

-----Original Message-----

From: SWAN Vancouver Society [mailto:info@swanvancouver.ca]

Sent: Wednesday, November 26, 2014 9:58 AM

To: OfficeofthePremier, Office PREM:EX

Subject: Please Refer Bill C-36 to BC Supreme Court

Dear Premier:

Please find attached a letter asking you to refer Bill C-36, the Protection of Communities and Exploited Persons Act, to the Supreme Court of British Columbia.

We have also attached our Brief sent to the Senate Committee on Bill C-36 which outlines our concerns about this Bill.

Sincerely,

Alison Clancey

Executive Director

Supporting Women's Alternatives Network/ SWAN Vancouver Society

Tel: 604 719 6343

-----Original Message-----

From: s.22
Sent: Sunday, December 28, 2014 4:41 PM
To: OfficeofthePremier, Office PREM:EX
Cc: James.MLA, Carole A LASS:EX
Subject: Bill C-36

Dear Premier Clark:

I am writing out of my regret over the passage of Bill C-36, which criminalizes those who use the service of prostitutes. The federal government claims this will make it safer for sex trade workers. We know this isn't true. Anything that forces sex workers further underground takes away from their safety. They are less able to receive help from police. Police have never been prostitutes' friends. This bill makes it worse.

Let me tell you about my experience

s.22

I met weekly with sex trade workers for four months. We wrote stories, did art, and shared experience. I am not and never have been in the sex trade. This was a great opportunity for me to meet mostly women, a few men, who were or are. As a group, they were diverse: some had BA's, some were barely literate, many were parents, some had lost their children to child protection, many were drug-addicted or had been, some were not, many were out of the trade, some were not. What they shared was a desire to tell their stories in the hopes that other young people wouldn't get drawn into the trade. A few were dominatrixes and they were most likely to want to stay in. Many had been sexually, physically or emotionally abused as children, often a precursor that leads to vulnerability. They were smart, funny and caring. It was a great pleasure and privilege for me to spend those many hours with them.

This bill is about stereotyping these women in the name of doing what's "best for them". Let me tell you, these women don't need that kind of paternalistic oversight. They need support, safety, access to education, job training, and the right to make their own choices.

This bill will do nothing to help them get out of the trade if that's what they decide to do. The aim of the bill is to do away with prostitution and I have to ask you, Do you think that's possible? We know prohibition doesn't work. So now, not only do they have to deal with unpredictable johns, but with the increased anger of men upset that they are now criminalized. A recipe for further violence.

I am asking you to refer Bill C-36 to the Supreme Court of British Columbia, and to instruct Crown Prosecutors to not lay any charges under this bill.

Thank you so much for your attention to this. As a strong woman, I believe this is an issue that is important to you, I look forward to hearing from you.

Yours,

s.22

OfficeofthePremier, Office PREM:EX
Sent: Monday, January 5, 2015 3:23 PM
To: s.22
Cc: Minister, JAG JAG:EX
Subject: FW: Bill C-36

Thank you for your email. We appreciate your taking the time to bring your concerns to our attention regarding federal Bill C-36, The Protection of Communities and Exploited Persons Act. It's clear that this is a very important issue for you.

We've taken note of your comments and we have sent a copy of your correspondence to the Honourable Suzanne Anton, Minister of Justice and Attorney General, on your behalf.

Again, we thank you for writing.

cc: Honourable Suzanne Anton

From: s.22
Sent: Monday, November 10, 2014 8:38 AM
To: OfficeofthePremier, Office PREM:EX
Subject: Please refer C-36 back to the courts

Hi, Ms. Clark. I'm a long-time advocate and supporter of the rights of Canada's sex workers, and I am writing to urge you and all premiers across the country to refer the damaging, flawed and poorly considered new anti-sex work law back to our Supreme Courts for consideration as unconstitutional.

s.22 and through my work there and in the years that have followed, I have learned a great deal about this poorly understood and maligned line of work. While there are certainly people in the work who would prefer to do something else for a living, there is not one person who will be helped by further criminalization. Whether we're talking about sex workers who are completely happy in the work or an exploited victim who desperately wants to leave, further criminalization will make things that much worse by maintaining a judgmental and punitive climate that is not conducive to connecting with police, reducing the massive stigma that sex workers face, and seeking equality and human rights for a workforce that is primarily made up of women.

The provincial government has a long history of supporting sex work organizations, and I am very proud to live in a province in which both the cities of Victoria and Vancouver wrote to the federal government in opposition to Bill C-36. I believe they were the only two municipalities in the country to do so. Police in Victoria have worked closely and cooperatively with Peers Victoria for many years, and I have little doubt that they will continue their non-judgmental and supportive work regardless of the new law.

But as you know, the Criminal Code is a federal responsibility. Police across the country risk being ordered by the federal government to enforce this bad law, regardless of the relationships they have built in their communities with sex worker organizations - regardless of their OWN understanding that this is bad law that will not accomplish anything other than to make life a little more dangerous and difficult for a highly stigmatized workforce.

I urge you to take a leadership role on this vital issue, and refer C-36 to the BC Supreme Court for consideration.

s.22

From: s.22
Sent: Monday, November 17, 2014 5:57 PM
To: OfficeofthePremier, Office PREM:EX
Subject: please refer Bill C36 to the Supreme Court

Dear Ms Clark,

In its Bedford Decision, the Supreme Court of Canada unanimously struck down the three provisions in the criminal code specifically related to prostitution. It found them unconstitutional, because they endangered the health and security of sex workers. What the Bedford decision did, most importantly, was uphold the sanctity of the individual in Canada, regardless of their social status. Over and over again, the Supreme Court has made decisions based on evidence that shows we know ways to reduce harms and protect human lives. The Conservative Bill C36 sets back the human rights won in Bedford, and sex workers, politicians, lawyers and other allies have argued that it will make sex workers' lives more dangerous. No doubt you have heard, and will hear from, others more eloquent than I am, but I do think that this is ultimately a simple question of protecting human rights. Please refer Bill C36 to the Supreme Court for review. Sex workers should not have to be endangered for 4-5 years in order to become the statistics on which civil lawyers will base their appeals. Sincerely,

s.22

-----Original Message-----

From: s.22
Sent: February-19-14 10:16
To: OfficeofthePremier, Office PREM:EX; Minister, JAG JAG:EX
Subject: BC parents concerned about legalization of prostitution

Feb. 19, 2014

Dear Premier Clark,

As parents of 3 children we are deeply concerned about the possibility of prostitution being legalized in Canada.

We understand that BC, Ontario and New Brunswick no longer uphold our current prostitution laws as a result of the recent Supreme Court ruling in Ottawa.

(However, Alberta, Manitoba and Quebec still do uphold the current laws, as the Supreme Court and Federal government encouraged them to.)

We are HORRIFIED that legalization is even a possibility.

If prostitution is legalized in this country, then demand will increase, which in turn will have to increase supply.

Women and girls become vulnerable and potentially we could become a pimp and prey society. As in areas of the United States, we could produce a prostitution culture that is normative.

Very very scary.

Not a future we want for our children or grandchildren.

We ask you and Attorney General Anton to seriously reconsider your positions on this recent decision.

We endorse the Nordic Model as proposed by Federal MP Mrs. Joy Smith from St. Paul/Kildonan, Manitoba.

Her work represents a decade of intense research and experience with prostituted and trafficked Canadian women.

Please Google her MP website, and her Joy Smith Foundation website.

She is our Canadian expert in this area of human trafficking, prostitution and child porn use.

Thank you for your consideration on this matter.

We hope to hear from you and your office.

Sincerely,

s.22

-----Original Message-----

From: s.22
Sent: Monday, December 8, 2014 2:49 PM
To: OfficeofthePremier, Office PREM:EX
Subject: New prostitution law

Premier Clark,

I noticed this news item about your counterpart in Ontario:

<http://www.theglobeandmail.com/news/politics/wynne-has-grave-concern-about-new-prostitution-law/article21982770/>

Will you consider reviewing the law and its impact on British Columbians, in particular those in the sex trade? This new law could create more harm than not.

Cheers,

s.22

From: s.22
Sent: Wednesday, November 5, 2014 10:26 AM
To: OfficeofthePremier, Office PREM:EX
Subject: Requesting constitutional reference of C36

Dear Premier Christy Clark:

I am writing to ask you to refer Bill C-36, Protection of Communities and Exploited Persons Act, the new anti-prostitution laws which is in response to the Bedford decision, to the Court of Appeal to determine if they are constitutional. Please do this before pursuing prosecutions under these laws, or directing police to enforce these laws.

Many experts and sex workers have testified that these laws are dangerous for sex workers, and will recreate the harms that previously existed under the old laws. The current Conservative Government has passed these laws despite the objections of those who will be most affected, including the most marginalized and vulnerable, outdoor sex workers.

I am not a sex worker myself, but I believe that sex workers have the same rights as other Canadian citizens, and I believe in the Charter of Rights and Freedoms. Specifically, I believe that sex workers have the right to life, liberty and security of person. These laws do not respect the constitutional rights of sex workers, and should not be enforced before the courts have evaluated them.

Please refer these laws immediately to the courts, before more harm comes to the sex workers who will be most affected by these laws.

Sincerely,

s.22

From:

s.22

Sent: Monday, September 15, 2014 5:02 PM

To: Green Party of British Columbia; Canada's NDP; BC Conservative Headquarters;

OfficeofthePremier, Office PREM:EX

Subject: Bill C-36

Page 3

- * Significant charges
- * Not too much Trust In Police
- * "competent people" like you. **who come forward, to testify, in court. ***with the Police.
(ha ha ha).
- * I say this is not funny. Children and other lives are at stake.
- * All The Justice Systems need/wants of an OVERHAUL!
- * All women, who are prostitutes, are Inherently Violent/ Rationalization of this legislation.
- * Inherently violent = "Unable to fix" the problem.
- * Does not want Trial & Error!
- * Change law by Demonstration.
- * Black Market, underground...regardless.
- * TOGETHER/MARRY/MARRIED SYSTEM.
- * Cops, prostitutes (and/or Children, Youth, Women, Men), Family, Health, Social, Labour.
- * No threat to: children, youth, women, men's...Self of Safety Security and the Public Health
- * Follow Policy Pace.
- * Attend to violence and calls.
- * Laws in forced: - Child Protection
 - Trafficking
 - Mentally Concerned\
 - Criminalization
 - Decriminalize prostitution *** (this one 'ought to be that, the one's involved) must be ordered to "help" and "stop" the abuse onto children, youth, women, and men, (young & old).
- * This I know is unhealthy, unsafe, unclean, and becomes very mental, & mentally abused.
- * Safety & Security Policy!
 - *Sweden
 - *Nordic Model
 - *Zero deaths
- * The Right of a Child!
- * Preying on The Aboriginal Territory of The Minority, Poverty, Addicted, Homeless, and Immigrants.
- * Lucrouse = With Money or Promises.
- * Men buying sex is degrading to, The Safety of Children, women and men.
- * Those with diseases
- * Those who "do-not-exit" must make a choice and Abide by the Health, Safety, Security and Child Protection Policies and the Law toward Employment/Labour.

- * Global Warming will effect/affect, all our well-being.
- * We must be accounted for, Our Decisions.
- * The Health Hazzards and The Safety of peoples must be addressed, fully.
- ***The need/necessary = Life or Death.

- * The communicating, the providing
- * women cannot advertise, women cannot go commercialized.
- * Particular Pre Study: - find out about, ALL programs, organizations, organizations of employment, child & family protection, child protection policies, the government group homes must be eliminated, too many lost souls from children and youth, *like I said, Structure this Pilot Project for: The Protection of Child Welfare and The Teachings of Innovation.

- in each program, how much funding & audit where the money goes.
- to be open 24 hours.
- policies
- TARGET!

- * Over 5 years across The Territory. * \$20 million for, all children, youth, women, & men.
- * Other programs of monies just "is" not what is wanted!
- ***The Charter of Rights, Public Health, Safety & Security = Justification of Payment will be for Health, Safety, Security, and Child Protection Policies and the Law toward Employment/Labour for The Peoples, The Government, & The Policies.
- MARRIED-child, youth, women, men
- MARRIED-relationships in general
- MARRIED-relationships with Disabilities of Persons = Community Interaction
- MARRIED-identify 2 persons with consensual for free, not for payment.
- MARRIED-ingrained in Health, Safety, Security and Child Protection Policies and the Law toward Employment/labour.
- MARRIED-constrained - safety
 - child care
 - affordable housing
 - increase minimum wage
 - increase welfare for, children, youth, women, men, and the

disability.

- * Working independently, will increase Health, Safety, Security, and Child Protection Policies and the Law toward Employment/Labour.

Intent and effect of the BILL C-36

- * Those who want to exit and improve their lives must be on the fore front.
- * Help to get - affordable housing
 - a safe place, environment. and/or LONG HOUSE
- * Help to get the same for children, youth, women, and men.
- * support safe sex (distribute better brochures). *example...less brochures of a lot of unnecessary information.

*child, youth, women, men (brochures)

to get out/to exit

- * Police Security = Justice
- * Aboriginal Care Taker
- * Health worker = Security
- * Family/Child Care worker = Rights
- * Social worker = Safety

Prostitution is Illegal for: Children, Youth, Women, and Men!

Escort Service/Men street workers = Department of Sociology

-health

-home

-safety

--rushed johns

-you must be accountable

-partially, when you put yourself and/or *others at risk!

* You know right from wrong * The Policy Laws & (support).

* You know you will move forward * Changing your Life of Living & Receive Support with: -
child care protection

- day care

- health

- safety

- security

- affordable housing

- jobs

The Law is the Law!

* LONG HOUSES in all Rural, Towns, Cities, Regions, and all Aboriginal Territories.

* Structured & built "like" Native Education in Vancouver, YWCA/YMCA, and The
Employment Centre all in one. *Note that these other spaces work and are to this day, working.

* Can you see all the positives and beauty of The PLANTING, GROWING AND NURTURING
of such a PILOT PROJECT.

BLUE PRINTS

- * infrastructure
- * cost of building to build
- * cost of Lands

* protection of drinking water, water, oceans, rivers, creeks, ponds, water, air, lands and fire.

YWCA/YMCA (dorms).

Independence with courtyard style of housing for more Safety & Security.
Inside and outside "style" of entrance.

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Dear Premier:

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We have also attached our Brief sent to the Senate Committee on Bill C-36 which outlines our concerns about this Bill.

Sincerely,

Alison Clancey

Executive Director

Supporting Women's Alternatives Network/ SWAN Vancouver Society

Tel: 604 719 6343

Supporting Women's Alternatives Network of Vancouver

PO Box 201 | 1111 Commercial Drive | Vancouver BC V6B 1A2
info@swanvancouver.ca | www.swanvancouver.ca | 604.681.4941

November 26, 2014

Dear Premier Clark:

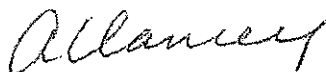
We are writing to ask you to refer Bill C-36, Protection of Communities and Exploited Persons Act, the new anti-prostitution laws which are in response to the Bedford decision, to the Supreme Court of British Columbia to determine if they are constitutional. Please do this before pursuing prosecutions under these laws, or directing police to enforce these laws.

Many experts and sex workers have testified that these laws are dangerous for sex workers, and will recreate the harms that previously existed under the old laws. The current Conservative Government has passed these laws despite the objections of those who will be most affected, including the most marginalized and vulnerable sex workers.

We are a sex work support agency and believe that sex workers have the same rights as other Canadian citizens. We also believe in the Charter of Rights and Freedoms. Specifically, we believe that sex workers have the right to life, liberty and security of person. These laws do not respect the constitutional rights of sex workers, and should not be enforced before the courts have evaluated them.

Please refer these laws immediately to the courts before more harm comes to the sex workers who will be most affected by these laws.

Sincerely,



Alison Clancey
Executive Director
SWAN Vancouver Society



Supporting Women's Alternatives Network

Criminalising clients endangers Asian, immigrant and migrant women in sex work

Brief to the Senate Legal and Constitutional Affairs Committee
on Bill C-36: Protection of Communities and Exploited Persons Act

Submitted 10 September 2014
by Supporting Women's Alternatives Network (SWAN Vancouver)

Authored by Julie Ham, Collective Member, SWAN Vancouver

SWAN Vancouver is currently the only community organization in the Greater Vancouver area that supports Asian women in sex work in a supportive, non-judgmental environment. This is part of our broader work providing support and outreach to immigrant, migrant and newcomer women working in indoor sex work sites since 2002. We are also a member of the Global Alliance Against Traffic in Women (GAATW) and, as such, support an evidence-based, human rights approach to anti-trafficking.

Our purpose in submitting this brief is two-fold:

- 1) To remind the Committee of the stereotypes and racialized assumptions that continue to harm Asian women in sex work;
- 2) To outline the risks Bill C-36 poses for Asian women in sex work as well as other immigrant, migrant and racialized sex workers;

Our first objective is to remind the Committee of the stereotypes and racialized assumptions that continue to harm Asian women in sex work.

The first is the false notion and highly racialized stereotype that Asian women are often trafficked into sex work or are in the country as undocumented migrants. Our experience and recent research¹ with immigrant, migrant and racialized sex workers in Vancouver strongly disputes these stereotypes.

We are aware that Bill C-36 focuses on sex work or prostitution, and does not directly reference the issue of human trafficking. However, we are extremely concerned that organizations that support the criminalization of clients have also typically confused sex work with trafficking. The perspectives of the Asian Women Coalition Ending Prostitution (AWCEP) are one example of this unsubstantiated conflation. More broadly, the criminalization of clients, and the confusion between sex work and trafficking are both central principles of the prostitution abolitionist framework which seeks to eradicate all



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forms of sex work, regardless of consent - the pursuit of which has been routinely denounced by academic research and by our own experiences as being harmful to women.

Therefore, we feel it is useful to remind the Committee about the diversity within Asian communities and clarify some basic distinctions between sex work and trafficking. At SWAN, we consistently counter the stereotype that most Asian sex workers are trafficked. First, Asian women are not a homogenous group and represent an extraordinarily diverse range of backgrounds, perspectives and experiences in sex work. Asian women in sex work include naturalized citizens, permanent residents, Canadian-born Asians, and temporary migrants. A recent qualitative study demonstrates this point clearly. In this study of 35 immigrant, migrant and racialized sex workers in the Greater Vancouver area, including 24 Asian workers, not one reported having been trafficked.¹¹ The majority of interviewees were naturalized citizens or permanent residents. Interviewees had lived in Canada for an average of 10 years and had been working in sex work in Vancouver for an average of 4 years. Although this is a relatively small sample, the findings mirror SWAN's anecdotal observations and conversations with Asian workers over the past several years. It remains a challenge to inform and remind law enforcement and policy-makers of this basic fact, but it is important to remember that Asian women in sex work are very often also Canadians in sex work.

This discourse of exclusion is not limited to denying their status as Canadians: it goes to the heart of whether or not Asian women in sex work are seen as community members in their own right. This social exclusion has dire consequences for Asian women in sex work. Despite the fact that many women have citizenship, permanent residency or documented status, SWAN has observed that predominantly Asian businesses remain the focus for intrusive law enforcement measures, including unexplained documentation checks and workplace raids. The most high profile example remains the 2006 law enforcement raids of 18 massage parlours or 'massage shops' across the Greater Vancouver Area (or the Lower Mainland).¹² Seventy-eight women were arrested because they were thought to be victims of trafficking (although it remained unclear why arrest would be the first response to identifying victims). Instead, none of the workers were trafficked and all of the workers were reported to be either Canadian citizens or documented immigrants and migrants. Another example remains a series of 1997 workplace raids in Toronto. Research (funded by Status of Women Canada) following these raids found that sex workers experienced abuse and harassment from law enforcement, despite law enforcement's aim to assist migrant sex workers suspected of being trafficked.¹³ Research found: 'Canadian police agencies and the judicial system treated the women as criminals, as well as patronizing them because of their sex, race and occupation. [...] Their rights to due process were violated.'¹⁴ Police raids resulted in the abuse and harassment of sex workers, and increased women's debt when women's earnings were confiscated by law enforcement.



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Our second objective is to outline a few of the dangers Bill C-36 poses for Asian women in sex work as well as for other immigrant, migrant and racialized sex workers.

Entrenches law enforcement surveillance of Asian sex workers and businesses

Asian women and Asian businesses are already at an increased risk of being suspected of criminal activity, due to their race, ethnicity and the tenacious (but increasingly disputed) association between sex work and trafficking.^{vi} In SWAN's experience, law enforcement already appears much more likely to monitor and police Asian businesses, through the use of bylaw enforcement and coordinated efforts with the Canada Border Services Agency (CBSA). This is despite the fact that the overwhelming majority of women we work with are citizens, residents or documented migrants and are working in licensed businesses. The anecdotal information from workers also strongly suggests that racialized clients may also bear the brunt of law enforcement scrutiny. SWAN's experience and recent research with Asian workers^{vii} have also noted that law enforcement behavior changes when clients are present. When law enforcement have visited 'massage shops' in the Greater Vancouver area, women have reported that law enforcement are much more likely to be disrespectful, abrupt or invasive if clients are also present. In summary, many of the Asian women we speak to still feel that they are more likely to need protection *from* law enforcement rather than protection *by* law enforcement.

Endangers women's income security and safety

Based on numerous conversations with Asian workers – as well as other groups of immigrant, migrant and racialized workers – a slow day (with no or few clients) is a bad day. When describing negative experiences in sex work, women often speak of the challenges in enduring a slow business period. In 2013-2014, SWAN has continued to update workers about the *Bedford v. Canada* decision and Bill C-36.

All of the women we speak to are adamant that clients should not be criminalized. Many women have also shared with us their fears of the sector being driven further underground. Many of the women we are in contact with work in licensed businesses and have stated that this is a deliberate decision. They have adamantly and emphatically argued that they feel safe working in licensed 'massage shops' and would not feel safe working in less visible locations, such as residential properties. There is a strong concern that any measures to criminalize clients would necessitate increased measures to avoid law enforcement detection. The women that we have spoken fear that criminalizing clients would take away their ability to choose the workplace that feels safest for them.

Instead, women want respectful clients, the freedom to work without law enforcement interference and the protection of their privacy.



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Criminalization of clients would not be applied to any other industry

The criminalization of clients would likely not be condoned in any other industry. Many of the women SWAN support are working in licensed businesses, in neighbourhoods that also contain restaurants, shops, salons and a range of other goods and services. It is hard to imagine a scenario where, for example, neighbouring restaurants would be required to obtain a business license and follow occupational health and safety regulations, but are prohibited from allowing any customers to eat there.

The women we speak to routinely discuss sex work as a work sector or as a job. For some, it may be a temporary job, while others may seek a longer-term career in the industry. In the Greater Vancouver area, 'massage shops' are very often licensed businesses that must adhere to a range of detailed bylaws as well as federal law. The managers and workers we have spoken to over the years are invested in running a business according to regulation but describe finding it confusing and contradictory. For example, the City of Vancouver bylaws around Health Enhancement Centres, Body Rub Parlours, and related businesses outline numerous and extremely detailed requirements pertaining to the minute aspects of operating a business (e.g. staff dress code, floor plan requirements, operating hours, lighting, etc.). Managers and workers have expressed frustration in trying to juggle the contradictions between the City's numerous bylaws concerning the day-to-day workings of sex work-related businesses on one hand and the criminalization of sex work in federal laws (struck down by the Supreme Court of Canada) on the other hand. Some of the immigrant managers and workers we spoke to felt that this resulted in a bait and switch scenario, where attempts to follow bylaws and regulations are only met with greater scrutiny from law enforcement.

Decriminalize sex work

SWAN joins other sex worker rights organizations, researchers, UN bodies and allied organizations^{vi} in supporting a decriminalization approach, or the removal of criminal penalties around consensual, adult sex work. This approach would reflect the *Bedford v. Canada* decision by the Supreme Court of Canada, which found three provisions pertaining to sex work in the Criminal Code endangered sex workers' health and safety. A decriminalization approach would not only remove legal barriers to justice for sex workers, but would also foster an environment where law enforcement does not become another risk to manage in sex work.

ⁱ This refers to qualitative interviews conducted 2013-2014 with 35 immigrant, migrant and racialized sex workers in the Greater Vancouver area, as part of Julie Ham's doctoral research: <http://artsonline.monash.edu.au/thebordercrossingobservatory/research-agenda/internal-border-control/sex-work-migration-and-agency/>



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ⁱⁱ Ibid.

ⁱⁱⁱ '18 massage parlours raided, 100 arrested', 2006 December 9, *Vancouver Sun*, <http://www.canada.com/vancouversun/news/story.html?id=431cc5d2-4496-4400-b367-403d9a07a454>

^{iv} Toronto Network Against Trafficking in Women, Multicultural History Society of Ontario, Metro Toronto Chinese and Southeast Asian Legal Clinic, *Trafficking in Women Including Thai Migrant Sex Workers*, Status of Women Canada, Canada, 2000, p. 25, retrieved 12 December 2013, <http://ccrweb.ca/en/trafficking-women-including-thai-migrant-sex-workers-canada>

^v Ibid.

^{vi} E.g. Mai, N 2012, 'Embodied cosmopolitanisms: the subjective mobility of migrants working in the global sex industry', *Gender, Place & Culture: A Journal of Feminist Geography*, vol. 20, no. 1, pp. 107-124.

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^{vii} This refers to qualitative interviews conducted 2013-2014 with 35 immigrant, migrant and racialized sex workers in the Greater Vancouver area, as part of Julie Ham's doctoral research: <http://artsonline.monash.edu.au/thebordercrossingobservatory/research-agenda/internal-border-control/sex-work-migration-and-agency/>

^{viii} E.g. Rekart, M. L. (2005). Sex-work harm reduction. *The Lancet*, 366(9503), 2123-2134.

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Supporting Women's Alternatives Network

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Supporting Women's Alternatives Network (SWAN Vancouver)

PO Box 21520, Vancouver, BC, V5L 5G2

Hotline: 604-719-6343 • Email: info@swanvancouver.ca • Website: www.swanvancouver.ca

Uzdavinys, Titas PREM:EX

From: OfficeofthePremier, Office PREM:EX
Subject: FW: Regarding Bill C-36

From: s.22
Sent: Monday, November 17, 2014 11:11 PM
To: OfficeofthePremier, Office PREM:EX
Subject: Regarding Bill C-36

Dear Premier Clark,

I am writing to ask you to refer Bill C-36, Protection of Communities and Exploited Persons Act, the new anti-prostitution laws which are in response to the Bedford decision, to the Supreme Court of British Columbia to determine if they are constitutional. Please do this before pursuing prosecutions under these laws, or directing police to enforce these laws.

Many experts and sex workers have testified that these laws are dangerous for sex workers, and will recreate the harms that previously existed under the old laws. The current Conservative Government has passed these laws despite the objections of those who will be most affected, including the most marginalized and vulnerable, outdoor sex workers.

I am not a sex worker myself, but I believe that sex workers have the same rights as other Canadian citizens, and I believe in the Charter of Rights and Freedoms. Specifically, I believe that sex workers have the right to life, liberty and security of person. These laws do not respect the constitutional rights of sex workers, and should not be enforced before the courts have evaluated them.

Please refer these laws immediately to the courts, before more harm comes to the sex workers who will be most affected by these laws.

Sincerely,

s.22



December 17, 2014

The Honourable Christy Clark
Premier of British Columbia
Box 9041 Station PROV GOVT
Victoria, BC V8W 9E1

The Honourable Suzanne Anton
Minister of Justice
Box 9044, Station PROV GOVT
Victoria, BC V8W 9E2

Dear Premier and Attorney General:

Re: *The Protection of Communities and Exploited Persons Act*

The undersigned are organizations deeply committed to the health, safety, and human rights of sex workers.

We are dismayed that the government of Canada responded to the landmark *Bedford*¹ decision by enacting new laws that criminalize adult sex work. The *Protection of Communities and Exploited Persons Act* ("PCEPA"), which became law on December 6, 2014, creates a legal framework that criminalizes many aspects of adult prostitution, including the purchase of sexual services, the advertisement of sexual services, and communication for the purpose of prostitution. Evidence clearly demonstrates that this approach will have devastating consequences on sex workers throughout Canada.

We write to ask the Government of British Columbia to take the necessary steps to protect sex workers in our province. We ask, therefore, that British Columbia create a policy directing Crown counsel that it is not in the public interest to charge or prosecute individuals who are alleged to have violated the following provisions of the *Criminal Code*:

1. The prohibition on the purchase of sexual services (section 286.1(1));
2. The ban on communication for the purposes of prostitution (sections 213 and 286.1(1));
3. The amended procuring provision and the prohibition on materially benefitting from another person's sex work (section 286.2(1), (3), (4), (5), and (6) and section 286.3(1)); and
4. The ban on advertising (section 286.4).

¹ *Canada (Attorney General) v. Bedford*, 2013 SCC 72, [2013] 3 S.C.R. 1101.

The PCEPA will reproduce the harms that existed under Canada's previous laws

The **new prohibition on purchasing sexual services** (and a new, sweeping prohibition on a **client communicating anywhere for that purpose**) will recreate or worsen the dangerous conditions that existed under the former prostitution laws. Targeting clients will displace sex workers to isolated areas where prospective customers are less likely to be detected by police. Sex workers will have little or no opportunity to screen their clients or negotiate the terms of the transaction, as there will be pressure from clients to proceed as quickly as possible. Sex workers will continue to face barriers to police protection. Furthermore, sex workers will continue to be prevented from operating in most safe indoor spaces, as clients face the potential of being arrested if they attend such spaces.

As a result, while criminalizing the *purchase* of sexual services is said to be aimed at protecting sex workers, this type of criminal prohibition will have the same effect as the former laws, and subject sex workers to greater risks to their safety.

The law also **prohibits the advertising of sexual services**. While an individual sex worker does not face prosecution for advertising their own services, the provision can be interpreted as prohibiting any other party (e.g. a newspaper, website, etc.) from publishing any prostitution-related advertising due to the laws restricting advertising and the prohibition on receipt of material benefit. The practical effect is to make it very difficult for sex workers to find a way to advertise, which will significantly limit sex workers' ability to work safely indoors because they will be unable to promote their services.

We are extremely concerned about the **prohibition of communication (by clients in any place and by sex workers in a public place that is next to a school ground, playground, or day care centre)** which will harm street-based sex workers, who are among the most marginalized people in the industry. These laws, which make sex workers' clients guilty of a crime for any communication to obtain their services, will have the same effect as the previous laws: sex workers will be less able to take the time to screen clients and negotiate the terms of the transaction before getting into a client's car, and will be displaced to more isolated areas where they are at greater risk of violence and less able to seek help if necessary.

The *PCEPA* creates a new offence of "**receiving a material benefit**," which criminalizes third parties who receive a financial or other material benefit from someone else's sex work. This provision is excessively vague and complicated, making it difficult to determine who is at risk of prosecution. However, it is clear that the provision will prevent sex workers from creating professional relationships that provide ongoing, secure working conditions. In this regard, the provision creates the same harms as its predecessor, the "living on the avails of prostitution" law. In addition, the material benefit law is unnecessary, because other provisions of the *Criminal Code* already capture the forms of exploitation and abuse that it seeks to prevent. The range of criminal laws that protect

sex workers from abuse by third parties and others are set out clearly in *The Challenge of Change, the Report of the Standing Committee on Justice and Human Rights*.²

For these same reasons, we are concerned about the enforcement of **the procuring law**, which is overly broad and will prevent sex workers from establishing non-exploitive safety-enhancing relationships.

Learning from the tragedy of violence against sex workers in British Columbia

We must not allow the conditions that led to an epidemic of violence against sex workers in B.C. communities to persist. The role that criminalization plays in creating conditions for violence was made abundantly clear in the *Bedford* case, where the Supreme Court of Canada held:

By prohibiting communication in public for the purpose of prostitution, the law prevents prostitutes from screening clients and setting terms for the use of condoms or safe houses. In these ways, it significantly increases the risk they face³... If screening could have prevented one woman from jumping into Robert Pickton's car, the severity of the harmful effects is established.⁴

The connection between law enforcement targeting sex work and risk to safety was also a key finding in the final report of Commissioner Wally Oppal, QC in the Missing Women's Commission of Inquiry:

The relationship between police and sex trade workers is generally marked by distrust, so they tend to under-report crimes of violence. There is a clear correlation between law enforcement strategies of displacement and containment of the survival sex trade to under-populated and unsafe areas in the period leading up to and during the reference period and violence against the vulnerable women. This was an unintentional but foreseeable result.⁵

Based on this finding, Commissioner Oppal recommended that all police forces throughout the province consider developing and implementing guidelines modelled after the Vancouver Police Department's Sex Work Enforcement Guidelines. The Guidelines state that the VPD's priority is to ensure the safety and security of sex workers. Further, the Guidelines explicitly state that sex work involving consenting adults is not an enforcement priority for the VPD.

² House of Commons, Report of the Standing Committee on Justice and Human Rights, *The Challenge of Change: A Study of Canada's Criminal Prostitution Laws*, (December 2006), Appendix D: Non-Exhaustive List Of Generic Provisions Within The Criminal Code Available To Protect Prostitutes, Children and Youth, and Communities.

³ *Canada v. Bedford* at para 71.

⁴ *Canada v. Bedford* at para 158.

⁵ The Hon. Wally T. Oppal, Q.C., *Forsaken: The Report of the Missing Women Commission of Inquiry* (Victoria: Missing Women Commission of Inquiry, 2012), Executive Summary, p. 15 – 16.

On this basis, we call on your government to take the necessary steps to protect the health, safety, and human rights of sex workers in this province. As an essential aspect of that strategy, we ask that you create a policy stating that sex workers' safety is a priority in British Columbia and that it is not in the public interest to charge or prosecute individuals who are alleged to have violated the provisions of the *PCEPA* that criminalize adult sex work.

Yours sincerely,

Katrina Pacey, on behalf of **Pivot Legal Society**

Raven Bowen, on behalf of **SPACES Research Project at the University of British Columbia**

Laura Dilley, on behalf of **PACE Society**

Rachel Phillips, on behalf of **Peers Victoria Resources Society**

Dr. Julio Montaner, on behalf of the **BC Centre for Excellence in HIV/AIDS**

Dr. Kate Shannon, on behalf of the **Gender and Sexual Health Initiative, BC Centre for Excellence in HIV/AIDS**

Susan Davis, on behalf of **BC Coalition of Experiential Communities**

Downtown Eastside Sex Workers United Against Violence Society

Kate Gibson, on behalf of the **WISH Drop-In Centre Society**

Janice Abbott, on behalf of **Atira Women's Resource Society**

Joyce Arthur, on behalf of **FIRST Decriminalize Sex Work**

Alison Clancey, on behalf of the **SWAN Vancouver Society**

Trina Ricketts-Bagnall, on behalf of **The Naked Truth**

Kailin See, on behalf of the **PHS Community Services Society, Drug Users Resource Centre and the Women's Action Group**



Canadian HIV/AIDS Legal Network	Réseau juridique canadien VIH/sida
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December 1st, 2014

Christy Clark, Premier
PO BOX 9041 STN PROV GOVT
Victoria BC V8W 9E1

Dear Premier Clark:

We are deeply concerned with the new criminal provisions introduced by the so-called Protection of Communities and Exploited Persons Act, which will undoubtedly result in serious harms against sex workers in this province and across Canada. As HIV/AIDS and human rights organizations based in British Columbia or with a Canada-wide mandate, we ask that you refer the Act to British Columbia's Court of Appeal for it to determine the constitutionality of these provisions.

The Act, which received Royal Assent on November 6th, is the Government of Canada's response to the 2013 ruling of the Supreme Court of Canada in *R. v. Bedford*. Sadly, it runs counter to the spirit and letter of the Supreme Court's decision and will replicate the harms of the previous laws, which were found to be unconstitutional.

The overwhelming evidence concerning sex work demonstrates that the criminalization of sex work — both directly through a prohibition on the purchase of sex, and indirectly through prohibitions on advertising sexual services, receipt of "financial or other material benefit" from sex work and procuring, all of which are found in the Act — contributes to harms to sex workers. These harms were not only found to be unconstitutional by the Supreme Court in *R. v. Bedford*, they also constitute violations of international human rights law.

The Act cannot be reconciled with a concern for the health and welfare of sex workers. It will expose sex workers to further stigma and discrimination, diminish the control sex workers have over their working conditions, and gravely threaten their health and safety. The Government of Canada has passed this new law despite the objections of those who will be most affected, including outdoor sex workers, who are among the most marginalized and vulnerable.

As HIV/AIDS and human rights organizations, we have been working alongside groups representing sex workers for many years. We stand with them again today. We also want

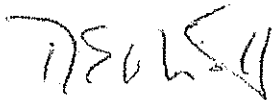
1240 Bay Street, Suite 600, Toronto, Ontario, Canada M5R 2A7
Telephone: +1 416 595-1666 Fax: +1 416 595-0094 info@aidslaw.ca www.aidslaw.ca
Charitable Registration #141110155 RR0001

to specifically voice our concern about the impact of these new criminal provisions on sex workers' exposure to HIV and other infections. It is now well recognized in the international scientific community that punitive laws and policies governing sex work, including the criminalization of some or all aspects of sex work elevate HIV infection and transmission risks. Such criminalization limits sex workers' access to essential HIV, sexual health and harm reduction services.

While theoretical for many involved in the passing of this law, the physical, social and psychological harms that this law will perpetuate are all too real for sex workers. We are concerned for the health and safety of our friends, colleagues and community members.

We therefore ask you to refer the Act to the British Columbia Court of Appeal, and to do so before pursuing prosecutions under these laws, or directing police to enforce these laws.

Sincerely,



Richard Elliott
Réseau juridique canadien VIH/sida

With the support of the following organizations:

CATIE



Interagency Coalition on AIDS and Development



Canadian AIDS Society



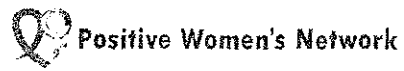
Canadian Working Group on HIV and Rehabilitation



Canadian Treatment Action Council



Positive Women's Network



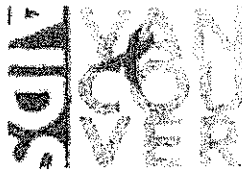
Positive Living Society of British Columbia



AIDS Vancouver Island



AIDS Vancouver



ANKORS





BRITISH
COLUMBIA

December 15, 2014

Richard Elliot
Canadian HIV/AIDS Legal Network
600-1240 Bay Street
Toronto, ON

Dear Mr. Elliot:

Thank you for your letter. I do appreciate your taking the time to express your concerns regarding Federal Bill C-36, The Protection of Communities and Exploited Persons Act. I've taken note of your comments; it's clear this is a very important issue to you and the organization and people who are supporting your efforts.

On your behalf, I have sent a copy of your letter to the Honourable Suzanne Anton, Minister of Justice and Attorney General. She, too, will appreciate your feedback and include your suggestion in any related discussions.

Again, thank you for taking the time to write – it was good to hear from you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christy Clark', written over the word 'Sincerely,'.

Christy Clark
Premier

Pc: Honourable Suzanne Anton

s.22

November 12, 2014

The Honourable Christy Clark
Premier of British Columbia
Box 9041
Station PROV GOVT
Victoria, BC V8W 9E1
premier@gov.bc.ca

Dear Premier:

I am writing to ask you to refer Bill C-36, Protection of Communities and Exploited Persons Act, the new anti-prostitution laws which is in response to the Bedford decision, to the Supreme Court of British Columbia to determine if they are constitutional. Please do this before pursuing prosecutions under these laws, or directing police to enforce these laws.

Many experts and sex workers have testified that these laws are dangerous for sex workers, and will recreate the harms that previously existed under the old laws. The current Conservative Government has passed these laws despite the objections of those who will be most affected, including the most marginalized and vulnerable, outdoor sex workers.

I am not a sex worker myself,

s.22

These new laws would have made her even more vulnerable than the laws in effect at the time did. She needed to be treated as any other citizen with rights to the same protections the

rest of us enjoy. Instead, she was forced so far onto the margins that

s.22

I believe that sex workers have the same rights as other Canadian citizens, and I believe in the Charter of Rights and Freedoms. Specifically, I believe that sex workers have the right to life, liberty and security of person. These laws do not respect the constitutional rights of sex workers, and should not be enforced before the courts have evaluated them.

Please refer these laws immediately to the courts, before more harm comes to the sex workers who will be most affected by these laws.

Sincerely,

s.22

cc: John Horgan, BC NDP leader



November 25, 2014

s.22

Dear s.22

Thank you for your letter. I do appreciate your taking the time to express your concerns regarding Federal Bill C-36, The Protection of Communities and Exploited Persons Act. I've taken note of your comments, and it's clear this is a very important issue to you and I fully understand why.

On your behalf, I have sent a copy of your letter to the Honourable Suzanne Anton, Minister of Justice and Attorney General. She, too, will appreciate your feedback and include your suggestion in any related discussions.

Again, thank you for taking the time to write – it was good to hear from you.

Sincerely,

Christy Clark
Premier

Pc: Honourable Suzanne Anton