

Butterfly
(Asian and Migrant Sex Workers Support Network)

***Brief to the Senate Standing Committee on
Legal and Constitutional Affairs
Regarding Bill C-36,
(Protection of Communities and Exploited Persons Act)***

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By
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Butterfly is an Asian and Migrant Sex Workers Support Network based in Toronto that provides support to, and advocates for, the rights of Asian and migrant sex workers. The organization is founded upon the belief that sex workers, like all workers, are entitled to respect and basic human rights. Further, Butterfly asserts that, regardless of their immigration status, Asian and migrant sex workers should receive the same respect and human rights as other workers.

We urge the Committee to recognize the constitutional and human rights of sex workers by rejecting Bill C-36, because, to implement this proposed Act as it has been drafted would force this work to go underground. In so doing, it would further restrict and stigmatize all sex workers, in general, and the Asian and migrant female sex workers, in particular. It not only would increase the isolation and exclusion of all sex workers, it would have an especially negative impact on racialized and migrant sex workers, and this would affect the sex workers' health, equity, dignity, safety and human rights.

Asian and migrant sex workers are vulnerable because of their immigration status, language barriers, race, as well as because of the criminalization and discrimination of sex work. Bill C-36 prolongs the criminalization of sex work for all sex workers by criminalizing the client, the advertising used, communication in public with any third party of the sex industry, and would make the sex workers, in general, and the Asian and migrant sex workers, in particular, further marginalized and isolated.

Criminalization of the client and advertising pushes the sex industry further underground. The income and safety of sex workers also may be endangered, because these workers will find it much more difficult to communicate and meet with their clients. As a result, the sex workers may have to migrate to other places to work and this is likely both to *decrease* their support network and *increase* their risks of exploitation.

Advertising is a very effective tool for sex workers to empower themselves because they can use it both to obtain information about the sex industry and build a support network with other sex workers. Advertising also communicates important information to the services providers to enable them to reach out and support this hidden and marginalized community.

Instead of having a self-employed status, some Asian and migrant sex workers may prefer to work for agents or employers due to their language barrier and limited financial resources. The bill impairs the ability of sex workers to gain the assistance and protection of a third party. The illegality of material benefits for a third party also interferes with the sex workers' ability to be protected by labour laws. The Bill may also increase how often – and how intrusively -- police and other public authorities investigate the sex workers' places. For that reason, the migrant sex workers not only may face the risk of getting arrested, detained or deported, they likely will find they have increased barriers to accessing police protection and this would increase the risk of violence for the sex workers.

Not only that, but Bill C-36 prevents concerned groups and individuals from having any discussion of the main reasons for the vulnerability of Asian and migrant sex workers. It is wrong to assume all sex workers, in general, are victims and that all Asian and migrant sex workers, in particular, are being trafficked. This vulnerability is not due to the conditions of the sex work itself; rather, it is a situation caused by the Federal government's criminalization of sex work and its restrictive policies on migration.

Bill C36, as it is drafted, not only would violate the human rights of – and marginalize -- all sex workers, it would make the circumstances for Asian and migrant sex workers exceedingly difficult.

Based on this assessment, Butterfly submits the following demands to the Senate Committee:

1. The Senate Committee should recommend that Parliament scrap Bill C-36, in its entirety. In its place, the government should formulate an effective policy to eliminate discrimination against sex workers.
2. The government should completely decriminalize sex work by repealing all laws that criminalize sex workers, clients and third parties. To accompany the removal of negative legal prohibitions from the past, the government should take positive steps to shape the future. Sex work should be recognized as the work to secure the rights and livelihood of all sex workers, regardless of sector of the industry in which they work.
3. The government should formulate policies that will effectively eliminate discrimination against sex workers.