such a power

⁵ Human Trafficking in Canada prepared by RCMP Criminal Intelligence In collaboration with Human Trafficking National Coordination Centre March 2010

disadvantage to husbands, fathers and employers such that they are more likely to be recruited into prostitution by the husband, father or employer or as means to escape abuse at their hands. These changes would bring Canada further in accord with the Palermo Protocol objectives to aid trafficked persons.

Recognizing and targeting the source of the harm

Asian Women applauds the recognition in Bill C-36 that male demand is the driving factor in prostitution. It is clear that women are beaten, raped, killed and trafficked by men who are the source of the danger to women in prostitution. The experience of countries that have adopted a robust version of the Nordic model demonstrate positive consequences including significantly less human trafficking than in neighboring countries without a Nordic-model approach⁶.

Countries that opted to decriminalize male demand and management of prostitution have seen dramatic increases in human trafficking and the entrenchment of organized crime activity in prostitution.⁷

Women are at a disadvantage in legal regimes wherein a woman's prostitution is considered a freely made individual choice. Such an analysis ignores the context of an individual woman's life and dismisses the relevance of her experiences (of racism, sexism and poverty) as a member of a disadvantaged group. Such analysis also renders invisible those who exploit her disadvantage for their own financial gain or personal sexual satisfaction.

Bill C-36 recognizes and creates the opportunity to reveal and make accountable the source of the harm posed by individual men and groups of men who engage in prostitution and to hold those individuals accountable by criminalizing their participation as pimps, brothel-keepers,

⁶ Waltman, Max, Prohibiting Sex Purchasing and Ending Trafficking: The Swedish Prostitution Law (December 1, 2011). Michigan Journal of International Law, Vol. 33, pp. 133-157, 2011.

⁷ Cho, Seo-Young, Axel Dreher, and Eric Neumayer. "Does legalized prostitution increase human trafficking?." World Development 41 (2013): 67-82.

procurers, advertisers and customers. Asian Women lauds this tailored legislative approach to accurately target and counter the demand for sexualized experiences of women's subordination.

Pimps, procurers and brothel-keepers use intimate and familial relationships to press Asian women into prostitution. Asian Women welcomes the differentiation between those who depend on a woman's income without investment in how it is earned, (such as dependent children, hairdressers or other service providers) and those who are parasitically invested in keeping any woman in prostitution (such as "bodyguards", pimping boyfriends, brothel-keepers, prostitution advertisers). It is crucial that men cannot use a marriage licence to escape criminal sanction for their violence and exploitation.

However, Asian Women does not support mandatory minimum sentences for those men who are successfully charged and sentenced. The justice system has historically charged and sentenced racialized and poor men while providing diversion to alternatives for white and more privileged men. This is a racist and classist wrong we do not wish perpetuated under the guise of protecting women's human dignity and equality.

Criminalizing women for our own exploitation is inconsistent with the *Charter*

Asian Women is deeply concerned that the sections criminalizing "communication" about prostitution in public areas undermines the objective of equality.

While Asian Women agrees, at minimum, it is harmful for children (and adults) to observe a blatant act of sexist exploitation while unable to effectively intervene, it is possibly more harmful for children (and adults) to observe or know that an exploited person will be further punished by the state for their own exploitation.

Women are pressed into prostitution for reasons of poverty, violence, racism and sexism. When men recruit, solicit or sell women, they are exploiting women put at a disadvantage by these factors. To target women in most public spaces is to target and criminalize women for their own

exploitation. It will perpetuate the targeting of women in street based prostitution and maintain the police and neighbor harassment of mostly native women and racialized women who predominate in street based prostitution. This is incompatible with the protection or advancement of *Charter* rights.

Recommendation: The harms caused by “communication” in a public place can be effectively addressed by applying criminal sanctions to male customers and pimps rather than the women they are exploiting. Women desperate enough to prostitute in public spaces should instead be provided the protection of the law and the *Charter*.

Advancing the Abolition of Prostitution

In conclusion, Bill C-36 (if the criminalization of women is removed) establishes a progressive new legal paradigm. However, a made-in-Canada approach to prostitution must be much more robust in order to effectively create the conditions that will allow the abolition of prostitution. Criminal law is limited to addressing violence and exploitation after it happens. Asian Women calls on the federal government to provide women with the possibility of escaping sexist and racist the violence of prostitution by establishing basic prevention measures. Asian Women calls on our federal government to provide adequate, guaranteed livable income, universal childcare, affordable housing, women-only detox and treatment options, landed status upon arrival and adequate settlement supports for immigrants. These measures will also serve women who are exiting prostitution. They are imperative to countering the systemic sexual, racial and economic inequality that presses and traps women into prostitution and denies women our *Charter* rights.