

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

Submission to the Standing Senate Committee on Legal and Constitutional Affairs
regarding Bill C-36 on behalf of the Asian Women Coalition Ending Prostitution.

*Prepared by Suzanne Jay
Sept 1, 2014*

*awcep.info@gmail.com
awcep.org*

Submission to the Standing Senate Committee on Legal and Constitutional Affairs regarding Bill C-36 on behalf of the Asian Women Coalition Ending Prostitution.

Asian Women Coalition Ending Prostitution

The AWCEP Asian Women for Equality Society 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 immigrants to Canada. Asian Women is a grassroots feminist volunteer organization based in British Columbia. Our extensive experience in front-line work enriches our understanding of the impacts of prostitution on Asian women and on other racialized groups as well as the factors that drive women into prostitution.

As an intervenor in the Supreme Court of Canada case *Canada v Bedford*, 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, procurers, 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 emphasizes 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.

Recommendation: Strengthen the intent to protect human dignity and equality by noting the disproportionate impact of prostitution on racialized women in the preamble and referencing international agreements that Canada has agreed to enact, specifically the Convention on the Elimination of All Forms of Discrimination against Women and 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).

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.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 in towns across Canada. The advertising reveals the experience of racist sexual subordination demanded by customers of prostitution and catered to by pimps, procurers, brothel keepers, advertisers and others invested in prostitution.

The Asian population of Metro Vancouver is only 30% of 2.1 million. Asian women as a group may comprise only approximately 15% of that population.^{2 3} Yet our 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.

Bill C-36 recognizes the negative impact on society when businesses normalize the prostitution of Asian women and promote deeply racist and sexist ideas unchallenged. We applaud that the Bill avoids punishing those women whose experience of inequality is depicted and commodified to advertise prostitution or “sexual services”.

¹ Sunny Woan, *White Sexual Imperialism: A Theory of Asian Feminist Jurisprudence*, 14 Wash. & Lee J. Civ. Rts. & Soc. Just. 275 (2008).

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>.

Making the connections: Human trafficking into prostitution

Human trafficking is intrinsic to Asian women's experience of prostitution regardless of women's country of origin. Recognition of the interconnected nature of human trafficking and prostitution is in accordance with Canada's May 2002 ratification of the Palermo Protocol.

The incorporation of the Palermo Protocol objectives into Canadian law is 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

Bill C-36 protects police ability to interfere with human trafficking activity recognized by the RCMP as controlled by organized crime.⁵ In the absence of Bill C-36, Canadian human trafficking laws apply only to traffickers but not the buyers of trafficked women. Bill C-36 makes it illegal for a man to buy a trafficked woman. The Bill C-36 also prevents the transformation of those engaged in the organized crimes of trafficking, pimping, procuring, brothel-keeping and advertising into legitimate businessmen.

Procurers, pimps, brothel-keepers and advertisers of 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 violence to the women or their families, deportation, or arrest. Procurers and pimps use the

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.

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

system of mail-order brides and Canadian immigration requirements that force women to remain with violent or coercive husbands.

Bill C-36 offers some improvement in response to women in these situations by not automatically criminalizing them. However, current immigration law contradicts the spirit of Bill C-36 to defend women from exploitation. It does not change the balance of power to enable a non-landed woman to successfully exit or avoid prostitution. Recent cases of abuse and exploitation by employers under the Temporary Foreign Workers Program (TWP) highlight the vulnerability caused by poverty, lack of secure immigration status and gross imbalance of power in favour of the employer/sponsor.

Recommendation: Grant women who enter Canada under exploitative conditions landed status upon arrival regardless of how each woman arrived. 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 – privacy shields male violence

Women are beaten, raped, killed and trafficked by men in a wide range of private and indoor settings. While police are called to respond in the most severe incidents (i.e. death), the vast majority of violent incidents and threats are unreported by the women prostituted from massage parlours, micro-brothels etc.

Countries that have adopted a robust version of the Nordic model report significantly reduced human trafficking activity.⁶ ⁷In contrast, countries that chose to decriminalize male demand and

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 Utarbeidet på oppdrag fra Justis- og beredskapsdepartementet.(2014) Evaluering av forbudet mot kjøp av seksuelle tjenester. Page 13 for English summary in full text of report http://www.regjeringen.no/pages/38780386/Evaluering_sexkjoeplsloven_2014.pdf

management of prostitution have seen dramatic increases in human trafficking and the entrenchment of organized crime activity in prostitution with no improvement in women's safety.⁸

Pimps, procurers and brothel-keepers use intimate and familial relationships to press Asian women into prostitution. Prostitution overlaps 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.

Asian Women welcomes the differentiation between those who depend on a woman's income without investment in how it is earned (dependent children, hairdressers or other service providers), and those who are parasitically invested in prostitution ("bodyguards", pimping boyfriends, brothel-keepers, prostitution advertisers). It is crucial to prohibit men from using a marriage licence to escape criminal sanction for their violence and exploitation.

Recommendation: Asian Women lauds this tailored legislative approach to accurately target and counter the demand for sexualized experiences of women's subordination. We recommend that public education initiatives around Bill C-36 address the mythology that prostitution customers are less sexist, racist and violent when purchasing women indoors.

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

Asian Women is deeply concerned that criminalizing "communication" about prostitution in public areas undermines the objective of equality. When men recruit, solicit or sell women, they are exploiting those who are pressed into prostitution for reasons of poverty, violence, racism and

⁸ Cho, Seo-Young, Axel Dreher, and Eric Neumayer. "Does legalized prostitution increase human trafficking?" *World Development* 41 (2013): 67-82.

sexism. While it is harmful for children (and adults) to observe a blatant act of sexist exploitation while unable to effectively intervene, it is more harmful for children (and adults) to observe or know that an exploited person will be further punished by the state for being exploited.

Recommendation: The harms caused by “communication” in a public place can be effectively addressed by focusing police attention on male customers and pimps rather than the women they are exploiting. Women desperate enough to prostitute in public spaces should instead be provided protection of the law and the *Charter* especially given that racialized women are so visible in street-based prostitution.

Advancing the Abolition of Prostitution

Bill C-36, revised to remove criminalization of prostituted women, establishes a progressive new legal paradigm but criminal law is limited to addressing violence and exploitation after it happens. Canada differs from most countries that have taken a Nordic-style approach. Most significantly, Canada has a very racially and culturally diverse population. A made-in-Canada approach to prostitution must be much more robust and comprehensive to address racial inequality, take advantage of the opportunities to enrich Canadian society that is offered by racial diversity and create the conditions that will allow the abolition of prostitution. Asian Women calls on the federal government to establish basic prevention measures by providing 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 are imperative to countering the systemic sexual, racial and economic inequality that presses and traps women into prostitution and deny women our *Charter* rights.

Appendix

Convention on the Elimination of All Forms of Discrimination against Women.

Full text: <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

Article 3: States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 6: States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol)

Full text: <http://www.unodc.org/unodc/treaties/CTOC/>

(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;