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Chair: Mr. Randeep Sarai





## Standing Committee on Justice and Human Rights

Tuesday, April 5, 2022

• (1530)

[English]

**The Chair (Mr. Randeep Sarai (Surrey Centre, Lib.)):** I call this meeting to order.

Welcome to meeting number 10 of the House of Commons Standing Committee on Justice and Human Rights. Pursuant to the motion adopted on Tuesday, February 8, the committee is meeting to review the Protection of Communities and Exploited Persons Act.

Today's meeting is taking place in a hybrid format, pursuant to the House order of November 25, 2021. Members are attending in person in the room, and remotely using the Zoom application. The proceedings will be made available via the House of Commons website.

I would like to welcome our witnesses, but before I do, I want to let them know I use little cards. When you're at your last 30 seconds, look for the card. I don't like interjecting, so I hope you adhere to the timelines.

Good morning to our guests from New Zealand, Dr. Gillian Abel and Dr. Lynzi Armstrong. Thank you so much for joining us from the other side of the world.

We also have Professor Janine Benedet from the University of British Columbia. We have Nadia Guo, criminal defence lawyer. From the Centre To End All Sexual Exploitation, we have Kathleen Quinn.

I'm going to give you all five minutes each.

We'll start with Dr. Abel from New Zealand, for five minutes, please.

**Dr. Gillian Abel (Professor, Department of Population Health, University of Otago, As an Individual):** Thank you very much.

I'm Dr. Gillian Abel. I'm a professor of public health at the University of Otago in New Zealand. I've been doing research in the field of sex work for around 25 years, and I'm considered a global expert in this field.

Sex work in New Zealand was decriminalized in 2003, but I did my first project in the late 1990s, when sex workers' activities were still criminalized in New Zealand. The research demonstrated that criminalization of sex workers' activities was responsible for a number of harms. Street-based sex workers experienced more and more severe forms of violence than indoor workers. They had no

time before getting into the car to assess whether a client was safe, as they were scared they would be spotted by police and charged with soliciting.

In addition, we found that sex workers in massage parlours were working under extremely exploitative and coercive conditions. They couldn't fight for better working conditions, and they couldn't report crimes committed against them to the police without exposing themselves as being involved in an illegal activity. In addition, police used the presence of condoms within parlours or the carrying of condoms as evidence for prostitution-related activities, which created a disincentive for their use.

All of this made them extremely vulnerable. People know they can get away with coercion, exploitation and violence when their victims have little access to legal and human rights.

The evidence we obtained in our research was valuable in strengthening the case for a change in the way that sex work was legislated in New Zealand. In 2003, all laws that criminalized sex work activities were scrapped. The argument for decriminalization in Parliament was that sex work was not inherently dangerous but that the laws created the danger. Decriminalization was argued for as a harm minimization strategy. The Prostitution Reform Act was enacted, and its stated aims are, "safeguards the human rights of sex workers and protects them from exploitation: [and] promotes the welfare and occupational health and safety of sex workers:"

I conducted a large study five years after the act was passed, which included a survey of 772 sex workers and in-depth interviews with 57 of them. We also did an estimation of the number of sex workers in five cities in New Zealand. This study was funded by both the Health Research Council of New Zealand and the Ministry of Justice.

I was contracted by the Ministry of Justice to produce a report for the evaluation of the act. The prostitution review committee, set up by the Ministry of Justice, concluded that the act had been effective in achieving its purposes and that most sex workers were better off than they were when their activities were criminalized.

Since then, I have carried out many other studies, looking at experiences of sex workers exiting sex work, interactions between social workers and young street-based sex workers, employment practices in brothels, work practices and safety of Internet-based sex workers, migrant sex workers' experiences of working in New Zealand and street-based sex work in the community.

It will be 20 years next year since sex work was decriminalized in New Zealand, and I can categorically state that sex workers are far better off than they were when I undertook that first study in the 1990s. There is no political will to change the status quo. Anecdotally, members of Parliament who voted against decriminalization in 2003 now say that their concerns were unfounded and they would not support change.

There's exploitation in many forms of employment—it's not confined to sex work—but previously, unlike other workers, sex workers had no recourse to justice. They're now aware of their rights, which has resulted in a shift in power between brothel operators and sex workers. Some sex workers have taken operators to the human rights tribunal when they have tried to impinge on their rights. Other cases have been settled through mediation. They have the right of refusal to provide commercial sexual services, and consent can be withdrawn at any stage in the transaction. They indicate to operators the services that they're prepared to offer clients, and clients are informed of this before they book a particular sex worker. This reduces the chance of a client resorting to violence because of unmet expectations.

Street-based sex workers welcome well-lit areas and CCTV cameras as making their workplace environment safer. They are able to take their time in assessing whether the client is sober, has no obvious weapons in the car and has nobody else hiding in the back seat. They can also negotiate what services they are prepared to provide before getting in the car.

- (1535)

The relationship between police and sex workers is much improved and they are no longer seen as the enemy. Sex workers are more proactive in reporting incidents to the police and there's a better dialogue between them. This has been helped through collaborative initiatives between police and the New Zealand Prostitutes Collective, which is the sex workers organization in New Zealand.

This is not to say that things are perfect. One aspect in which the Prostitution Reform Act has failed is section 19, which deals with the application of the Immigration Act. It stipulates that no permit can be granted to a non-resident who provides or intends to provide commercial sexual services or who intends to operate or invest in a commercial sexual business.

Migrant sex workers are potentially easy targets for violence and exploitation—

**The Chair:** Dr. Abel, unfortunately, I have to cut you off but hopefully some of the members here will allow you to answer questions in the rounds of questioning coming up.

I'll next ask Dr. Lynzi Armstrong for five minutes.

**Dr. Lynzi Armstrong (Senior Lecturer, Institute of Criminology, Victoria University of Wellington, As an Individual):** Thank you.

My name is Dr. Lynzi Armstrong and I am a senior lecturer in criminology at Victoria University of Wellington in New Zealand.

My research focuses on how laws impact the rights, safety and well-being of sex workers, and I began doing research in New Zealand in 2007. I'm going to talk about the decriminalization of

sex work in New Zealand, drawing on research and case examples that highlight its impacts. I will also discuss the limitations of the legislation.

New Zealand decriminalized sex work in 2003 with the passing of the Prostitution Reform Act. The purpose of the legislation was to better support the occupational health and safety of sex workers and the legislation was drafted with the input of sex workers, with the New Zealand Prostitutes Collective involved in drafting earlier versions of the legislation.

Since the law passed in 2003, several studies have highlighted the positive impacts of decriminalization in New Zealand. Research conducted by Gillian Abel and colleagues to evaluate the impacts of the law after its enactment found that a majority of participants felt that they had more rights and that they were more able to refuse to see clients since the law had changed. Several participants also felt that police attitudes towards them had improved.

Subsequent research that I have undertaken with sex workers has indicated that relationships between street-based sex workers and police have improved, and that decriminalization better supports the safety strategies of street-based sex workers. Since neither sex workers nor their clients are criminalized, interactions can be openly conducted and conversations can be explicit, enabling sex workers to take their time when screening clients.

In my most recent research in New Zealand, a majority of the 46 sex workers we interviewed described feeling that they had more autonomy and control in their work in a decriminalized framework, and overwhelmingly spoke about decriminalization having had a positive impact on their well-being.

While the clients of sex workers remain an under-researched population in New Zealand, a qualitative study of 12 clients of sex workers found that those interviewed were aware of the rights of sex workers and conveyed respect for those rights in how they described their interactions.

Positive impacts of decriminalization have also been evident in several high-profile court cases. For example, in 2014 and 2020, sex workers won sexual harassment cases in the context of their work, and in 2021 a man who covertly removed his condom during sex with a sex worker was convicted of rape.

While sex workers can still experience violence in the decriminalized context, the legal framework better supports their safety strategy and strengthens access to justice for those who do have adverse experiences. Thus the evidence today overwhelmingly indicates that the decriminalization of sex work has had positive impacts on sex workers.

Research conducted in New Zealand over the past two decades has led me to conclude that full decriminalization is the legislative model that best supports the safety, rights and well-being of sex workers.

While there have been many benefits, the decriminalized model in New Zealand also has limitations. Section 19 of the Prostitution Reform Act prohibits temporary migrants from working in the sex industry even if a person holds a visa that enables them to work. This means that temporary migrants who are working in the sex industry are working illegally and do not benefit from the protections of the Prostitution Reform Act that are afforded to permanent residents and citizens. Their illegal status means that there is a barrier to them reporting adverse experiences due to a fear that they may be deported if they come to the attention of authorities. Stigma is also an issue that endures and there's no legal protection from discrimination for sex workers on the basis of their work in New Zealand.

The legal framework would be strengthened by repealing section 19 of the Prostitution Reform Act so that migrant workers have the same rights and protections as other workers. Legal protection from discrimination would also benefit sex workers in this context.

Thank you for the opportunity to speak today and I welcome any questions that you have.

- (1540)

**The Chair:** Thank you, Ms. Armstrong.

Next is Professor of Law Janine Benedet, from UBC.

You have five minutes.

**Professor Janine Benedet (Professor of Law, Peter A. Allard School of Law, University of British Columbia, As an Individual):** Thank you to the committee for inviting me to participate in these hearings.

As you know, I'm a professor of Law at the University of British Columbia and a member of the British Columbia bar.

Bringing a sex equality analysis to bear, I advocated in favour of the Criminal Code offences against male buyers and pimps that were added to the Criminal Code in 2014, and I believe that they need consistent enforcement along with public education and supports for prostituted people. This asymmetrical equality model has been adopted, as you know, by a number of countries successfully and was pioneered by Nordic countries, which are the most gender-equal countries in the world.

In my brief time for these opening remarks, I will make three simple points. The first is that the prostitution industry is structured as a practice of sex inequality and also of racial and class inequality. This reality is continuously obscured by resort to the gender-neutral clinical language of sex worker and client, manager and

third party operator. The reality is that it is men who are buying; they buy women and girls, sometimes boys, other men and transgender people. The women and girls that men buy for sex in this country are disproportionately young, indigenous and poor, and they are the people on whom we need to be focusing our legislative efforts. We all know this. Yet you are being asked to decriminalize sex purchase, pimping and procuring.

I ask what happens when there are not enough Canadian women who will resort to prostitution to meet this legalized, validated demand? What happens is that we will traffic women into prostitution; we will scoop girls up from state care and we will import women from the inexhaustible supply of poor women in other countries. More of all of these things will happen if demand is legalized. Canada is not an isolated island; it is a country that shares a large porous land border with hundreds of millions of American men who will also take advantage of this legalized market.

The second point I would make to you today is that the silence of the johns before this committee is deafening. The centrepiece of the 2014 amendments is the direct criminalization of sex purchase. Despite this and despite the fact that johns outnumber those in prostitution by many orders of magnitude, they remain largely invisible. They're not appearing before this committee to defend their insistence on being able to buy sex on demand from a woman who does not want that sex, and who wants only the money they have which she needs. Instead, they hide behind women and prostitution and shift the focus onto them as if their demand is somehow natural and unchangeable like the tides or the seasons. They get to hide behind the concerns for the very safety of the women they are harming. We can acknowledge women's decisions to enter the sex trade in the face of whatever constraints they might face without validating the choice of these men to buy sex.

Finally, I would say that it is male sexual entitlement that is at the root of sex purchase. This is a key barrier to women's equality in Canada, generally; we criminalize sexual assault, but more than 99% of sexual assaults result in no criminal consequences for the perpetrator. The Me Too movement is just the latest expression of decades of organizing against the impunity for male sexual violence; impunity that fuels male sexual entitlement.

I would argue to this committee, and in fact I argued in my written submission, that prostitution itself is a form of sexual harassment in which being groped or otherwise used sexually becomes the condition of work. We recognize that as a violation of women's human rights in other spheres, but we don't seem to recognize it for prostitution. When men who buy sex are asked what would stop them, they consistently say a real risk of punishment and publicity. I do not want to legitimize male sexual entitlement. I don't want to make it permissible for men to buy a submissive Asian woman, an indigenous woman, to act out their colonial fantasies or some kind of group sexual encounter as a male bonding ritual with their friends. Telling men that they can do this without consequences does not make women safe and it does not make women equal. Decreasing demand does.

Talking about how to make things a little less bad for some small subset of women, whom these men buy, completely misses the point. We can and must do better for Canadian women than this unrestricted male market in women's bodies. The liberty and equality of all Canadian women depend on that.

• (1545)

Thank you.

**The Chair:** Thank you, Professor Benedet.

Now we'll go to Nadia Guo for five minutes.

**Nadia Guo (Criminal Defence Lawyer, As an Individual):** Thank you.

I'm a criminal defence lawyer based in Toronto. I also worked as an independent escort, both before PCEPA was enacted and after it was passed, advertising online and working in calls and out calls.

A unanimous panel of the Ontario Court of Appeal in the recent decision of *R. v. N.S.*, which was released in February of this year, found a majority of the PCEPA criminal provisions to be constitutional and not in violation of section 7 and subsections 2(b) and 2(d) of the charter. The decision made sense to me given the limitations of charter jurisprudence in addressing the problems inherent in this legislation. The ultimate issue is that the criminal prohibitions are compliant with section 7, even if the provisions do nothing to actually achieve their purpose or the overall objective of the act, which is supposedly the eradication of all prostitution. Therefore, in my view, legislative action is required for any meaningful changes.

I struggled a bit with what I was going to say today because the truth is, independent sex workers like me probably have more freedom to sell sex currently under PCEPA than they would in a regulated industry. I saw what the Cannabis Act did to small-scale growers and I fear independent sex workers may face similar challenges in a regulatory environment.

Personally, I notice no differences in the industry between how it was before the laws were passed and how things were afterwards. Men continued to pay for sex just as eagerly as they always did. Third parties like escort agencies continued to operate. I was able to advertise and screen just as effectively as before. However, even though not much changed for me, there are other reasons I think some of the criminal provisions should be repealed.

I worked on a section 286.1 appeal last year, and I had a first-hand look into how police went about enforcing laws against clients. Much of it depended on whether you lived in a progressive metropolitan city, where police have real crimes to focus on, or in a less populated rural town, where police are more motivated to make arrests. If you didn't speak English very well, you were less versed in the industry know-how of how to discern real ads from fake ones. The stings are exclusively relegated to classified sites like Le-oList, where the average rates are less expensive and half-hour and 15-minute bookings are more common. Essentially, those unlucky enough to get arrested tend to be less well educated, less white and less well off, which mirrors the trends in the criminal justice system.

Several courts have found the mandatory minimum sentences in the legislation to be unconstitutional. The sentences in section 286.1 begin at a \$500 fine for a first summary offence. This means unless the Crown agrees to withdraw the charge, you will receive a criminal record for life and significant hurdles to securing future employment, not to mention that by the logic of this legislation, you're now branded a sexual predator responsible for the exploitation of helpless women. Paradoxically, this also means that you can assault a sex worker and potentially receive no record, but not if you had simply contacted or paid for the services she was voluntarily offering.

The injustice of this legislation is surface level and you don't need a law degree to understand it. Are we okay with criminalizing people for buying something that others happily and legally sell? Are we okay with giving police departments the discretion of enforcing a law that can ruin people's lives and careers? The simple fact of the matter is that the criminal law has never deterred men from wanting to pay for sex. It certainly hasn't in the U.S., where Canadian sex workers travel regularly to work illegally in order to access the healthy demand there.

The sex worker rights movement has gained a lot of momentum since this law was passed. The more visibility sex workers gain in society, the harder it is for anyone to continue to justifiably claim that we aren't just doing it consensually, but that we also highly prefer it to other forms of work.

There are a lot of hysterics and exaggeration on both sides of this debate, and in my opinion, there are good policy reasons to have a legalized and regulated industry and one that prohibits commercial enterprises based on third party profiteering. However, I can say without a doubt that the internal logic of PCEPA claiming that there is exploitation inherent in prostitution is flawed. Certainly, I've never experienced it, and the end-demand model's blanket treatment of all sex workers as victims is more of an affront to our dignity than sex work has ever been.

PCEPA should therefore be repealed in its entirety based on the inaccurate assumptions built into its preamble and legislative history. If Parliament isn't willing to rewrite the laws, there are certain recommendations I would make that I can get more into later, such as specifically repealing parts of the purchasing laws and advertising laws.

Thank you.

• (1550)

**The Chair:** Thank you.

Now we have the last panellist, from the Centre to End All Sexual Exploitation.

Kathleen Quinn, you have five minutes.

**Ms. Kathleen Quinn (Executive Director, Centre to End All Sexual Exploitation):** Hello. Thank you for this opportunity.

I am speaking to you from the traditional territories of Treaty 6 first nations and the Métis people of Zone IV.

I am a neighbourhood resident in a central Edmonton community that is directly impacted by commercial sexual exploitation, drug trade, poverty and homelessness. I serve as executive director of CEASE.

This organization grew from the experiences of neighbourhood residents working together with street outreach and safe housing agencies, law enforcement and Crown prosecutors, parents whose daughters and sons were exploited, parents whose daughters were murdered, and women and men who survived their years of commercial sexual exploitation. They wanted to be part of changing the conditions that cause suffering.

At one of our meetings, we asked ourselves a question: What activity causes the most harm to the most people? We all named the source of harm to be the men cruising our neighbourhood. They were preying upon and exploiting children and adults in vulnerable circumstances. They were harassing children on their way to school. They were soliciting women standing at bus stops or just going to the local shops.

Together, we advocated with our city council and minister of justice to address the multiple impacts of these behaviours and reduce the harm by holding these men accountable. Our police made it a priority to interrupt the activities of exploitation by charging sex trade buyers, pimps and traffickers.

We advocated for more supports and services for children, youth, women, men, transgender and two-spirit persons. Together, we created the sex trade offender program for first-time offenders with no prior record of violence against women or children. The goals are to provide accurate information about the laws and sexual health, educate about the dynamics of sexual exploitation, the sex industry and sex trafficking, and build empathy through stories of impact from mothers whose daughters were murdered and survivors of commercial sexual exploitation, regardless of the venue. Two men who are former sex trade buyers co-facilitate questions about healthy masculinity, respectful relationships, sex and porn addiction, and steps to making life changes.

The Ministry of Justice designated this program an adult alternative measures program and set the fees to be equivalent to courtroom fines. They decided that the funds generated would be returned to the community to help heal the harm because it was the community who had raised awareness to police, government leaders and the public.

Together, listening to the voices of the women on our committee who had suffered sexual exploitation, we set the priorities of poverty relief, trauma recovery, bursaries for education and public awareness.

This is a form of healing, justice and transformative investment. Just as we as a country are coming to terms with the impact of our colonial history, we must recognize that Canada has had unjust laws in the past that have discriminated against women in particular, those living in poverty, those in the 2SLGBTQ community and indigenous people.

The PCEPA is not one of those unjust laws. Like any legislation, it should be reviewed and improved. PCEPA plus social investment can transform our society. We can respect the rights of those who identify as emancipated sex workers with high control over their working environment. The PCEPA does this. Persons selling their own sex services are decriminalized and immune from prostitution.

We can protect the rights of those who are trafficked for commercial sexual exploitation. The PCEPA harmonizes with our human trafficking legislation and focuses on decreasing the demand that feeds the trafficking business model of buying and selling children and adults—primarily women—for profit. This is part of Canada's responsibility as a signatory to the Palermo protocol.

We need to increase enforcement of the purchasing section. Buyers can rarely distinguish between a trafficked child and adult, or between a circumstantial sex trade participant and an emancipated sex worker. We can uphold the rights of those trapped in commercial sexual exploitation by improving their socio-economic circumstances and providing resources to heal, exit and create an improved future that they want for themselves and their families.

The PCEPA cannot achieve this without social investment and public awareness. We can improve the PCEPA legislation, increase social investments and then review again in five to 10 years to see what progress we have made.

Thank you.

• (1555)

**The Chair:** Thank you to all the witnesses for staying within the timeline.

I'll go to the first round of questions, starting with Mr. Cooper, for six minutes.

**Mr. Michael Cooper (St. Albert—Edmonton, CPC):** Thank you, Mr. Chair, and thank you to the witnesses.

I'm going to address my questions to Professor Benedet.

Professor Benedet, in your opinion, is PCEPA working from the standpoint of targeting the source of the harm; namely, buyers of sex and the profiteers involved?

• (1600)

**Prof. Janine Benedet:** That's a good question.

I suppose there are a couple of ways to answer that. It's quite clear that enforcement across the country is wildly uneven. We see some jurisdictions—and I see real momentum, particularly in Manitoba—where the law is being enforced. In other jurisdictions, like my own city of Vancouver, there has been a deliberate refusal to enforce the law. In terms of whether the law is actually being enforced, and enforced consistently across the country, the answer to that question is no.

Now, in terms of where the law is being enforced, and what effects it's having, there are two effects. The first is that it is working hand in hand with the trafficking provisions to provide another tool for police and prosecutors in situations of exploitation.

The other thing it's doing is actually starting to shift attitudes. You see the Manitoba Court of Appeal recently sentencing a man to five years imprisonment for buying a 16-year-old girl for prostitution. That's grounded in the idea that purchasing another human being for sex is itself an offence against the person. You see Winnipeg moving to ban massage parlours, because of their links to trafficking. Again, it's grounded in this recognition that it's not legal to buy another human being for sex.

Those are my observations, but I'd like to see much more consistent enforcement of that provision across the country, and not this kind of artificial distinction that if that 16-year-old girl makes it to the age of 18, enforcement somehow falls away.

**Mr. Michael Cooper:** The issue of inconsistent enforcement, particularly in the province of British Columbia, has been noted by a number of witnesses as a major concern.

Do you have any recommendations on how that can be resolved, having regard for the jurisdictional issues?

**Prof. Janine Benedet:** Jurisdictional issues aside, there's something a bit concerning about police forces taking it upon themselves to simply declare that they're not going to enforce certain sections of the Criminal Code. Police forces can certainly have enforcement priorities, but if people are coming to them with complaints, they need to be prepared to enforce those offences.

We know that the threat of actual prosecution is an effective tool. If we're now announcing to johns, "It's fine, go ahead, because we're not going to prosecute you," that's a very troubling message.

I would like to see some statement that that's simply not on. This is an offence against the person. If the police force said, "Well, we're not going to enforce the assault laws in Canada, because we don't think they're helpful, or they aren't a priority for us," we would be really concerned.

**Mr. Michael Cooper:** Are you able, Professor, to speak about the experiences in other jurisdictions, such as Denmark, Germany,

New Zealand, the Netherlands, and so on, that have taken a very different approach? It's a broad question.

We heard from two witnesses today from New Zealand who touted New Zealand as a model. They say it's worked. I note that New Zealand has dropped to a two-tier country, in terms of the trafficking in persons report by the American department of state, due to an increase in human trafficking and child sex trafficking.

Are you able to comment on any of those issues?

**Prof. Janine Benedet:** Yes, and it's important to note that in the prior regime that the witnesses were referring to there was criminal prosecution against the prostitutes themselves, and in fact that's where the enforcement priority was. New Zealand has not had experience with an asymmetrical model of criminalization.

I would note that in jurisdictions such as Germany and the Netherlands, there does seem to be increasing acknowledgement, even by those who were advocates for the sex trade, that those models have largely failed. It's really become a containment exercise in shifting the sex trade around to more isolated areas of town, setting up, for example, concrete stalls on the outskirts of Utrecht where people can drive in and conduct transactions in cars.

Germany is acting to try to curb some of the worst excesses of the market. For example, there was a vibrant trade there in brothels where you could pay a flat fee to have an unlimited amount of sex with the women there—men would take erectile dysfunction medication—over a certain period of time.

We keep hearing about these outrages that the commercial market produces. There are attempts made to dial them back, but ultimately the fundamental condition of men buying women for sex simply remains. I think even those who are arguing in favour of decriminalization would say that there are serious human rights abuses in places like Germany and the Netherlands. Denmark's sex market is 10 times the size of Sweden, by population. We know that demand increases and along with it all of the abuses of women's human rights that come along with that.

• (1605)

**The Chair:** Thank you, Mr. Cooper.

Thank you to the witness.

Next, for six minutes, is Mr. Naqvi.

Go ahead, please.

**Mr. Yasir Naqvi (Ottawa Centre, Lib.):** Thank you very much, Mr. Chair.

I'm going to be focusing my questions to our witnesses from New Zealand. Thank you very much for joining us.



Before I start, Dr. Abel, I know you were not able to finish your presentation. I have six minutes. I'm willing to give you about a minute or so if you have some concluding remarks before I ask questions to you and Dr. Armstrong.

**Dr. Gillian Abel:** Thank you very much.

I just wanted to say that there is ample empirical evidence worldwide to show that criminalization in any of its forms—whether its the criminalization of sex work activities, of some sectors of the industry such as, with legalization, where it's legal only in licenced brothels but everybody else is criminalized and [*Technical difficulty—Editor*] parties such as the Nordic model—is not achieving its purported aims and is creating a significant amount of harm for sex workers.

Policy is liable to fall down when it's not acceptable to those who are affected by it, because they have not been consulted. It drives them underground where they are exposed to more danger. That's predominantly the reason for the failure of policies focused on sex work. Sex work is constructed in a way that is meaningless to most of those who work in this occupation, but the sanctions it places upon them cause a great deal of harm. The best possible way to develop policy that is acceptable and effective is to develop it in collaboration with sex workers. The empirical evidence from both New Zealand and [*Technical difficulty—Editor*] has shown [*Technical difficulty—Editor*] is the only legislative approach to show that sex workers are better off since its introduction.

That's what I wanted to end off with. Thank you for giving me that chance.

**Mr. Yasir Naqvi:** Thank you.

Dr. Abel, I will start with you. Earlier you said that five years after the legislation was put in place, a study was done. I think you conducted that study. You found that sex workers were better off. I think those were the words you used.

Can you share with us the metrics that you used to come up with the conclusion that they were better off? How were they better off? Was it in terms of workplace health and safety, their personal safety, health, etc.?

**Dr. Gillian Abel:** We found that they were able to refuse to see clients when they didn't want to. They weren't forced by a brothel to see them, which happened beforehand. There was no increase in the number of sex workers. I think a lot of people thought that there would be a huge increase in the number of sex workers working in the industry, but we estimated the numbers and they haven't increased at all. We found that more people were likely to report things to the police, and that generally people understood their rights and didn't have to put up with coercion, exploitation and violence.

**Mr. Yasir Naqvi:** One of the concerns that we've heard in this committee, as we've been reviewing our legislation, is what I consider a conflation between human trafficking and sex work. There's this constant argument being made that somehow they're one and the same, and that legislation like ours needs to be kept in place in order to prevent human trafficking.

Can you speak to New Zealand's experience around how sex work is treated by way of decriminalization, and how human trafficking is dealt with?

Maybe I'll start with Dr. Abel. I would like to hear Dr. Armstrong's perspective on that as well.

Thank you.

• (1610)

**Dr. Gillian Abel:** We've had no cases of sex workers trafficked into New Zealand. The only trafficking experience we've had is in the horticultural industry. There are trafficking laws, and trafficking could be dealt with, no matter the industry, under those laws. We don't need specific sex work-related policy to deal with trafficking.

In New Zealand, we have had cases of facilitation of young people, which have been classed as trafficking. Under the Prostitution Reform Act, we criminalize third parties who employ the services of [*Technical difficulty—Editor*] to court in that regard.

Perhaps Dr. Armstrong will have some insights.

[*Translation*]

**Mr. Rhéal Fortin (Rivière-du-Nord, BQ):** Mr. Chair, I have a point of order.

There are communication issues, and the interpreters are struggling to do their work.

Could Ms. Abel's connection be checked?

[*English*]

**The Chair:** Mr. Fortin, I've been given the information from the technical people here that it's the connection. There's not much we can do, because it's from New Zealand. We will try to be patient.

Ms. Armstrong, maybe speak a little more slowly so the interpreters can get it, and hopefully we won't have that gap.

[*Translation*]

**Mr. Rhéal Fortin:** We could ask her to speak more slowly and perhaps even to speak in French. There would be no issues with interpretation anymore. It would be fair for everyone.

**Voices:** Ha, ha!

[*English*]

**The Chair:** That would be a nice try.

Maybe I can advise Ms. Armstrong to put your mike between your nose and your lips. They say that usually works better, so just raise—perfect.

**Dr. Lynzi Armstrong:** I think the difference that we have in New Zealand is, because we define sex work as work, we can quite easily distinguish between human trafficking and sex work in the same way that we can distinguish between any form of work and human trafficking.

As we know, human trafficking can occur in the context of any form of work. As Dr. Abel noted, we haven't had cases of human trafficking in New Zealand. We have protections through our human trafficking legislation that also protect against young people being exploited in the context of sex work. As Dr. Abel noted, there have been convictions in that regard.

Our main concern in New Zealand currently, for those of us who would like to see sex workers being safer and being better protected, is section 19 of the Prostitution Reform Act. That means that people who are here from other countries are working illegally. It makes it very difficult for people to report if they are being exploited. To better protect against human trafficking, repealing section 19 would be really important.

**The Chair:** Thank you to the witness. I gave you additional time for the time we had to pause for technical difficulties.

It's over to you, Mr. Fortin, for six minutes.

[Translation]

**Mr. Rhéal Fortin:** Thank you, Mr. Chair.

I think the two witnesses from New Zealand have provided really informative testimony.

I would like to thank the witnesses, who are on the other side of the world, for taking the time to participate in our committee's work this early. It is 8:15 a.m. in New Zealand.

I am interested in the situation in New Zealand when it comes to sex work because that country's laws are a bit different from those that apply here, in Canada.

Ms. Abel and Ms. Armstrong, you probably noted there were differences in legislation when listening to the other witnesses.

I would like to have your observations on this, and I would like Ms. Abel to answer me first.

Ms. Abel, you have experience in research in the sex work area in New Zealand, and you are getting a glimpse of what is happening here, in Canada.

Why do you think many stakeholders here, in Canada, both from the sex work area and the health care community, are advocating for keeping the current Nordic model rather than choosing to decriminalize sex work?

What do you think explains that difference in the two countries' approaches?

• (1615)

[English]

**The Chair:** The question is either for Dr. Abel or Dr. Armstrong. Is that correct?

[Translation]

**Mr. Rhéal Fortin:** The question was for Ms. Abel.

[English]

**Dr. Gillian Abel:** I'm sorry I only heard the French.

**The Chair:** On the bottom of your screen there's an ability to switch the translation. Are you able to switch it to English?

**Dr. Gillian Abel:** Yes, I've switched it to English.

**The Chair:** Mr. Fortin, I will give you the ability to ask your question again.

[Translation]

**Mr. Rhéal Fortin:** Okay, Mr. Chair.

Ms. Abel, I want to begin by thanking you for joining us today. It is early where you are.

I was saying that Canadian witnesses have shared their preference for the Nordic model, our current model.

A number of people have expressed concern about decriminalization, while others think that solution should be prioritized.

I would like to know your point of view on this.

What do you think may be behind those concerns about decriminalization and the preference for maintaining the current model in Canada, the Nordic model?

[English]

**Dr. Gillian Abel:** Thank you.

The people who advocate for the Nordic model, their voices have been sometimes privileged in debates. I'm not sure why. It's in various countries though that those voices seem to be put above the empirical evidence. It would be nice to think that evidence does inform policy, but it doesn't in many countries around the world in terms of sex work.

[Translation]

**Mr. Rhéal Fortin:** If I understand correctly, at the end of the day, you don't see any benefits to the Nordic model.

Do you think decriminalization is really the best or even the only way to address the issue?

[English]

**Dr. Gillian Abel:** Yes, I do feel it's the best way to go. If you look at the research coming out of Canada, as well as all of the other Nordic countries, it shows that sex workers are still going underground. They do want to continue working. There's [Technical difficulty—Editor]. It hasn't decreased [Technical difficulty—Editor]. Sex workers are actually worse off in trying to protect their clients.

[Translation]

**Mr. Rhéal Fortin:** If Canada decided to go with decriminalization and to adopt a model similar to what you have in New Zealand, what would be your recommendations?

Should we still regulate sex work to some extent or should we open it up completely?

What kind of oversight could you recommend?

[English]

**Dr. Gillian Abel:** In New Zealand, we have the Prostitution Reform Act. It wasn't just a matter of scrapping all the laws that decriminalize sex workers. There are protections built into the Prostitution Reform Act that I think are very good ones to have, in terms of the ability to change their mind and break a contract if something goes wrong. Just because they've consented at the beginning to do an act doesn't mean that they can't refuse later.

There are certain points within the act [*Technical difficulty—Editor*] workers and do not have the traditional stand-down period if they decide to leave sex work before they can draw the [*Technical difficulty—Editor*] section of the act. However, what I would do differently is not have section 19 because it causes significant harms to migrant sex workers. They are underground still in New Zealand because it's the only job that's singled out that they're not allowed to do on a work visa. We know that there's exploitation among migrant sex workers, and they don't report it to the police because they don't want to be deported.

[Translation]

**Mr. Rhéal Fortin:** Earlier, your colleague Ms. Armstrong, or another witness, told us that a distinction was made between sex work and human trafficking in New Zealand, and that those were two different things. Obviously, that is easy for us to understand.

That witness added that you were doing a good job of protecting young people and sex workers to prevent them from becoming victims of human trafficking.

I would like you to tell me a bit about those protection measures.

How are you ensuring to properly protect the population against human trafficking?

• (1620)

[English]

**Dr. Gillian Abel:** We've never had a case of trafficking of people into New Zealand. The only trafficking cases that have come up concern those who are under 18 years of age. Under the Prostitution Reform Act, under 18s are not criminalized, but anybody who tries to... A client, or a brothel operator who employs somebody under the age of 18, or anybody who facilitates [*Technical difficulty—Editor*] is subject to criminal laws.

[Translation]

**Mr. Rhéal Fortin:** I would like you to tell me in a few words what sanctions you have imposed.

Mr. Chair, is my time up?

[English]

**The Chair:** Yes, your time is up.

[Translation]

**Mr. Rhéal Fortin:** Okay, Mr. Chair.

Thank you, Ms. Abel.

[English]

**The Chair:** Thank you, Monsieur Fortin.

Next, we have Mr. Garrison, for six minutes.

**Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP):** Thank you very much, Mr. Chair, and thank you to all the witnesses for appearing today.

During these hearings, we have often heard of the dire effects that might take place if we repeal PCEPA and its prohibitions. Usually, those are described as an increase in demand in the sex industry, an increase in violence, an increase in exploitation, and an increase in crimes against children.

Despite the fact we haven't seen that in the areas in Canada where the law is not being enforced, I want to ask our witnesses from New Zealand—again, I know they've touched on this very clearly—did you see any of these supposed inevitable outcomes of decriminalization in New Zealand?

I'll start with Dr. Armstrong.

**Dr. Lynzi Armstrong:** Based on everything I have observed, read, and heard in the years I have been doing research on sex work, I certainly have not observed those outcomes. If anything, people who I have interviewed for my research, when asked, "What do you wish could change?" often said, "I would like more clients. I'm not actually getting enough business."

The suggestion that there's been this huge increase in demand does not translate from what I've heard from sex workers at all. If anything, people said they would like more business.

In terms of violence, again, I haven't observed anything that would suggest there have been increases in violence. The sex workers I've interviewed said, "The legislation is really helpful, because clients know I have these rights, and if they mistreat me, I have the ability to challenge that."

So, no, absolutely not, I haven't observed any of those outcomes.

**Mr. Randall Garrison:** As someone who has spent quite a bit of time in New Zealand, there's often a stereotype of New Zealand as an isolated country. That kind of ignores the very large tourism industry that already exists in New Zealand.

I wonder if you have any comments on those kinds of perceptions of New Zealand, as being isolated and people not actually going there.

**Dr. Lynzi Armstrong:** I think there's a real stereotype there, where we're seen as being this kind of isolated place in the middle of nowhere. However, as you said, we have a huge movement of people coming in and out of New Zealand, certainly before the pandemic. The past years have been a bit different, because our border has been closed. But, no, we're absolutely not isolated. We do have a lot of people moving in and out across our border during normal times.

**Mr. Randall Garrison:** Dr. Abel, on the question of the increased demand, increased violence, increased exploitation, and increased crimes against children, have you seen any of these impacts of decriminalization in your research in New Zealand?

**Dr. Gillian Abel:** No, quite the contrary. [*Technical difficulty—Editor*] prior to decriminalization, and definitely, it's a completely different industry now. There were some members of parliament who were concerned about that before decriminalization, and therefore, voted against it. As I said before, they have now said to us that their concerns were really unfounded.

With this right comes the ability to create a safer environment. People know they can't do things with impunity, that sex workers are very well aware of their rights. They utilize those rights, so it has made it a much safer place.

• (1625)

**Mr. Randall Garrison:** Thank you very much. I'll turn to Ms. Guo.

You said that, personally, you hadn't seen a lot of change after the enactment of PCEPA, but I wonder if that reflects the experiences of others you know who are involved in sex work.

Has the provision of limiting public places where sex workers can operate made work more dangerous? Has the restriction on advertising made communication less easy, and therefore, more dangerous?

**Nadia Guo:** In public places no, because every sex worker I know advertises online, so that's not really an issue. On advertising, I've heard claims that you can't be as explicit and can't list your rates, but that really hasn't reflected my experience or the experience of other people I know. While third parties are prohibited from publishing our ads, they still do so anyway. There's a lot of money in it, and it has continued just the way it was before the laws.

**Mr. Randall Garrison:** I have one minute. I want to go back to Professor Benedet, whose testimony I very much appreciate. I understand, Professor Benedet, where you're coming from, but my question to you really is, do you think it is possible, using the law, to actually eliminate demand for sex work?

**Prof. Janine Benedet:** I think it's necessary to have a law that declares this behaviour to be criminal and not to normalize it. I don't think it's possible to use the criminal law to eliminate sexual assault. I don't think it's possible to use the criminal law to eliminate domestic assault, coercive control or any of those behaviours. However, I think it is necessary to denounce those behaviours [*Technical difficulty—Editor*] and discriminatory against women.

No one should expect the criminal law to completely eliminate any behaviour. We don't eliminate homicide by criminalizing it and giving people a life sentence. It's simply a necessary tool in the tool kit. Once you take that away and say it's absolutely fine to buy a woman for sex, you've normalized that behaviour. It's no longer sexual harassment. It's no longer a practice of sex discrimination.

**The Chair:** Thank you, Ms. Benedet.

Next is Mr. Morrison for five minutes.

**Mr. Rob Morrison (Kootenay—Columbia, CPC):** Thank you, Mr. Chair.

I want to thank all the witnesses today for coming here, especially those from New Zealand. Thank you for participating.

My question is for Ms. Quinn. It was interesting and important for the committee to hear your research on the individuals who have been sexually exploited, especially in the Edmonton area.

I'm wondering, given the work you've done, what you feel about the demand. You talked a bit about the demand and where that demand correlates with younger children. Is that what's happening in Edmonton, or is it more about adult women? Who is being exploited? When you did your research, what did that focus on?

**Ms. Kathleen Quinn:** There is a demand for children. We've had recent arrests in the past six months of young people who lured, groomed, recruited and sold children, so the demand is always there for young people. The majority are from 18 to 30 years old. Again, we see boyfriends selling girlfriends. We see a number of people posting their own ads. However, we have to acknowledge that children and young people are the target.

We also have to acknowledge that, in general, violence against women has not decreased in Alberta or in Canada and that this is also reflected in the sex industry. I think what we have noticed is that prior to PCEPA, in Edmonton we had over 41 women and transgender persons murdered between 1986 and 2014, with only 11 murders solved. Since PCEPA, we have had two young women murdered. Both were killed. One was strangled by a sex-trade buyer. She was a young woman from Quebec who had come to Edmonton. The other was murdered in a hotel.

We do have a strong relationship with police and community agencies, and there has been more reporting of violence. We have a specialized victim service unit, and we have worked very hard to build trust among people to know they can report violence. We will walk with them through reporting to police. We will walk with them through the traumatizing criminal justice system. We will help them with everything they need. I think these are critical factors to have in place and as part of what is working well in Edmonton.

• (1630)

**Mr. Rob Morrison:** Thank you so much for that good explanation.

Professor Benedet, we asked one witness who came before us what it would be like if PCEPA was repealed, and the one-word answer was "horrible". I know you were asked that question a minute ago. We have a fairly large border with the U.S., and if we legalize prostitution in Canada, what damage that would do is a bit different from that in some of the other countries we've talked about. I wonder if you could briefly give me what you think would happen if we repealed PCEPA.

**Prof. Janine Benedet:** Well, I suppose three things would happen. The first is I'm quite convinced that the demand for prostitution would increase, both domestically and from men in other jurisdictions who will travel to Canada to take advantage of that market. We certainly see that in other jurisdictions in Europe, where buyers do move to locations where prostitution is legal. In terms of child prostitution, I think it's important to recognize that if you decriminalize the purchase of adult women for sex, it is then open to any man who is charged with purchasing a child to argue that he honestly believed that the girl was 18 years of age or older; that becomes a defence. Now with the way it is structured, even if that defence is successful, there's an [*Technical difficulty—Editor*] an adult, and you can be convicted of an attempt to do that, so it does have significant impacts in terms of child prostitution. The third thing that's so often overlooked in this is the effect that it has on the equality of women generally. [*Technical difficulty—Editor*] at the brothel, when going out to the brothel becomes just another form of entertainment for men, when billboards can openly advertise [*Technical difficulty—Editor*] it says something about the condition of women and in this case, Canadian women, in society. My view is that all women are harmed by an environment that does that.

**Mr. Rob Morrison:** Thank you so much.

**The Chair:** For five minutes we have Madam Diab.

**Ms. Lena Metlege Diab (Halifax West, Lib.):** Thank you very much, Mr. Chair.

First, I want to ask—and I'm not sure if the committee has them—before the time is up, Dr. Abel and Dr. Armstrong, if you can send the committee your research or any notes that you have not sent. I don't believe I've seen them, but if they haven't been sent, would you please send those to us this week? We're about to wrap up this study.

Nadia Guo, you have spoken about how you personally have not seen any difference between things before PCEPA and after PCEPA, but I'd like to ask for your recommendations to us as a committee. We've heard from a number of witnesses that sex workers are victims and need to be saved or that they're exploited or so on. From your perspective, please give me your comments on that. What recommendations do you have for us?

**Nadia Guo:** I'm a bit hesitant about the full-blown commercialization of sex work in Canada. I know in some jurisdictions, like Spain, for instance, there have been increases in sex trafficking. However, I think it's important that we recognize that people do do this consensually and that we're adults and can make that choice for ourselves. If it were up to me, I would repeal all of PCEPA because the legislative history, the preamble and the internal logic of the bill are based on the premise that people can't consent to selling their sexual services, which I believe is wrong. I do recognize the importance of maybe having replacement laws that, for example, might keep the procuring section in place. I understand that it's difficult sometimes to prove sex trafficking under the sex trafficking provisions. For the material benefits section, I think the exceptions right now are pretty good, and the way they've been interpreted in the N.S. case at the Ontario Court of Appeal made sense to me.

I struggle with it, because I do understand that while I worked for myself and found it pretty easy to do so, other sex workers might benefit from having management handle their bookings and

advertising and focus only on meeting clients. I don't really know. I struggle with it. I struggle with whether or not the material benefits section should stay or not.

• (1635)

**Ms. Lena Metlege Diab:** Ms. Guo, would you mind answering this question for me? What, in your opinion, makes a person join the industry? How does somebody enter the sex work industry?

**Nadia Guo:** It's for many different reasons.

Personally, I was curious about it. I wanted to explore my sexuality and I wanted to see what it was like. Obviously, there was also the money, because you can make a lot of money in a very short period of time. You can control your own hours. You can have total control over your working conditions, which was not the case, for example, when I was articling.

During my articling, I made a fraction of the amount of money I made in sex work. On top of that, the conditions weren't great. I experienced sexual harassment continuously in the beginning of my articling, and that wasn't something I could say happened during sex work.

What makes people enter it is the flexibility, the independence and the ability to—

**Ms. Lena Metlege Diab:** Thank you for that. I appreciate your being candid.

Dr. Abel or Dr. Armstrong, I'd like to ask you a question from the research you've done and from the extensive experience you have. You've clearly indicated that decriminalization will result in healthier and safer sex workers. Will you please share any work you have with the committee?

Can you comment on the harassment from the public and the stigma of sex workers pre- and post-decriminalization, based on your understanding from any research you have done?

**The Chair:** Dr. Abel, since we're out of time I'm going to ask if you could submit that answer in writing to the clerk. We'll have your answer included in the report in that manner.

**Ms. Lena Metlege Diab:** Thank you to all of you for attending.

**The Chair:** Thank you, Madam Diab.

Thank you to all members.

Thank you to all the witnesses who are in attendance here today.

We now will be suspending this meeting as it goes to an in camera meeting.

[*Translation*]

**Mr. Rhéal Fortin:** Mr. Chair, will we not complete the question round?

[*English*]

**The Chair:** No. We have drafting and we're already nine minutes over. I apologize.

[*Translation*]

**Mr. Rhéal Fortin:** I am not criticizing you, but you gave my colleagues from the Conservative Party and the Liberal Party an opportunity to ask more questions.

In all fairness, I think the NDP and the Bloc Québécois should also be able to comment. I leave it up to you, but I think it would be fair for us to complete the question round we have started.

• (1640)

[*English*]

**The Chair:** Mr. Fortin, we will be another five minutes. If the committee wishes, I can. It would just [*Inaudible—Editor*] the drafting instructions.

Mr. Garrison is saying he is okay with it, so Mr. Fortin, if I can make the decision.... I don't like taking anybody's time. I try to be as balanced as I can, but in light of this, I'm going to have to conclude it right here. Next time, I will do my very best to ensure that you get your time. I was very fair and liberal in your time in the first round this time.

I am going to suspend.

[*Proceedings continue in camera*]

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