



**HOUSE OF COMMONS  
CANADA**

**TURNING OUTRAGE INTO ACTION TO ADDRESS  
TRAFFICKING FOR THE PURPOSE OF SEXUAL  
EXPLOITATION IN CANADA**

**Report of the Standing Committee on  
the Status of Women**

**Yasmin Ratansi, MP  
Chair**

**FEBRUARY 2007  
39th PARLIAMENT, 1st SESSION**



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# **THE STANDING COMMITTEE ON STATUS OF WOMEN**

has the honour to present its

## **TWELFTH REPORT**

Pursuant to its mandate under Standing Order 108(2) and the motion adopted by the Committee on September 21, 2006, your Committee has undertaken a study of Human Trafficking and has agreed to report the following:



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# CHAPTER 1: COMMITTEE MANDATE

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Over the past decade, alarm bells have been set off around the globe about a human rights disaster of epic proportions, and that is the wholesale trafficking of women and children into the worldwide sex trade. Yet, for the majority of nations on the planet — and that's from the top echelons of political power all the way down to the cop on the beat — this issue has yet to register as a priority.<sup>1</sup>

Between 700,000 and 4 million people a year are affected by trafficking in persons.<sup>2</sup> The vast majority of people who are trafficked are women and children, and 92% of victims are trafficked for the purpose of sexual exploitation. While the Standing Committee on the Status of Women acknowledges that Canada has taken steps to combat trafficking, both within and outside of its borders, the Committee's attention was drawn to the urgency of the situation, an urgency which requires that Canada do more to prevent the victimization of innocent women and children. As one witness told the Committee, "when a woman or girl is reduced to a commodity to be bought and sold, raped, beaten, and psychologically devastated, her fundamental rights and dignity are repeatedly violated."<sup>3</sup> For that reason, the Committee agreed to increase both parliamentary and Canadian attention to the issue by undertaking a study on trafficking in persons.

While the Committee recognizes that trafficking is both a pressing international and domestic issue, we agreed that, in the interests of making progress on the issue within Canada's borders, we would limit our study to trafficking in Canada, but would remain cognizant of the fact that the trafficking of persons across international borders also has significant implications for Canada. In no way does our focus on trafficking within Canada indicate that the international aspects do not warrant the same attention and commitment to action.

The Committee recognizes that trafficking in persons includes people who are trafficked for domestic, agricultural and factory work, but felt that it was necessary to focus on trafficking in persons for the purpose of sexual exploitation since witnesses noted that 92% of victims are trafficked for that purpose.<sup>4</sup> The Committee also considered that the particularly egregious abuse and degradation involved in trafficking for the purposes of sexual exploitation warranted the Committee's full attention. The Committee agrees that addressing the trafficking of persons for domestic, agricultural and factory work or any other exploitive situation would require another study.

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<sup>1</sup> Victor Malarek, *Evidence*, 23 November 2006.

<sup>2</sup> Richard Poulin, Full Professor, Department of Sociology and Anthropology, University of Ottawa, *Evidence*, 19 October 2006.

<sup>3</sup> Barbara Kryszko, Coordinator, Action Alert, Coalition Against Trafficking in Women — International, *Evidence*, 21 November 2006.

<sup>4</sup> See, for example, the evidence of Richard Poulin, *Evidence*, 19 October 2006.

## REPORT STRUCTURE

The Committee's report focuses on "the three Ps": prevention of trafficking, protection of victims, and prosecution of offenders. The representatives of the departments that co-chair the Interdepartmental Working Group on Trafficking in Persons (the departments of Justice and Foreign Affairs) told the Committee that Canada's anti-trafficking approach affirms that prevention, protection, and prosecution are Canada's key priorities.<sup>5</sup> Yvon Dandurand from the International Centre for Criminal Law Reform & Criminal Justice Policy noted, however, that not all of the "Ps" have been addressed equally, and some may have greater importance than others:

[W]e should never lose sight of the ultimate, paramount importance of protecting victims, because prevention, prosecution, and everything else depends upon how well we protect victims.<sup>6</sup>

The Committee finds the "three Ps" framework useful for discussing the issues, and for that reason has adopted that framework as a structure for its report, which will contain the following chapters, chapter 1 being this introduction:

- **Chapter 2: Background**, which includes an exploration of the definition of trafficking as well as an overview of Canada's efforts to combat trafficking.
- **Chapter 3: Prevention**, which includes a review of the underlying causes of trafficking in persons for the purpose of sexual exploitation, namely poverty, gender inequality, the demand and laws with respect to the age of consent to non-exploitative sexual activity; prevention also includes the coordination of activities and the need for more research and awareness.
- **Chapter 4: Protection**, which includes improved education and training for law enforcement, improved victims' services, and the temporary resident permit.
- **Chapter 5: Prosecution**, which includes increased resources for law enforcement and improved education and training for Crown attorneys and judges.
- **Chapter 6: Conclusion**

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<sup>5</sup> Adèle Dion, Director General, Human Security and Human Rights, Department of Foreign Affairs, and Carole Morency, Senior Counsel, Criminal Law Policy Section, Department of Justice, *Evidence*, 17 October 2006.

<sup>6</sup> *Evidence*, 3 October 2006.

## CHAPTER 2: BACKGROUND TO THE ISSUE

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### A DEFINITION OF TRAFFICKING

A definition of trafficking in persons was arrived at in the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (hereinafter the Protocol), which supplements the *United Nations Convention Against Transnational Organized Crime*. Article 3 of the Protocol defines trafficking in persons as:

[t]he 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.

The Committee supports the definition contained in the Protocol. However, the Committee considers that definition to be weakened by its lack of clarity with respect to what constitutes sexual exploitation. For that reason, the Committee wishes to clarify that prostitution and pornography are forms of sexual exploitation, wherever they occur — on the street, in massage parlours, modelling agencies, etc., or through escort agencies.

In November 2005, amendments to the *Criminal Code* created specific offences relating to trafficking in persons. These amendments do not define trafficking per se; rather, they establish that the recruitment, transporting, transferring, receipt, holding, concealment or harbouring of a person, or the exercise of control, direction or influence over the movements of a person for the purpose of exploiting them or facilitating their exploitation, is an indictable offence.<sup>7</sup> Subsection 279.01(2) specifies that one cannot consent to the activities described, which clearly indicates that all persons who have been trafficked are victims, regardless of whether or not they actually consented or thought that they had consented to any of the activities. With respect to what is considered to be exploitation under these provisions, section 279.04 states that a person is considered to be exploiting another person if they

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<sup>7</sup> *Criminal Code*, s. 279.01(1)

(a) cause them to provide, or offer to provide, labour or a service by engaging in conduct that, in all the circumstances, could reasonably be expected to cause the other person to believe that their safety or the safety of a person known to them would be threatened if they failed to provide, or offer to provide, the labour or service; or

(b) cause them, by means of deception or the use or threat of force or of any other form of coercion, to have an organ or tissue removed.<sup>8</sup>

The other definition of trafficking found in Canadian legislation is that contained in the *Immigration and Refugee Protection Act* (IRPA). Because the IRPA relates specifically to immigration, it is understandable that the key difference between the IRPA approach to trafficking and the *Criminal Code* articulation is that IRPA applies to persons who have organized the coming into Canada of persons, while the *Criminal Code* can be used to address situations of trafficking within Canada, which is often referred to as domestic trafficking. IRPA defines trafficking in persons as “knowingly organiz[ing] the coming into Canada of one or more persons by means of abduction, fraud, deception or use or threat of force or coercion”. “Organize” includes the recruitment or transportation and, after entry into Canada, the receipt or harbouring of persons.<sup>9</sup>

In order to combat trafficking in persons, one needs to have a clear idea of what trafficking is and what it is not. Therein lies part of the problem in addressing the trafficking phenomenon: despite the articulation of a United Nations definition of trafficking, there continues to be disagreement as to the elements that must be present in order for a particular situation to be considered as trafficking in persons. This was confirmed by a number of witnesses, including Professor Leslie Jeffrey who noted that, while trafficking in persons is generally seen as the use of force or deceit to transport and/or recruit people for exploitative work or service, it is hard to agree on what constitutes force and what constitutes exploitation.

The lack of consensus as to what constitutes force and exploitation was clearly conveyed through witness testimony. The vast majority of witnesses who testified before our committee saw prostitution as a form of violence in and of itself, and noted that prostitution cannot be distinguished from trafficking in persons. A few witnesses noted that, while there were links between prostitution and trafficking, not all instances of prostitution could be classified as trafficking. Carole Morency, Senior Counsel in the Criminal Law Policy Section at the Department of Justice, stated:

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<sup>8</sup> Ibid., s. 279.04.

<sup>9</sup> S.C. 2001, c. 27, s. 118.

[T]he difference between prostitution and trafficking is that [with trafficking] it's not a question of consent; it's irrelevant. The person is being forced to provide their services, whether it's sexual or other labour, for an exploitative purpose, and they fear for their own safety or that of someone in their family if they don't provide those services. That's the distinction from prostitution. Prostitution is not illegal in Canada currently...<sup>10</sup>

Like the majority of witnesses appearing before us, we came to the conclusion that prostitution is closely linked to trafficking in persons. We believe that prostitution is a form of violence and a violation of human rights. The Committee feels that the prostitute's consent is irrelevant, because you can never consent to sexual exploitation.

## OVERVIEW OF CANADA'S EFFORTS TO COMBAT TRAFFICKING

One of Canada's first initiatives in the area of trafficking was the establishment of the federal Interdepartmental Working Group on Trafficking in Persons (IWG) in 1999. This working group was established to coordinate Canada's negotiating position on the text of the United Nations protocols relating to trafficking and smuggling.<sup>11</sup> In May 2002, Canada ratified these two protocols (the Protocol; and the *Protocol against the Smuggling of Migrants by Land, Sea and Air*) along with their parent convention, the *United Nations Convention against Transnational Organized Crime*. These protocols established new legal and judicial means to prevent and counter illegal migration and trafficking in persons by fostering the sharing of information and cooperation between states. The Protocol on trafficking in persons in particular provides greater protection and support to the victims of trafficking. One of its primary objectives is to maintain a good balance between law enforcement and the protection of victims.

In addition to ratifying these international instruments, Canada has created legislative provisions that specifically address trafficking in persons. These provisions were in addition to the more general provisions of the *Criminal Code* and the former *Immigration Act*, which indirectly addressed trafficking in persons through provisions relating to organizing illegal entry, disembarking persons at sea, abduction, extortion, confinement, conspiracy, forgery or use of false documentation and offences relating to prostitution and organized crime.

The first legislative measures were part of the *Immigration and Refugee Protection Act* (IRPA), which was enacted in 2002.<sup>12</sup> This Act introduced a new section that specifically criminalized trafficking in persons. Section 118 prohibits deliberately

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<sup>10</sup> *Evidence*, 17 October 2006.

<sup>11</sup> Adèle Dion, Director General, Human Security and Human Rights, Department of Foreign Affairs, *Evidence*, 17 October 2006.

<sup>12</sup> Sections 1 and 4 of the *Act* came into force on 6 December 2001; the majority of the other sections came into force on 28 June 2002.

organizing the entry into Canada of one or more persons through the use of force, threats, fraud, deception or any other form of coercion. Any person found guilty under this section is subject to life imprisonment and/or a fine of up to one million dollars.

In February 2004, the IWG received a new mandate to coordinate and improve the federal government's efforts to counter trafficking in persons and to develop a federal strategy. The IWG studies federal legislation, policies and programs that impact trafficking in persons with a view to identifying best practices and areas for further improvement. The IWG is co-chaired by the departments of Justice and Foreign Affairs. The partners in the IWG are:

- Canada Border Services Agency (CBSA);
- Canadian Heritage (PCH);
- Canadian International Development Agency (CIDA);
- Canadian Security Intelligence Service (CSIS); and
- Citizenship and Immigration Canada (CIC);
- Foreign Affairs Canada (FAC);
- Health Canada (HC);
- Human Resources and Social Development Canada (HRSDC);
- Indian and Northern Affairs Canada (INAC);
- Justice Canada;
- Passport Office;
- Privy Council Office (PCO);
- Public Safety and Emergency Preparedness Canada (PSEPC);
- Royal Canadian Mounted Police (RCMP);

- Statistics Canada; and
- Status of Women Canada (SWC).

Various other measures were implemented by the federal government in 2004 to improve Canada's approach to counter trafficking in persons. They include:

- the development of a website on trafficking in persons which provides information and links to related topics (Department of Justice);
- the design of an anti-trafficking brochure (in 14 languages) and poster (in 17 languages), which is distributed to Canadian missions and non-governmental organizations abroad and in Canada;
- holding a regional round table in Vancouver, organized jointly by the Attorney General of British Columbia and Public Safety and Emergency Preparedness Canada (National Crime Prevention Centre), which brought together public servants, academics and members of civil society to discuss research and develop best practices relating to prevention and awareness (November 2004);
- holding a training seminar on trafficking in persons for police officers, prosecutors and immigration, customs and consular officials, which was organized jointly by the Department of Justice and the International Organization for Migration (March 2004); and
- holding a public consultation session on trafficking in persons which was organized by the Canadian Ethnocultural Council, the Department of Justice and the Minister of State (Status of Women) to inform the public and increase awareness of victims of trafficking in persons, especially young people, children and women, and to examine strategies to establish community initiatives to prevent and counter this serious problem (March 2004).<sup>13</sup>

In September 2005, the RCMP created the Human Trafficking National Coordination Centre, staffed by two RCMP officers and one analyst. As part of the Immigration Section, this centre was mandated to provide assistance to field investigators and to work on education and awareness campaigns.

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<sup>13</sup> Department of Justice, *Background*, available at: <http://canada.justice.gc.ca/>.

On 25 November 2005, following the coming into force of Bill C-49<sup>14</sup> three new offences specifically prohibiting trafficking in persons were added to the *Criminal Code*. The main offence (subsection 279.01(1)) prohibits the recruitment, transportation, harbouring or transfer of a person for the purpose of exploitation or to facilitate their exploitation, and carries a maximum sentence of life in prison where it involves abduction, sexual assault, aggravated assault or leads to the victim's death. In all other cases, it carries a maximum sentence of 14 years' imprisonment. The second offence (section 279.02) prohibits persons from knowingly benefiting from trafficking in persons, either financially or otherwise. Any person found guilty under this section is subject to 10 years' imprisonment. Finally, the third offence carries a maximum sentence of five years' imprisonment for anyone destroying records to facilitate trafficking in persons.

Bill C-49 amendments also authorize the interception of private communications and the taking of biological samples for DNA analysis in cases of trafficking in persons. With the enactment of this bill, victims of trafficking can now seek restitution for the bodily harm or psychological damage suffered.

The Honourable Monte Solberg, Minister of Citizenship and Immigration, announced on 11 May 2006 a new policy authorizing the granting of temporary resident permits to trafficking victims. Within the current legislative framework, immigration officers may now issue temporary resident permits to trafficking victims for up to 120 days.

While the Committee recognizes the Canadian effort to counter trafficking in persons, our study indicates significant gaps. The following chapters address the issues brought to our attention during our study.

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<sup>14</sup> S.C. 2005, Ch. 43.

## CHAPTER 3: PREVENTION

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### CAUSES

#### A. Poverty

The Committee heard time and time again that trafficking victims are often the poorest, most disadvantaged groups in society<sup>15</sup>. During our study, many witnesses indicated that addressing the poverty of women is intrinsic to addressing trafficking in persons. We have heard that in some instances of trafficking, women had sought employment outside of their own country because they were either not allowed to work in their country,<sup>16</sup> or because their employment opportunities were limited.<sup>17</sup> While we recognize that poverty contributes to vulnerability to trafficking for the purpose of sexual exploitation and that it is a factor that requires a great deal of attention, we stress that other factors such as the demand side of trafficking and conflicts around the world are also extremely significant.

Many witnesses have also pointed out that Aboriginal peoples are disproportionately affected by poverty in Canada. The Committee heard that 40% of Aboriginal women in Canada live in poverty, more than half over the age of 15 are unemployed, and that more than half of Aboriginal single-parent households require core housing.<sup>18</sup>

According to the Department of Justice and other witnesses, Aboriginal girls and women are at greater risk of becoming victims of trafficking within and outside Canada. Erin Wolski from the Native Women's Association of Canada (NWAC) supported that conclusion, noting that "as more Aboriginal women go missing and a huge majority of the cases are not being investigated...trafficking must be looked at as a possible source for information."<sup>19</sup> Chantal Tie, a lawyer with the National Association of Women and the Law, noted:

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<sup>15</sup> Erin Wolski, Native Women's Association of Canada, *Evidence*, 2 November 2006.

<sup>16</sup> Lori Lowe, National Coordinator for Human Trafficking, Immigration and Passport Branch, Border Integrity, Federal and International Operations, Royal Canadian Mounted Police, *Evidence*, 3 October 2006.

<sup>17</sup> Vivita Rozenbergs, Head, Counter Trafficking Unit, International Organization for Migration, *Evidence*, 26 October 2006.

<sup>18</sup> Erin Wolski, *Evidence*, 2 November 2006.

<sup>19</sup> *Ibid.*

[Aboriginal women and girls] are driven into [trafficking] by poverty and conditions on the reserve, sometimes by conditions of abuse. They are then sold throughout Canada. Basically their handlers start them in Vancouver. They work for them there for awhile, then they're sold to someone in Winnipeg and then to someone in Toronto, and so on down the line as they get moved around the country. This is an extremely vulnerable population of women--extremely vulnerable--and these are Canadian women.<sup>20</sup>

In the same vein, Ms. Wolski noted, "Aboriginal women are forced into desperate situations in order to provide for their families, in order to survive."<sup>21</sup> To address poverty and marginalization faced by many Aboriginal women, Ms. Tie stated that:

[W]e clearly need to work for Aboriginal women, for the improvement of options and opportunities within their communities. We [also] have to address the racism and discrimination, which underlies their social condition.<sup>22</sup>

The Committee also heard that there needs to be a national strategy to end poverty that focuses specifically on Aboriginal peoples in Canada.<sup>23</sup> Therefore;

#### **RECOMMENDATION 1**

**The Committee recommends that, in collaboration with the provinces and territories, the federal government develop a national framework to address poverty in Canada.**

#### **RECOMMENDATION 2**

**The Committee recommends that, in collaboration with the provinces and territories, the federal government develop a national framework to address Aboriginal poverty.**

If we wish to address the vulnerability of many Aboriginal women and girls to trafficking, we need a better understanding of the issue. Sergeant Lori Lowe advised the Committee that the RCMP's National Aboriginal Policing Service had an interest in examining the trafficking of Aboriginal women for the purpose of sexual exploitation, but that the RCMP lacked funding and human resources to be able to carry out such research. The need for research dealing specifically with the victimization of Aboriginal women by traffickers was also emphasized by Ms. Tie and Ms. Wolski. With that in mind:

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<sup>20</sup> *Evidence*, 7 November 2006.

<sup>21</sup> *Evidence*, 2 November 2006.

<sup>22</sup> Chantal Tie, *Evidence*, 7 November 2006.

<sup>23</sup> Erin Wolski, *Evidence*, 2 November 2006.

### RECOMMENDATION 3

The Committee recommends that the federal government support work on evidence-based research and data collection specific to Aboriginal women and trafficking in persons, both on and off-reserve, and that the federal government commit to consulting with the Native Women's Association of Canada, the Assembly of First Nations, and Aboriginal police forces by September 2007 with respect to the best means for carrying out such research. The federal government must report the results of the consultations to the Standing Committee on the Status of Women.

### RECOMMENDATION 4

The Committee recommends that the Department of Indian Affairs and Northern Development (DIAND), in partnership with the Department of Justice and the Native Women's Association of Canada, develop culturally appropriate materials and programs to raise awareness of the risk of trafficking both on and off reserves to prevent the trafficking of Aboriginal women and girls, and that DIAND report back to the Committee by September 2007 with respect to its progress on developing these materials and programs.

## B. Gender Inequality

It seems apparent that gender inequality contributes to the problem of trafficking in persons. As Prof. Jeffrey from the University of New Brunswick noted, "the concerns being raised in the discussion of trafficking are all about the other people controlling and exploiting women."<sup>24</sup> Sociologist Richard Poulin noted similarly that trafficking in persons for the purpose of sexual exploitation will continue "as long as men can buy, sell and sexually exploit women and children by forcing them into prostitution."<sup>25</sup> Like many witnesses, he maintained that trafficking in persons is above all a gender equality issue.

Because women often lack economic opportunity, and most of their work lies in unregulated and informal sectors, women are more vulnerable to having their labour exploited.<sup>26</sup> Gender inequality is also evident because of the continued objectification and commodification of women and girls, an issue that Diane Matte, from the Concertation des luttes contre l'exploitation sexuelle, said is "one of the most important issues for women's

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<sup>24</sup> Associate Professor, Department of History and Politics, *Evidence*, 19 October 2006.

<sup>25</sup> Richard Poulin, Full Professor, Department of Sociology and Anthropology, University of Ottawa, *Evidence*, 19 October 2006.

<sup>26</sup> Leslie Ann Jeffrey, *Evidence*, 19 October 2006.

groups everywhere in the world.”<sup>27</sup> Trafficking for the purpose of sexual exploitation and prostitution results partly from this objectification and, as Richard Poulin told the Committee, it reinforces this objectification and perpetuates inequality:

[B]y reducing women and girls to the status of merchandise that can be bought, sold, rented out, appropriated, exchanged or acquired, prostitution and trafficking for purposes of prostitution...reinforce the connection between women and sex, established by a macho society, reducing women to a lesser form of humanity and therefore relegating them to inferior status.<sup>28</sup>

Gunilla Ekberg for the Canadian Feminist Alliance for International Action confirmed that trafficking in persons for the purpose of sexual exploitation is a serious barrier to gender equality, and that it is “incompatible with the dignity and worth of the human being.”<sup>29</sup>

As a means to address the objectification and commodification of women, Barbara Kryzko from the Coalition Against Trafficking in Women emphasized the need for a national education campaign “to infuse in different aspects of education...that women are not for sale.”<sup>30</sup>

## **RECOMMENDATION 5**

**The Committee recommends that the federal government develop a national communications campaign to sensitize the public to the objectification and commodification of human bodies, prostitution, and trafficking, for the purpose of sexual exploitation.**

### **C. Demand for Trafficking for the Purpose of Sexual Exploitation**

Under Article 9 of the Protocol, signatory states must prevent trafficking by addressing the factors that make individuals vulnerable to trafficking, such as poverty and lack of opportunity, as well as by addressing the demand side. Paragraph 5 of Article 9 stipulates that:

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<sup>27</sup> *Evidence*, 2 November 2006.

<sup>28</sup> *Evidence*, 19 October 2006.

<sup>29</sup> Researcher on Trafficking in Human Beings, *Evidence*, 5 December 2006.

<sup>30</sup> *Evidence*, 21 November 2006.

States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.<sup>31</sup>

During our study, various witnesses stressed the importance of addressing this part of the trafficking in persons equation.<sup>32</sup> Witnesses stressed that it is essential to go after those who purchase sexual services and benefit from the sexual exploitation of women and children, both here and elsewhere. They noted that, like many other countries, Canada does not pay enough attention to this aspect of the equation. When he appeared before the Committee, Armand F. Pereira, from the International Labor Organization, noted:

Much like drugs and arms trafficking, trafficking in persons for sexual or other forms of exploitation has both a supply side and a demand side. The major gap here is that most of us in the last few years have tended to focus excessively on the supply side and not enough on the demand side. As a result, we don't get the picture together and we end up going around in circles.<sup>33</sup>

Ms. Kryzko of the Coalition Against Trafficking in Women noted the following in her testimony:

By cutting off demand from buyers, governments eliminate the major source of illicit revenue and profit for traffickers, the payments of the buyers, thus reducing the incentive for trafficking.<sup>34</sup>

The majority of witnesses appearing before the Committee maintained that, by dealing with the clients of prostitution, human trafficking for the purpose of sexual exploitation can be countered. A number of witnesses urged the Committee to acknowledge that prostitution is the driving force behind trafficking. The following excerpts of the testimony reflect this position.

Human trafficking is one of the consequences of the prostitution system. Institutionalization — in other words, legalizing sex markets — boosts procuring activity and organized crime, but most importantly, it legitimizes gender inequality.<sup>35</sup>

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<sup>31</sup> *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, supplementing the *United Nations Convention Against Transnational Organized Crime*, United Nations, 2000.

<sup>32</sup> Notably Aurélie Lebrun and Jean Bellefeuille from the Comité d'action contre le trafic humain interne et international (CATHI), Richard Poulin, Victor Malarek, Captain Danielle Strickland from the Salvation Army and Barbara Kryzko.

<sup>33</sup> Director, Washington Office, *Evidence*, 26 October 2006.

<sup>34</sup> *Evidence*, 21 November 2006.

<sup>35</sup> Richard Poulin, *Evidence*, 19 November 2006.

Consequently, if Canada wants to stop trafficking in human beings and to protect trafficking victims, it seems urgent that we examine those who motivate it: Canadian prostituting clients. It also seems important to understand and to analyze prostitution and trafficking as related phenomena and forms of violence against women.<sup>36</sup>

Trafficking and the prostitution industry exist because men want to buy the bodies of women and young girls.<sup>37</sup>

Prostitution is a form of sexual slavery that allows trafficking to flourish and to grow.<sup>38</sup>

Paying for sex between consenting adults is currently not illegal in Canada. That being said, four sections of the *Criminal Code* make most of the activities relating to prostitution illegal, namely communicating with a person for the purposes of engaging in prostitution in a public place (section 213), being in a bawdy house (section 210) or transporting a person to such a place (section 211), or encouraging or forcing a person to engage in prostitution and living off the avails of prostitution (section 212). Under the current legal framework, adult prostitutes are not seen as victims but indeed as criminals, just as prostitution clients and pimps are.

The majority of witnesses our committee heard criticized Canada's approach to prostitution. They argued that prostitutes should not be treated as criminals, since they are victims of sexual exploitation. These witnesses pointed out that it is the clients who buy their sexual services and those who profit from prostitution (the pimps) who should be criminalized.

The majority of the witnesses appearing before our committee recommended that Canada follow Sweden's approach to prostitution. In Sweden, prostitution is recognized as an aspect of the exploitation of women and children and "a significant social problem, which is harmful not only to the individual prostituted woman or child, but also to society at large."<sup>39</sup> In 1998, the Riksdag (Swedish Parliament) passed legislation criminalizing the purchase of sexual services.<sup>40</sup> Under the terms of the Act, which came into effect on 1 January 1999, prostitutes do not face criminal prosecution for engaging in prostitution. However, the consumers of prostitution can be fined or sentenced to up to six months'

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<sup>36</sup> Aurélie Lebrun, Member and Researcher of CATHII, *Evidence*, 26 October 2006.

<sup>37</sup> Diane Matte, *Evidence*, 2 November 2006.

<sup>38</sup> Danielle Strickland, *Evidence*, 24 October 2006.

<sup>39</sup> *Prostitution and trafficking in women*, Fact sheet from the Ministry of Enterprise, Energy and Communications, October 2004. Available at the following electronic address: <http://www.demokratitorget.gov.se/content/1/c6/01/87/74/6bc6c972.pdf>.

<sup>40</sup> Act Prohibiting the Purchase of Sexual Services (1998).

imprisonment. The Swedish penal code also punishes procuring. Under the terms of the aforementioned act, those living off the avails of prostitution (the pimps) can be sentenced to up to six years' imprisonment.<sup>41</sup>

Some witnesses noted that street prostitution and human trafficking have declined in Sweden since the *Act Prohibiting the Purchase of Sexual Services* came into effect. The law has reportedly also reduced the number of clients, particularly occasional clients.

The Committee agrees with the vast majority of the witnesses heard: prostitutes are victims of sexual exploitation and, as a result, they should not be treated as criminals for selling sexual services or being found in a bawdy house. Therefore:

## **RECOMMENDATION 6**

**The Committee recommends that section 213 of the *Criminal Code* prohibiting communication for the purposes of prostitution be repealed. It further recommends that sections 210 and 211 of the *Criminal Code* be amended so that it is no longer a criminal offence for prostitutes to be found in a bawdy house or to transport or offer to transport a person to such a place. Only the consumers of prostitution, the owners of the bawdy house and those who exercise control over these places should be subject to criminal sanctions under these provisions. The Committee also urges the government to recognize that some prostitutes are victims of sexual exploitation. To that end, they must be given the protection and assistance to which they are entitled. They must in particular be given access to adequate services to allow them to escape the prostitution environment.**

With respect to the measures required to dissuade men from purchasing the sexual services of women and children or of purchasing individuals outright, the Committee proposes amendments to the *Criminal Code* as well as the establishment of prevention, awareness and education programs for the general population and the consumers of prostitution (such as john schools<sup>42</sup>). The importance of these programs was also stressed

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<sup>41</sup> For more information, consult the fact sheet from the Government of Sweden *Prostitution and trafficking in women, op cit.*

<sup>42</sup> Danielle Strickland indicated that the Salvation Army has had such a program for 10 years. She also added that the Salvation Army considers "john schools" "a success in educating and therefore reducing the demand for purchased sex from those who participate in the program. It's here again that prostitution and sex trafficking cross paths, as we find that those who purchase sex are buying women from domestically trafficked places as well as internationally. The message must continue to get out that buying sex for money, food, or shelter is exploitation and is therefore not acceptable on any kind of level." *Evidence*, 24 October 2006.

by Jean Bellefeuille from the Comité d'action contre le trafic humain interne et international (CATHII).<sup>43</sup> The message needs to be clear: prostitution is not a “culturally acceptable” activity.<sup>44</sup> Therefore:

## **RECOMMENDATION 7**

**The Committee recommends that the *Criminal Code* be amended to include the criminal offence of purchasing a sexual service. The severity of the sentence for an offender should be increased with each conviction for that particular offence. Prior to the introduction of the new offence, the federal government should launch a national campaign to sensitize the public to the harmful effects of prostitution.**

The Committee also wishes to stress that purchasing sexual services is no more acceptable outside the country. Jamie McIntosh with the International Justice Mission Canada stressed that enforcing Canada’s laws that relate to sex tourism abroad requires resources:

Without resources dedicated to assist in international investigations, Canadian law enforcement is not adequately positioned to ensure actual enforcement of existing extraterritorial laws which pertain to Canadian offenders abroad.

For instance, Canada’s provisions on sex tourism had been in force for eight years before a single conviction was obtained: it was still open season on these children. This was not due to the lack of professionalism or dedication by Canadian law enforcement, but rather a natural consequence of the lack of forward deployment and dedicated investigators to counter Canadians engaged in the heinous criminal sexual exploitation of children abroad.<sup>45</sup>

## **RECOMMENDATION 8**

**The Committee recommends that the federal government ensure that the problem of sexual tourism is made a priority and given the attention it deserves. This requires that law enforcement officials are provided with sufficient resources to ensure that offenders are prosecuted.**

The Committee is also concerned that military operations abroad encourage trafficking in persons. We heard that, in some cases, women and children have been trafficked to areas of conflict to meet the increased demand for prostitutes that can be caused by a significant influx of men. While we are not suggesting or alleging that

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<sup>43</sup> *Evidence*, October 26, 2006.

<sup>44</sup> Danielle Strickland, *Evidence*, 24 October 2006.

<sup>45</sup> Director, *Evidence*, 5 December 2006.

Canadian forces seek out prostituted women and children while abroad, we would like to make it clear that such activity cannot be tolerated, and that military personnel found to have sought out prostitutes while abroad should be punished.

## **RECOMMENDATION 9**

**The Committee recommends that Part III, the Code of Service Discipline, of the National Defence Act, be amended to include the new offence of purchasing a sexual service.**

Given the lack of research and the glaring lack of programs to discourage demand for trafficking in persons for the purpose of sexual exploitation:

## **RECOMMENDATION 10**

**The Committee recommends that the federal government increase funding to provinces and territories for prevention, awareness and support programs related to trafficking in persons for the purpose of sexual exploitation.**

### **D. Age of Consent**

In the *Criminal Code*, a person under the age of 14 cannot consent to sexual activity.<sup>46</sup> Persons between the ages of 14 and 17 can consent to sexual activity, unless it takes place in a relationship of trust, dependency or is otherwise exploitative. Only persons age 18 and older can consent to exploitative sexual activity.

A number of witnesses indicated that increasing the age of consent to non-exploitative sexual activity from 14 to 16 would help to protect girls and boys from sexual exploitation. Detective Sergeant Kim Scanlan from the Toronto Police Service noted that Canada's legal age of consent to sexual activity is one of the lowest in the world,<sup>47</sup> and that this increases the vulnerability of 14 and 15-year olds to sexual predators, who are attracted to Canada specifically because it has a low age of consent. Raising the age of consent could also help to protect girls in the unregulated Canadian modelling industry.<sup>48</sup>

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<sup>46</sup> Taken from R. MacKay, Bill C-22, An Act to amend the Criminal Code (Age of Protection) and to make amendments to the Criminal Records Act, Parliamentary Information and Research Service, Library of Parliament, Ottawa [unpublished at time of this report].

<sup>47</sup> Some of the ages of consent in other countries are as follows: Mexico, 12 (although regional laws can overrule the federal law); Japan and Spain, 13 (although in Japan, prefecture law can override the federal law to raise the age to 18); Australia (most states), New Zealand and the United Kingdom, 16. The age of consent in the United States varies between 14 and 18, although in most states it appears to be either 16 or 18. (From R. MacKay, *Ibid.*)

<sup>48</sup> Liz Crawford, Panache Model and Talent Management, *Evidence*, 2 November 2006.

While she supported raising the age of consent, Aurélie Lebrun, Member and Researcher of the Comité d'action contre le trafic humain interne et international (CATHII), pointed out that education needed to take place along with a change in the law:

Laws obviously make it possible to send important signals to society, but a single law obviously can't really change attitudes. For example, if you raise the age of sexual consent, but don't teach young girls to know what they're doing, to say yes when that's what they really want and they know what they're doing, that may not be so helpful.

Sexual exploitation occurs at the age of 12, 13, 14, 15, 16, 17 years, 18 years less a day as well, 18 years plus an hour too. So in fact, age of consent obviously has to be established in order to protect young women, but the earlier they're educated, the earlier we can prevent this and the better it will be.<sup>49</sup>

### **RECOMMENDATION 11**

**The Committee recommends that the age of consent to non-exploitative sexual activity be raised from 14 to 16 and that a close-in-age exception clause be included.**

### **RECOMMENDATION 12**

**The Committee recommends that the federal government, in consultation with the provinces, territories and other stakeholders, undertake an education campaign to raise awareness of minors to the risks of becoming victims of prostitution or trafficking for the purpose of sexual exploitation.**

The Committee also heard from Liz Crawford from Panache Model and Talent Management that, because the Canadian modelling industry is not regulated, it is a "playground for predators."<sup>50</sup> She told the Committee that modelling agencies have been used to lure young people into the industry for purposes of sexual exploitation, and questioned why school volunteers and other individuals who work with young people require extensive screening, and yet anyone "could open up an agency tomorrow, no problem."<sup>51</sup> With that in mind,

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<sup>49</sup> *Evidence*, 26 October 2006.

<sup>50</sup> *Evidence*, 2 November 2006, 1120.

<sup>51</sup> *Ibid.*

## **RECOMMENDATION 13**

**The Committee recommends that the federal government work with the provinces and territories to address the need to develop regulations pertaining to the modelling industry to prevent the industry from being used as a vehicle to traffic individuals.**

### **E. Inequalities resulting from Canada's immigration policy**

Both Prof. Jeffrey and Ms. Tie emphasized that women already face difficulties in migrating legitimately to Canada. As Ms. Tie pointed out,

[M]any women don't qualify under the skilled worker point system, particularly if they come from countries where women are significantly disadvantaged. They are not going to have the higher education; they are not going to have the skills to qualify.<sup>52</sup>

Prof. Jeffrey also pointed to evidence that trafficking decreases when women are able to migrate legally and independently. This was supported by Armand Pereira:

[W]e have a promotion of illegal migration, and as a result, we have a promotion of trafficking, because without illegal migration, you don't have a place for trafficking. So we have to close the circle by looking at these issues together. This is why it is important to focus on trafficking from the perspective of labour markets, migration, and immigration laws, legal and illegal — legal immigration laws and illegal migration practices.<sup>53</sup>

## **RECOMMENDATION 14**

**The Committee recommends that Citizenship and Immigration Canada increase access to and information on migration channels in order to increase women's ability to migrate independently and safely.**

## **RECOMMENDATION 15**

**The Committee recommends that the House of Commons Standing Committee on Citizenship and Immigration and the Standing Committee on the Status of Women review the Canadian immigration barriers that may contribute to the increased vulnerability of women to trafficking in persons.**

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<sup>52</sup> *Evidence*, 7 November 2006.

<sup>53</sup> *Evidence*, 26 October 2006.

The Committee also heard that the Citizenship and Immigration pre-removal risk assessment process (PRRA) could be used to assist victims of trafficking who may face deportation. The PRRA process, which is authorized under the *Immigration and Refugee Protection Act*, allows individuals who are the subject of removal orders and who believe they would be at risk if returned to their country of origin to apply for a risk assessment prior to being removed from Canada. Witnesses indicated that victims who are returned to their country are not only likely to be ostracized, but are also at risk for being re-victimized at the hands of traffickers. For that reason, it was suggested that specific guidelines be developed that would clearly indicate that victims of trafficking are to be considered as persons at risk for the purpose of a PRRA.

## **RECOMMENDATION 16**

**The Committee recommends that the federal government enrich and strengthen the pre-removal risk assessment process and provide specific policy guidelines that trafficked persons qualify as people who are at risk.**

## **COORDINATION AND COOPERATION**

Paragraph 3 of Article 9 of the Protocol states:

Policies, programmes and other measures established in accordance with [Article 9, Prevention of Trafficking in Persons] shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.<sup>54</sup>

The Committee heard that coordination and cooperation will lead to a better understanding of the issue,<sup>55</sup> which will in turn lead to better prevention of trafficking and better protection of victims. As was mentioned earlier, federal efforts are currently coordinated by the IWG. According to Adèle Dion from the Department of Foreign Affairs, the working group

[P]rovides a forum for information exchange between government departments and agencies, fosters a whole-of-government approach, and ensures that the Government of Canada has a coordinated domestic and international approach to this issue. The group is also committed to collaborating with the provinces, territories, and civil society.<sup>56</sup>

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<sup>54</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

<sup>55</sup> Yvon Dandurand, Senior Associate, International Centre for Criminal Law Reform and Criminal Justice Policy, *Evidence*, 3 October 2006.

<sup>56</sup> *Evidence*, 17 October 2006.

While many witnesses supported the efforts of the IWG, the inability of NGOs to actively participate in the IWG discussion was brought to the Committee's attention. Two of the witnesses who contacted the IWG advised the Committee that they did not feel that their participation was valued by the IWG.<sup>57</sup>

Another critique of the IWG is that it has not filled the need for national leadership on the issue that would both facilitate federal-provincial discussions as well as mobilize NGOs to work towards developing a common understanding. Captain Danielle Strickland supported the need for federal leadership on the issue. That leadership could develop a model that provinces and territories could use to address the needs of victims.

Some IWG members have been involved with community organizations outside of the IWG. For example, Ms. Morency reported that the Department of Justice had participated at the local level through round tables, and had met with umbrella organizations and had positive discussions with them.<sup>58</sup> Kimber Johnston also discussed some of the Canada Border Services Agency's [CBSA] activities outside of the IWG:

[CBSA officers in Vancouver and Montreal] conducted extensive consultations with regional partners to develop protection strategies for victims detected in their regional areas of responsibility, have built relationships with local non-governmental organizations, and have coordinated with the RCMP, municipal police, and Citizenship and Immigration Canada on investigations and intelligence gathering. Their efforts have been productive in developing sources of information by gaining the trust of NGOs and in encouraging victims to come forward to law enforcement.<sup>59</sup>

Efforts are also being made to develop regional committees to bring NGOs together with law enforcement and other provincial agencies. The Committee was advised by Mr. Dandurand from the International Centre for Criminal Law Reform & Criminal Justice Policy that in British Columbia, for example, the RCMP brought together community groups and made advances in developing cooperation and inter-agency protocols.<sup>60</sup> While he stressed that this cooperation needs to take place in other regions, he acknowledged that lack of resources was a key barrier. He also pointed out that there are lessons to be learned from some of the cooperative models that have been established. The experience in British Columbia, for example, showed how delicate and complex working cooperatively could be:

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<sup>57</sup> Irene Soltys, Coordinator, Help Us Help the Children and Erin Wolski, Native Women's Association of Canada, *Evidence*, 2 November 2006.

<sup>58</sup> *Evidence*, 17 October 2006.

<sup>59</sup> Director General, Policy and Program Development Directorate, Canada Border Services Agency, *Evidence*, 31 October 2006.

<sup>60</sup> *Evidence*, 3 October 2006.

[It]'s not only agreeing to work together...[t]here are all kinds of things to be looked at, such as privacy, security of victims, and so on.

It calls for very detailed agreements, protocol, and inter-agency protocol. Certainly, in British Columbia, it took them at least a year to come to a common understanding of who was going to do what, at what time, with whose cooperation, and so on.<sup>61</sup>

Another witness also spoke to difficulties faced by the collaborative process in B.C.:

[W]e haven't been able to come to terms with the competing agendas. Part of the inability to come to terms with all of this has to do with the fact that we haven't seen enough evidence and we're not sure enough that women's rights will be respected and that there are adequately funded social services and access to legal support for women to encourage them to come forward.<sup>62</sup>

## **RECOMMENDATION 17**

**The Committee recommends that the federal government, in cooperation with the provinces and territories, establish a Canadian counter-trafficking in persons office in a central location where experts, support people, NGOs, police, prosecutors and judges can amalgamate expertise and are able to share best practices in relation to combating both domestic and international trafficking in persons. Information and best practices will also be communicated to relevant offices and agencies who may not be active participants in the office, and NGOs will be encouraged to actively participate in the development and implementation of effective victim rehabilitation strategies.**

## **RESEARCH**

Many witnesses raised issues relating to the collection and identification of reliable data, the tracking of trafficking cases, the sharing of information among stakeholders, and the need for focused research. While the Committee agrees that more information on trafficking is needed to fully address the issue, the urgency of the situation prevents Canada from waiting until more research is carried out before taking concrete steps to prevent trafficking, protect victims, and prosecute traffickers.

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<sup>61</sup> *Evidence*, 3 October 2006.

<sup>62</sup> Shauna Paull, Member, Global Alliance Against Traffic in Women Canada, *Evidence*, 9 November 2006.

Adèle Dion noted that “we continue to grapple with identifying reliable data on the extent of trafficking within our own boundaries,”<sup>63</sup> and Ms. Morency noted that most of the information they had pertaining to domestic trafficking was anecdotal.

The fundamental difficulty in gathering reliable and accurate data lies in the clandestine nature of trafficking. As Mr. Dandurand told the Committee,

[W]e don't have really good information in Canada, or systematic information, on the extent of the problem...Organized crime does not publish annual reports, so it's quite difficult to get a good sense of what it is.<sup>64</sup>

Ms. Johnston from the Canada Border Services Agency confirmed the difficulties associated with obtaining information:

[The difficulty in obtaining] reliable and accurate information about the nature and extent of trafficking of persons within Canada...is attributable to several factors: the difficulty in identifying victims, differences in the reporting methods used, and the constantly shifting nature of trafficking activity itself ...<sup>65</sup>

As there is currently no systematic collection of information from all those who may come into contact with trafficking victims, witnesses emphasized the need for a strategy to collect information from all relevant sources. These sources include the RCMP and other law enforcement agencies as well as groups that have first-hand knowledge of trafficking in persons, such as child protection agencies, immigration agencies, immigration lawyers and community organizations that work closely with people new to Canada. Mr. Dandurand cautioned that any such system would require mechanisms to provide protection for victims as well as protection for the integrity of the information collected by the police. He provided a possible model for such a system:

Other countries have developed hybrid models. For instance, the Netherlands has a special rapporteur, who, at arm's-length, keeps information from both sides. Now, that's important because typically the police cannot share intelligence information freely and make it public, since that would destroy the value of the intelligence. On the other hand, a lot of people working in NGOs and service agencies feel they have to be very careful with the information they have because they don't want to put the victims at risk.<sup>66</sup>

In his second appearance before the Committee on 6 February 2007, Mr. Dandurand reiterated the point that data could be collected through a national rapporteur, and emphasized the need for such a rapporteur to be situated both outside of government and outside of law enforcement to encourage NGOs to share their information. He also

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<sup>63</sup> *Evidence*, 17 October 2006.

<sup>64</sup> *Evidence*, 3 October 2006.

<sup>65</sup> *Evidence*, 31 October 2006.

<sup>66</sup> *Evidence*, 3 October 2006.

stressed that regardless of what institution is established to collect data, collecting data will not be an easy process due to Canada's size, the nature of the federal system and the number of police forces throughout the country.<sup>67</sup>

Gunilla Ekberg, Researcher in Trafficking in Human Beings, fully supported the establishment of a national rapporteur in Canada who would collect, analyze and present data in the form of reports to the government (as is the case in Sweden) or to Parliament.<sup>68</sup> If the report is to be presented to the government, she stressed the importance of releasing the report publicly at the same time to ensure that its integrity is maintained.

Benjamin Perrin from the Future Group also supported the idea that a national rapporteur could be a focal point for information gathering, but cautioned the members that the rapporteur's role should be limited to that purpose and not include coordinating government policies.<sup>69</sup>

With that in mind,

#### **RECOMMENDATION 18**

**The Committee recommends that a national rapporteur be established to collect and analyze data on trafficking in persons, and that the national rapporteur table an annual report to Parliament. The national rapporteur must consult with stakeholders as to how to best implement a data collection and tracking system that would protect the integrity of police information as well as protect victims of trafficking.**

Ms. Johnston noted that CBSA was committed to working with its partners to obtain reliable information on trafficking in persons,<sup>70</sup> and Brian Grant from Citizenship and Immigration Canada (CIC) noted that "we're doing what we can to put into place systems that will start to track data."<sup>71</sup> However, details of the actions being taken by either CBSA or CIC were not provided to the Committee.

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<sup>67</sup> *Evidence*, 6 February 2007.

<sup>68</sup> *Evidence*, 6 February 2007.

<sup>69</sup> *Ibid.*

<sup>70</sup> *Evidence*, 31 October 2006.

<sup>71</sup> Director General, International and Intergovernmental Relations, *Evidence*, 31 October 2006.

#### **RECOMMENDATION 19**

**The Committee recommends that the Canadian counter-trafficking in persons office consult with stakeholders as to how to best implement a data collection and tracking system that would protect the integrity of police information as well as protect victims of trafficking.**

#### **RECOMMENDATION 20**

**The Committee recommends that the data collection and tracking system that is to be implemented to protect the integrity of police information as well as protect victims of trafficking be used to track those who habitually bring large groups of women and children to Canada.**



## CHAPTER 4: PROTECTION

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### TRAINING AND AWARENESS FOR LAW ENFORCEMENT

Paragraph 2 of Article 10 of the Protocol provides that:

States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.<sup>72</sup>

Lack of training and awareness, and the absence of protocols and guidelines for trafficking investigations, have meant that much confusion ensues when police are faced with a potential trafficking victim. This results in difficulty in identifying and therefore being able to protect victims, as well as making it difficult to prosecute, as officers and prosecutors may or may not be aware of how to best lay charges in these circumstances. Sergeant Kelly of the Vancouver Police Department, who was involved in the first charge laid under the trafficking provisions of the *Immigration and Refugee Protection Act* in April 2005, shared his department's experience:

[T]he Ng file was very frustrating for the investigators because no protocols or guidelines existed in Canada. Due to the professionalism of all personnel involved in all agencies, we worked through each hurdle and frustration until the victims were returned to China safely.

Many things were learned during the investigation and already some important strides have been made. Currently, several initiatives are being embarked upon to create protocols to ensure that investigators in British Columbia and other areas of Canada do not have to repeat the problems encountered in that file.

[W]ait until the small police department on the Prairies or in Quebec gets the human trafficking victim who phones 911. Then all hell's going to break loose at about 2 a.m.<sup>73</sup>

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<sup>72</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children.

<sup>73</sup> Sergeant, Vice Unit, *Evidence*, 31 October 2006.

## **RECOMMENDATION 21**

**The Committee recommends that the RCMP collaborate with provincial and municipal police forces to develop a wallet-sized card similar to the one used by the RCMP that sets out how to identify a victim of trafficking as well as a telephone number that can provide officers with immediate information and assistance in the event that they come into contact with a possible trafficking victim.**

Witnesses who appeared before the Committee described a number of training and awareness initiatives that were being undertaken. For example, the RCMP is working with the Department of Justice to do training with law enforcement officers, starting in Ottawa. The RCMP also conducts an immigration and passport investigators course twice a year which includes one day of trafficking training. RCMP officers also study the *Immigration and Refugee Protection Act*, and human trafficking has been added as part of that course of study.

Training efforts are also being made at the local and provincial levels. For example, Detective Sergeant Kim Scanlan from the Toronto Police Service indicated that they were working with their police college to ensure that trafficking in persons was included in the curriculum. The Toronto Police Service had also agreed to host training sessions for members and for social service agencies, and a one day awareness session was being planned in conjunction with the RCMP, the CBSA and the Toronto Police Service.

The International Organization for Migration also described some of their training initiatives and their participation in Canadian training, which has involved Canadian immigration officers, border officials, police, prosecutors, and police advisors within government.

Despite these initiatives, the Committee received the message that they were too few in number and did not reach all of those who were involved in law enforcement. In British Columbia, for example, there are only two police officers throughout the entire province available to give presentations on trafficking to law enforcement and to NGOs. As a result, they are not able to accept all requests to appear. There is the same lack of trained personnel available to provide awareness in the immigration and passport sections: while there are six immigration and passport sections in Canada, there are fewer than six officers dedicated to trafficking awareness.

## **RECOMMENDATION 22**

**The Committee recommends that the Canadian Police College create a course on trafficking in persons for students to be implemented in 2007 or 2008. The course must include material that emphasizes the**

**need for collaboration with community agencies that have potential contact with victims of trafficking as well as materials to sensitize police to the circumstances of immigrant women.**

Witnesses also emphasized that there was a lack of awareness in the law enforcement community with respect to the new *Criminal Code* trafficking in persons provisions contained in Bill C-49 (S.C. 2005, C. 43). Mr. Dandurand from the International Centre for Criminal Law Reform & Criminal Justice Policy stated that he had not seen any systematic approach to implementing Bill C-49, and Sergeant Kelly noted that “while all police departments are familiar with sex crimes... [t]hey’re just not aware of our new laws. They’re not aware of how to investigate. They’re not aware of how to handle the file.”<sup>74</sup> Detective Sergeant Monchamp of the Montreal Police Service confirmed that, due to lack of knowledge relating to the *Criminal Code* amendments, they were not used at all.<sup>75</sup>

Part of the lack of knowledge relating to the amendments is due to the fact that no one has yet been charged under the section. Sergeant Kelly indicated that they were attempting to bring a charge forward, but were having difficulty with Crown counsel in pursuing the charge, which may indicate that there is also a lack of understanding on the part of Crown counsel with respect to the sections of the *Criminal Code* relating to trafficking in persons.

### **RECOMMENDATION 23**

**The Committee recommends that the Canadian Police College or the RCMP create a position that is specifically designed to liaise with police forces across the country for the purpose of keeping them up-to-date with respect to any changes in the law relating to trafficking in persons as well as sharing best practices on enforcement methods.**

Witnesses stressed that the federal government needs to encourage conferences and seminars to enable the sharing of best practices, which should be multi-jurisdictional and include police, crown attorneys, judges and NGOs. This would also allow for the sharing of the still limited expertise on the subject. The importance of training not just law enforcement officers but others who may also come into contact with trafficking victims was emphasized by Ms. Tie from the National Association of Women and the Law:

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<sup>74</sup> *Evidence*, 31 October 2006.

<sup>75</sup> Supervisor of Investigations Module (ESEC), Commercial Sexual Exploitation of Children, Vice and Alcohol West, *Evidence*, 9 November 2006.

There has to be training and sensitivity for front-line workers who come in direct contact with women who are or could be trafficked; that means police, immigration officials, immigration settlement workers, shelters, and women's groups. In particular, police and enforcement officers with Immigration need to be trained to view trafficking victims from a human rights and gender perspective and not from an enforcement perspective. They need to be aware of potential community links and legal resources, and they need to consider designating specifically trained immigration officers, hopefully women, who have the skills, training, and sensitivity to deal with trafficking cases.<sup>76</sup>

Increased training and awareness of some of the root causes of trafficking, such as poverty and gender inequality, could also lead to an increase in the likelihood that affected individuals would report their victimization to police, and decrease the likelihood that women would be criminalized for activities that they may mistakenly be believed to be consenting to. Irene Soltys from Help Us Help the Children stated that:

[There are] biases towards towards trafficked women. I don't want to single out the police force, but I believe it's mostly composed of men. They need to look at trafficked women not as hookers or streetwalkers; they need to acknowledge the fact that these women have been enslaved and shouldn't be confused with criminals. This can only happen through education anywhere that we can accomplish it.<sup>77</sup>

The Committee heard from many witnesses that both victims and the organizations that might come into contact with victims may be reluctant to report the activity to police out of fear of detainment or deportation. This is a significant barrier, considering that multiple witnesses, including law enforcement, told the Committee that NGOs often had first contact with victims and were critical to providing services. As Detective Constable Michelle Holm of the Vancouver Police Department told the Committee:

[Victim services groups are] sensitive to the needs of the trafficked victim and... must have the language skills available to address those needs. Using these groups in this way would assist the police to concentrate on the very complicated and time-consuming investigation that often awaits them.<sup>78</sup>

Sergeant Kelly provided the Committee with a concrete example of how NGOs have assisted his work:

We finally located one NGO in the Lower Mainland to deal with the two victims that we have in a case that's before the courts now. They were a godsend. Without their assistance, we wouldn't have known what to do.

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<sup>76</sup> Lawyer, *Evidence*, 7 November 2006.

<sup>77</sup> Coordinator, *Evidence*, 2 November 2006.

<sup>78</sup> Detective Constable, Vice Unit, *Evidence*, 31 October 2006.

There were times in the course of the file when we wondered where we were going to send the people, outside of considering someone taking them home. I had one detective who was going to take one of the victims home for Christmas, if you can believe it, because we just didn't think she should be housed in isolation for so long, because it took so long to get it to go to court. So yes, NGOs play a very important role.<sup>79</sup>

This testimony demonstrates the need for law enforcement agencies to develop relationships with service providers.

#### **RECOMMENDATION 24**

**The Committee recommends that the federal government, through the Canadian Police College, provide training and materials to strengthen the relationships between police and the service providers who assist victims of trafficking so that these victims are more likely to seek assistance and protection from police.**

In addition to improving relationships with service providers to improve victim protection, law enforcement agencies also need to improve their relationships with Aboriginal communities. There is often a heightened distrust of police by Aboriginal persons, which may make Aboriginal victims even more reluctant than others to seek help from police. There have been documented cases of racism towards Aboriginal people on the part of police, and racism has been pointed to as one of the reasons there has been minimal investigation in some cases into the disappearance of Aboriginal women.

To improve relationships with police and Aboriginal women, which may lead to an increased likelihood of reporting violence and trafficking to police, Ms. Wolski suggested that greater sensitivity training and education with respect to the history that has led many Aboriginal individuals to become marginalized members of Canadian society is needed in police colleges. One component of that education would involve examining the relationship between Aboriginal peoples and the RCMP from a historical perspective. In addition to training for current recruits, there should be "refresher" courses for existing police officers.

#### **RECOMMENDATION 25**

**The Committee recommends that the federal government, through the Canadian Police College and in consultation with Aboriginal peoples, provide training to increase sensitivity to the marginalization of Aboriginal peoples in Canada in order to improve relationships between police and Aboriginal peoples so that Aboriginal victims of trafficking are more likely to seek assistance and protection from police.**

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<sup>79</sup> *Evidence*, 31 October 2006.

## VICTIM SERVICES AND PROGRAMS

Witnesses appeared to be in agreement that a key issue that needed to be addressed with respect to Canada's approach to trafficking is the protection of victims. As witnesses pointed out, protecting victims is in keeping with the Protocol to which Canada is a signatory. The Protocol recommends that:

Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

- (a) Appropriate housing;
- (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
- (c) Medical, psychological and material assistance; and
- (d) Employment, educational and training opportunities.<sup>80</sup>

One witness suggested that Canada has failed to incorporate the protection aspects of the Protocol into Canadian law.<sup>81</sup>

In addition to respecting basic human rights, protection of victims is crucial to prosecuting traffickers, as securing convictions without victim testimony would be very difficult, if not impossible. The Committee was told that victims are unlikely to identify themselves to law enforcement if they do not believe that they will be protected. As Danielle Strickland from the Salvation Army told the Committee,

If we provide adequate care and provision for those traffic victims, I believe we can free some of them enough that they would begin to share some of the secrets of the trade, which would benefit us in combating sexual trafficking more than we could ever imagine.<sup>82</sup>

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<sup>80</sup> *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children.*

<sup>81</sup> Deborah Isaacs, Project Coordinator, Sisters of Our Lady of Charity of the Good Shepherd, Separated Children Intervention and Orientation Network, *Evidence*, 21 November 2006.

<sup>82</sup> *Evidence*, 24 October 2006.

## RECOMMENDATION 26

**The Committee recommends that the federal government establish, fund and promote a 1-800 number that can be used both by NGOs to get more information and for victims of trafficking in persons who may be reluctant to contact police to get information about resources they can turn to for help.**

The Committee heard that determining what was involved in protecting victims was problematic. Shauna Paull from the Global Alliance Against Traffic in Women Canada pointed out a number of issues that needed to be considered:

What does protection entail? Who decides what constitutes protection? Will the enforcement community decide? Will NGOs decide? Will trafficked persons themselves decide? How much space is there for trafficked persons' voices in setting the agenda and determining what protection means for them and their futures? Why is it that protection and the prosecution of the trafficker are so often coupled? Is it possible to delink protection from prosecution in the name of truly humanizing this experience?<sup>83</sup>

These questions need to be borne in mind by all levels of government when considering how to address the concerns and needs of trafficking victims.

While the concern was raised with respect to what protection entails and who makes decisions relating to victim protection, there was consensus that services that were to be provided needed to be culturally appropriate, sensitive to the needs of women who have been sexually exploited, and available in the victim's language. All witnesses agreed that securing funding for these services was of paramount importance.

Witnesses indicated that one of victims' primary needs was housing. There was a general lack of availability of shelters, and spaces in shelters that were available were not necessarily suitable as they may not offer the protection victims required, nor would they have the support services required by traumatized victims. One witness suggested that it would be appropriate to have victims sheltered under the federal witness protection program; however, that program does not currently include trafficking victims.<sup>84</sup>

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<sup>83</sup> *Evidence*, 9 November 2006.

<sup>84</sup> Michel Hamel, Manager, Risk Management and Special Victims Unit, Sex Crimes Unit, Toronto Police Service, *Evidence*, 31 October 2006.

## RECOMMENDATION 27

**The Committee recommends that the federal government amend its policy with respect to the witness protection program so that victims of trafficking are allowed to participate in the witness protection program. The Committee also recommends that other jurisdictions consider expanding their witness protection programs to include trafficking victims.**

Housing was also identified as the primary challenge faced by those involved in investigating trafficking:

There seems to be no plan and/or protocol in place to provide immediate assistance to the victims of human trafficking. Shelters are available, but this would have to be on a short-term basis, and if there are issues of security, the shelters would have to be made aware of this, and most would decline to provide assistance. There are also serious liability issues from all those concerned.<sup>85</sup>

Sergeant Detective Monchamp relayed the story of a particular police investigation relating to a woman who had been sexually exploited by a biker gang. Following the police investigation, she was without resources, without family and without shelter. Police had made inquiries relating to shelter possibilities, but because she had a drug addiction and posed a risk due to the people she had associated with, they were unable to find a place for her.<sup>86</sup> She had nowhere to go.

Witnesses also stressed the need for programs and services for victims to include training and life skills components. Since the Committee is aware that many women may have ended up as trafficking victims as a result of their impoverished circumstances, women need to be provided with skills that will enable them to be economically independent. As Sergeant Lowe of the RCMP told the Committee,

[T]he biggest problem is that women need money, and they're going to do what they can to get it. Being self-sufficient, getting job training, getting extra schooling...anything like that would be beneficial, just to get them on their feet and proud of themselves for what they're doing.<sup>87</sup>

Such training will help to counter the inequality that leads victims into trafficking in the first place.<sup>88</sup>

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<sup>85</sup> Ibid.

<sup>86</sup> *Evidence*, 9 November 2006.

<sup>87</sup> *Evidence*, 3 October 2006.

<sup>88</sup> Chantal Tie, *Evidence*, 7 November 2006

With that in mind, and in keeping with Canada's commitment under the *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*,

## **RECOMMENDATION 28**

**The Committee recommends that, in consultation with provinces and territories, the federal government create immediate funding for services for trafficking victims, including safe interim housing, access to counselling and legal advice, and supportive social services.**

## **THE TEMPORARY RESIDENT PERMIT (TRP)**

Paragraph 1 of Article 7 of the Protocol provides that:

[E]ach State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.<sup>89</sup>

### **A. Background**

Almost all witnesses who appeared before the Committee discussed the establishment of a specific Temporary Resident Permit (TRP) for victims of trafficking in May 2006, which allows victims to stay in Canada for up to 120 days. The authority to issue TRPs is found in subsection 24(1) of the *Immigration and Refugee Protection Act (IRPA)*, and according to Citizenship and Immigration Canada's Inland Processing Manual IP1, which provides policy and procedural guidelines to CIC staff on TRPs, TRPs are to be used in cases where there are "compelling reasons...to allow a person who does not meet the requirements of the Act to enter or remain in Canada."<sup>90</sup> Officers may issue a TRP if "the need to enter or remain in Canada is compelling and sufficient to overcome the risk; and the risk to Canadians or Canadian society is minimal and the need for the presence in Canada outweighs the risk."<sup>91</sup> Generally, TRPs are valid for one to three years, and they can be extended or cancelled by an officer.<sup>92</sup> They allow applications for work or study permits and may give access to health or other social services.<sup>93</sup>

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<sup>89</sup> Article 7.1, *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*.

<sup>90</sup> At 5.1.

<sup>91</sup> *Ibid.*, 5.8.

<sup>92</sup> *Ibid.*, 5.3

<sup>93</sup> *Ibid.*, 5.7

The short-term TRP that, since May 2006, can be issued for trafficking victims is authorized under subsection 24(3) of the IRPA. The ministerial instructions regarding the issuance of temporary resident permits to victims of human trafficking<sup>94</sup> indicate that an officer who is conducting an assessment to determine if a foreign national is a victim of trafficking is justified in issuing the short-term permit “in cases where the officer is only able to make a preliminary assessment that the individual may be a victim of trafficking in persons.”<sup>95</sup> As the Committee heard from Brian Grant from Citizenship and Immigration Canada (CIC), the TRP for trafficking victims is “designed to help victims escape the influence of their traffickers, to identify the need for protection at that point and to begin to recover from their ordeal.”<sup>96</sup> While acknowledging that the TRP for trafficking victims is not a complete response to trafficking and related issues, Mr. Grant noted that it was a very important step:

We remove one source of anxiety from the victims and we remove one source of potential continuing victimization. They will not be removed from the country and they cannot be threatened with removal from the country.<sup>97</sup>

The TRP processing fee is waived for victims of trafficking, and during the TRP period, victims have access to the interim federal health program. Another positive feature of the TRP for trafficking victims is that in Canada, unlike other countries that have introduced measures to allow victims to remain in the country on a temporary basis, a victim is not required to assist authorities in investigations relating to the trafficker.

If it is determined to be in the best interests of the victim and Canada for the victim to remain in Canada beyond the 120 days, CIC immigration officers can issue a longer term TRP or a subsequent resident permit.<sup>98</sup> In considering whether a longer term TRP or a subsequent TRP should be issued where the officer’s investigation suggests that there are reasonable grounds to believe that the individual is a victim of trafficking, the ministerial instructions indicate that the following factors should be considered:

- Whether it is reasonably safe and possible for the victims to return to and to re-establish a life in the country of origin or last permanent residence.
- Whether the victims are needed, and willing, to assist authorities in an investigation and/or in criminal proceedings of a trafficking offence.

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<sup>94</sup> Citizenship and Immigration, IP 1 *Temporary Resident Permits*, Appendix G

<sup>95</sup> *Ibid.*, subsection 1(1).

<sup>96</sup> Director General, International and Intergovernmental Relations, *Evidence*, 31 October 2006.

<sup>97</sup> *Ibid.*

<sup>98</sup> *Evidence*, 31 October 2006.

- Any other factor that in the opinion of the officer justifies, in the circumstances, issuing a temporary resident permit.<sup>99</sup>

Victims can also apply for permanent residence under humanitarian and compassionate grounds<sup>100</sup>, or they can apply as a refugee.

Mr. Grant advised the Committee that as of the date of his appearance, five trafficking TRPs had been offered, but only one individual accepted the TRP. In the other cases, the victims chose to return home. He indicated that CIC had not been informed that any applications for TRPs by trafficking victims had been refused, and noted that “[CIC is] watching the implementation of this very closely and we’ve asked all immigration offices to refer every case of a potential victim to headquarters so that we can track anyone who’s coming through.”<sup>101</sup> He also stated that instructions given to immigration officers were to issue the permit “[i]f there is any question that a person is a victim.”<sup>102</sup>

## RECOMMENDATION 29

**Considering the fragile state and extreme vulnerability of victims of trafficking, the Committee recommends that Citizenship and Immigration Canada ensure that all of its officers who may come into contact with a victim and who may subsequently be involved in issuing a TRP have received specialized training that ensures that the victim will be treated with the sensitivity and compassion that the situation requires, and to ensure that the victims are not detained and made to feel like they are criminals.**

### B. Problems relating to the TRP

Witnesses who appeared before the Committee were critical of the trafficking victims’ TRP for a number of reasons, including:

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<sup>99</sup> Ministerial instructions, *Ibid.*, section 2.

<sup>100</sup> Except in certain circumstances, foreign nationals must apply for permanent resident status in Canada from outside of the country. Subsection 25(1) of the *Immigration and Refugee Protection Act* authorizes the Minister to grant permanent residence where it is justified on humanitarian and compassionate grounds or for reasons of public policy. The Inland Policy Manual relating to humanitarian and compassionate grounds indicates that foreign nationals who apply for permanent resident status from within Canada must prove that the hardship of obtaining a permanent resident visa from outside of the country would be unusual and undeserved or disproportionate (Citizenship and Immigration Canada, IP 5, *Immigrant Applications in Canada made on humanitarian or compassionate grounds*, 5.1, June 2005).

<sup>101</sup> *Evidence*, 31 October 2006.

<sup>102</sup> *Evidence*, 31 October 2006.

[T]he TRP is too short, and does not provide sufficient time to enable a victim to recover;<sup>103</sup>

[T]he TRP provides nothing beyond interim federal help;<sup>104</sup>

[T]he TRP provides no eligibility for work;<sup>105</sup>

[W]omen who have made applications “were scrutinized and interrogated for hours...in the same way that victims of domestic violence used to be asked, if you knew something was wrong, why did you not leave?”<sup>106</sup>

[I]f police officers conclude that someone is a victim of trafficking, the individual is directed to her embassy, and in at least once case, the victim was then exploited by her embassy;<sup>107</sup> and

[P]roviding the victim with housing is not part of the TRP.<sup>108</sup>

Deborah Isaacs expressed the frustration that NGOs were not consulted before the TRP guidelines were issued. In addition to problems with the TRP itself, a number of witnesses pointed out that there appeared to have been poor communication from CIC to the community with respect to basic information about the permit, such as what it entails, who is eligible for it, and how to apply for it. For example, the Committee heard from Danielle Strickland that

[O]n the ground level...it’s virtually impossible to find anyone who knows the TRP guidelines or how to go about applying for this permit. Literally, basic questions like how I apply, what’s covered, and who do I contact cannot be answered. And anyone I have found with the expertise, which is one person in all of Vancouver so far, recommends not using the TRP because of its inherent lack of provision.<sup>109</sup>

Jean Bellefeuille from the Comité d’action contre le trafic humain interne et international (CATHII) also noted that it is not clearly explained to victims that accepting the permit did not mean that they were then required to testify.<sup>110</sup>

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<sup>103</sup> Danielle Strickland, *Evidence*, 24 October 2006; Jean Bellefeuille, *Evidence*, 26 October 2006; Sue Wilson, Co-director, Office of Systemic Justice, Federation of Sisters of St. Joseph of Canada, *Evidence*, 5 December 2006

<sup>104</sup> Danielle Strickland, *Evidence*, 24 October 2006; Shauna Paull, *Evidence*, 9 November 2006.

<sup>105</sup> Danielle Strickland, *Evidence*, 24 October 2006; Jean Bellefeuille, 26 October 2006; Shauna Paull, *Evidence*, 9 November 2006.

<sup>106</sup> Shauna Paull, *Evidence*, 9 November 2006.

<sup>107</sup> Jean Bellefeuille, *Evidence*, 26 October 2006.

<sup>108</sup> Ibid.

<sup>109</sup> *Evidence*, 24 October 2006.

<sup>110</sup> *Evidence*, 26 October 2006.

Detective Sergeant Michel Hamel confirmed that in Toronto, the process of implementing the permit was not very clearly explained.<sup>111</sup> Ms. Tie also raised a number of questions with respect to the permit:

We need to know specifically how is the department defining real victims of trafficking. What does that mean? Does it include women who are in forced bondage, even if they may have thought they were consenting in the first place?

[W]e need to ask clearly how widely-known the availability of the visa is. We need to know whether women are specifically counselled when they are rounded up by the police. Have the police received adequate training on the availability? What strings are attached to the visa?...we need to know what other supports are being provided with the visa to assist the women... [and we also need to know] what the provisions for long-term protection are for those women .<sup>112</sup>

Ms. Tie also refuted the idea that victims would be able to successfully apply either for refugee status or for permanent status under humanitarian and compassionate grounds as had been suggested by Mr. Grant. With respect to refugee status, she pointed out that claims might not be available to trafficked women because, once a removal order has been made, you can no longer access the refugee division. With respect to humanitarian and compassionate grounds, Ms. Tie noted that the applications can take three years to be processed. She also noted that

[T]here are fees adhering to H and C applications that are beyond the resources of these women in many cases. The women would rarely qualify under the H and C criteria, sometimes for reasons related directly to their being trafficked, such as involvement in criminal activities, willingly or unwillingly, or inability to establish oneself within Canada if one has low skills. There is no access to legal advice for many of these types of applications.<sup>113</sup>

[Y]ou have no protection. So your three-month visa runs out and you still don't have your H and C application processed. What happens? Are you removed? There's no stay available. The Federal Court will not issue stays in most cases, and you can't get to the Federal Court without legal access to counsel.<sup>114</sup>

With respect to the need for the TRP to include a work permit, Sue Wilson from the Office of Systemic Justice provided the Committee with a stark example of why victims need to be permitted to work:

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<sup>111</sup> *Evidence*, 31 October 2006.

<sup>112</sup> *Evidence*, 7 November 2006.

<sup>113</sup> *Evidence*, 7 November 2006.

<sup>114</sup> *Evidence*, 7 November 2006.

Without [an] open work permit it's impossible to remove oneself from exploitation...[w]hen [the one woman who has received the TRP] told the CIC officer that she needed to work, he told her that his only option was to renew her exotic dancing visa, an option that left her extremely vulnerable to continued exploitation.<sup>115</sup>

### **RECOMMENDATION 30**

**The Committee recommends that the federal government review the TRP process for victims of trafficking in persons and establish a mechanism other than through humanitarian and compassionate grounds or seeking refugee status through which confirmed victims of trafficking can seek more permanent status in Canada. In its review of the TRP for victims of trafficking, the federal government should:**

- **increase the length of the initial TRP to 180 days;**
- **amend the TRP to provide victims with the ability to work; and**
- **ensure that the TRP provides that a victim's basic needs will be met during the 180 day period. These needs include, but are not limited to, housing, and access to health and social services.**

Finally, Mr. Dandurand cautioned that, while it may be desirable to establish a means through which victims of trafficking can access permanent resident status in Canada, authorities would need to be vigilant in its application:

A mechanism has to be found to enable us to know whether such people are actually victims or not. If we open the doors wide and say that anyone who declares herself a victim is welcome in Canada, there will be a flood of people wanting to immigrate illegally to Canada who will declare themselves victims. We have to be careful because it could actually work against victims.<sup>116</sup>

### **DETENTION OF TRAFFICKING VICTIMS**

The Committee emphasizes that prosecution must focus solely on prosecuting the traffickers, not criminalizing the victims. Throughout all stages of prosecution, the victims involved must be treated as victims, regardless of whether or not they feel sufficiently secure and supported to participate in the prosecution of individuals responsible for their victimization.

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<sup>115</sup> *Evidence*, 5 December 2006.

<sup>116</sup> *Evidence*, 3 October 2006.

During her appearance before the Committee, Shauna Paull from the Global Alliance Against Traffic in Women Canada noted:

To date, laws to address human trafficking in Canada remain largely unresponsive to the protection of the human rights of trafficked persons. The *Immigration and Refugee Protection Act* contains within it measures for more vigilant border surveillance, penalties for punishing smugglers and traffickers, and enhanced powers of detention and deportation. Within the [Regulation], in paragraph 245(f), for example, immigration officers are directed to detain those who may be involved with traffickers. This implicit contradiction between values of protection and what appears to be a direction toward protective detention reveals the privileging of prosecution over protection of trafficked persons.<sup>117</sup>

As noted in the introduction to the report, the Committee recognizes that the prevention of human trafficking and the prosecution of traffickers require better protection for trafficking victims.

### **RECOMMENDATION 31**

**The Committee recommends that the federal government review and amend section 245(f) of the *Immigration and Refugee Protection Regulations* to eliminate a victim having been under the control or influence of traffickers as a factor indicating that the victim is more likely to require detention.**

Law enforcement and prosecution must also be aware that criminal prosecutions may increase the vulnerability of trafficking victims. As Ms. Tie told the Committee,

[I]n many of the instances [victims] are working in sex trade industries, and the criminal nature of the organizations that control the industries themselves put the...[victims] at greater risk...the traffickers themselves use the threat of exposure, either criminal or immigration exposure, as a means to enforce the control over their victims...ironically, the greater control and enforcement mechanisms, the greater the prosecutions, the harder it is going to be to protect the victims themselves.<sup>118</sup>

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<sup>117</sup> *Evidence*, 9 November 2006.

<sup>118</sup> *Evidence*, 7 November 2006.



## CHAPTER 5: PROSECUTION

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The Committee supports the third “P” of prosecution, but recognizes that prosecution is dependant on the protection of victims and the respect of their human rights.

### RESOURCES FOR POLICE

The Committee heard from law enforcement officials that both increased human resources (for RCMP and non-RCMP jurisdictions) as well as financial resources to police departments were needed to facilitate proactive policing and investigations into trafficking in persons cases. With respect to human resources, Sergeant Lowe of the RCMP noted that more officers were needed to conduct investigations, to actively seek out victims, and to provide protection to the victims that are discovered.<sup>119</sup>

Law enforcement officials who appeared before the Committee pointed out that, due to the complexity of trafficking cases, significant resources are needed to conduct thorough investigations. Failure to provide funding to police agencies could mean that effective investigations are threatened.<sup>120</sup> Investigations might require travel to a victim’s country of origin, as was needed in one case that was investigated by the Vancouver Police Department, to verify the details of an alleged victim’s story.<sup>121</sup> In that particular instance, the investigation revealed that the alleged victim was actually a party to the offence, but only by travelling to the alleged victim’s country was this confirmed.

The first case that resulted in the laying of charges under the trafficking in persons provisions of the *Immigration and Refugee Protection Act* provides a concrete example of the financial cost and human resources involved in investigating a trafficking in persons offence. Sergeant Matt Kelly, of the Vancouver Police Department, informed the Committee that in the case against Michael Ng, the vice unit focused exclusively on that case for six months:

That was one sergeant and eight detective constables for two victims of human trafficking — a quarter of a million dollars and all of our time, going 24/7, for two people. That’s how much has to be invested in these types of files.<sup>122</sup>

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<sup>119</sup> Evidence, 3 October 2006.

<sup>120</sup> Sergeant Matt Kelly, Vice Unit, Vancouver Police Department, Evidence, 31 October 2006.

<sup>121</sup> Detective Constable Michelle Holm, Vice Unit, Vancouver Police Department, Evidence, 31 October 2006.

<sup>122</sup> Evidence, 31 October 2006.

The effect of the decisions made by police departments in allocating resources was highlighted by Sergeant Detective Monchamp of the Montreal Police, who told the Committee that while Ontario at one time had a child exploitation unit, the unit was restructured to focus exclusively on child pornography, and the parts of the unit that related to child prostitution were dismantled. Because of these sorts of decisions, units relating to child prostitution continually have to justify and explain why their investigations are so demanding.

As a comparison, he noted that while there were only eight investigators in the Commercial Sexual Exploitation of Children unit for the Island of Montreal, there were 60 officers assigned to investigate drug related activities. As a result, a significant amount of expertise relating to investigating drug offences had been acquired. Unfortunately, police experts in child sexual exploitation are so few that they are unable to take the time to train others, so their expertise is not easily shared.

The availability of resources at the provincial level is critical, as many components involved in the investigation into and support of trafficked victims are provincial responsibilities. The provincial nature of responsibility also suggests that strong federal-provincial coordination “and a clear road map on how they’re going to work together to address this problem”<sup>123</sup> needs to be a priority of all levels of government. Cooperation between provinces and territories is also essential, considering the movement across provincial borders that is often inherent to the offence. With that in mind,

### **RECOMMENDATION 32**

**The Committee recommends that the federal government increase resources for dedicated, multi-jurisdictional units to investigate potential trafficking offences.**

### **EDUCATION AND TRAINING FOR PROSECUTORS AND JUDGES**

While some witnesses stressed that existing legislation in Canada needed to be strengthened and amended, other witnesses suggested that the barriers to combating trafficking in persons in Canada resulted from the failure to enforce the laws that Canada does have. For example, Jamie McIntosh from the International Justice Mission Canada told us that

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<sup>123</sup> Yvon Dandurand, Senior Associate, International Centre for Criminal Law Reform & Criminal Justice Policy, *Evidence*, 3 October 2006.

[T]he greatest single gap in Canadian and international efforts in combating trafficking is in the enforcement of existing laws. Our anti-trafficking laws need to be vigorously enforced to provide any real protection for the victims...Unless [traffickers] feel the weight of the law, unless traffickers are arrested, prosecuted, convicted, and sentenced, they will not be deterred.<sup>124</sup>

As mentioned earlier, it is very difficult for the trafficking in persons provisions in the *Criminal Code* to be enforced if police are not aware of how to use them. But the need for education goes beyond the level of police. Just as we heard from witnesses that police needed access to more education and training relating to trafficking in persons in general as well as specific training on the trafficking in persons provisions in the *Criminal Code*, we also heard that this education needs to be done at the level of prosecutors and judges.<sup>125</sup> Sergeant Matt Kelly indicated that they were currently working on a trafficking file, but that they were having difficulty with the prosecutor. Gunilla Ekberg for the Canadian Feminist Alliance for International Action noted that it was important that police, judges and prosecutors be educated not only with respect to the legislation, but that they also need to be given an understanding of the victims and their circumstances.<sup>126</sup>

Problems may also be encountered if a case does proceed to trial but is presided over by a judge who has little understanding of either the *Immigration and Refugee Protection Act* (IRPA) trafficking in persons provisions or the *Criminal Code* provisions, or of trafficking in persons in general. As there has not yet been a decision in the Michael Ng case in Vancouver, which is the first case involving charges under the IRPA trafficking in persons provisions, there is little means of determining whether judges in Canada have comprehensive knowledge relating to trafficking in persons.

### **RECOMMENDATION 33:**

**The Committee recommends that the federal government consult with national and provincial bar associations and the National Judicial Institute to establish a strategy to increase the legal community's awareness of victims of trafficking and to improve and encourage continuing legal education relating to trafficking in persons.**

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<sup>124</sup> Director, *Evidence*, 5 December 2006.

<sup>125</sup> *Evidence*, 31 October 2006.

<sup>126</sup> Researcher on Trafficking in Human Beings, *Evidence*, 5 December 2006.



## CHAPTER 6: CONCLUSION

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The Committee fully supports Mr. Malarek's assertion that Canada is placed to take the lead role on this issue. As Mr. Malarek said,

Canada has always had a stellar role on human rights around the world...We stand up for the dignity of women. We stand up for the dignity of children. We stand up for the dignity of senior citizens. We stand up for these issues. It's important that we continue to stand.<sup>127</sup>

The Standing Committee on the Status of Women invites all parliamentarians, and all Canadians, to stand up for victims who are trafficked for the purpose of sexual exploitation by supporting our recommendations and urging the federal government to take whatever steps are necessary to implement them.

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<sup>127</sup> *Evidence*, 23 November 2006.



## REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this report.

A copy of the relevant Minutes of Proceedings of the Standing Committee on the Status of Women ([Meetings Nos. 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 29, 30, 34 and 37](#)) is tabled.

Respectfully submitted,

Yasmin Ratansi, MP  
Chair



## APPENDIX A : LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<p><b>Royal Canadian Mounted Police</b></p> <p>Lori Lowe, National Coordinator for Human Trafficking, Immigration and Passport Branch, Border Integrity, Federal and International Operations</p>	2006/10/03	14
<p><b>University College of the Fraser Valley</b></p> <p>Yvon Dandurand, Senior Associate, International Centre for Criminal Law Reform &amp; Criminal Justice Policy</p>		
<p><b>Department of Foreign Affairs</b></p> <p>Adèle Dion, Director General, Human Security and Human Rights</p>	2006/10/17	16
<p><b>Department of Justice</b></p> <p>Carole Morency, Senior Counsel, Criminal Law Policy Section</p>		
<p><b>University of New Brunswick</b></p> <p>Leslie Ann Jeffrey, Associate Professor, Department of History and Politics</p>	2006/10/19	17
<p><b>University of Ottawa</b></p> <p>Richard Poulin, Full Professor, Department of Sociology and Anthropology</p>		
<p><b>National Organization of Immigrant and Visible Minority Women of Canada</b></p> <p>Mirjana Pobric, Project Coordinator Shandip Saha, Researcher</p>	2006/10/24	18
<p><b>Salvation Army</b></p> <p>Danielle Strickland, Captain</p>		
<p><b>Comité d'action contre le trafic humain interne et international</b></p> <p>Jean Bellefeuille, Member Aurélie Lebrun, Member and Researcher</p>	2006/10/26	19
<p><b>International Labor Organization</b></p> <p>Armand Pereira, Director, Washington Office</p>		

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>International Organization for Migration</b> Niurka Piñeiro, Regional Coordinator, Media and External Relations Vivita Rozenbergs, Head, Counter Trafficking Unit	2006/10/26	19
<b>Canada Border Services Agency</b> Kimber Johnston, Director General, Policy and Program Development Directorate	2006/10/31	20
<b>Department of Citizenship and Immigration</b> Brian Grant, Director General, International and Intergovernmental Relations		
<b>Toronto Police Service</b> Michel Hamel, Manager, Risk Management and Special Victims Unit, Sex Crimes Unit Kim Scanlan, Detective Sergeant, Child Exploitation Section, Sex Crimes Unit		
<b>Vancouver Police Department</b> Michelle Holm, Detective Constable, Vice Unit Matt Kelly, Sergeant, Vice Unit		
<b>Concertation des luttes contre l'exploitation sexuelle</b> Rhéa Jean, Doctorand in Philosophy, University of Sherbrooke Diane Matte, Ex-Coordinator, International Secretariat	2006/11/02	21
<b>Help Us Help The Children</b> Irena Soltys, Coordinator		
<b>Native Women's Association of Canada</b> Erin Wolski, Research Coordinator		
<b>Panache Model and Talent Management</b> Liz Crawford		
<b>National Association of Women and the Law</b> Chantal Tie, Lawyer	2006/11/07	22
<b>Global Alliance Against Traffic in Women Canada</b> Shauna Paull, Member	2006/11/09	23

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Montreal City Police Service</b> Dominic Monchamp, Sergeant Detective, Supervisor of Investigations Module (E.S.E.C.), Commercial Sexual Exploitation of Children, Vice and Alcohol West	2006/11/09	23
<b>Coalition Against Trafficking in Women - International</b> Barbara Kryszko, Coordinator, Action Alert	2006/11/21	24
<b>Separated Children Intervention and Orientation Network</b> Deborah Isaacs, Project Coordinator, Sisters of Our Lady of Charity of the Good Shepherd		
<b>The Future Group</b> Benjamin Perrin, Advisor to the Board		
<b>Ukrainian Canadian Congress</b> Irene Sushko, National President		
<b>As an Individual</b> Victor Malarek	2006/11/23	25
<b>Canadian Feminist Alliance for International Action</b> Gunilla Ekberg, Researcher on Trafficking in Human Beings	2006/12/05	27
<b>Federation of Sisters of St. Joseph of Canada</b> Joan Atkinson, Co-director, Office for Systemic Justice Sue Wilson, Co-director, Office of Systemic Justice		
<b>International Justice Mission Canada</b> Jamie McIntosh, Executive Director Hiroko Sawai, Research Associate		
<b>As an Individual</b> Gunilla Ekberg, Expert on trafficking in human beings	2007/02/06	34
<b>Swedish National Police</b> Kajsa Wahlberg, Rapporteur, National Criminal Intelligence Service		
<b>The Future Group</b> Benjamin Perrin, Advisor to the Board		
<b>University College of the Fraser Valley</b> Yvon Dandurand, Senior Associate, International Centre for Criminal Law Reform & Criminal Justice Policy		



## **APPENDIX B : LIST OF BRIEFS**

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### **Organizations and Individuals**

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BC's Human Trafficking Response Initiative

Coalition Against Trafficking in Women - International

Ekberg, Gunilla

Federation of Sisters of St. Joseph of Canada

Help Us Help The Children

Home Horizon

International Justice Mission Canada

International Labor Organization

International Organization for Migration

National Organization of Immigrant and Visible Minority Women of Canada

Salvation Army

Separated Children Intervention and Orientation Network

The Future Group

UNICEF Canada

University College of the Fraser Valley



## ***Bloc Québécois Dissenting Opinion***

### **Context**

The Bloc Québécois wishes to thank all individuals and groups from Quebec and Canada who appeared before the Committee. The expertise and concerns shared by various witnesses on the serious matter of human trafficking reminds us that we must take action, both as citizens and as legislators. The Committee's work on this matter highlights the urgent need for solutions.

While the report on human trafficking makes recommendations that are generally appropriate and necessary, the report unfortunately goes off in too many directions, and its study of the matter was too brief.

While the Bloc Québécois appreciates the Committee's intent, it cannot subscribe to all the report's recommendations and must express its objections. In our opinion, the recommendations pertaining specifically to trafficking (recommendation 12 onward) are valid and we support them. We must however express our reservations about some of the first recommendations.

### **Jurisdiction**

In the first recommendation, the Committee proposes a national framework to address poverty. This may at first glance seem worthwhile, but we must bear in mind that social assistance falls under the jurisdiction of the government of Quebec and the provinces, and this is where the battle must be fought.

The Bloc Québécois requested the following amendment to Recommendation 1:

*The Committee recommends that the federal government provide sufficient support to the provinces and territories that have adopted a policy to address poverty.*

Our recommendation was not accepted. Quebec's National Assembly passed a bill in December 2002 entitled *An Act to Combat Poverty and Social Exclusion*. The federal government must provide support for the provinces' efforts and wishes and not guidance. This is why the current wording of Recommendation 1 does not in any way reflect Quebec's interests or those of the victims of trafficking, but instead stems from a strong centralist trend in Ottawa.

The federal government's responsibility to provide sufficient support in the form of financial assistance to help the provincial and Quebec governments fight human trafficking is strictly speaking not reflected in the Committee's recommendations, except as regards cooperation among police services.

## **Difficult issue of sexual exploitation**

The Committee also considered the issue of sexual exploitation at length. While the cause-effect relationship between sexual exploitation and trafficking is undeniable, and although the Bloc Québécois is opposed to all forms of sexual exploitation, we consider the recommendations on this matter to be hasty and insufficiently documented.

The Sub-Committee on Solicitation spent over three years on the issue of solicitation alone and was unable to reach a consensus on the difficult issue of prostitution. We consider it hasty to arrive at a final decision after hearing less than three months of evidence on the issue.

*“The divergence between members’ views on prostitution is often philosophical. This is certainly one of the major impediments for the Subcommittee to finding consensus on how to address adult prostitution.”<sup>1</sup>*

The report makes value judgments on prostitution and is condescending at times, especially in Recommendation 6. The Bloc Québécois opposes sexual exploitation and regards prostitution as a form of it. In our opinion however criminalizing the purchasing of sexual services would not solve the problem; on the contrary, this could increase the risk of assault relating to these practices, which are already dangerous enough.

## **Conclusion**

By trying to do too much too quickly, the Committee has overlooked some aspects of the issue and we are unable to support the report in its current form.

The Bloc Québécois considers these matters to be extremely important for the safety of women, gender equality and the type of society in which we would like to live.

This is why the scope of the Committee’s study should either have been limited or the time allotted for this study increased. This was unfortunately not the case.

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<sup>1</sup> The Challenge of Change: A Study of Canada’s Criminal Prostitution Laws, December 2006. Report of the Sub-Committee on Prostitution Laws of the Standing Committee on Justice and Human Rights.