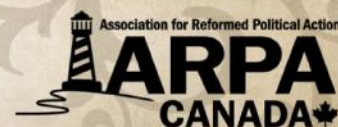


# Respectfully Submitted



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## POLICY REPORT for Parliamentarians Courtesy of the Association for Reformed Political Action (ARPA) Canada

### Background

In their landmark decision *Canada (AG) v Bedford*<sup>1</sup> released December 2013, the Supreme Court of Canada struck down Canada's three prostitution laws. The Court reasoned that the existing prohibitions (operating a bawdy house, profiting from prostitution, and communicating for the purpose of prostitution) violated the Charter right to security of the person of some prostitutes. The Supreme Court gave Parliament one year to pass new legislation.

Bill C-36, the Conservative government's response to the *Bedford* decision, was modeled after a legislative scheme known as the "Nordic Model". The new law, passed in 2014, criminalizes the purchase of 'sexual services' but decriminalizes those working in prostitution. This model is based on the assumption that systems of human trafficking and prostitution are driven by demand, and thus it targets the buyers rather than those who are prostituted. The objective is two-fold: the abolition of prostitution, and the empowerment of the women who have been exploited.

Sweden was the first country to criminalize the demand while decriminalizing the supply. It's basic economics: target the demand and the supply will dwindle. With the sex trade, as it was with the slave trade, demand creates supply. Because people want to buy sex, others will provide it. But if the criminal law targets buyers, demand is reduced and those providing the supply (pimps and traffickers) need to give up or go elsewhere. The Swedish government had initially considered criminalization (of the prostituted person) but, after careful study, they concluded:

[I]t is not reasonable also to criminalize the one who, at least in most cases, is the weaker part who is exploited by others who want to satisfy their own sexual drive. It is also important to encourage the prostituted persons to seek assistance to get away from prostitution, that they do not feel they risk any form of sanction because they have been active as prostituted persons.<sup>2</sup>

### Importance of Exit Strategies

The Nordic model views prostitutes as victims of a crime rather than criminals. The motivation is to remove the stigma and make it easier for prostitutes to leave the trade. Although the end goal is commendable, it does not justify the generalization that prostitution *per se* denotes victimhood. As those individuals who advanced the court challenges against Canada's previous laws exemplify, there are people who choose to enter the sex trade, profit from it, and do what they can to advance it. Be that as it may, it is important that legislation that properly criminalizes the demand for sex also has a parallel system through which those who wish to escape the sex trade are given the tools and support necessary to reintegrate into society.

Prostituted women need support and help (see chart on right). A compassionate society must be ready to give assistance in shelter, addiction counseling, job training and health care. Why is ending prostitution the right path for Canada? The evidence of violence, trauma, psychological suffering and oppression outlined next stands as a testimony to the destructive nature of the sex trade.

#### Response to "What Do You Need?" Asked of 100 Canadian Prostitutes

Leave prostitution	95%
Home or safe place	66%
Job training	67%
Drug/alcohol treatment	82%
Health care	41%
Peer support	41%
Individual counseling	58%
Self-defence training	49%
Legal assistance	33% <sup>3</sup>

# Prostitution

Updated: Fall 2016

## Prostitution and Human Trafficking

The connection between prostitution and human trafficking is hard to overstate.<sup>11</sup> In Western Europe, the trafficking of women and girls into the sex trade has been one of the most rapidly expanding criminal activities of the past two decades.<sup>12</sup> The legalization or even toleration of prostitution has historically led to an increased number of women and children being trafficked into the commercial sex trade.<sup>13</sup> One study, testing the theory that legalized prostitution could reduce trafficking by making it a safer, more attractive job for domestic sex workers, found the opposite was true: countries that legalized prostitution experienced higher inflows of trafficking.<sup>14</sup> In a chilling example of this effect, another study in the Netherlands reported that in the first 5 years of legalizing prostitution, the number of child prostitutes in the country increased 300% from 4,000 to 15,000.<sup>15</sup> Canada cannot risk a similar situation. Legalization undermines the protection of vulnerable women and children.

Prostitution in Canada	
Age range of prostitutes	13-49 <sup>4</sup>
Percentage younger than age 18 at entry	54% <sup>5</sup>
Percentage of pimp-controlled prostitution	80%-95% <sup>6</sup>
Mortality rate of girls and women in prostitution	40x national average <sup>7</sup>
Number of women trafficked into Canada for sexual exploitation	600 per year <sup>8</sup>
Sexual exploitation accounts for percentage of the world's human trafficking	79% <sup>9</sup>
Reduction in Swedish prostitution within 5 years of abolition	67% <sup>10</sup>

## Prostitution and Violence Against Women

Prostitution as an institution is violence against women. Decriminalizing prostitution will not, as some suggest, create an equal playing field for female entrepreneurs who wish to engage in a business of sexual services. The horrible reality is that the vast majority of prostituted women are controlled by pimps and suffer incredible harm, as the chart to the right confirms.

### Clinical Findings Regarding Violence in All Types of Prostitution<sup>16</sup>

Experienced sexual harassment that would be legally actionable in another job setting	95%
Percentage of individuals who want to escape, but have no other option for survival	85-95%
Have experienced verbal abuse and social contempt	80-90%
Have been homeless at some point	75%
Have been physically assaulted	70-95%
Percentage of 854 respondents that met criteria for PTSD	68%
Sexually assaulted as children	65-95%
Raped in prostitution	60-75%

Prostitution is intrinsically exploitative. Legalizing or decriminalizing a practice that is inherently harmful and dangerous does not reduce the harm, danger or exploitation. Dr. Melissa Farley argues that, if prostitution is violence, it doesn't make sense to legalize or decriminalize it. Farley writes, "Decriminalizing or legalizing prostitution would normalize and regulate practices which are human rights violations, and which in any other context would be legally actionable (sexual harassment, physical assault, rape, captivity, economic coercion) or emotionally damaging (verbal abuse)."<sup>17</sup> This is not speculation. Health and safety codes in Victoria, Australia, where prostitution has been legalized, show that women in legal prostitution should expect to face various forms of physical assault and rape.<sup>18</sup> *In what other occupation would those kinds of working conditions be tolerated to any degree? Women deserve much better.*

The sex industry is reprehensible because it denies the inestimable value of individual human beings who are made in the image of God, reducing a beautiful and unique person to a commercial object. The act of prostitution itself goes against God's plan for loving, faithful marital sex; the exploitation and abuse in the industry denies the humanity of the vulnerable. The Bible shows us how God would have us respond. Consider these prescriptions:

He executes justice for the fatherless and the widow, and loves the foreigner, giving him food and clothing. Love the foreigner, therefore, for you were foreigners in the land of Egypt." Deuteronomy 10:18-19

"Learn to do right; seek justice. Defend the oppressed. Take up the cause of the fatherless; plead the case of the widow." Isaiah 1:17

Canada is called to take action on this issue; it is our duty to care for the vulnerable and bring justice to the oppressors.

## Other options: Legalization/Decriminalization?

Dr. Melissa Farley explains the meaning of legalization and decriminalization: “Legal prostitution and decriminalized prostitution are both state-sanctioned prostitution, but there are differences between them. In legalized prostitution, the state assumes the role of pimp, collecting taxes and regulating the practice of prostitution. Decriminalized prostitution is a radical removal of any and all laws regarding prostitution (including laws against pimping, pandering, purchasing, and procuring) so that the buying and selling of people in prostitution is considered the legal equivalent of buying candy.”<sup>19</sup>

*Researchers have found that legalized prostitution produces a “prostitution culture” with increases to illegal and legal prostitution, the presence of organized crime, the demand for child prostitution, and the trafficking of women for the purpose of prostitution. State sponsored prostitution provides a legal welcome to pimps, traffickers, and johns.<sup>23</sup>*

A number of governments have attempted legalization and regulation of prostitution, including the Netherlands, the state of Nevada, and Victoria, Australia. In these districts, even with all the government regulations, organized crime’s influence and control of the sex trade grows,<sup>20</sup> and drug trafficking, human trafficking, sexual exploitation, and child prostitution are rampant.<sup>21</sup> In size alone, the illegal industries outstrip the legal industries, and have been proven to be harder to control than before legalization.<sup>22</sup> The simple reality is that legalization and decriminalization benefit the pimps, traffickers and johns and commoditize the female body as a thing for men to rent for their pleasure or for “businessmen” to rent out for use. Legalized or decriminalized prostitution degrades the community. Legalizing or decriminalizing prostitution is fundamentally immoral.

## Nordic Model in Sweden

A decade after implementing their new prostitution law, the Swedish government commissioned a special inquiry to investigate the effects of the law on the prostitution industry, with encouraging results.

### Reducing Street Prostitution

The inquiry found that street prostitution had been fully halved since the law was introduced.<sup>23</sup> This is a remarkable finding, derived from independent, comparative research and consultation with police services, social services, and relevant NGOs.<sup>24</sup> These findings are further supported by a 2014 report released by a Swedish NGO that found that street prostitution had been halved since 1995.<sup>25</sup> Critics of the law suggested prostitution had merely moved underground, into more dangerous locations. However, the 2010 inquiry directly investigated these claims and found no evidence that this was actually occurring.<sup>26</sup>

### Overall Numbers in Relation to Nordic Countries

Although there was a substantial increase in prostitution in surrounding Nordic countries in the decade after Sweden enacted its new law, Sweden, which is economically and culturally similar to the other countries, did not experience similar growth.<sup>27</sup> After Norway introduced a similar law in 2009, it also experienced an immediate and dramatic drop in street prostitution.<sup>28</sup>

### Discouraging Demand

The available data suggests the Nordic model has been successful in discouraging the demand for commercial sex. The number of Swedish men who purchase sex, according to one study, has decreased from 13% in 1996 to 8% in 2008. A number of the men studied identified the ban as the reason they stopped purchasing sex.<sup>29</sup>

### Human Trafficking

Sweden has also seen success in the battle against human trafficking. The buying and selling of women and children, indivisible from the commercial sex industry, is one of the main targets of the Nordic model. Less human trafficking occurs in Sweden, since their new law passed, than in surrounding comparable countries.<sup>30</sup> Additionally, police wiretaps have revealed that human trafficking organizations view Sweden as a bad market for commercial sex due to low demand and higher risk for the traffickers.<sup>31</sup> Survivors of human trafficking have also confirmed that this attitude was prevalent among their handlers.<sup>32</sup> The evidence speaks clearly – the Nordic model successfully deters the gross and egregious crime of buying and selling women and children.

## Normative Changes

Finally, the Swedish prostitution law plays a role in shaping attitudes toward the commercial sex industry. Legislation functions as a moral and normative guide. In 1996, when the preliminary work for the legislation was being done, 67% of the Swedish population thought that prostitution should not be criminalized. By 1999, 76% thought that prohibiting the purchase of sex was the right way forward. Since the implementation of the law, three separate surveys showed that public support for the ban was above 70%.<sup>33</sup> An educational public discourse and increased awareness of the violent and exploitative nature of prostitution, stimulated by the legislative changes, made a significant, positive difference on the normative views of Swedish citizens.

## Survivor Testimonies

Statistics and studies can only tell one part of any story – policy makers cannot forget that they are dealing with individual human beings, so often traumatized, abused, and ignored. These individuals must have a voice. Will Canada listen?

Katie Rhoades, a survivor of prostitution and domestic trafficking from the United States, testified that she did not trust the police. She was prostituted in areas where selling sex was criminalized. Katie shared, “The police were seen to us as far worse than the pimps. We were more scared of them [than] the pimps and tricks. The main reason I did not go for help sooner was because I would have been arrested or further victimized by the police.”<sup>34</sup>

When asked about how the Nordic model would have affected her, Katie responded, “What it would have done is taken the power away from my pimp... I did not go for help... because I would have been arrested... If those dynamics [were] gone... I think I would have fled earlier.”<sup>35</sup>

Rebecca Mott, also a prostitution survivor who successfully exited the trade, says this:

*“I had walked into prostitution.... but I was 14, and had lived with mental and sexual violence since before I had words. ... I survived prostitution by killing all my emotions. I made myself into a robot, I painted on the Happy Hooker smile and learnt to fake orgasms – and hope I would be killed. It seemed the only escape that I could imagine... In all cases, we must know that the creators and source of this hate and violence to the prostituted is male demand, and those who supply and profiteer from that demand. **That is why I and other exited women fully back the Nordic Approach** as a first step to full human rights and dignity for all the prostituted.*

These are chilling stories, but they are all too often the reality for prostituted women. The Nordic model has helped women like these, and it can help exploited Canadians. The need to leave the trade is real. In Sweden, the Prostitution Unit has seen a large increase in the number of clients contacting them for help since 2000.<sup>36</sup> Canada must continue working to ensure that vulnerable Canadians are offered a way out.

## Palermo Protocol

The purpose of the Nordic model is directly in line with the recommendations set out in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (also known as the Palermo Protocol), which Canada ratified in 2002. A milestone in international anti-human trafficking law, the Palermo Protocol calls on member states to:

“adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking”.<sup>37</sup>

Bill C-36 fulfils Canada’s obligation to discourage the demand for human trafficking. Any step toward legalization or decriminalization would be harmful and regressive.

*“What it would have done is taken the power away from my pimp... I did not go for help because I would have been arrested... If those dynamics [were] gone... **I think I would have fled earlier.**”*

- Katie Rhoades, Survivor

## Conclusion and Recommendations

In order for Bill C-36 to be effective, it must be enforced. Canada should learn from Sweden's experience on this front. In the period immediately following the passage of the law, police had concerns about issues of proof and their ability to enforce the law, and did not put it into practice. Initially, it appeared to be a failure. However, after the passage of Sweden's sex trafficking law in 2002, the prosecution of sex purchasing skyrocketed, and the law began to have its desired effect on attitudes toward prostitution.<sup>38</sup> One of the reasons for the increase is the fact that for Swedish police, testimony from men who have purchased sex is considered invaluable in the investigation of human trafficking rings. The criminal ban on buying sex can combat human trafficking in more ways than one: it both deters demand for commercial sex and is a source of information in the prosecution of human traffickers.

In addition to effective law enforcement, the second component of an effective prostitution law is adequate exit support services for prostituted women. Parliament must ensure that support services are advertised and made available to exploited women. If those who need it most are not aware of the help that exists, they will not take advantage of it. Our country's support for the vulnerable among us must be visible.

Prostitution exploits vulnerable people. It is a grave injustice and an immoral trade. Parliamentarians have been given the responsibility to protect the vulnerable in our society and Bill C-36 was a strong step in the right direction for Canada. For that, ARPA Canada is grateful. It is Parliament's moral imperative to protect this legislation, strengthen it, and stand firm in the event of future opposition.

Respectfully Submitted,

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## Citations, Resources and Research

- <sup>1</sup> *Canada (Attorney General) v. Bedford* 2013 SCC 72.
- <sup>2</sup> Meaghan Tyler, "Demand Change: Understanding the Nordic Approach to Prostitution", *Coalition Against Trafficking in Women Australia*, (2013), p. 7. <[http://www.catwa.org.au/files/images/Nordic\\_Model\\_Pamphlet.pdf](http://www.catwa.org.au/files/images/Nordic_Model_Pamphlet.pdf)>.
- <sup>3</sup> Farley et al. "Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder." *Journal of Trauma Practice* (The Haworth Maltreatment & Trauma Press, an imprint of The Haworth Press, Inc.) Vol. 2, No. 3/4, 2003, pp.33-74, Table 8 at 51.
- <sup>4</sup> *Ibid.*, p. 40.
- <sup>5</sup> *Ibid.*
- <sup>6</sup> Kathleen Barry, *The Prostitution of Sexuality: The Global Exploitation of Women*, July 1996, New York, New York University Press.
- <sup>7</sup> Special Committee on Pornography and Prostitution, 1985, *Pornography and Prostitution in Canada*, at p. 350. A summary of the report is available online: <<https://www.ncjrs.gov/pdffiles1/Digitization/131616NCJRS.pdf>>.
- <sup>8</sup> Jacqueline Oxman-Martinez, Marie Lacroix & Jill Hanley, Government of Canada, Department of Justice, *Victims of Trafficking in Persons: Perspectives from the Canadian Community Sector*, Aug. 2005, at p. 2, online: <[http://www.justice.gc.ca/eng/rp-pr/cj-jp/tp/tr06\\_3/tr06\\_3.pdf](http://www.justice.gc.ca/eng/rp-pr/cj-jp/tp/tr06_3/tr06_3.pdf)>.
- <sup>9</sup> UN Office on Drugs and Crime, *Global Report on Trafficking in Persons*, February 2009, online: <<http://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>>.
- <sup>10</sup> De Santis, "Why Hasn't Anyone Tried This Before?" Women's Justice Center, online: <[http://www.ayudaparamujeres.com/cj\\_sweden.html](http://www.ayudaparamujeres.com/cj_sweden.html)>.
- <sup>11</sup> See Monica O'Connor, Grainne Healy, "The Links Between Prostitution and Sex Trafficking: A Briefing Handbook", Coalition Against Trafficking in Women (CATW), A Swedish and United States Governmental and Non-Governmental Organization Partnership, 2006.
- <sup>12</sup> *Ibid.*, p. 25.
- <sup>13</sup> *Ibid.*, p. 29.
- <sup>14</sup> Seo-Young Cho, Axel Dreher, and Eric Neumayer. "Does legalized prostitution increase human trafficking?" *World Development*, 41 (1), 2013, p 2. DOI: 10.1016/j.worlddev.2012.05.023
- <sup>15</sup> Janice G. Raymond, "Ten Reasons for Not Legalizing Prostitution and a Legal Response to the Demand for Prostitution" Binghamton: Hawthorn Press, 2003, p. 7.
- <sup>16</sup> Melissa Farley, "Prostitution Is Sexual Violence", in *Psychiatric Times*, 01 October 2004, Table 1, online: <<http://www.psychiatrictimes.com/sexual-offenses/prostitution-sexual-violence>>.
- <sup>17</sup> Melissa Farley, as cited in Dianne Post, "Argument: Should prostitution be legalized?", *New Internationalist Magazine*, (April 2013), online: <<https://newint.org/features/2013/04/01/should-prostitution-be-legalized-argument>>.
- <sup>18</sup> Tyler, "Demand Change" *supra* note 2 at p. 5.
- <sup>19</sup> Melissa Farley, "Prostitution, Trafficking, and Cultural Amnesia: What We Must Not Know in Order To Keep the Business of Sexual Exploitation Running Smoothly" in *Yale Journal of Law and Feminism* (Vol.18:N 2006) at p. 128, 129.
- <sup>20</sup> Tyler, "Demand Change", *supra* note 2, p.5.
- <sup>21</sup> Melissa Farley, "Myths and Facts about Trafficking for Legal and Illegal Prostitution (March 2009) available online: <<http://www.prostitutionresearch.com/Myths%20&%20Facts%20Legal%20&%20Illegal%20ProstitutionMelissaFarley3-09.pdf>>.
- <sup>22</sup> Tyler, "Demand Change", p. 4.
- <sup>23</sup> Melissa Farley, "Prostitution, Trafficking, and Cultural Amnesia" *supra* note 19 at p. 128.
- <sup>24</sup> Tyler, "Demand Change", *supra* note 2, p. 10.
- <sup>25</sup> "Summary: The extent and development of prostitution in Sweden 2014" *Länsstyrelsen Stockholm* (2015), online: <<http://www.lansstyrelsen.se/stockholm/SiteCollectionDocuments/Sv/manniska-och-samhalle/jamstallldhet/prostitution/SUMMARY-Prostitution-kartlaggning-2014.pdf>>.
- <sup>26</sup> Tyler, "Demand Change", *supra* note 2, p. 11.
- <sup>27</sup> *Ibid.*, p. 10.
- <sup>28</sup> Swedish Institute, "Selected extracts of the Swedish government report SOU 2010:49: The Ban against the Purchase of Sexual Services. An evaluation 1999-2008" (2010). p. 7-8, online: <[https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/the\\_ban\\_against\\_the\\_purchase\\_of\\_sexual\\_services.\\_an\\_evaluation\\_1999-2008\\_1.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/the_ban_against_the_purchase_of_sexual_services._an_evaluation_1999-2008_1.pdf)>.
- <sup>29</sup> *Ibid.*, p. 9.
- <sup>30</sup> *Ibid.*
- <sup>31</sup> Kasja Wahlberg, National Rapporteur on Trafficking in Human Beings, presentation given in the United Kingdom. (2008). p. 4 online: <<http://www.8marts.dk/upl/12073/WahlbergoplUK2008.pdf>>.
- <sup>32</sup> *Ibid.*
- <sup>33</sup> Swedish Institute, "Selected extracts of the Swedish government report", *supra* note 28 at p. 7-8.
- <sup>34</sup> Heather Monaskey, "Note: On Comprehensive Prostitution Reform: Criminalizing the Trafficker and the Trick, but Not the Victim—Sweden's Sexköpslagen in America", *William Mitchell Law Review*, (2011), p. 2038.
- <sup>35</sup> *Ibid.*, 2045.
- <sup>36</sup> "The Effects of the Swedish Ban on the Purchase of Sexual Services" *March 8 Initiative*, (2012) p. 10, online: <[www.8marts.dk/upl/14431/TheEffectsoftheSwedishBanonthePurchaseofSexualServicesOK.pdf](http://www.8marts.dk/upl/14431/TheEffectsoftheSwedishBanonthePurchaseofSexualServicesOK.pdf)>.
- <sup>37</sup> UN General Assembly, "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime," 15 November 2000, online: <<http://www.refworld.org/docid/4720706c0.html>>.
- <sup>38</sup> Monaskey, "Note: On Comprehensive Prostitution Reform, *supra* note 34 at p. 2029-2030.