



## **Beyond Borders Fact Sheet on Trafficking of Children for Sexual Purposes** **February, 2009**

### **Synopsis**

Trafficking for sexual purposes is a form of slavery. It includes individuals being recruited, transported, transferred, harboured or received for the purposes of prostitution, pornography or other sexual exploitation. These actions are accomplished by means of force, the threat of force, or other forms of coercion. It is always involuntary because even when consent is achieved, it is through some form of fraud, deception, abduction/kidnapping or abuse of power/vulnerability.<sup>i</sup> The transported person becomes a trafficked person only if – at any point – they are held in a “slave-like” situation, or they are forced/coerced to pay off a debt through specific controlled situations in which a person is exploited.

A ‘child’ is defined in international law as any person under the age of 18 years.<sup>ii</sup> Where children are the victims of trafficking, the problem becomes even more difficult to combat because children have special needs and present additional challenges to the law enforcers and the child protection agencies/caregivers in the countries where they are found. Moreover, countries have obligations under international law to child victims of trafficking that are more onerous than their obligations to adults.

Children fall victim to human traffickers for many of the same reasons that adults become victims. However, children have less influence on their own lives, and the national systems of justice and child welfare often do not adequately protect them. Children are thus much more vulnerable than adults to exploitation. Children can become the victims of a trafficking operation at any age, depending on the form of exploitation to which they will be subjected. Sometimes the children may know that they will be used to provide sexual services to adults, but they are completely unaware of the level of abuse to which they will be subjected, or of the physical and psychological damage they will suffer. Young people who want to get away from their home situations might not think about the possible problems they could face, and they do not have the experience to anticipate the dangers. Children who have no one to protect them are easy to manipulate. The traffickers understand this vulnerability, and are ready to exploit it.



The common factor that identifies a child victim of trafficking is the ultimate exploitation to which he/she is subjected. The child may be earning money for the profit of another person, or be saving that other person from spending money: he/she is 'used' by someone else. Since, in law, the agreement of the child is irrelevant, if the child is used for the profit of another person, then the child is the victim of trafficking.

## Global and National Data

- Both the International Organization for Migration (IOM) and the Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, have emphasized the scarcity of data on trafficking.
- According to the U.S. Department of State's 2007 Trafficking in Persons Report approximately 800,000 people are trafficked across national borders, which does not include "millions" trafficked within their own countries. Approximately 80% of transnational victims are women and girls and up to 50% are minors. The majority of transnational victims are females trafficked into commercial sexual exploitation. These numbers do not include "millions" of female and male victims around the world who are trafficked within their own national borders—the majority for forced or bonded labour.<sup>iii</sup>
- Human trafficking is a \$10 billion (USD) annual business. Profits from human trafficking fuel other criminal activities.<sup>iv</sup>
- The 2006 US Trafficking in Persons Report indicates, "Canada is a source, transit, and destination country... Some 800 people are trafficked into this country each year, while an additional 1,500 to 2,200 are trafficked through Canada to the United States."<sup>v</sup>
- Other sources state human traffickers buy at least 2,500 foreign women into the Canadian sex trade each year.<sup>vi</sup> Another 2,200 people are coming to Canada in transit to the United States for work in brothels, sweatshops, domestic jobs, and construction work.<sup>vii</sup>
- A 2008 study at the University of British Columbia found 31 documented cases of international human trafficking in Canada over a two-year period without a single conviction in a Canadian court. At least four of those cases involved children.<sup>viii</sup>
- It is widely believed that only 1 in 10 victims in trafficking report to the police, so the numbers are likely much larger.

## Who and Why

- 90% of people sexually trafficked are women and girls<sup>ix</sup>.
- The sale of human beings is run by international organized crime.<sup>x</sup>
- Poor women (from the Southern and Eastern hemispheres) are being shipped into rich countries to satisfy the sexual desires of (mostly) men. In this industry there are huge, noticeable power differentials, and many of these are based on race/class/economic lines.
- There are also many Canadian women who are trafficked within Canada's borders. Within Canada, Aboriginal women are prostituted and trafficked in disproportionate levels, further marginalizing this oppressed group of people.
- Members of society who are most at risk of sexual trafficking are women, the poor, youth, widows/abandoned wives, orphans/abandoned children, and those with histories of (sexual) abuse.
- There are both "pull" and "push" factors:
  - "Pull factor": Demand for sex. There is a global marketplace comprised of brothels, bars, strip clubs, massage parlours, escort services, and street corners where (mostly) men purchase people for sexual acts.
  - "Push factors": Supply for sex. Poverty, high unemployment rates, domestic violence/childhood abuse, discrimination against women, desire for a better life and a way to help their families. These factors make women and girls more vulnerable to entry into the global sex trade.

## The Law

- *Canadian Criminal Code* offences relevant to trafficking in persons include kidnapping, extortion, forcible confinement, conspiracy, the controlling or living off the avails of prostitution, as well as organized crime offences.
- In 1991, Canada ratified the Convention on the Rights of the Child. It ratified the *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography* in 2005,
- In July 2000, Canada ratified the *Rome Statue of the International Criminal Court*, which includes "sexual slavery" as a crime against humanity.

- In December 2000, Canada signed (and May 2002 ratified) the United Nations' *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*.
- The *Immigration and Refugee Protection Act* (IRPA), section 118, provides that, "No person shall knowingly organize the coming into Canada of one or more persons by means of abduction, fraud, deception or use or threat of force or coercion." The maximum penalty for this offence is life imprisonment, a fine of \$1,000,000, or both. Under the law the courts are instructed to consider the following factors in sentencing: harm or death; the involvement of organized crime; profit motive and whether people were subjected to humiliating or degrading treatment.
- In November 2005 *Criminal Code* reforms were passed to specifically prohibit trafficking in persons (s.279.0), exploitation (s.279.04), benefiting economically from trafficking (s.279.02), and withholding or destroying identity, immigration, or travel documents to facilitate trafficking (s.279.03).
- In May 2006 the Department of Citizenship and Immigration announced a new policy to provide temporary resident permits to trafficked persons. Immigration officers may now grant temporary resident permits, for periods of up to 120 days, to these individuals. "This policy was updated again in June 2007. Working within the existing legislative framework, immigration officers now have the ability to issue temporary resident permits to trafficked persons for up to 180 days."
- In January 2009, a Private Members bill was tabled introducing mandatory minimum sentences for trafficking.<sup>xi</sup>
- The federal Interdepartmental Working Group on Trafficking in Persons (IWGTIP), co-chaired by the departments of Justice and Foreign Affairs, coordinates federal activities to address trafficking.

## Recommendations

### Political and Social Commitment

As noted above, there is law, both international and domestic, to combat the trafficking of children for sexual purposes. What is lacking in Canada is the commitment from politicians and civil society to recognize Canada's role in domestic and international trafficking and develop the tools needed to punish the traffickers while not re-victimizing the children.

### **International Initiatives**

**There is also a need for education initiatives in originating countries and cross-nation communication/cooperation. In the case of the former, vulnerable populations should have access to accurate information about laws and labour conditions to combat both the prevailing understanding of North America as a “Promised Land” and the misinformation propagated of traffickers. The importance of transnational communication and cooperation is essential as is the need to motivate officials in supplier countries to address the issue. Increased sharing of information between police departments in supplier and destination countries would facilitate strategies to prevent the migrants from leaving their countries of origin and subsequently save policing and immigration resources in Canada.**

### **Legislative Reform**

**The truth is, criminals perceive Canada as ‘soft on crime’ and therefore there is a need to furnish the police with better tools to combat these practices. The organized crime laws of the United States are very powerful and Canada would benefit from legislation of that type. Further, according to a number of professionals, it is both difficult and costly to assemble cases even in the rare instances where trafficked persons are willing to testify. Tactics that could facilitate prosecution include: Being able to take affidavits from supplier countries and interview police. Legislative initiatives need to be well thought out and in keeping with the reality of the problem. For example, an amnesty program for irregular migrants who testified against traffickers would be ineffective since it ignores the traffickers’ strategy of threatening the families which ensures participants’ silence regardless of their victimization. Any new laws must be carefully crafted to ensure that they do not, in practical terms, further victimize the very people they are defining as victims.**

### **Policing Practices**

**Increasing the effectiveness of law enforcement practices is essential. Given that organized crime is profit driven, the importance of undermining the *economic viability* of the enterprise cannot be overstated. Accordingly police must attack not just the offences that are committed by the trafficking of the humans, but also the money that they make from it, the laundering and the proceeds. Police practices are very much interwoven with legislative reform.**

## Judicial Issues

Two central concerns have been highlighted in the literature with respect to judicial issues; first, the need for harsher sentences and second, the failure of the judiciary to appreciate the complexity of the issues. Harsher sentences would serve as both general and specific deterrence and dissuade some of the traffickers. Moreover, harsher sanctions have an educative function on the Canadian public and affirm the seriousness of the issue. The second, and related issue is the failure of the judiciary to appreciate the complexity of the situations. This can be combating through judicial training.

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<sup>i</sup> Adapted from the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons*, 2000.

Although there are numerous forms of human trafficking, Beyond Borders supports the position of ECPAT International that, "All child victims of trafficking are made highly vulnerable to sexual abuse and exploitation because they are removed from familiar support structures, such as their families and communities." See: [http://www.ecpat.net/EI/Programmes\\_trafficking.asp](http://www.ecpat.net/EI/Programmes_trafficking.asp).

<sup>ii</sup> *Convention on the Rights of the Child*, Article 1.

<sup>iii</sup> US State Department, *Trafficking in Persons Report 2007*, p.10.

<sup>iv</sup> Department of Justice Canada. Bill C-49 Press Release, 2005. See: [www.canada.justice.gc.ca/en/news/nr/2005/doc\\_31486.html](http://www.canada.justice.gc.ca/en/news/nr/2005/doc_31486.html).

<sup>v</sup> US State Department, *Trafficking in Persons Report 2006*, p.86.

<sup>vi</sup> This estimate came from Michelle Miller, expert in trafficking in North America. Victor Malarek (author of "The Natashas") also estimates 2,000–3,000. Other groups state that the numbers are more like 8,000–16,000 (See: Hughes DM, Sporcic LJ, Mendelsohn NZ, Chirgwin V. *The factbook on global sexual exploitation*. Coalition Against Trafficking in Women, 1999).

<sup>vii</sup> Royal Canadian Mounted Police. 2004. *An assessment of the extent and scope of trafficking in human beings in Canada*. Unpublished report. Quoted at: <http://www.justice.gc.ca/en/ps/rs/rep/justresearch/jr13/p5b.html>.

<sup>viii</sup> The Study was conducted by Benjamin Perrin, Professor of Law at UBC. See: <http://www.thestar.com/News/Canada/article/526305>.

<sup>ix</sup> Generally agreed upon figure. For example, see: [http://en.wikipedia.org/wiki/Trafficking\\_in\\_human\\_beings](http://en.wikipedia.org/wiki/Trafficking_in_human_beings).

<sup>x</sup> Bruckert, C. and C. Parent. *Organized crime and human trafficking in Canada: Tracing perceptions and discourses* (Ottawa: Royal Canadian Mounted Police, 2004).

<sup>xi</sup> See: [http://www.joysmith.ca/index.asp?sub\\_ID=397](http://www.joysmith.ca/index.asp?sub_ID=397)