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

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Summary: This brief compares the *Criminal Code* provisions proposed by Bill C-36 against the *Criminal Code* provisions struck down by the Supreme Court of Canada in *R* v. *Bedford*. It explains how the new law, if enacted, will replicate the effects of the old law on the security of sex workers and, as such, reproduce the harms the Supreme Court of Canada found to be unconstitutional. It further explains how these harms also constitute violations of international human rights law and how criminalization of sex work undermines the global response to the HIV/AIDS epidemics. Finally, it issues a recommendation for Bill C-36 to be rejected in its entirety.

1. Introduction

The Canadian HIV/AIDS Legal Network (www.aidslaw.ca) promotes the human rights of people living with and vulnerable to HIV and AIDS, in Canada and internationally, through research and analysis, advocacy and litigation, public education and community mobilization. The Legal Network is Canada's leading organization working on the legal and human rights issues raised by HIV and AIDS and has developed particular expertise on sex work law and policy, having intervened before both the Supreme Court of Canada and the Ontario Court of Appeal in *Canada v Bedford* and worked with a number of sex worker-led organizations in Canada and globally to advance sex workers' health and human rights.

A body of research and analysis by the Legal Network has also addressed a number of issues that are relevant to the Standing Committee on Legal and Constitutional Affairs' study of Bill C-36, including:

- a peer-reviewed constitutional analysis of the "Nordic model" of regulating sex work;[1]
- briefing papers and reports on sex workers' access to HIV treatment, the impact of non-rights based HIV programming for sex workers, and good practice in sex worker-led HIV programming in North America and the Caribbean on behalf of the Global Network of Sex Work Projects;[2]
- a review of the evidence concerning the relationship between criminal law, sex work and HIV in Canada[3] and internationally;[4] and
- a two-year research project on criminal law, sex work and the health and safety of sex workers in Canada which included a national consultation with sex workers, former sex workers, members of sex worker organizations, public health and social science researchers, and other community-based organizations.[5]

We appreciate the opportunity to comment on Bill C-36, the *Protection of Communities and Exploited Persons Act*, and to draw the Committee's attention to certain elements which are particularly relevant from the perspective of health and human rights.

2. Health and human rights arguments against Bill C-36

In December 2013, the Supreme Court of Canada struck down three provisions of the *Criminal Code* that prohibited keeping, or being in, a "common bawdy-house" (s. 210), living on the avails of prostitution (s. 212(1)(j)), and communicating in public for the purposes of prostitution (s. 213(1)(c)). As the Court held, the three impugned provisions were unconstitutional because they infringe the rights of sex workers under section 7 of the *Canadian Charter of Rights and Freedoms* by depriving them of security of the person in a manner that is not in accordance with the principles of fundamental justice.

(a) *Canadian Charter of Rights and Freedoms* (Charter)

Section 213(1.1) of Bill C-36 on "communicating to provide sexual services for consideration"

In *Canada v Bedford*, the Supreme Court struck down *Criminal Code* section 213(1)(c) as an unconstitutional part of the existing "communicating" law, holding that the communicating prohibition's negative impact on the safety and lives of sex workers who work on the street was a grossly disproportionate response to the possibility of nuisance caused by street prostitution. Bill C-36, as amended by the House of Commons, would replace this with section 213(1.1), a new communicating offence that would make it a crime for anyone to communicate "with any person — for the purpose of offering or providing sexual services for consideration — in a public place, or in any place open to public view, that is or is next to a school ground, playground or daycare centre." The new communicating offence differs from the earlier communicating law by specifically targeting communications by those who offer or provide sexual services, namely sex workers and some third parties (whereas the earlier law applied to anyone, including a client), and by only applying in public places, or places open to public view, that are — or are next to — school grounds, playgrounds or daycare centres (whereas the old law applied to communicating in *any* public place).

While purporting to narrow the communicating prohibition that was struck down in *Bedford*, the wording of the proposed section 213(1.1) is open to broad interpretation. Under the existing section 213(2) of the *Criminal Code*, a "public place" is defined as "any place to which the public have access as of right or by invitation, express or implied, and it includes being inside a motor vehicle located in a public place or in any place open to public view.'' According to the Supreme Court of Canada, "access" means "the right or opportunity to reach or use or visit."[6] The police will have considerable discretion not only to decide whether a given location is a "public place", but also whether it is "next to" one of the targeted locations (school ground, playground or daycare center), resulting in broad policing power and corresponding uncertainty and fear of arrest by sex workers working on the streets. The uncertainty around this prohibition could even plausibly affect sex workers who communicate in private indoor settings as indoor venues may also be considered "next to" one of the targeted locations. In the case of clients, the new section 286.1 proposed by Bill C-36 would also make it a crime for a client to communicate anywhere, whether in public or in private, to obtain sexual services — an even broader prohibition on client communication than existed before.

As a result, while the communication prohibition under the proposed new section 213(1.1) may appear narrower than the one existing before *Bedford,* fear of harassment and arrest will continue to exist among sex workers working on the streets, for whom prosecution will remain a real risk under the new communication law. Some sex workers will therefore continue to be prevented from adequately screening clients in an attempt to avoid police detection. Because, as recognized by the Supreme Court of Canada, client screening represents an "essential tool" in enhancing sex workers' safety, this will significantly increase the risk of harm facing some sex workers, and thus will continue to violate sex workers' right to security of the person.

Moreover, in light of public health concerns raised by respondents to the federal government's public consultation,[7] it is important to underscore that **sex workers' ability to engage in face-to-face communication with prospective clients — which is indispensable to establish the types of activities in which a sex worker is willing to engage, including with respect to safer sex, and to gauging a prospective client's willingness to respect such limits on the services to be provided — will remain limited by the proposed section 213(1.1).** For

sex workers who wish to protect their — and their clients' — health by only practising safer sex, communication is the sole tool that can be employed to negotiate these terms upfront.

Section 286.1 of Bill C-36 on the "obtaining sexual services for consideration"

Under the new *Criminal Code* section 286.1 proposed by Bill C-36, clients would be criminalized for purchasing sexual services anywhere — whether this takes place in an indoor venue such as a bar or club, a massage parlour, a hotel room, a private apartment or home, or an outdoor setting such as a street. While one of the underlying rationales for the criminalization of clients may be to protect women in prostitution, evaluations of this approach in both Sweden and Norway (which passed laws criminalizing the purchase of sex in 1999 and 2009, respectively) have shown it to create dangerous working conditions for sex workers, including many of the same harms that led to the invalidation of the three impugned provisions in *Canada v Bedford*.

In Sweden, research has shown that while "visible" prostitution (i.e., sex workers working on the street) appears to have declined since the passage of a law criminalizing the purchase of sex, sex workers have merely moved indoors, online and to neighbouring countries.[8] Some women who were selling sex on the streets have moved to work in illegal brothels or work alone in indoor locations, activities that leave them subject to the risk of criminalization.[9] Sex workers have reported fewer clients on strolls, and those that remain are more likely to be drunk, violent and to request unprotected sex,[10] a phenomenon that has also been noted in Canada, including in Ottawa and Montreal, following anti-client measures undertaken by the police.[11] Consequently, sex workers on the street have reported increased risks and experiences of violence, in part because regular clients have avoided them for fear of police harassment and arrest, instead turning to the internet and indoor venues for sex.[12] The decline in client numbers on strolls has also meant greater competition for clients and lower prices, **a situation that has eroded sex workers' bargaining power and placed pressure on them to see more clients and to provide their services without insisting on safer sex**.[13]

Moreover, a global research review on HIV and sex work published in the July 2014 special issue of the prestigious medical journal *The Lancet* found that safety dynamics for sex workers in Sweden are similar to those of jurisdictions where sex work is criminalized, in that fears of client arrest can rush negotiations and displace sex workers to isolated and dangerous areas.[14] Conducting negotiations rapidly and in more secluded locales leads to greater risk-taking in client selection and makes it more difficult for sex workers to alert others if they are in danger and to extricate themselves from dangerous situations.[15] A similar outcome has been documented in Vancouver after the Vancouver Police Department gradually shifted away from arresting street-based sex workers, while still actively arresting clients.[16] Furthermore, sex workers in Sweden continue to face police harassment for being party to a crime.[17] Since police surveillance has driven sex workers to more isolated locations, informal support networks among sex workers have weakened and it has become more difficult to warn other sex workers about abusive or violent aggressors posing as clients.[18] Several reports also indicate that clients in Sweden who would have previously helped to report violence, coercion or other abuse that they have witnessed or suspect against a sex worker are now much more reluctant to go to the police for fear of their own arrest.[19] Sex workers themselves also fear reporting crimes.[20]

Although sex workers are technically allowed to sell sexual services, the criminalization of the purchase of those services pursuant to the proposed section 286.1 in Bill C-36 would render the transaction *de facto* illegal. As the experience in Sweden, Norway and municipalities in Canada demonstrates, many of the harms that the Supreme Court of Canada found to be unjustifiable

violations of sex workers' security of the person in *Canada v Bedford* would be replicated by making the purchase of sex a criminal offence. Irrespective of the stated new objectives of Bill C-36, such harms would be grossly disproportionate to any of its purported benefits.

Section 286.2 on receiving a "financial or other material benefit" for the purchase of sexual services

In *Canada v Bedford*, the Supreme Court of Canada found that the purpose of *Criminal Code* section 212(1)(j), the prohibition on "living on the avails of prostitution", is to target "pimps" and parasitic, exploitative conduct in the sex industry. The Court held, however, that the prohibition captured everyone who lives on the avails of prostitution without distinguishing between those who exploit sex workers and those who could increase their safety and security (e.g., drivers, managers or bodyguards, as well as those involved in business with a sex worker, such as accountants or receptionists). The prohibition was thus struck down as overbroad.

Bill C-36 would replace the prohibition on "living on the avails" with a new offence of "receiving a material benefit" under the proposed new section 286.2. This provision captures all third parties who "receive a financial or other material benefit" knowing that the benefit is obtained through sex work. However, the ambiguity of this provision and its various subsections has the potential to capture a wide range of actors who enhance sex workers' security, thus replacing one unconstitutional prohibition with another that is essentially unchanged.

The new offence of "receiving a material benefit" would, in many circumstances, prevent sex workers from working with, for, or hiring third parties for services related to their work, and working with other sex workers. **From a public health perspective, it is clear that sex workers who are able to work collectively can organize and insist upon the availability and use of HIV prevention materials such as condoms**.

Significantly, the proposed new section 286.2 would establish a presumption that someone who lives with a sex worker, or who is "habitually in the company" of a sex worker, has committed the offence of receiving a "financial or material benefit" from the purchase of sexual services, unless their relationship falls under one of the exceptions listed in the new law. Under these exceptions, the presumption of guilt would not apply to:

- anyone who is in a "legitimate living arrangement" with a sex worker, such as a spouse/partner or roommate;
- anyone who is supported by a sex worker out of a legal or moral obligation, such as sex workers' children or other people under their care;
- anyone getting paid for providing "a service or good that they offer, on the same terms and conditions, to the general public," or, if it is not a service or good that they offer to the general public, if the benefit received is "proportionate" to the value of the service or good they provide to the sex worker and the person "did not counsel or encourage" the sex worker to provide sexual services.

While these exceptions may be intended to exclude friends, family and acquaintances of sex workers, as well as third parties who provide services to sex workers without "encouraging" sex workers to provide sexual services, **in many circumstances the exception will be rendered moot by section 286.2(5), which reinstates the presumption of guilt for those who receive a material or financial benefit "in the context of a commercial enterprise offering sexual services for consideration."** Because "commercial enterprise" is not defined in the *Criminal Code*, there is considerable uncertainty in how section 286.2 would be applied.

In addition, people in managerial roles, such as agency owners, would undoubtedly be criminalized under section 286.2(5). This has implications for sex workers' ability to practise safer sex, since **people in managerial roles can better promote sexual health when condoms are no longer seized as evidence of illegal activity**, a practice that has been documented in Canada pursuant to prohibitions against procuring.[21]

It is unclear whether it would be legal for an independent sex worker (who could be construed as a "commercial enterprise") to hire a bodyguard, receptionist or other worker. And while in theory, sex workers may also purchase goods or hire services from others if those people do not "encourage" participation in sex work (e.g. landlord or accountant), they could still be prosecuted if they are paid for their services in the context of a "commercial enterprise" offering sexual services, which very significantly limits the working arrangements sex workers can establish. Not only could this lead to a conviction for "receiving a financial or other material benefit" under section 286.2, but the fact that they work for a business is understood as an aggravating factor when it comes to sentencing (under the proposed new subsection 286.2(6)).

Police, prosecutors and ultimately judges will interpret the scope of section 286.2, potentially broadening the offence to include all third parties who work for a sex worker, regardless of the size or nature of the business. This would effectively maintain all the previous barriers to hiring third parties who might enhance sex workers' security, barriers which the Supreme Court has already found unconstitutional.

Section 286.3 on procuring

The new *Criminal Code* section 286.3 proposed by Bill C-36 would create new wording of the offence of "procuring" a person to offer or provide sexual services for consideration. The proposed new wording of the offence of "procuring" does not change the scope of the offence in any substantial way, but does increase the penalties for the offence. As with the previous law, this provision is very broad and would capture many third parties that sex workers work with or for, such as third parties in managerial roles. It could also capture those people hired by sex workers or who provide services related to sex workers' labour, specifically third parties who facilitate communications with clients.

As noted above, people in managerial roles, such as agency owners, can better promote sexual health when condoms are no longer seized as evidence of illegal activity. **In a study of sex workers in Canada, research participants lamented that the procuring law created a barrier to the provision of work materials (especially condoms) by management to workers as a result of the fact that such items could be used as evidence in criminal proceedings.**[22]

Moreover, forcing sex workers to work in isolation undermines their health and infringes their right to security of the person by, *inter alia*, significantly interfering with their ability to practise safer sex. A far more effective approach to combat labour exploitation is to decriminalize sex work. As noted by the United Nations Development Programme (UNDP) in an extensive study of sex work and the law, **in decriminalized contexts such as New Zealand and the state of New South Wales, Australia, the sex industry can be subject to the same general laws regarding workplace health and safety and anti-discrimination protections as other industries**.[23]

Working indoors

The former prohibition on keeping or being found in a "bawdy-house" under the *Criminal Code* (section 210) effectively made it a crime for any sex worker to work in an indoor venue. In *Canada v Bedford*, the Supreme Court of Canada found that the negative impact of this prohibition on sex workers' security of the person was grossly disproportionate to its objective of preventing public nuisance.

While Bill C-36 would not reinstate the prohibition on "common bawdy-houses" that was struck down by the Supreme Court, several other provisions proposed in Bill C-36 would make it very difficult to legally operate an indoor venue for sex work. These include:

- the blanket prohibition on the purchase of sex in any place (section 286.1);
- the prohibition on any involvement by third parties to sex work that might receive "a material benefit", including venue owners (and possibly landlords) in the context of a "commercial enterprise" (section 286.2);
- the broadly worded "procuring" provision that includes "harbouring" a person who offers sexual services for consideration (section 286.2); and
- the sweeping prohibition on advertising the sale of sexual services other than those a person provides directly herself or himself to a client (section 286.4).

As a result, while sex workers could technically work in indoor venues in certain limited circumstances, in practice many provisions of Bill C-36 would affect sex workers' ability to do so, even if the threat of criminal liability is not directed specifically against them and instead weighs on others such as their clients, the owner of a venue they use to provide services, or the providers they use to advertise their business.

In *Bedford,* the Supreme Court of Canada agreed with the trial judge's finding that the evidence "amply supports" that "indoor work is far less dangerous than street prostitution" and, as such, that the bawdy-house prohibition materially increased the risk faced by sex workers.[24] The evidence before the courts overwhelmingly demonstrated, *inter alia*, that **working indoors and with others significantly enhances sex workers' ability to control their working conditions, including the ability to negotiate safer sex and condom use.**[25] Yet, Bill C-36 effectively maintains the prohibition on bawdy-houses through the operation of several provisions that would impede sex workers' ability to work indoors and with others. Because the practical effect of Bill C-36 is that indoor venues for sexual services cannot operate legally, the same harms would be caused as by the provision already found deficient; the law would not likely withstand constitutional scrutiny.

(b) International law, policy and research concerning sex work

Not only must Bill C-36 be consistent with the Charter, but Canada has also ratified a number of international conventions creating binding legal obligations that must guide the interpretation and analysis of the Charter. These include the ***International Covenant on Economic, Social and Cultural Rights***, which legally obliges Canada to take steps towards the progressive realization of sex workers' rights, including the following:

- the right to work (Article 6);
- the right to enjoy just, favourable, safe and healthy working conditions (Article 7) and
- the right to the highest attainable standard of physical and mental health (Article 12), including HIV prevention, treatment, care and support.[26]

In addition, the ***International Covenant on Civil and Political Rights*** legally obliges Canada to guarantee to sex workers a number of relevant universal human rights, including the following:

- the right to life (Article 6);
- the rights to liberty and security of the person (Article 9);
- freedom of expression (Article 19); and
- the right to equality before the law and to equal protection of the law without any discrimination on any ground (Article 26).[27]

These rights, internationally agreed to by Canada, animate the *Charter* rights to life, liberty and security of the person and support a more robust interpretation of their content that (i) acknowledges the decision to engage in sex work is an act of personal autonomy that is protected by section 7 and (ii) encompasses a state obligation to refrain from enacting laws that materially contribute to sex workers' health and safety risks.

Specific to women in sex work, the ***Convention on the Elimination of All Forms of Discrimination against Women*** ("CEDAW") similarly obliges Canada to take all appropriate measures to ensure the protection of health and safety in working conditions (Article 11(1)(f)) and to repeal all national penal provisions that constitute discrimination against women (Article 2(g)).[28] **Where sex work is illegal, the CEDAW Committee has recommended the decriminalization of prostitution and distinguished prostitution from the "exploitation of prostitution."[29] Moreover, CEDAW confers a positive responsibility on States to protect sex workers' right to be free from violence and threats to their health.** On numerous occasions, the CEDAW Committee has noted its concern with discrimination and violence against sex workers and recommended legislation and other action to prevent such discrimination and violence and to promote safe working conditions.[30] This is in line with the CEDAW Committee's General Recommendation No. 19 on Violence against Women, in which the Committee notes that "[p]rostitutes are especially vulnerable to violence because their status, which may be unlawful, tends to marginalize them. They need the equal protection of laws against rape and other forms of violence."[31]

Where sex work has been decriminalized, sex workers' human rights, health and safety have been advanced. **In New Zealand, for example, after the government decriminalized prostitution in all forms in 2003, there was an improvement in employment conditions and a decrease in violence against sex workers, and sex workers exercised greater power to demand safe working conditions and negotiate safer sex practices.[32]** According to the UNDP, evidence from New Zealand and the Australian state of New South Wales indicates that **the decriminalization of sex work increases sex workers' access to HIV and sexual health services and is associated with very high condom use rates and very low prevalence of sexually transmitted infections, while HIV transmission within the context of sex work is understood to be extremely low or nonexistent**.[33] Prior to decriminalization, sex workers were less willing to disclose their work to health-care providers or to carry condoms for fear of their being used as evidence for a conviction.[34]

In view of the public health impact of criminal laws governing sex work, international health and human rights bodies have increasingly called on States to decriminalize sex work in order to meet core obligations of the right to health and to create an environment enabling full enjoyment of that right. These bodies include the Global Commission on HIV and the Law,[35] the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the Office of the High Commissioner on

Human Rights (OHCHR),[36] and the UN Human Rights Council's Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,[37] among others.

(c) International research on HIV and sex work

The call by international health and human rights bodies for decriminalization of sex work is consistent with the globally available scientific data on the HIV/AIDS epidemics, which have demonstrated that decriminalization supports safer working conditions, enhances sex workers' health and safety, and is necessary to appropriately address the HIV/AIDS epidemics. Major global reviews of the available scientific data include the following:

- A 2010 analysis of data from 21 Asian countries revealed that in places where laws exist to prevent discrimination against sex workers, sex workers have greater knowledge and use of HIV-related services and lower rates of HIV.[38]
- In 2012, a UN global review of research on sex workers and their clients found that laws that directly or indirectly criminalize sex workers, their clients and third parties can undermine the effectiveness of HIV and sexual health programs, and limit the ability of sex workers and their clients to seek and benefit from these programs.[39]
- A systematic review of research published in a July 2014 special HIV and sex work edition of *The Lancet* highlighted that an increasing number of reports show how punitive laws and policies governing sex work, including criminalization of some or all aspects of sex work, elevate HIV acquisition and transmission risks.[40] Another research review from the same edition of the *The Lancet* concluded that **criminalization undermines sex workers' ability to work safely and protect their health, and that the mere provision of HIV prevention and treatment services, without addressing human rights violations such as those caused by the criminalization of sex work, will be an insufficient and misguided response to the HIV/AIDS epidemics**.[41]

3. Conclusions and recommendations

A concern for the health and welfare of sex workers is profoundly inconsistent with the criminalization of sex work, which exposes sex workers to stigma and discrimination, diminishes the control sex workers have over their working conditions (including negotiating power to insist on condom use), gravely threatens their health and safety, limits their access to essential HIV, sexual health and harm reduction services and increases their risk of HIV. Ideology and moral judgments about sex work should not be the basis for public policy. Rather, laws must be grounded in evidence and human rights. The overwhelming evidence concerning sex work demonstrates that the criminalization of sex work — both directly through a prohibition on the purchase of sex and indirectly through prohibitions on advertising sexual services, receipt of "financial or other material benefit" from sex work and procuring — contributes to harms to sex workers, harms which the Supreme Court of Canada found to be unconstitutional in *Bedford* and harms which also constitute violations of international human rights law.

Not only do the proposed provisions of Bill C-36 outlined in this brief contribute to very specific harms against sex workers, but research has shown that the broader effect of criminalization is to drive sex work underground, increasing the risks of violence that sex workers face, and marginalizing them from health care and social services, including access to HIV testing, education, prevention, care, treatment and support.[42] Moreover, in an environment where the sale of sex is legal, but virtually all activities associated with sex work are criminalized, sex

workers who try to access health services are further stigmatized and discriminated against. This does not protect sex workers or communities; it merely reinforces the marginalization of sex workers and the people they live and work with, making them, and hence our communities, less safe. Decriminalizing sex work is the only proven route to protecting sex workers' labour and human rights. Parliament has a responsibility to ensure that one set of unconstitutional laws is not replaced with another — and to avert an epidemic of missing and murdered sex workers.

For all these reasons, we urge this Committee to reject Bill C-36 in its entirety, and to consult with sex workers to develop a legal framework that protects, respects and fulfills their constitutional and human rights.

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[1] S. Chu & R. Glass, "Sex Work Law Reform in Canada: Considering Problems with the Nordic Model," *Alberta Law Review* 51 (October, 2013): pp. 101–124.
[2] Global Network of Sex Work Projects (NSWP), *Sex workers' access to HIV treatment around the world*, 2013; NSWP, *The impact of non-rights based HIV programming for sex workers around the world*, 2013; and NSWP, *Good Practice in Sex Worker-Led HIV Programming*, 2013.
[3] Canadian HIV/AIDS Legal Network, *Women, Sex Work and HIV*, 2013.
[4] UNAIDS and Canadian HIV/AIDS Legal Network, *Judging the epidemic: A judicial handbook on HIV, human rights and the law*, 2013.
[5] Canadian HIV/AIDS Legal Network, *Sex, work, rights: reforming Canadian criminal laws on prostitution*, 2005.

[7] Research and Statistics Division of Department of Justice Canada, *Online Public Consultation on Prostitution-Related Offences in Canada: Final Results*, 2014.
[8] See, for example, J. Levy, "Impacts of the Swedish Criminalisation of the Purchase of Sex on Sex Workers" (Paper delivered at the British Society of Criminology Annual Conference, Northumbria University, 4 July 2011) at 14; A. Jordan, "The Swedish Law to Criminalize Clients: A Failed Experiment in Social Engineering" (Washington: American University Washington College of Law, 2012) at 7, referring to research by E. Bernstein, *Temporarily Yours: Intimacy, Authenticity, and the Commerce of Sex* (Chicago: University of Chicago Press, 2007); J. Scoular, "What's Law Got To Do With it? How and Why Law Matters in the Regulation of Sex Work" (2010) 37:1 JL & Soc'y 12 at 19; and Y. Svanström, "Prostitution as Vagrancy: Sweden 1923–1964" (2006) 7 Journal of Scandinavian Studies in Criminology and Crime Prevention 142 at 147.
[9] Scoular, ibid at 19.
[10] See, for example, Norway, Working Group on the Legal Regulation of the Purchase of Sexual Services, *Purchasing Sexual Services in Sweden and the Netherlands: Legal Regulation and Experiences, Abbreviated English version* (Norway: Ministry of Justice and the Police, 2004) at 12; and *Prostitution in Sweden 2003: Knowledge, Beliefs & Attitudes of Key Informants* (Sweden: National Board of Health and Welfare, October 2004) at 9 and 32.
[11] S. Chu & R. Glass, supra at 117–119.
[12] See, for example, S. Dodillet & P. Östergren, "The Swedish Sex Purchase Act: Claimed Success and Documented Effects" (Paper delivered at the International Workshop on Decriminalizing Prostitution and Beyond: Practical Experiences and Challenges, The Hague, 3–4 March 2011); Norway, supra; and D. Danna, "Client-only Criminalization in the City of Stockholm: A Local Research on the Application of the 'Swedish model' of Prostitution Policy" (November 20, 2011) Sexuality Research and Social Policy, citing Swedish sex workers' association, Rose Alliance.
[13] Norway, supra at 13 and 19; Y. Svanström, supra at 147; and S. Dodillet & P. Östergren, supra at 22.
[14] M. R. Decker et al., "Human rights violations against sex workers: burden and effect on HIV," *The Lancet* (July, 2014) at 65–66.
[15] Norway, supra at 19; Y. Svanström, supra at 147, citing Anders Nord & Tomas Rosenberg, *Rapport: Lag mot köp av sexuella tjänster. Metodutveckling avseende åtgärder mot om förbud prostitution* (Malmö: Polismyndigheten i Skåne, 2001).
[16] A. Krusi et al, "Criminalisation of clients: reproducing vulnerabilities for violence and poor health among street-based sex workers in Canada—a qualitative study," (2014) 4:6 BMJ Open.
[17] M. R. Decker et al., supra at 65.
[18] P. Östergren, *Sexworkers critique of Swedish Prostitution Policy*, online: www.petraostergren.com/pages.aspx?r_id=40716.
[19] See, for example, S. Dodillet & P. Östergren, supra at 21 and Norway, supra at 19 and 53.
[20] M. R. Decker et al., supra at 65.
[21] N. Currie & K. Kara Gillies, *Bound By Law: How Canada's Protectionist Public Policies in the Areas of Both Rape and Prostitution Limit Women's Choices, Agency and Activities*, 2007.
[22] Ibid.

[23] J. Godwin, *Sex Work and the Law in Asia and the Pacific: Laws, HIV and human rights in the context of sex work*, 2012.
[24] *Canada (Attorney General) v. Bedford*, 2013 SCC 72 at para. 63.
[25] *Bedford v Canada*, 2010 ONSC 4264 at para 325.
[26]*International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, 21 UN GAOR Supp (No 16) at 49, 999 UNTS 171.
[27]*International Covenant on Civil and Political Rights*, 16 December 1966, 21 UN GAOR Supp (No 16) at 52, 999 UNTS 171.
[28]*Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, 34 UN GAOR Supp (No 46) at 193, UN Doc A/34/46.
[29]See, for example, CEDAW Committee, *Concluding comments by the Committee: China*, 20th Sess, CEDAW/C/SR.419-421, (1999), which recommends at para 289 the "decriminalization of prostitution" and further urges the Chinese government at para 291 to prosecute all persons engaged in "trafficking and the *exploitation of prostitution*" [emphasis added] and CEDAW Committee, *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Fiji*, 46th Sess, CEDAW/C/FJI/CO/4, (2010), in which the Committee urges Fiji at para 25 to take concrete steps aimed at effectively "decriminalizing sex work."
[30] See, for example, CEDAW Committee, *Concluding observations on the combined seventh and eighth periodic reports of Hungary adopted by the Committee at its fifty fourth session*, 54thSess, CEDAW/C/HUN/CO/7-8, (2013) at paras 22–23; CEDAW *Committee, Concluding observations of the Committee on the Elimination of Discrimination against Women: Kyrgyzstan*, 42nd Sess, CEDAW/C/KGZ/CO/3, (2008) at para 43; CEDAW Committee, *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Fiji*, supra at para 24; CEDAW Committee, *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Russian Federation*, 46th Sess, CEDAW/C/USR/CO/7, (2010) at paras 28–29; and CEDAW Committee, *Concluding comments by the Committee: China*, supra at paras 325–326.
[31] CEDAW Committee. *General Recommendation 19, Violence against women* (Eleventh session, 1992), UN Doc. A/47/38, 1993 at para 15.
[32] New Zealand Government, *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003*, 2008.
[33] J. Godwin, supra at 6.
[34] New Zealand Government, supra.
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[42] See, for example, Chapter 3.2 of the Global Commission on HIV and the Law, supra.