

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

TERRI JEAN BEDFORD, AMY LEBOVITCH, VALERIE SCOTT

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF DR. JANICE G. RAYMOND

I, Janice Raymond, of the town of Montague, in the State of Massachusetts, in the United States, **MAKE OATH AND SAY:**

OVERVIEW OF MY AFFIDAVIT

1. The purpose of my affidavit is threefold. Based on my scholarship and expertise developed as Co-Executive Director of the Coalition Against Trafficking in Women, International for 13 years, I shall:

- (a) describe the legal regime regarding prostitution in Germany;
- (b) describe the legal regime regarding prostitution in Sweden; and
- (c) support my conclusion that prostitution is inherently dangerous to women regardless of whether it takes place indoors or outdoors; and

- (d) estimate the dimensions of the global sex industry and its link with sex trafficking.

OVERVIEW OF MY SCHOLARSHIP AND EXPERTISE

2. I am Professor Emerita at the University of Massachusetts, Amherst. Since 1972, I have taught Women's Studies and Medical Ethics at a number of colleges and universities. From 1975-77, I was the five-college Assistant Professor of Women's Studies and Medical Ethics at Hampshire College, the University of Massachusetts, Amherst College, Smith College and Mt. Holyoke College in western Massachusetts. From 1978-2002, I was associate and then full Professor of Women's Studies and Medical Ethics at the University of Massachusetts, Amherst.

3. In this academic capacity, I taught courses in Women's Studies, many of which contained modules on violence against women in prostitution. As a specialist in medical ethics, I also taught courses on the health effects of prostitution and trafficking.

4. I have held positions of Visiting Professor at the University of Linköping, Sweden; of Research Scholar at the Massachusetts Institute of Technology (MIT) in Cambridge; and of Visiting Lecturer in the Center for Women's Studies at the State Institute for Islamic Studies in Yogyakarta, Indonesia. Since

2000, I have been Adjunct Professor of International Health, School of Public Health, at the Boston University Medical School.

5. From 1994 to 2007, I was the Co-Executive Director of the Coalition Against Trafficking in Women, International ("CATW"), an international non-governmental organization in consultative status with the United Nations Economic and Social Council that is funded by private and public foundations and individual donations.

6. As Co-executive Director, I was responsible for the CATW international secretariat, with regional coalitions in Africa, Asia, Latin America, North America, Europe and Australia. Among other activities, I worked with victims of prostitution and trafficking, national and international policy makers, women's rights and human rights advocates, and the United Nations to promote the fundamental human right of women and children to be free from sexual exploitation and to develop programs in almost 20 countries on prostitution and sex trafficking. Currently, I serve on the Board of Directors of CATW.

7. A particular strength of CATW is that it combines education and policy work with direct services and prevention programs for victims of trafficking and prostitution through its many coalitions and affiliates worldwide that have established programs for girls and women who are victims or potential victims of sexual exploitation. The specific goals of CATW are to:

- (a) support coalitions in countries of origin for trafficking;
- (b) direct services and assistance to victims of trafficking from developing countries or countries in financial and political crisis;
- (c) provide technical assistance to coalitions in developing countries;
- (d) support human rights advocacy, policy and legislation that challenges prostitution and "voluntary trafficking" as an economic development strategy for poor women; and
- (e) establish trafficking prevention programs in coalition countries.

8. Under my direction, the CATW funded and initiated trafficking prevention programs in Venezuela, the Philippines, Mexico, the Republic of Georgia, Albania, Russia, Estonia, Latvia and Lithuania; helped set up shelters for Nigerian and Albanian victims of trafficking in Italy; and provided legal assistance to victims of trafficking and prostitution in the United States, the Philippines, and Italy. CATW has been in the forefront of not only educating girls and women to the dangers of trafficking and sexual exploitation but educating young men in schools and communities about men's role in creating the demand for prostitution and also men's potential role in being catalysts for change.

9. My research and writing includes work with primary and secondary sources on prostitution, ranging from interviews with women in prostitution, police, social workers and NGOs to analyses of legislation and legal systems of prostitution. My publications focus primarily on national and international prostitution policy and legislation, international and domestic sex trafficking, and

the health effects of violence against women, including prostitution, and human sexuality.

10. I am the author of 4 books and the editor of one book collection of essays. I have also published over 100 academic articles, chapters in books, reports and other essays, the majority on the topics of prostitution and sex trafficking. My work has been published in many languages, including English, French, Spanish, German, Italian, Chinese, Japanese, Russian, Bulgarian, Swedish, Norwegian, and Finnish.

11. I am on the editorial board of the international journal, *Violence Against Women*. In the year 2004, I edited an issue of *Violence Against Women* on "The Case Against Legalization of Prostitution." This issue contained a series of articles outlining program and policy arguments against both legalization and decriminalization of prostitution.

12. For over 10 years, CATW has generated an online listserve that culls articles from newspapers and journals and posts reports from many different international sources. This listserve and the CATW archive of articles has served as an online documentation center of up-to-date news and opinion on prostitution, trafficking and violence against women that have been of immense use in my research.

13. I have received research and program grants from the US Department of Justice, the US Department of State, the Norwegian Organization for International Research and Development Aid (NORAD), UNESCO, the Ford Foundation and the Oak Foundation, all directed to various aspects of prostitution and trafficking policy and programs. Since 1998, I have served as a peer reviewer of grant proposals for the National Institute of Justice, the research arm of the US Department of Justice; and in 2007, I was an evaluator of anti-trafficking programs for the Arab-Gulf Fund in Saudi Arabia.

14. In May, 2007, I was awarded the International Woman Award, 2007, from the Zero Tolerance Trust in the UK for my work to establish the legal recognition of prostitution as violence against women.

15. Attached as Exhibit "A" to this my Affidavit is a copy of my curriculum vitae providing more detail on my scholarship, teaching and publications.

OVERVIEW OF SPECIFIC EXPERTISE ON WHICH MY AFFIDAVIT IS BASED

As Co-Executive Director of CATW, an International NGO

16. My affidavit and expert opinion are based on 13 years experience as Co-executive Director of the first NGO organized internationally in 1988 to address and combat sex trafficking and prostitution. In this capacity, I have visited 50 countries and raised funding to support projects to combat sex trafficking and

sexual exploitation in about 20 countries. I have talked with over 300 victims of sexual exploitation who have been trafficked and prostituted; social service providers who work with victims of violence against women; government officials who are considering trafficking and prostitution law reform; police and judges experienced in prostitution and trafficking cases; and researchers and journalists.

17. My experience and expertise help form the opinions and conclusions expressed in this affidavit:

- (a) that sex trafficking and prostitution are inextricably linked,
- (b) that prostitution is a form of violence against women, and that decriminalization of prostitution promotes sex trafficking and expands the sex industry; and
- (c) that the growth of the sex industry strengthens organized crime and promotes child prostitution.

On the Basis of my UN, Regional and National Policy and Program Expertise

18. I have specialized expertise working in UN, regional and national contexts where I have advised governments and NGOs on public policy related to the links between sex trafficking and prostitution and the negative consequences of decriminalization and legalization of prostitution. I have testified on prostitution legislation and policy before numerous congressional and parliamentary committees in Albania, Canada, Croatia, Latvia, Lithuania, Sweden, the United Kingdom, the United States and the European Union.

19. In October, 2003, I testified before the U.S. House of Representatives Subcommittee on Human Rights and Wellness, part of the Committee on Government Reform, 108th Congress, during its hearings on the "Ongoing Tragedy of International Slavery and Human Trafficking," Washington, DC. I testified that decriminalized, regulated and legalized prostitution regimes are a root cause of sex trafficking.

20. In January, 2004, I testified before the European Parliament, Public Hearing on "The Consequences of the Sex Industry in the EU." My testimony focused on the rapid expansion and enormous diversification in the sex industry during the last 30 years and the fact that globalization of the economy means globalization of the sex industry. The normalization of sexual exploitation has been greatly enhanced by the legalization and decriminalization of the sex industry in various countries in Europe such as Germany. Attached as Exhibit "B" to this my Affidavit is a copy of my testimony.

21. In April, 2005, I testified before the Subcommittee on Solicitation Laws in the House of Commons, Ottawa, Canada. Since the subcommittee was reviewing the solicitation laws with a possible view to decriminalizing solicitation, I talked about the consequences of decriminalization and regulation of prostitution in other countries and cities. I testified that the all of the following measures are not "new solutions": tolerance zones where prostitution is restricted to certain parts of the city; registration of so-called "sex workers," decriminalizing pimps as legitimate

sex businessmen, and transforming brothels into "houses of protection" for women. Instead, they are old and repressive measures that help keep women in prostitution rather than assisting them to get out.

22. In March, 2002, I served as an expert witness in the case of *Regina v. Hamilton* in Vancouver Provincial Court, Vancouver, B.C., involving a challenge to provisions in the *Criminal Code* making it illegal to run a brothel (bawdy house). This case was one of the first moves in Canada by proponents of decriminalization to challenge the bawdy house provisions as overly broad and unconstitutional. The accused claimed to be helping women get off the streets to a protected location where they could conduct their business and serve their clients without fear of violence and exploitation.

23. As an expert witness in *Regina v. Hamilton*, I testified that the accused was setting up a brothel under a new name, and that alleged distinctions between street and indoor prostitution are illusory as evidenced in my own and other studies. I testified that women in all forms of prostitution suffer similar kinds and rates of violence whether on or off the street; that prostitution is harmful to women whether indoors or outdoors, as indicated by the health effects of trafficking and prostitution; and that one purpose of the law making it illegal to run a bawdy house is to protect women by not sanctioning venues in which women can be segregated for sexual exploitation. I concluded that the violence that women are

subject to in prostitution is an intrinsic part of the sexual exploitation, no matter where it occurs – not a byproduct of the criminalization of brothels.

24. The judge in the court case found in favor of the Crown and ruled that the provision in the *Criminal Code* that creates the offence of keeping a common bawdy house is not unconstitutional.

25. **Germany** A major part of my expertise on the legal regime regarding prostitution in Germany comes from the research I completed for the 2006 international campaign called "Buying Sex is Not a Sport," which CATW launched against the German sex industry's promotion of prostitution during the World Cup Games in June/ July of that year. I researched and prepared a preliminary post-Games report for the Office to Monitor and Combat Trafficking at the US Department of State. In the late 1980s, I visited the "eros zone" area in Hamburg where I interviewed women in prostitution. My organization has also interviewed women in prostitution in the Frankfurt tolerance zones.

26. **Sweden** I have specialized experience working with Swedish NGOs and governmental authorities and through writing about Sweden's *Violence Against Women Act* -- the most successful alternative to the decriminalization and legalization of prostitution that has been introduced to date.

27. During my month as Visiting Professor at the University of Linköping in Sweden in 1995, I informally interviewed various academics and activists who were for or against the legal recognition of prostitution as violence against women in Sweden.

28. In 2001, I was an invited speaker at a parliamentary consultation with 35 Members of Parliament of the Government of Sweden, Stockholm, on the "Links between Prostitution and Trafficking." I spoke about provisions of the UN Protocol Against Trafficking, supplementing the UN Convention on Transnational Organized Crime, and consulted with parliamentarians regarding proposed anti-trafficking legislation and its relationship to the Government Bill being considered at the time, "Violence Against Women" (prop. 1997/98:55 Kvinnofrid). This consultation took place after the new legislation on prostitution had been enacted but before the additional anti-trafficking legislation had been enacted.

29. In 2002, I gave a keynote speech on, "State-Sponsored Prostitution and Its Effects on Trafficking," at a Swedish government-organized conference on the *Effects of Legalisation of Prostitution Activities: a Critical Analysis*, Ministry of Gender Equality, Stockholm, Sweden. Attached as Exhibit "C" to this my Affidavit is a copy of this keynote speech.

30. From 2005-07, I was the director of a joint grant award – a unique endeavor co-funded by the governments of Sweden and the United States – to

develop projects in 12 countries: Albania, Croatia, Czech Republic, Estonia, Hungary, Kosovo, Latvia, Lithuania, Moldova, Montenegro, Russia, and Serbia. In partnership with the European Women's Lobby, our project focused on legal measures that were alternatives to legalization and decriminalization of prostitution. Using the Swedish model, the project promoted best practices on preventing the demand for prostitution that encourages trafficking. Specifically, I helped develop projects in these countries on prevention of trafficking and prostitution, oversaw project progress, and advised governments and NGOs in these countries about the negative effects of decriminalization and legalization.

31. In March, 2000, I was an invited expert member of the Official U.S. Delegation to the Asian Regional Initiative Against the Trafficking of Women and Children (ARIAT), in Manila, the Philippines, hosted by the governments of the Philippines and the United States. I met with governmental officials and consulted with NGOs in the Philippines via our Philippines Coalition Against Trafficking in Women, Asia Pacific, on proposed legislation on prostitution and trafficking which resulted in the Philippines Anti-Trafficking Act of 2003.

32. From 1999-2000, I was the representative of the Coalition Against Trafficking in Women to the UN Transnational Crime Committee in Vienna, Austria, where I advised governmental representatives in drafting new international legislation, the 2000 *UN Protocol to Prevent, Suppress and Punish Trafficking in*

*Persons, especially Women and Children, Supplementing the UN Convention
Against Transnational Organized Crime.*

33. In this capacity, I attended 10 sessions of the Ad Hoc Committee who drafted the Protocol, giving testimony on wording, meeting with delegates and drafting documents that specifically addressed the Protocol's proposed definition of trafficking and its protection mechanisms for victims. The definition of trafficking that subsequently was approved included most of CATW's provisions. I also attended the high-level signing conference in Palermo, Italy, opening the new UN Protocol on Trafficking (often referred to as the Palermo Protocol) and the convention to states' signature.

Research and Publications

34. In conjunction with my work on the Palermo Protocol, I authored a *Guide to the New UN Trafficking Protocol* published by the CATW. The Guide introduced the background, the need for, and the highlights of the Protocol. I subsequently revised the CATW Guide to the New UN Trafficking Protocol and published it as an article in the *Women's Studies International Forum*, 25 (5) 2002: 491-502. Attached as Exhibit "D" to this my Affidavit is a copy of this article as published.

35. From 1998-2001, I was the co-principal investigator of a grant from the U.S. Department of Justice, Violence Against Women Act, to conduct a study on *Sex Trafficking of Women in the United States: International and Domestic Trends* (2001). Our research was the first US government-funded study to interview a critical mass of women (40) – 15 international women, most of them trafficked into the United States, and 25 US women who were in local prostitution industries. We also interviewed 32 law enforcement officials, 43 social service providers, community advocates and researchers from 35 different agencies or organizations, and 13 health care providers, all who had experience and expertise with trafficking and prostitution issues. The Coalition Against Trafficking in Women published the findings of this research in 2001, which included policy and legislative recommendations to the U.S. Department of Justice. The report was summarized on the National Institute of Justice, US Department of Justice website. Attached to this my Affidavit as Exhibits “E” and “F” are copies of the report and of the summary.

36. From 1999-2002, I was the principal investigator of a Ford Foundation Grant to direct a 5-country study on Women in the International Migration Process: Patterns, Profiles and Health Consequences of Sexual Exploitation in Five Countries (Indonesia, the Philippines, Thailand, Venezuela and the United States) (2002). In particular, the report documented the health effects of trafficking and prostitution on 146 women in the migration process in 5 countries: Indonesia, the Philippines, Thailand, Venezuela and the United

States and made policy and program recommendations. In this study, as in the US study, we interviewed hundreds of service providers, police, immigration officials, academics, researchers and NGO representative who had experience and expertise in sex-industry/prostitution related cases. Attached to this my Affidavit as Exhibit "G" is a copy of this report.

37. In 2004, I published "Ten Reasons for *Not* Legalizing Prostitution and a Legal Response to the Demand for Prostitution". This article is one of the most important, most widely-read and most quoted essays that I have written. It has been translated into over 10 languages. Based on my own research and the work of others in various countries, it is an overview of 10 key reasons why prostitution and the sex industry should not be legalized and decriminalized. Attached to this my Affidavit as Exhibit "H" is a copy of this article as published in *Prostitution, Trafficking and Traumatic Stress*. Ed. by M. Farley. Binghamton: Haworth Press, 2004.

38. At the request of the Office to Monitor and Combat Trafficking at the US State Department, I prepared a preliminary report on trafficking and prostitution following the German World Cup Games (2006). We interviewed various groups and consulted reports and newspaper articles. Attached to this my Affidavit as Exhibit "I" is a copy of this report.

we use the terms, *women or persons in prostitution, systems of prostitution and those who are prostituted within the sex industry.*

41. *Decriminalization of prostitution means elimination of the penalties for all or certain aspects of the prostitution system, such as solicitation, pimping and the keeping of brothels.*

42. *Legalization of prostitution means that the state makes aspects of the prostitution system legal by demonstrating its interest in regulating prostitution and the sex industry through, for example, registration of women in sex venues, health monitoring, location of brothels, and taxation.*

43. *Trafficking in Persons is defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention Against Transnational Organized Crime that has been ratified by 143 countries, including Canada (May 13, 2002). There are 192 countries in the United Nations, which means that 75 per cent of the UN member states have committed themselves to using the following definition of trafficking:*

*Article 3
Use of Terms*

For the purpose of this Protocol:

(a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments

or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any one of the means set forth in subparagraph (a) of this article;

(d) "Child" shall mean any person under eighteen years of age.

My research and international experience have demonstrated to me that sex trafficking increases in a jurisdiction when prostitution is decriminalized.

Consequences of Decriminalization and Legalization of Prostitution

44. The consequences of legalization and decriminalization are similar. *Both legalization and decriminalization make aspects of the sex sector legal – i.e., not illegal.*

45. Government implementation of decriminalization would be impossible without some form of government regulation of prostitution. For example, in countries and states that have decriminalized pimping or prostitution zones,

aspects of legalization usually follow such as regulating the sex industry and the women in it by requiring brothel regulations, registration, health monitoring, taxes on prostitution venues, or other measures.

46. In no country or state that I know of does decriminalization exist without some form of regulation. Most proponents of decriminalization make no mention of the need for government *regulation* of prostitution activities post-decriminalization. Unencumbered decriminalization of prostitution, without regulation is a myth.

47. When prostitution is decriminalized, control is taken out of the hands of the police and usually given to the local councils. With the advent of decriminalization, local councils are inevitably burdened with a host of regulatory measures such as:

- (a) Should brothels be located near schools, with school children passing them and exposed to graphic signage of sexually objectified women?;
- (b) Should brothels be on the ground level?;
- (c) Should brothels be in residential districts?; and
- (d) Should brothels be permitted under the district definition of a "home-occupation business?"

Council duties include licensing, complaints, including those alleging abuse of women and violence. However, local councils have neither police authority nor the resources to investigate illegal brothel operators, and thus illegal sex venues

proliferate in cities and countries that have decriminalized prostitution and the sex sector.

48. Further decisions must be made at the federal and state levels;
- (a) If prostitution is treated as an ordinary business, should the state levy taxes on women, brothels and buyers?;
 - (b) Should social care workers, most of whom are women, and who assist disabled men, be required to take these men to prostitution venues to physically facilitate men's sexual acts?;
 - (c) Should women in prostitution be required to undergo medical checkups for HIV/AIDS and other sexually transmitted diseases in the interests of the health of the commonwealth?;
 - (d) Should brothel jobs be advertised in the federal or state job registers on the grounds that it would be discriminatory not to advertise these new "jobs"?; and
 - (e) Should mega-brothels be licensed?

In various countries and states that have decriminalized the prostitution system, authorities have been obliged to address every one of these decisions.

49. Based on my research and on-the-ground experience with the consequences of decriminalizing prostitution and the sex industry in different countries, I conclude that decriminalization of the prostitution sector is a failed policy.

50. Decriminalization of living on the avails of prostitution means that pimping is decriminalized with the consequence that pimps and procurers are

transformed into sex businessmen, managers, drivers and security personnel, i.e., legal pimps.

51. In countries that have decriminalized and/or legalized prostitution, the sex industry has gone from a relatively sordid enterprise to a legitimate, modern and constantly-expanding business.

52. Instead of restricting the growth and development of sex industries, decriminalization and regulation of prostitution and the global sex industry in countries such as Germany have promoted sex trafficking.

53. The goal of any industry is to increase its market share. As documented in Germany and other countries, the sex industry is never satisfied with a little bit of decriminalization but constantly pushes the envelope to pressure governments to accommodate its expansionism through decriminalizing and regulating other prostitution venues and related activities that were not a part of the original plan. I term this expansionism "decriminalization creep."

54. It is not the "work conditions" of women in prostitution, and the laws designed to suppress prostitution, that make women in the sex industry most vulnerable. It is the construction of prostitution itself, especially under decriminalized conditions, in which women are treated as sexual commodities, and

where buyers, mostly men, are allowed to purchase women for use as sexual instruments.

55. Under both legal and illegal conditions, the sexual activities that women are made to perform indicate that the real power is held by the buyer. The sexual interaction between buyers and women in prostitution is exploitative, and very often violent.

A. GERMANY

56. Germany decriminalized aspects of its prostitution system in 2002. The new law, referred to as the *Prostitution Act*, decriminalized the provision against procuring for the purposes of prostitution, widened the basis on which brothels and comparable establishments can be legally operated, and lifted the prohibition against promoting prostitution. Theoretically, these laws entitle persons in prostitution to the right to employment contracts and benefits, but only several hundred women have registered for these benefits. Another provision in the law seeks to improve "working" conditions of those in prostitution.

57. The government estimates that there are over 400,000 persons in prostitution with 90 percent coming from foreign countries. Attached as Exhibit "J" to this my affidavit is the article quoting these percentages published in the proceedings of an international conference entitled "Anclaje Juridico y Social de la

Prostitucion en Alemania,” Las Ciudades y la Prostitucion, Madrid, June 16, 17 and 18, 2004: City Government of Madrid by Jurgen Wohlfarth, the administrative director of the municipality of Saarbruck, Germany (published version in Spanish with French translation by the author also attached).

58. Stopping human trafficking was one of the reasons why Germany made prostitution and aspects of the sex industry legal. However, a UN Office of Drugs and Crime Report (2006) ranked Germany as a “very high” destination for trafficked victims. Attached as Exhibit “K” to this my Affidavit is a copy of this report.

59. One of the most influential arguments for any legal prostitution system, including Germany’s, is that it would protect children from sexual exploitation. However, reports indicate that German men travel extensively to other countries to obtain the sex of prostitution, many targeting children. Reuters reported that as early as 1997, 200,000 men go abroad for sex tourism, and the Child Help Organization in Duisberg estimates that at least 10,000 of these sex tourists seek to sexually exploit children. Attached as Exhibit “L” to this my Affidavit is a copy of a newspaper article describing efforts to combat this: Reuters, Germany Launches Offensive on Child Sex Crimes, 29 July 1997.

60. In 2003, a UNICEF sponsored report found that child prostitution was rampant across the German border in the Czech Republic. German men flood the

border areas between these 2 countries and have been widely implicated in buying children for sex. Deutsche Welle, a well-known German newspaper, has called the German-Czech border region "Europe's biggest brothel." The article also states that "18 per cent of German men regularly pay for sex. And child prostitution is also on the rise." Attached as Exhibit "M" and "N" to this my Affidavit are the English language summary of this report and a copy of this newspaper article quoting M. Rau: Deutsche Welle, "Stolen Youth: Child Prostitution Plagues German-Czech Border," 29.10.2003.

61. Another influential argument for decriminalizing prostitution is that a regulated system will control the expansion of the sex industry. Yet a project of the Max Planck Institute for Foreign and International Criminal Law cited the findings of German lawyer, Annette Herz, that one million German men engage in the sex of prostitution daily. Attached as Exhibit "O" to this my Affidavit is a copy of the project description from the Max Planck Institute citing this statistic.

62. Germany is one of the most lucrative prostitution economies in Europe. Between 2002 and 2003, revenues from prostitution amounted to 7.5 billion US dollars. In May, 2006, annual revenues from prostitution were reported to be 18 billion US dollars. Attached as Exhibit "P" to this my Affidavit is a copy of the newspaper article reporting this figure: Matthew Schofield, Knight Ridder Newspapers, "Germans Reconsider Legalized Prostitution," May 12, 2006.

63. One lawmaker, Hilrud Breyer, a German member of the European Parliament who had supported decriminalization of prostitution in Germany stated: "We really believed it would bring the profession out of the shadows and improve lives. I'm rethinking that position." She added: "Because prostitution is legal, police don't investigate it as aggressively as they once did..." See Exhibit "P" already attached to this affidavit.

64. A member of the German NGO, Solidarity of Women in Distress (SOLWODI), comments on the consequence of the Prostitution Act: "Reality has since shown that...the police have practically no way of justifying brothel raids, so that now fewer victims of trafficking are actually discovered." See Exhibit "P", already attached to this my Affidavit.

65. SOLWODI, the largest organization in Germany providing services for prostituted and trafficked women, writes in their September 2007 newsletter that in the late 1990s SOLWODI had good relationships with the police and local authorities who referred over 80 percent of the women they assisted. Today, it's 10 percent. Why? "Because of the new legal situation, the police now hardly have the opportunity to gain access to victims of human trafficking and to free them...[she] fears that the victims of trafficking in women 'will now become altogether invisible.'" Attached as Exhibit "Q" to this my Affidavit is a copy of this SOLWODI, Newsletter, No. 73, September 2007, p. 2.

66. German newspaper articles spotlighting the problems with the *Prostitution Act* were validated by a July, 2007 governmental report. Authored by the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, the report concluded that "The Federal Government believes that the Prostitution Act has only to a limited degree achieved the goals intended by the legislators. The report also concluded:

- (a) "The Prostitution Act has thus up until now also not been able to make actual, measurable improvements to prostitutes' social protection." As for "working conditions," there is "hardly any measurable, positive impact...observed in practice...no short-term improvements that could benefit the prostitutes themselves are to be expected." Nor has the Prostitution Act enhanced the means by which those in prostitution can leave the system;
- (b) Significantly, "There are no viable indications that the Prostitution Act has reduced crime. The Prostitution Act has as yet contributed only very little in terms of improving transparency in the world of prostitution.";
- (c) Currently, brothels and other prostitution establishments do not have to apply for licenses. The Federal Government will consider to what extent such prostitution venues will be required to apply for a license to offer "sexual services.; and
- (d) Finally, "Prostitution should not be considered a reasonable means for securing one's living."

Attached as Exhibit "R" to this my Affidavit is a copy of the Table of Contents of, and excerpts from, the Report by the Federal Government on the Impact of the Act Regulating the Legal Situation of Prostitutes (Prostitution Act).

Conclusions about Germany

67. I make the following conclusions about Germany:
- (a) decriminalization has promoted trafficking;
 - (b) decriminalization has promoted sex tourism and child prostitution. It appears to achieve little success in keeping German men "at home" in a country where prostitution is legal. Instead, the legal system appears to enhance German sex tourism giving buyers a certain entitlement to seek illegal sexual activities elsewhere, such as sex with children;
 - (c) decriminalization in Germany has led to an increase in foreign women in the German sex industry, many of whom have been trafficked.;
 - (d) the German *Prostitution Act* has had no appreciable impact on the protection of women in prostitution, nor has it reduced crime related to prostitution activities; and
 - (e) decriminalization creep can be seen in the need for the State to step in at this point and license prostitution establishments and to consider other regulations such as the criminal liability of buyers, the more efficient monitoring of prostitution establishments, and the closer surveillance of whether the Federal Employment Agency is offering jobs in prostitution to applicants who use its service. In 2004, Germany said it would levy fines on businesses who do not hire one apprentice for every 15 workers. Brothels were not exempt from this legislation.

B. SWEDEN

68. The Swedish model is a legal alternative to decriminalizing prostitution and the sex industry. Sweden uses a legal strategy that decriminalizes the women in prostitution, provides women with resources that aid them in choosing alternatives to prostitution, and penalizes the buyers.

69. . Part of a comprehensive Act on Violence Against Women (Kvinnofrid), the Swedish law recognizes that prostitution is a serious problem that harms women and children; that prostitution per se is violence against women and harmful to society at large; and that demand is the engine that drives prostitution and sex trafficking. Attached as Exhibit "S" to this my Affidavit is the Government of Sweden Fact Sheet, "Prostitution and Trafficking in Human Beings," published by the Ministry of Industry, Employment and Communications, April 2005.

70. The policy framework that generates the Swedish model is the promotion of gender equality and women's human right to be free from sexual exploitation and to enjoy basic human liberty. The Swedish legislation is based on the understanding that any society that purports to encourage and defend women's equality should not deprive women of basic human rights and freedom. It therefore must reject any legal system that institutionalizes the buying of women as sexual commodities and that excludes them from what in any other job would be basic protection from sexual harassment and sexual assault.

71. The success of the Swedish model is confirmed by its results, documented by the Swedish National Rapporteur on Trafficking/ National Criminal Investigation Department in annual reports. Sweden appears to be the only country in Europe where sex trafficking has not seen a substantial increase. In her 2003 report, the Swedish National Rapporteur on Trafficking estimated that between 400-600 women are trafficked annually into Sweden. This is a number

that has remained fairly constant since the law came into force in 1999. In her 2002 report, the Swedish National Rapporteur had stated that the number of women trafficked annually was 200-500. Attached as Exhibits "T" and "U" to this my Affidavit are copies of the Table of Contents of, and excerpts from the Situation Report No. 6, January 1-December 31, 2003 ("Trafficking in Human Beings for Sexual Purposes,") and the Situation Report No. 5, January 1-December 31, 2002, prepared by the National Criminal Investigation Department, Government of Sweden.

72. The Swedish figures should be compared to trafficking figures in neighboring countries such as Finland and Denmark where there are no legal prohibitions against the purchase of women in prostitution. Both countries have smaller populations than Sweden (both roughly 5 ½ million to Sweden's 9 million), yet higher numbers of victims of trafficking. The Finnish Criminal Intelligence Division of the National Bureau of Investigation reported that for 2003, 10,000 - 15,000 women were victims of sex trafficking. In neighboring Denmark, which has decriminalized prostitution, 5,500-7,800 women are prostituted every year, 50 percent of whom are estimated to be trafficked from outside the country. Attached as Exhibit "V" to this my Affidavit is an article by G.E. Ekberg, "The Swedish Law that Prohibits the Purchase of Sexual Services, Violence Against Women, Vol 10, No. 10, October 2004: p.1199.

73. This article also reports that:
- (a) The Swedish National Rapporteur has stated that, since the Swedish law went into force, Swedish police who monitor the phone conversations of suspects indicate that traffickers see Sweden as an inhospitable climate to set up business. The traffickers state that potential buyers are fearful they will be arrested, causing traffickers to change their prostitution venues frequently – a costly practice; and
 - (b) The police, who originally opposed the law, now see the law penalizing the buyers as an important tool in their fight against organized crime and sex trafficking.

74. In 2005, the European Parliament commissioned a report of 11 countries in Europe that was published as a “Study on National Legislation on Prostitution and the Trafficking in Women and Children.” Undertaken by Transcrime, a joint research center from two universities in Italy, the study included an examination of the way in which a country’s legislation influenced the number of trafficking victims. “...the model that seems to ‘produce’ less victims [of trafficking] is ‘prohibitionism’.(pp. 132-33).” In this report, Sweden falls under their typology of prohibitionism. Attached as Exhibit “W” to this my Affidavit is a copy of the Table of Contents and excerpts from a report by Transcrime for the European Parliament, “Study on National Legislation on Prostitution and the Trafficking in Women and Children, 2005.

75. Street prostitution of women has declined by 40 percent in Sweden. Attached as Exhibit “X” to this my Affidavit is an article by Karl Ritter “Sweden Prostitution Law Attracts World Interest,” Associated Press, March 18, 2008, quoting the Swedish National Rapporteur K. Wahlberg.

76. Women's organizations and shelters report that increased numbers of women in prostitution are seeking help and receiving many of the resources they need. For example, representatives of the Pros-Centre in Stockholm whose work is to provide services for women in prostitution state that "Of the 130 persons with whom they had contact during the past 3 years [2002-04], 60% have left prostitution permanently, and many women point to the Law as an incentive in their having sought assistance." This article is already attached to this my Affidavit as Exhibit "V".

Conclusions about Sweden

79. I make the following conclusions about Sweden

- Men who formerly bought women in prostitution now think seriously before they do so, because they know the law will be enforced.
- The law against the purchasing of "sexual services" has had a chilling effect on sex trafficking.
- The Swedish law has reduced by 40 percent the number of women engaged in prostitution on the street.
- Like all laws, the Swedish law penalizing the buyers fulfills a normative function by prohibiting the sale of women for prostitution.
- In my opinion, the Swedish model serves as an international model for the promotion of equal rights and protection for women in law and life.

C. ON-STREET vs. OFF-STREET PROSTITUTION

77. The Applicants' arguments on prostitution turn on alleged differences between off-street and on-street prostitution. They allege that violence is significantly reduced or eliminated in most indoor settings and that off-street prostitution venues are much safer for women.

78. Significantly, the Transcrime (2005) report found in its examination of the effects of prostitution legislation in 11 countries in Europe that "The widespread view that the exploitation of victims of trafficking is always more violent outdoors than indoors does not seem to be confirmed. The level of violence is quite homogenous between outdoor and indoor trafficked prostitution in the selected countries and furthermore, in some countries (such as Austria and Spain), the level of indoor violence is also greater than the level of outdoor violence" (p.131: section 7.2). This report is already attached to this my Affidavit as Exhibit "W".

79. In the 2 studies I co-directed in which we interviewed a combined number of 186 women in prostitution, we found that the majority of women had been engaged in prostitution both on and off the street and did not distinguish between on-street and off-street venues in reporting levels of violence, threats and control to which they had been subjected. In the 5-country report (2002), rates and frequency of violence were extremely high, with physical harm (almost 80%),

sexual assault (more than 60%), emotional abuse (more than 80%), verbal threats (more than 70%), and control through the use of drugs/alcohol (almost 70%) (p.62). These studies are already attached as Exhibits "E" and "G" to this my Affidavit.

80. In our U.S. Study on *Sex Trafficking in the United States* (2001), women in off-street prostitution reported that prostitution establishments did little to protect them. One woman stated: "The only time they protect anyone is to protect the customers. For instance, they only put in the surveillance camera after a customer was killed (p. 74)."

81. Of the women in our US study on trafficking (2001) who did report that establishments provided some protection, they qualified it by pointing out that no protector was ever in the room with them, where anything could occur. One said: "The driver functioned as a bodyguard...But they are still not standing outside the door while you're in there, so anything could still happen (p. 74)."

82. Our interviews with trafficked and prostituted women reveal that many women in the sex industry move between off-street and on-street prostitution activities, or remain in street prostitution when they can opt for off-street venues. This happens for several reasons: because they would be doubly jeopardized by both illegal pimps in off-street venues or by legal pimps (sex entrepreneurs) in legal venues who control their movements, behavior and earnings; and because women

want no record made of their prostitution in establishments where they would be forced to register or be revealed.

83. Even proponents of decriminalizing prostitution, as well as self-defined "sex worker" groups, admit the dangers of off-street prostitution when they distribute "occupational health and safety" tips to women in off-street prostitution locations. It is clear from reading their booklets and manuals that the burden of responsibility for mitigating violence in the sex of prostitution is placed mainly on the woman in prostitution.

84. The World Health Organization offers an online "tool kit" for "sex workers" linked to the publication, *Hustling for Health*. Published in 1998 by EUROPAP/ TAMPEP, a group supporting the decriminalization of prostitution, it acknowledges the isolation of those who engage in prostitution in indoor settings, many who "offer the minority interest sexual services." These "services" may include "torture chambers, fantasy rooms, domination, etc." that may be dangerous. Such a person "may be less well-informed about safe sex issues" and may want advice on "how to sterilise her whips (p. 22)." Attached as Exhibit "Y" to this my Affidavit is a copy of this publication.

85. Even in higher class escort prostitution in the United States, buyers often demand "dangerous activities." From March, 2007 newspaper reports, we learn from the recent U.S. expose of New York State Governor Eliot Spitzer's

prostitution habits that he subjected women to acts that “you might not think were safe.” Attached as Exhibit “Z” to this my Affidavit is a copy of a newspaper article by Alan Feuer and Ian Urbina, “Affidavit: Client 9 and Room 871, The New York Times, March 11, 2008.

86. Raphael and Shapiro in their published article on “Violence in Indoor and Outdoor Prostitution Venues,” which reports interviews with 222 prostituted women in Chicago (2004), found that the prostitution location made minimal difference to the violence perpetrated on the women. Fifty percent of women in off-street locations such as escort services reported forced sex; 51.2% of women in the strip clubs reported threats with weapons; and 1/3 of women engaged in prostitution in their own residences reported rape, unwanted fingers inserted into vaginas or forced sex. In this study, women identified buyers as responsible for most of the violence across all types of prostitution. Yet women in escort services and hotel prostitution also identified pimps (a.k.a as managers) as perpetrating half the violence against them. Police were also named as perpetrators of violence with 24 percent of women in on-street prostitution reporting police rape, and 30 percent of exotic dancers reporting police rape. Attached to Exhibit “AA” to this my Affidavit is a copy of this article published in by *Violence Against Women*, Vol. 10, No. 2, February 2004: pp. 132-36.

87. Esohe Aghatise, president of the IROKO Association, has provided direct assistance to women and girls trafficked and prostituted in Italy since 1998.

IROKO is CATW's partner organization in both Italy and Nairobi. In the *Violence Against Women* issue that I edited, Aghatise wrote about potential effects of government proposals to legalize and decriminalize brothels in Italy based upon her experience of working with this population of women. She concluded:

- (a) A large number of Italian victims of trafficking for prostitution come from Nigeria and Eastern Europe and are made to prostitute for pimps and madams along the roadsides in various areas of the country. The decriminalization of off-street prostitution venues in Italy would mean that traffickers would have the possibility of legally importing women to fill brothels or isolate them in private apartments where already-isolated women from other countries could be further cut off from assistance.
- (b) The women engaged in street prostitution that IROKO serves often meet people who may be willing to help them, including police, members of the public, or organizations on the road. If victims were not out in the open, NGOs and others would find it difficult to offer assistance and intervention.
- (c) Decriminalizing solicitation and brothels would "drastically reduce the positive effects of programs currently being used in Italy to protect victims and might even cause these programs to cease because under these proposed legal regimes, victims would be presumed to be voluntary 'sex workers' who need no protection." These state-funded programs include ones that provide assistance and services ranging from legal advocacy to shelter, health services, financial aid and job training.

Attached as Exhibit "BB" to this my Affidavit is a copy of this article entitled "Trafficking for Prostitution in Italy: Possible Effects of Legalization of Brothels in Italy," *Violence Against Women*," Vol 10, No. 10, October 2004: pp. 1126-1155.

Conclusions About Off-Street vs. On-Street Prostitution

88. Based on the studies that I have directed, and my international experience interviewing women in the sex industry, I make the following conclusions about the alleged differences between indoor and outdoor prostitution:

- (a) The majority of women in prostitution come from marginalized groups with a history of sexual abuse, drug and alcohol dependencies, poverty or financial disadvantage, lack of education and histories of other vulnerabilities. These factors characterize women in both off-street and on-street locations. A large number of women in prostitution are pimped or drawn into the sex industry at an early age.
- (b) These are women whose lives will not change for the better if prostitution is decriminalized. Many have entrenched problems that are best addressed not by keeping women in allegedly "safer" prostitution locations but in establishing programs where women can be provided with an exit strategy and the services that they need to regain their lost lives.
- (c) There is little evidence that decriminalization or legalization of prostitution makes things better for women in prostitution, on or off the street. It certainly makes things better for the sex industry, which is provided with legal standing, and for governments that may enjoy increased revenues from accompanying regulation.
- (d) The popular fiction that all will be well in the world of prostitution once the sex industry is decriminalized is repudiated by evidence that the degradation and exploitation of women, as well as the harm, abuse, and violence to women still remain in countries where prostitution has been decriminalized.

D. DIMENSIONS OF THE GLOBAL SEX INDUSTRY

89. The global sex trade operates as a multi-national sex industry. Women and children are sold into the sex industry by pimps, recruiters, traffickers, boyfriends husbands and families. Sex trafficking and prostitution are often facilitated by the internet, hotels, sex tourism agencies, credit card and telephone companies, and governments. Globalization of the economy has promoted globalization of the sex industry.

90. The expansion of prostitution and the sex industry has been greatly facilitated by sex trafficking. Numbers of persons trafficked and prostituted are always difficult to obtain and frequently debated. US government data in 2006 states that 600,000-800,000 persons are trafficked across international borders each year with 80 percent being women and girls and up to 50 percent minors (p.6). A 2006 UN Office on Drugs and Crime (UNODC) report shows that, at the global level, 87 percent of the victims are trafficked for sexual exploitation (p.33). Attached as Exhibit "CC" to this my Affidavit is a copy of the report by the US Department of State, *Trafficking in Persons Report*, June 2006; the UN Office on Drugs and Crime report is already attached as Exhibit "K

91. Whatever numbers are used, it is evident that sex trafficking and prostitution are extensive. The revenue collected from the global sex trade reveals

what the demography of prostitution and sex trafficking cannot tell us with precision – that the sex industry is an enormous global business. The profits from human trafficking are only rivaled by those from trafficking in drugs. One report states that such profits may even be greater than drug revenues, given that humans are “reusable and resaleable commodities.” Attached as Exhibit “DD” to this my Affidavit is a copy of a chapter from this report: Sebastian Baumeister and Helan Santiago Fink, “Highlighting Economic Aspects of Trafficking in Human Beings,” *Challenging Trafficking in Persons: Theoretical Debate & Practical Approaches*, Nomos, 2005 (p.32).

92. I make this affidavit in response to this application, and for no other or improper purpose.

SWORN before me at the City of
Toronto, in the Province of Ontario on
this th day of April, 2008.

Commissioner for Taking Affidavits

Janice G. Raymond

TERRI JEAN BEDFORD, AMY LEBOVITCH,
VALERIE SCOTT

AND

ATTORNEY GENERAL OF CANADA

Applicants

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at Toronto

**AFFIDAVIT OF DR.
JANICE G. RAYMOND**

Department of Justice
Ontario Regional Office
The Exchange Tower
130 King Street West
Suite 3400, Box 36
Toronto, Ontario
M5X 1K6

Per: Michael H. Morris
Tel: (416) 973-9704
Fax: (416) 952-4518
Our File: 2-587923
Law Society No.: 34397W

Solicitor for the Respondent,
Attorney General of Canada

39. As an academic trained in medical ethics, I have specialized in the health effects of prostitution and sex trafficking. Two of my co-authored articles address and summarize women's reported effects of the violence they have experienced in the sex industry and the health consequences of the sex of prostitution.

- (a) Hynes, H. Patricia and Janice G. Raymond. "Put in Harm's Way: The Health Consequences of Sex Trafficking in the United States." In *Policing the National Body: Race, Gender, and Criminalization*. Ed. by Jael Silliman and Anannya Bhattacharjee. Boston: South End Press. 2002, pp. 197-229; and
- (b) Raymond, Janice G. and H. Patricia Hynes. "Sex Trafficking and Prostitution: Human Rights and Health Consequences." In *Women's Rights and Bioethics*. Ed. by Lorraine Dennerstein. Paris: UNESCO: 2000, pp. 122-135.

CONCLUSIONS BASED ON MY WORK AND RESEARCH

Vocabulary

40. *Sex worker* and *sex trade worker* are terms that I do not use because such terms endorse the view that prostitution is normalized as simply another form of work. Many individuals and organizations think that the terms "sex worker" and "sex work" dignify the women. In my extensive experience of working with victims of the sex industry and with other researchers and organizations to combat sexual exploitation, I have learned that these terms serve mostly to dignify the sex industry by giving buyers, pimps, recruiters, managers and other key perpetrators of sexual exploitation more legitimacy than they could otherwise obtain. Instead,