



## 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 research<sup>i</sup> 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



## Supporting Women's Alternatives Network

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<sup>ii</sup> 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).<sup>iii</sup> 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.<sup>iv</sup> 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.'<sup>v</sup> 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.



## Supporting Women's Alternatives Network

**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.<sup>vi</sup> 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<sup>vii</sup> 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.



## Supporting Women's Alternatives Network

### ***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<sup>viii</sup> 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.

---

<sup>i</sup> 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/>



## Supporting Women's Alternatives Network

ii Ibid.

iii '18 massage parlours raided, 100 arrested', 2006 December 9, *Vancouver Sun*, <http://www.canada.com/vancouvernews/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.

Weitzer, R 2011, 'Sex trafficking and the sex industry: the need for evidence-based theory and legislation', *Journal of Criminal Law & Criminology*, vol. 101, no. 4, pp. 1337-1369.

Mai, N 2009, *Migrant workers in the UK sex industry: final policy relevant report*, London Metropolitan University, viewed 10 September 2014, <http://www.londonmet.ac.uk/research-units/iset/projects/esrc-migrantworkers.cfm>

Segrave, M, Milivojevic, S & Pickering, S 2009, *Sex trafficking: international context and response*, Willan Publishing, Cullompton.

Jeffreys, E. 2009, 'Anti-trafficking measures and migrant sex workers in Australia', *Intersections: gender, history & culture in the Asian context*, no. 19, viewed 10 September 2014, <http://intersections.anu.edu.au/issue19/jeffreys.htm>

Agustin, L 2007, *Sex at the margins: migration, labour markets and the rescue industry*, Zed Books, London & New York.

Global Alliance Against Traffic in Women (GAATW) 2007, *Collateral damage: the impact of anti-trafficking measures on human rights around the world*, GAATW, Bangkok, viewed 10 September 2014, [http://www.gaatw.org/Collateral%20Damage\\_Final/singlefile\\_CollateralDamagefinal.pdf](http://www.gaatw.org/Collateral%20Damage_Final/singlefile_CollateralDamagefinal.pdf)

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.

Open Society Foundations. (n.d.(b)). *10 Reasons to Decriminalise Sex Work: A Reference Brief*. New York: Open Society Foundations. Available online at:

<http://www.opensocietyfoundations.org/sites/default/files/decriminalize-sex-work-20120713.pdf>

Open Society Foundations. (n.d.(b)). *10 Reasons to Decriminalise* Office of the United Nations High Commissioner for Human Rights and the Joint United Nations Programme on HIV/AIDS. (2006). *International Guidelines on HIV/AIDS and Human Rights: 2006 Consolidated Version*. Available online at:

<http://www.ohchr.org/Documents/Publications/HIVAIDSGuidelinesen.pdf>

Grover, A. (2010). *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental*. Presented at Human Rights Council, Fourteenth session, 27 April 2010. Available online at:

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.20.pdf>

Beyrer, C., Crago, A-L., Bekker, L-G., Butler, J., Shannon, K., Kerrigan, D., Decker, M.R., Baral, S.D., Poteat, T.,



## Supporting Women's Alternatives Network

- Wirtz, A.L., Weir, B.W., Barré-Sinoussi, F., Kazatchkine, M., Sidibé, M., Dehne, K-L, Boily, M-C. & Strathdee, S.A. (2014). An action agenda for HIV and sex workers. *The Lancet*, Early Online Publication, 22 July 2014, doi:10.1016/S0140-6736(14)60933-8
- Das, P. & Horton, R. (2014). Bringing sex workers to the centre of the HIV response. *The Lancet*, Early Online Publication, 22 July 2014, doi:10.1016/S0140-6736(14)61064-3
- Shannon, K., Strathdee, S.A., Goldenberg, S.M., Duff, P., Mwangi, P., Rusakova, M., Reza-Paul, S., Lau, J., Deering, K., Pickles, M.R. & Boily, M.-C. (2014). Global epidemiology of HIV among female sex workers: influence of structural determinants. *The Lancet*, Early Online Publication, 22 July 2014, doi:10.1016/S0140-6736(14)60931-4
- Harcourt, C., Egger, S., & Donovan, B. (2005). Sex work and the law. *Sexual Health*, 2(3), 121-128.
- Weitzer, R. (2009). Legalising prostitution: Morality politics in Western Australia. *British Journal of Criminology*, 49(1), 88-105.
- Open Society Foundations. (n.d.(b)). *10 Reasons to Decriminalise Sex Work: A Reference Brief*. New York: Open Society Foundations. Available online at:  
<http://www.opensocietyfoundations.org/sites/default/files/decriminalize-sex-work-20120713.pdf>
- Ham, J. (2011). *Moving Beyond 'Supply and Demand' Catchphrases: Assessing the Uses and Limitations of Demand-based Approaches in Anti-Trafficking*. Bangkok, Thailand: Global Alliance Against Traffic in Women (GAATW). Available online at:  
[http://www.gaatw.org/publications/MovingBeyond\\_SupplyandDemand\\_GAATW2011.pdf](http://www.gaatw.org/publications/MovingBeyond_SupplyandDemand_GAATW2011.pdf)
- Decker, M.R., Crago, A-L., Chu, S.K.H., Sherman, S.G., Seshu, M.S., Buthelezi, K., Dhaliwal, M. & Beyrer, C. (2014). Human rights violations against sex workers: burden and effect on HIV. *The Lancet*, Early Online Publication, 22 July 2014, doi:10.1016/S0140-6736(14)60800-X
- Kerrigan, D., Kennedy, C.E., Morgan-Thomas, R., Reza-Paul, S., Mwangi, P., Win, K.T., McFall, A., Fonner, V.A. & Butler, J. (2014). A community empowerment approach to the HIV response among sex workers: effectiveness, challenges, and considerations for implementation and scale-up. *The Lancet*, Early Online Publication, 22 July 2014, doi:10.1016/S0140-6736(14)60973-9
- Brock, D., Gillies, K., Oliver, C., & Sutdhibhasilp, M. (2000). Migrant sex work: A roundtable analysis. *Canadian Women Studies*, 20(2), 84-91.
- New Zealand Government. (2008). *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003*. Wellington: Ministry of Justice.

### Supporting Women's Alternatives Network (SWAN Vancouver)

PO Box 21520, Vancouver, BC, V5L 5G2

Hotline: 604-719-6343 ♦ Email: [info@swanvancouver.ca](mailto:info@swanvancouver.ca) ♦ Website: [www.swanvancouver.ca](http://www.swanvancouver.ca)