

House of Commons Standing Committee on Justice and Human Rights

Bill C-36

Protection of Communities and Exploited Persons Act

An Act to amend the Criminal Code in response to the Supreme Court of Canada decision in Attorney General of Canada v. Bedford and to make consequential amendments to other Acts

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Introduction

First, I would like to thank the Committee for the invitation to present at this hearing on Bill C-36, and, especially for the efforts to ensure my participation via video link.

Today, I will comment on certain aspects of the proposed *Protection of Communities and Exploited Persons Act*. This does not, however, mean that I fully endorse, or not, other aspects of Bill C-36 not mentioned in my presentation.

As the Committee may be aware, I was the special advisor to the Swedish government for six years, and then charged with the development and implementation of legal and policy matters and interventions to prevent and tackle prostitution and human trafficking in a gender equality and international human rights context. This Swedish approach has, in turn, inspired other countries in Scandinavia¹, in the European Union² and beyond³ to work towards a cultural shift in the understanding of the causes and consequences to the individual victims, as well as to society at large. I would, therefore encourage Committee members to pose questions to me about the Swedish approach as it relates to Bill C-36.

I want to congratulate the Government for taking action⁴ that, for the first time in Canadian legal history comprehensively addresses the root cause of prostitution – those who create the demand for, and for targeting those, who profit from the exploitation of mainly women and girls, but also some boys and men through prostitution-related activities and crimes.

Although I acknowledge the efforts made to recognize and act against the harm of prostitution experienced by those victims, who are exploited through prostitution-related activities, I firmly reject any legal and policy measures that have as their aim to impose criminal or administrative sanction on those, mainly women, who are the victims of such violence.

¹ Norway on January 1, 2009, and Iceland on April 17, 2009.

² See e.g. ongoing discussions regarding law proposals in Belgium, France, the Republic of Ireland, Northern Ireland, Scotland, The United Kingdom at large, and Finland, as well as the European Union at large.

³ See e.g. laws and law proposals in Israel, South Korea, and South Africa.

⁴ In response to the decision of the Supreme Court of Canada in the case of *Canada (Attorney General) v. Bedford* 2013 SCC 72 (20 December 2013.) to strike down three prostitution-related provisions in the Criminal Code.

B. Bill C-36: *Protection of Communities and Exploited Persons Act*

a. Preamble

To ensure effective application of any comprehensive legal framework that aims to prevent and tackle prostitution, it is essential to clearly state which values and principles such laws are informed by and rest upon, as the Government has indeed done, at least partly, in the Preamble to Bill C-36.

As is recognized widely, prostitution is a gender-specific violation – globally and in Canada the absolute majority of victims are women and girls⁵, most of them from situation where they have been subjected to violence and exploitation prior to being brought into prostitution, although some men and boys also fall victim. We also know that in Canada, Aboriginal women and girls are over-represented as victims of both street and indoor prostitution, and of domestic and cross-border human trafficking to, within and through Canada.⁶ There is a general recognition that as many as 1,200 women and girls are currently missing and murdered, and that some may have been exploited in prostitution prior to their disappearances, while, according to the RCMP, only 2% of the murders were linked to e.g. organized crime.⁷

Likewise, the absolute majority of the perpetrators are men – men purchase and exploit women and girls as well as men and boys, men act as procurers and men are the majority of human trafficker, whether in small scale or as part of organized networks. This reality needs to be addressed in the Preamble of the proposed Bill.

Since the beginning of the 20th century, the international community has searched for comprehensive solutions to prevent and tackle prostitution and human trafficking, violations that seriously affect the rights, opportunities, and lives of already oppressed and marginalized women and girls, but also some men and boys around the world.

In July 1951, the United Nations *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* entered into force. Member States agreed to base their policies, legislations and interventions against prostitution and trafficking on the understanding that these acts are "incompatible with the dignity and worth of the human person."⁸ Importantly, this Convention makes it clear that those who are victims of prostitution and human trafficking may not be criminalized or suffer other sanctions, and that Member States vigorously must pursue and prosecute all procurers and traffickers, who "[e]xploits the prostitution of another person, even with the consent of that person."⁹

Although not ratified by Canada, its human rights principles are, through negotiations, firmly entrenched in the 1979 *Convention on the Elimination of All Forms of Discrimination*

⁵ See e.g. data by Eurostat and UNDOC.

⁶ See e.g. Royal Canadian Mounted Police, *Human Trafficking in Canada: A Threat Assessment* (Ottawa: RCMP, 2010), and Lynne, Jackie, *Street Prostitution as Sexual Exploitation in First Nation Women's Lives* (Vancouver, Canada: University of British Columbia 1998).

⁷ Royal Canadian Mounted Police, *Missing and Murdered Aboriginal Women: A National Operational Overview* (Ottawa, Ont.: RCMP, 2014), and Native Women Association of Canada, *Factsheet on the Missing and Murdered Aboriginal Women and Girls* (Ottawa, Ont.: NWAC, 2013).

⁸ See: Preamble.

⁹ Articles 1 and 2.

(CEDAW).¹⁰ Its article 6, therefore, requires Canada to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.” By ratifying CEDAW, Canada agreed that these practices are discriminatory against, and incompatible with the equal enjoyment of rights by women, and to put in place comprehensive measures that aim to prevent and abolish prostitution and trafficking in women.

According to the CEDAW Committee, States parties are also obliged to consider and act to ameliorate such systemic gender inequalities that are root causes of prostitution and trafficking in women: underdevelopment, poverty, drug abuse, other forms of violence against women, illiteracy, and lack of training, education and employment opportunities. States parties should also provide women with alternatives to prostitution by creating opportunities through e.g. rehabilitation, education, job-training and employment programs.¹¹

States that tolerate the existence of any form of prostitution, commercial sexual exploitation, and other slave-like practices like human trafficking are in violation of their obligations under article 6. In order adequately to discharge their responsibilities, States parties must ensure that measures are taken to implement penal sanctions against the perpetrators fully and effectively, while ensuring that those who are victims of these violations are not criminalized or suffer any administrative punishments.¹²

In sum, to be effective, all actions and initiatives to prevent and tackle prostitution must have a firm gender equality and women’s human rights perspective, and be based on internationally recognized principles of non-discrimination (including non-discrimination based on sex, race, ethnicity, disability and sexual orientation).

It is therefore, highly recommended that the Government affirms Canada’s international human rights obligations generally, and specifically those that requires Canada to prevent and suppress prostitution (and human trafficking) by including explicit references to articles 1, 2, and 6 of the *Convention on the Elimination of All Forms of Discrimination Against Women*, articles 34 and 35 of the *Convention of the Rights of the Child*, and article 9.5 of the *United Nations Palermo Protocol*,¹³ which makes it obligatory for Member States to put into place different measures including legislation to discourage the demand.

To further show its commitment to a comprehensive legal framework in reflection of the particular compounded violations Aboriginal women and girls suffer through prostitution, the Preamble should reference the *United Nations Declaration on the Rights of Indigenous Peoples*. Although not a binding instrument, *the Declaration* sets the standard for how a Member State is to treat indigenous people, and accords rights such as the right to be free of discrimination.¹⁴ Finally, all measures proposed in Bill C-36 should also take into account the respect for the human rights and fundamental freedoms of the victims, and be in the spirit of the equality provisions under the *Canadian Charter of Rights and Freedoms*.

b. Communicating for the purpose to provide a sexual service in public places where a child could be present

¹⁰ Canada ratified the CEDAW on December 10, 1981 with a declaration on article 11 (1) (d) regarding equal pay that was later withdrawn (May 1992).

¹¹ In its *General Recommendation 19: Violence Against Women (1992)*.

¹² *Infra*.

¹³ Adopted by General Assembly resolution 55/25 of 15 November 2000.

¹⁴ *Declaration on the Rights of Indigenous Peoples*, A /RES/61/295 (13 September 2007).

It is most troubling to note that the Government decided, despite plenty of evidence provided by survivors of prostitution and human trafficking, academic and community researchers and women's anti-violence organizations, law enforcement agencies, today's witnesses, and some provinces¹⁵ as to the multiple detrimental effects of criminal or administrative sanctions on those who are exploited in prostitution. Not only are such sanctions firmly discriminatory, they are also contrary to Canada's international human rights obligations, and, as stated by the Supreme Court of Canada in the Bedford decision, unconstitutional.

As was recognized by the Swedish Government in 1998, in the *travaux* for the offence that prohibits the purchase of a sexual service:

“... the government is satisfied that although prostitution as such is not a desirable social phenomenon, it is not reasonable to also criminalize the one that, in most cases, is the weaker party, and who is exploited by others who want to satisfy their sexual drive. It is also important to motivate those who are in prostitution to seek help to get away from prostitution, and ensure that they do not feel that they are risking some form of sanction as a result of having been ‘prostitutes’” [author's translation].¹⁶

In Sweden, as it should be in Canada, there is a recognition in law and policies of the actual power inequalities of buyers of a sexual act over those, who are exploited through prostitution, and that the perpetrator abuses his position of power to control his victim(s).¹⁷ This is even more evident when the victims, as is the case for the majority of women (and young men) in prostitution in Canada, are already in a position of powerlessness and vulnerability due to their marginalized background, and prior experiences of violence and systemic and direct discrimination.

Instead of facing criminal charges and potential involvement in the criminal justice system, like any victim of a crime, anyone, who is exploited in prostitution, should be accorded all the rights and protection available through federal and provincial *Victims' Bills of Rights*, which should be amended to encompass an amended Bill C-36. Such rights should e.g. include the right to see the chain of perpetrators (buyers, pimps, traffickers) investigated and prosecuted, the right to protection and access to experienced and adequately funded victims exit support services, and the right to reparation through court proceedings or other crime victims compensation measures. In no legal system, should victims of prostitution be apprehended, fined, prosecuted, and jailed.

I firmly urge the Government to reconsider its decision to create an offence that prohibits communicating to provide sexual services for consideration, and without delay amend the proposed Bill C-36. By removing this discriminatory provision, the risk of a constitutional challenge to the Bill would also be considerably lowered.

As evidence from Sweden and other countries clearly show, a better and non-discriminatory result would be gained, and without targeting victims, through the vigorous enforcement of the proposed provision that prohibits the purchase of a sexual service.

¹⁵ Such as the Ministers of Justice of the provinces of Manitoba and Alberta.

¹⁶ Swedish Government Bill, *Anti-Violence against Women Act (Kvinnofrid, Prop. 1997/98:55)* at 104.

¹⁷ See also e.g. article 3 (a) of the United Nations Palermo Protocol in relation to the exploitation of the position of vulnerability of a victim by a human trafficker.

c. An offence that prohibits purchasing sexual services or communicating in any place for that purpose

It is encouraging to note that the Government has decided to focus on the demand as a major root cause of prostitution, and, consequently included an omnibus provision in Bill C-36 that criminalizes the purchase of a sexual service no matter where this purchase takes place.

Unlike studies that has been and will be presented at this consultation, evidence from a large body of academic and community-based, and survivor-led research interview studies from many countries, and verified by testimony of survivors of prostitution in e.g. Canada and Sweden, show that men, who purchase sexual acts, not only speak about, but, more importantly, treat them in profoundly demeaning and violent ways no matter where – on the street, through escort agencies, or in brothels - they purchase and exploit the victims.¹⁸ Notably, these research studies also clearly indicate that prostitution buyers themselves point to legislation that criminalizes the purchase of a sexual act as the primary deterrent.¹⁹

To increase applicability and effective enforcement of the offence, a number of amendments to the offence would, however, be necessary, including ensuring that attempts to purchase a sexual service are punishable, which would allow law enforcement to intervene before a woman or man in prostitution is sexually exploited by an individual, who intends to purchase and exploit her or him.

Although the commission of this offence could land a perpetrator in prison, it is also essential that the scale of fines, currently at a very low level, is increased to reflect the seriousness of the offence. A purchase of a sexual service should be punishable also when someone, including a legal person such as a corporation, purchases a sexual service for a third party.²⁰ A breach of this provision should also lead to the perpetrator receiving a criminal record as a result of committing this offence, not be rescinded, in the case that a perpetrator elects to take part in a remedial programs such as so called “john’s school.”

The prohibition should be extended extraterritorially (as is the case in the Norwegian legislation) to apply to Canadian residents, who attempt to purchase or purchases a sexual service outside Canada making it possible to prosecute them in Canada, whether or not the country where the offence is committed, has similar legislation.²¹

d. The prohibition for a person to recruit or harbour another person for the purposes of prostitution.

Key to an effective legal and policy strategy to prevent and tackle prostitution-related offences, is to ensure that it is a criminal offence for an individual, a group of individuals or a legal person to recruit, harbour or materially benefit from the prostitution of another human

¹⁸ See e.g. qualitative research studies of men, who have purchased somebody, once or more, for prostitution purposes by such researchers as Sven-Axel Månsson in Sweden, Susan McIntyre in Canada, Melissa Farley in the USA, the Women’s Support Project in Scotland, Eaves for Women in England, the Immigration Council of the Republic of Ireland in collaboration organizations in five EU Member States, KAFA in Lebanon, and Claudine Gardinier with Mouvement de Nid in France, just to mention a few.

¹⁹ See e.g. Macleod, Jan et al, *Challenging Men’s Demand for Prostitution in Scotland: A Research Report Based on Interviews with 110 Men Who Bought Women in Prostitution* (Glasgow, UK: Women’s Support Project, 2010), and un-published research interviews with prostitution buyers in Lebanon (2012).

²⁰ Thereby hindering e.g. corporations to provide prostituted women to visiting businessmen as a corporate favour.

²¹ As is the case with the Norwegian criminal offence that prohibits the purchase of a sexual service (Penal Code, 2009).

being. Already in the beginning of the 20th century, it was recognized internationally that the existence of legal brothels and other prostitution-related activities in a country functioned as attractive markets for those who recruited and profited off the exploitation of women and children for prostitution purposes. By closing these markets through legal means, not only the demand, but also the involvement of organized crime groups in the facilitation of such markets would go down to a minimum.²²

These observations are soundly confirmed in recent academic research²³, and through evidence from court cases²⁴ and evaluations carried out in countries such as the Netherlands and Germany.²⁵ There is a proven link, or a direct correlation, between the regulation or legalization of prostitution-related activities such as brothels and escort services through local licensing systems, and an increase in prostitution-related organized crime group involvement, including in the national and cross-border trafficking of mostly women and girls for the purpose of prostitution and sexual exploitation.

Instead of repealing the prostitution-related offences in the Criminal Code, as was decided by the Supreme Court of Canada in the Bedford case, the Criminal Code offences that prohibit the keeping of a bawdy house and living off the avails, these offences should be reformed, strengthened, as is proposed in Bill C-36, and properly enforced in order to deter the establishment of organized crime networks and individuals that profit materially and otherwise from the exploitation through prostitution of mainly women and children. But the existence and acceptance of legal (and illegal) prostitution-related activities also have a profound impact on the status of women generally in a country.

Municipal licensing systems

One aspect of the Canadian legal framework, which is closely related, in practice and effects, to the actions that are covered by the amended offence of procuring,²⁶ but rarely mentioned in

²² See e.g. League of Nations, *Report of the Special Body of Experts on Traffic in Women and Children - Part One* (Geneva, Switzerland: Publications of the League of Nations IV. SOCIAL, 1927. IV.2.) (17 February 1927). This inquiry focused on North and South America, Europe, Near East, and North Africa. The Special Body noted that “[t]he difficulty of eliminating the third-party elements [procurers and traffickers] becomes greater in countries where the keeping of brothels is legal, where licensed houses exist and where the system of registering prostitutes is maintained. The existence of licensed houses is undoubtedly an incentive to traffic both national and international.” In 1932, a second report was published, which concluded that “[t]he most effective remedy against the evil is, therefore, ... the abolition of licensed or recognized brothels in countries concerned.” As a result, the League of Nations drafted a Convention, which came into being in 1949 under the United Nations, and which requires Member States to criminalize procuring, brothel keeping and human trafficking, while ensuring that victims are not subject to any criminal or administrative punishment.

²³ See e.g. Seo-Young Cho, Axel Dreher and Eric Neumayer, “Does Legalized Prostitution Increase Human Trafficking?”(2013) 41 *World Development* 67. The researchers conclude that “[a]ccording to economic theory, there are two opposing effects of unknown magnitude. The scale effect of legalizing prostitution leads to an expansion of the prostitution market, increasing human trafficking, while the substitution effect reduces demand for trafficked women as legal prostitutes are favored over trafficked ones. Our empirical analysis for a cross-section of up to 150 countries shows that the scale effect dominates the substitution effect. On average, the legalization of prostitution increases human trafficking inflows.”

²⁴ *Supra* at footnote 30.

²⁵ In 2008, the German government evaluated the impact of the *2001 Act Regulating the Legal Situation of Prostitutes (Prostitution Act)*, and concluded that not one of the six goals had seen any improvement, including that “[t]here are as yet no viable indications that the Prostitution Act has reduced crime. The Prostitution Act has as yet contributed only very little in terms of improving transparency in the world of prostitution.” See: *Report of the Federal Government, Act Regulating the Legal Situation of Prostitutes (Prostitution Act)* (Berlin, Germany: Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, 2008).

²⁶ And previously, under section 210 (1) of the *Criminal Code*: “Every one who keeps a common bawdy-house is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.

the current discussions – except in a positive light by proprietors, are the municipal licensing bylaws in Canada that allow individuals and legal persons to apply for business licenses to operate prostitution-related venues such as e.g. massage/body rub parlours, strip clubs, and escort services.²⁷ The existence of such venues has, I argue, a direct impact on the scale and extent of prostitution-related activities and human trafficking into, and within Canada.

Lessons should be learned from jurisdictions, where prostitution-related activities are regulated – sometimes in similar ways to Canada, such as the Netherlands and Germany, and where law enforcement agencies report a steady increase in the involvement of organized crime groups in the operation and control of both legal and illegal prostitution-related activities, and the markets where they are situated.²⁸

It is, however, an equally established fact that in countries where the whole chain of perpetrators – men, who purchase sexual services, procurers, brothel keepers, and traffickers – is criminalized and vigorously enforced, such a comprehensive legal framework functions as an effective barrier against the establishment of procurers and traffickers in those countries.²⁹

Hence, in addition to strengthening the offences of procuring in the proposed Bill C-36, it is recommended that the Government initiate and fund a national study of the existing municipal licencing bylaws, with the aim to investigate and analyze such activities in the light of the proposed sections in Bill C-36, their ownerships in first, second and third degree of such venues, and their relationship to organized crime networks, if any, and all aspects of their potential impact on the demand for women and children for the purpose of prostitution, and the establishment and operation of such businesses by organized crime.

d. Advertising the sale of sexual services

In order for those that recruit victims, and facilitate the prostitution of others for financial or material gain, to reach potential prostitution buyers, they need to make it known, through advertisements or word-of-mouth, that women are available for purchase and exploitation. The inclusion of a new section in Bill C-36, which prohibits advertising for the purpose of selling sexual services online or in print media, is laudable for its intent to limit the huge financial benefits that press media, and organized crime groups, reap from the sale of women and children.

However, the provision needs to be further amended to reflect the reality of online advertising for the selling of sexual acts. The enforcement of the offence as it now stands may run into jurisdictional problems. In 2006, Finland amended its procuring offence to include advertising that promotes the selling of sexual services in newspapers and on the Internet. Almost immediately all servers that held websites specifically directed towards Finnish prostitution buyers were moved to other jurisdictions, such as the Netherlands and Russia. In the European Union today, the majority of servers that hold websites where women and children are posted for sale are located in the Netherlands, or in Russia, where

²⁷ Such as the *Doing in Business in Winnipeg Bylaw (No. 91/2008)*, and then

²⁸ See e.g. the recent decision of July 7, 2014, by the court in Utrecht, which affirmed the decision by lawto close down the 143 canal boat window brothels in the city of Utrecht based on the BIBOB law, i.e. due to evidence that human trafficking took place in these brothels.

²⁹ See e.g. Swedish National Police, *Situation Report on Human Trafficking No. 12 (2010)*, and *The Ban on the Purchase of Sexual Services: A Special Inquiry Evaluation 1999-2008* (SOU 2010:49), online at: <http://www.government.se/content/1/c6/15/14/88/0e51eb7f.pdf>

Internet legislation is favourable to the operation of such websites, and out of reach to law enforcement agencies in other European Union Member States. It is therefore recommended that the proposed provision in the Bill be adjusted to reflect such possibilities.

C. Other related issues not specifically addressed in Bill C-36

Monitoring and evaluation

As already proposed in 2007,³⁰ in addition to the measures set out in Bill C-36, the Government should consider appointing an independent National Rapporteur on trafficking in human beings with a general mandate to investigate, monitor and analyze the character, state and scale of prostitution and all forms of trafficking in human beings to, from and within Canada. Importantly, the National Rapporteur should also be charged with the task to study the effectiveness of already implemented policy, legal and practical measures, or as the case may be, lack of measures, including of proposed Bill C-36, should it come into force.

To support the work of a National Rapporteur, and to ensure accountability to the community-at-large, an advisory committee should be appointed consisting of representatives of non-governmental organizations with long experience working on issues prevent prostitution and trafficking in human beings for sexual and other purposes, researchers, as well as representatives of law enforcement and other key actors.

Conclusion

In conclusion, I urge the Committee, and in turn the Canadian Government, to stand up for Canada's international human rights obligations, especially under the CEDAW, and commitments based on the equality rights under the Canadian Charter of Rights and Freedoms to ensure equality of treatment for all residents in Canada no matter their sex, ethnicity, race, disability or other background. In a democratic society, this must include the right to live free from violence and exploitation, including through the exploitation in prostitution - no matter the place or venue.

I also urge the Committee, and in turn the Government, to resist the dramatic promotion of and resulting normalization of arguments about prostitution as individual choice and legitimate and empowering work in the Canadian public debate put forward by certain "pro-violation constituencies", a standard term in human rights law theory, in Canada and internationally, who, "when their interests are threatened, [...] lobby for and consent to policies associated with [human rights] norm violations."³¹

In the case of prostitution, such pro-violation constituencies may be (but are not always), composed of individuals, groups and organizations that directly or indirectly aim either to increase their exploitative access³² to, or to derive a material benefit from the exploitation of

³⁰ In: *Statement by Gunilla Ekberg, former Special Advisor on Trafficking in Human Beings to the Swedish government, House of Commons Standing Committee on the Status of Women Study on Human Trafficking, February 6, 2007.*

³¹ See e.g.: Cardenas, Sonia "Norm Collision: Explaining the Effects of International Human Rights Pressure on State Behaviour" (2004) 6 *International Studies Review* 213 at 221.

³² E.g. groups of men, who actively advocate for the right and access to purchase and use individuals for prostitution purposes, such as the now defunct organization, *Man-Vrouw-Prostitutie* (MVP), and the current "client" association and owner of website, *hookers.nl*, Mithold BV, in the Netherlands.

those³³, most often marginalized women and girls, who, as a result of systemic socio-economic and political inequalities including colonialism of indigenous peoples in Canada, and often due to prior experience of violence, poverty, and exploitation, find themselves drawn into the illegal and legal prostitution industry in Canada.

Instead, it is long overdue in Canada that we identify prostitution and human trafficking as intimately linked crimes, understand them as serious forms of violence, and as systemic human rights violations, often of the most marginalized women and girls. It is time to act responsibly, ethically and decisively by criminalizing, as is proposed in this Bill, those who exploit and benefit from the prostitution of others – those, who purchase sexual services, and the procurers, brothel keepers, and traffickers, while recognizing that those who are subjected to such crimes are victims, who deserve respect, protection, assistance to exit and restitution, and most importantly, not to suffer any criminal or administrative penalties.

Consistency and long-term commitment is key to successful implementation of an anti-prostitution legal and policy strategy. I, therefore, urge the Government to make the enforcement of Bill C-36 an absolute political priority, should it survive this scrutiny, with the above-proposed amendments. This includes trained, respectful and qualified law enforcement, normative public awareness raising, and adequate, long-term and appropriately tailored funding for comprehensive exit and long-term support services to be directed to specialized services organizations, including women's anti-violence and equality-seeking organization.

Thank you!

Summary of recommendations

- a. that the Government affirms Canada's international human rights obligations generally, and specifically those that requires Canada to prevent and suppress prostitution (and human trafficking) by including explicit references to articles 1, 2, and 6 of the *Convention on the Elimination of All Forms of Discrimination Against Women*, articles 34 and 35 of the *Convention of the Rights of the Child*, and article 9.5 of the *United Nations Palermo Protocol*,³⁴ which makes it obligatory for Member States to put into place different measures including legislation to discourage the demand;
- b. That, in order further show its commitment to a comprehensive legal framework in reflection of the particular compounded violations Aboriginal women and girls suffer through prostitution, the Preamble should reference the *United Nations Declaration on the Rights of Indigenous Peoples*;
- c. That the Government reconsider its decision to create an offence that prohibits communicating to provide sexual services for consideration, and without delay amend the proposed Bill C-36 to ensure that victims of prostitution do not suffer criminal or administrative sanctions, and instead are according the rights to protection and support through legislation and through adequately funded short- and long-term victim support services;
- d. That the Government increase applicability and effective enforcement of the offence that prohibits the purchase of a sexual service, by making amendments to the offence

³³ E.g. groups, associations and individuals that advocate for the legalization or decriminalization of prostitution-related activities in order to either ensure that their currently illegal businesses become legal, or with the wish to open their own profitable, legal prostitution business.

³⁴ Adopted by General Assembly resolution 55/25 of 15 November 2000.

including, *inter alia* ensuring that attempts to purchase a sexual service are punishable, raise the scale of fines to reflect the seriousness of the offence, making it illegal to purchase a sexual service for a third party, and an extension of the offence extraterritorially to apply to Canadian residents, who attempt to purchase or purchase a sexual service outside Canada making it possible to prosecute them in Canada, whether or not the country where the offence is committed, has similar legislation;

- e. That the Government initiate and fund a national study of the existing municipal licencing bylaws, with the aim to investigate and analyze such activities in the light of the proposed sections in Bill C-36;
- f. That the offence that penalizes the advertisement of the sale of sexual services is adjusted to reflect potential jurisdictional enforcement problems; and
- g. That the Government consider appointing an independent National Rapporteur on trafficking in human beings with a general mandate to investigate, monitor and analyze the character, state and scale of prostitution and all forms of trafficking in human beings to, from and within Canada, and evaluate all laws and policies related to such offences.

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