



BUREAU  
INTERNATIONAL  
DES DROITS DES ENFANTS

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BUREAU  
FOR CHILDREN'S RIGHTS

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LOS DERECHOS DEL NIÑO

# Strategic Action Plan for the Protection of Victims of Child Trafficking in Quebec

## Part I

RESEARCH PAPER

FINAL COPY

Written by:

Mélanie M. Gagnon, Ph.D.  
Associate Researcher

Catherine Gauvreau, LL.B.  
Programme Manager

Under the direction of:

Jean-François Noël, LL.B., LL.M.  
Director General

February 2007



**Publication**

International Bureau for Children's Rights  
1185 Saint-Mathieu St., Montreal (Quebec) H3H 2P7  
514-932-7656

For additional information relating to this document, please contact:  
Catherine Gauvreau, 514-932-7656 ext. 223; e-mail: [c.gauvreau@ibcr.org](mailto:c.gauvreau@ibcr.org)  
[www.ibcr.org](http://www.ibcr.org)

ISBN 0-9738554-3-6 (ISBN 978-0-9738554-3-2)

Legal deposit – Bibliothèque nationale du Québec, 2007  
Legal deposit – Library and Archives Canada, 2007

This document has been translated from French by TTPSP (Montreal, Canada). Original title: *Stratégie d'action en matière de protection des droits des enfants victimes de la traite au Québec – Volet 1*

**Note**

*In this document, the masculine is used indiscriminately, for the sole purpose of readability. Furthermore, it reinforces the anonymity of those who provided the data.*



## Acknowledgements

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The International Bureau for Children's Rights would like to sincerely thank the following people on the multidisciplinary advisory committee: Maryse Plamondon and Joëlle Safadi from Public Safety and Emergency Preparedness Canada; Lyne Landry, Ann Joly and Guylène Le Clair from Canada Border Services Agency; Annie Lafleur and Bethany Or from Citizenship and Immigration Canada; Aicha El Haili from the Ministère de l'Immigration et des Communautés culturelles (Québec); Annie-Ève Girard from the Ministère de la Santé et des Services sociaux (Québec); Linda Veillette from the Ministère de la Sécurité publique (Québec); Linda Brosseau from the Royal Canadian Mounted Police; Christiane Mimar from the Sûreté du Québec; Michelle Côté from the Montreal Police Service; Nadia Gerspacher from the International Centre for the Prevention of Crime; Sherry Lewis and Erin Wolski from the Native Women's Association of Canada; Shelagh Roxburgh, in her individual capacity; as well as Jean-Marc Potvin and Raymond Labelle from the Centres jeunesse de Montréal-Institut universitaire, Luc Demers from the Association des centres jeunesse du Québec; Robert Ratelle from the Ministère de l'Immigration et des Communautés culturelles (Québec); Jacques Dumais from the Ministère de la Santé et des Services sociaux (Québec); Jean-Martin Gauthier from the Ministère de la Sécurité publique (Québec); Richard Saint-Denis from the International Centre for the Prevention of Crime; Robert Naylor from the Programme régional d'accueil et d'intégration des demandeurs d'asile; Sister Deborah Isaacs from Separated Children's Intervention & Orientation Network; Sergeant Sylvain Bessette from the Sûreté du Québec; Martine Bérubé, Ana-Marina Ionescu and Jean Turmel from the Ministère de la Justice du Québec.

We would also like to particularly thank Clara Chapdelaine Feliciati who was the programme manager from January to September 2005, as well as Julie Vinet-Thibault for conducting the interviews and coding the results of the study.

We would also like to thank Louise Gagné for her invaluable commitment (collaboration on planning, writing and revising the report and links to the community), Luc Ouimet, Director of Administration for the International Bureau for Children's Rights (collaboration on planning and writing the provisional financial statements).

We are grateful to the people who did their internship with our team: Fadwa Benbarek (verbatim transcriptions, research on best practices and literature review), Lianne Blanchette (legal analysis), Macrine Cattelain (revision of the report), Sarah Clarke (interviews, links to the Aboriginal community, verbatim transcriptions and literature review), Diana Draganova (drafting of the summary), Marie-Noëlle L'Espérance (research on best practices and contacts for interviews), Mounira Moustapha (verification of the quotations and revision of the report), Maja Muftić (verbatim transcriptions, literature review and research on best practices), Florence Pham (literature review, verification of the quotations and translation), Dorothée Philippon (research on best practices), Océane Plockyn (verbatim transcriptions), Ombeline Soulier Dugénie (verbatim transcriptions), Jocelyn Tatebe (research on best practices, verification of the quotations and revision of the report) and Lisa Weich (legal analysis, research on best practices and verbatim transcriptions) as well as Assanga Pathmasiri (research on best practices and contacts for interviews).

We would like to highlight the contributions from the following volunteers: Marleah Blom (revision of the report), Christina Cabral (translation), Sylvie Fortin (research), Thérèse Gauvreau (revision of the report), Aidan Jeffery (revision of the report), Dominique La Rochelle (revision of the report), Maïté Parr (translation), Nadja Pollaert (revision of the report) and Tania Wihl (revision of the report) as well as Marcel Gauvreau (verbatim transcriptions and revision of the report).

We are equally grateful to Julie Blanc and Catherine Vinet-Gasse for their verbatim transcriptions, Suzanne Taillon (C.A.C. International) for the layout and to Jean Beaudoin (C.A.C. International) for the final revision of the report.

Also, special thanks to those who accepted to be interviewed. Without their collaboration, this study would not have been possible.

For the translation into English of this document, we would like to thank Marlene Menzies, Patrick Bolland (Tradscium) and François Riguet (TTPSP).

And finally, our sincere thanks to Public Safety and Emergency Preparedness Canada (Québec division) through the National Crime Prevention Strategy, for their financial support for this research project.

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## Introduction

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The International Bureau for Children's Rights is pleased to present the results from the first part of the *Strategic Action Plan for the Protection of Victims of Child Trafficking in Quebec* project. This study is part of an action research that aims to develop a better understanding of child trafficking and improve the efficiency of intervention practices. It is a collective effort led by a multidisciplinary team and includes both a research and an action strategy.

This research paper is the first publication of our global strategy, which comprises three general objectives: to improve the protection of child victims of trafficking, to prevent child trafficking and to reduce crime by gaining a better understanding of this problem.

The project began by collecting data on current knowledge regarding children who are victims of trafficking and on the preventative, protective, reintegration and prosecution measures. Then, concerned parties at the local, regional and provincial levels were given the opportunity to share information about their practices and experiences as well as express their concerns and needs. As of January 2006, we have concentrated all our work on these two areas of research. During the spring 2007, recommendations will be formulated in preparation for the second part of the project, which will involve developing and implementing an action plan designed to meet the needs that were identified during the first part.

This study on child trafficking is the first to address the situation in Quebec and to identify the needs of its victims. Furthermore, a multidisciplinary committee of experts was formed to assist the research team and to periodically assess the work that has been done. This committee forms a link with people and groups concerned with different aspects of child trafficking in Quebec, and it provides viable support by guiding the project through subsequent steps and making sure the information that is collected is relevant.

This study uses the Palermo Protocol's definition for trafficking in persons, which defines trafficking as:

*the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.<sup>1</sup>*

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<sup>1</sup> *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, adopted at the United Nations General Assembly under resolution 55/25, entered into force on September 9, 2003, paragraph a) of Article 3 (commonly known as the "Palermo Protocol").

As outlined in the *Convention on the Rights of the Child*,<sup>2</sup> the term “child” refers to any person below the age of 18. This report also uses the terms “youth”, “adolescent” and “minor” to refer to this same age group.

Throughout this report, a distinction is made between internal and external trafficking. The former refers to the phenomenon of children being displaced within Quebec or to other locations within Canada, whereas the latter refers to a situation in which a child has to cross the Canadian border to enter Quebec.

This report is divided into three parts: (1) a review of the existing literature on child trafficking throughout the world, particularly in Quebec and the rest of Canada; (2) a presentation of the results from interviews with the concerned parties; and (3) a discussion of the results in the light of the literature review.

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<sup>2</sup> *Convention on the Rights of the Child*, adopted under resolution 44/25 at the General Assembly on November 20, 1989. The Government of Canada ratified this Convention on December 12, 1991, that is fifteen months after its entry into force on September 2, 1990. Today, only Somalia and the United States of America have not ratified this Convention.

## PART I: LITERATURE REVIEW

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The first part of this report is an analysis of existing documentation on child trafficking throughout the world and focuses on its realities in Quebec and in the rest of Canada. More specifically, it presents the situation pertaining to child trafficking, including its definition, associated risk factors and consequences. We conclude the report with responses given by the international community, Canada and Quebec.



# 1 Child Trafficking: Description of the situation

## 1.1 Overview

Although child trafficking is not a recent phenomenon, over the past decade this problem has increased to a very disturbing level.<sup>3</sup> There is currently very little reliable data on the exact number of people, let alone children, who are victims of trafficking throughout the world. This is mainly due to its clandestine and illegal nature, the difficulty in identifying child victims and the lack of political will in certain governments to prioritize anti-trafficking campaigns.<sup>4</sup> The U.S. Department of State estimates that there are 600,000–800,000 victims of trafficking in the world each year,<sup>5</sup> whereas the United Nations estimates that there are as many as 4 million victims each year.<sup>6</sup> Similarly, there is no consensus on a number that represents only children, although UNICEF estimates that 1–1.2 million children are victims every year.<sup>7</sup> Most authors agree however, that over half the victims of trafficking are involved in sexual exploitation.<sup>8</sup>

The vast majority of countries is not immune to the problem of human trafficking. Across the world, countries act as places of origin, transit and/or destination for victims of trafficking.<sup>9</sup> The usual course for trafficking in persons is from southern countries to northern ones, but it can also occur between southern countries<sup>10</sup> or even within one country. The main countries of origin are in South and Southeast Asia. Since the fall of the Soviet Union, countries in the former USSR and in Eastern and Central Europe have become the second major group of countries of origin. The third group consists of countries in Latin America and the Caribbean, while African countries form the last group.<sup>11</sup>

In a recent report from the United Nations entitled *Trafficking in Persons: Global Patterns*,<sup>12</sup> Canada is considered to be a country of destination. Most cases have been identified in British Columbia, Ontario and Quebec. There is very little research that provides quantitative data on child victims of trafficking in Canada, and most studies make no distinction between women and young girls in their statistics.

A 2004 U.S. government report states that Canada is primarily a country of destination and transit for sex trafficking of women from China, Thailand, Cambodia, the Philippines, Latin America and Eastern Europe. To a lesser extent, other trafficking victims brought into Canada are destined for forced labour, while some Canadian citizens are victims of sex trafficking within the country.<sup>13</sup>

<sup>3</sup> Patricia BIBES, *The Status of Human Trafficking in Latin America*, p.1.

Available online at: <http://www.american.edu/traccc/resources/publications/bibes01.doc>.

<sup>4</sup> IOM report (April 2000), *New IOM Figures on the Global Scale of Trafficking*, "Trafficking in Migrants Quarterly Bulletin", No.23.

<sup>5</sup> U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, *Trafficking in persons Report*, June 2004. Available at: <http://www.state.gov/g/tip/rls/tiprpt/2004/34021.htm>.

<sup>6</sup> Richard POULIN, *La mondialisation des industries du sexe. Prostitution, pornographie, traite des femmes et des enfants*, 2004, p.68.

<sup>7</sup> Chris BEYRER, *Global Child Trafficking*, "The Lancet", Vol. 364, December 2004.

<sup>8</sup> *Ibid.*, p.69; U.S Department of State, loc.cit. note 5.

<sup>9</sup> Linda SMITH and Mohamed MATTAR, *Creating International Consensus on Combating Trafficking in Persons: U.S. Policy, the Role of the UN, and Global Responses and Challenges*, "The Fletcher Forum of World Affairs", vol.28, winter 2004, p.158.

<sup>10</sup> Janie CHUANG, *Redirecting the Debate over Trafficking in Women: Definitions, Paradigms, and Contexts*, "Harvard Human Rights Journal", vol.11, 1998, p.68.

<sup>11</sup> Richard POULIN, op.cit. note 6, p.76.

<sup>12</sup> UNODC report, April 2006, *Trafficking in Persons: Global Patterns*.

<sup>13</sup> U.S. State Department - Office to Monitor and Combat Trafficking in Persons, *Country Narratives: Western Hemisphere, Trafficking in Persons Report*, June 14, 2004. Available online at: <http://www.state.gov/g/tip/rls/tiprpt/2004/>

A recent study states that the Royal Canadian Mounted Police (RCMP) estimates that 800 people are trafficked annually in Canada. It also estimates that 1,500–2,200 persons pass through Canadian borders to the United States.<sup>14</sup> According to this same study, victims of trafficking in Canada come from various countries, but most are from Asia and the former USSR. According to a 2004 preliminary report on child trafficking in Canada, the victims' country of origin varies, depending on whether they are destined for Eastern or Western Canada. In Montreal and Toronto, most victims are from Eastern Europe, the Caribbean and Africa, whereas in Vancouver they originate mostly from Southeast Asia and Latin America.<sup>15</sup>

The *Coalition Against Trafficking in Women* states that roughly one hundred Honduran children, mostly boys, were brought to Vancouver to be used as drug pushers on the local market.<sup>16</sup> There are also reports on the exploitation of young Honduran girls brought to Vancouver to work as prostitutes.<sup>17</sup>

Child trafficking victims are usually brought to large North American cities such as Toronto, Vancouver, New York, Seattle and Las Vegas, as well as to Hawaii. Children recruited into juvenile prostitution rings are usually 14 to 16 years old,<sup>18</sup> although some believe the average age is 13.<sup>19</sup>

According to a recent study done in Quebec,<sup>20</sup> commercial sexual exploitation of children is a hidden phenomenon that takes place mainly in hotel rooms or apartments. Most victims are under 14 years of age and are used in the child pornography industry. According to this same study,<sup>21</sup> there are more female than male victims; however, the author notes that there is very little specific information on prostitution involving boys.

Since the collapse of the Eastern Bloc, Canada has become a coveted destination for girls from Hungary, Russia, Romania, Lithuania, Moldova, Ukraine, Belarus, Poland and the former Czechoslovakia. Images of Canada broadcast overseas paint a picture of a better life where one can live freely and without financial concerns.<sup>22</sup> This idealized portrait contributes to the vulnerability of young women and girls who wish to immigrate to Canada.<sup>23</sup>

At the moment, there is very little information on child trafficking originating in Canadian Aboriginal communities. The youth in these communities represents approximately 8% of all Canadian children.<sup>24</sup> In a 2004 study, 30%–40% of the victims of commercial sexual exploitation in Alberta and British Columbia

<sup>14</sup> J. OXMAN-MARTINEZ, M. LACROIX and J. HANLEY, *Les victimes de la traite des personnes : points de vue du secteur communautaire canadien*, August 2005.

<sup>15</sup> International Bureau for Children's Rights, *Trafficking in Children in Canada: Preliminary assessment*, report completed for the Department of Justice Canada, March 2004.

<sup>16</sup> Factbook on Global Sexual Exploitation, Canada. Available online at: <http://www.uri.edu/artsci/wms/hughes/canada.htm>

<sup>17</sup> Ibid.

<sup>18</sup> Renata AEBI, *The Trafficking in Children for the Purpose of Prostitution: British Columbia, Canada*, prepared for the National Judicial Institute, International Instruments and Domestic Law Conference, Montréal, November 9–12, 2001. Available online at: [http://www.harbour.sfu.ca/freda/articles/traf1.htm#N\\_19\\_](http://www.harbour.sfu.ca/freda/articles/traf1.htm#N_19_)

<sup>19</sup> Mark HECHT, *From Stockholm to Yokohama: Commercial Sexual Exploitation of Children in Canada and Beyond*, presented at the B.C. Forum on Child and Youth Sexual Exploitation. New Westminster, British Columbia, Canada, November 16, 2001.

<sup>20</sup> Michelle CÔTÉ, *Portrait de l'exploitation sexuelle des enfants à des fins commerciales, L'initiative du Service de Police de la Ville de Montréal*, corporate report, March 2004.

<sup>21</sup> Ibid.

<sup>22</sup> L. McDONALD, *Les travailleuses migrantes du sexe originaires d'Europe de l'Est et de l'ancienne Union soviétique : le dossier canadien*, Ottawa, Status of Women Canada, 2000.

<sup>23</sup> IOM report, 2003, Monica ALEXANDRU and Sebastian LAZAROIU, *Who Is the Next Victim? Vulnerability of Young Romanian Women to Trafficking in Human Beings*, Bucharest; INTERNATIONAL HUMAN RIGHTS LAW INSTITUTE, In *Modern Bondage: Sex Trafficking in the Americas. Central America and the Caribbean*, Chicago, De Paul University College of Law, 2005.

<sup>24</sup> Cindy BLACKSTOCK, *First Nations Child and Family Services: Restoring Peace and Harmony in First Nations Communities*, "Child Welfare Connecting Research, Policy and Practice", Kathleen Kufeldt and Brad McKenzie (Eds), Wilfrid Laurier University Press, Waterloo, 2003.

were from Aboriginal communities.<sup>25</sup> In a study on the Canadian community sector,<sup>26</sup> relevant authorities in Winnipeg state that most victims of trafficking in their city are Aboriginal. The authors note that victims often come from reserves located in northern British Columbia, Alberta and Quebec. Some authors state that most of these youths are girls and that their average age is 15; however, victims as young as 11 have been reported.<sup>27</sup>

## 1.2 Traffickers

Different types of highly structured criminal organizations are said to be involved in all stages of the trafficking process.<sup>28</sup> Considering that there is little tangible evidence to support this contention, Sanghera points out that it is wrong to assume that trafficking is entirely or almost completely run by organized crime.<sup>29</sup> He adds that, according to preliminary studies conducted in South Asia, traffickers' careers are short-lived, they typically work alone and they operate within the framework of personal contacts or family circles.<sup>30</sup>

Furthermore, it is reported that some actors in the private sector are involved in child trafficking. These individuals work mainly in the transportation, tourism and entertainment industries.<sup>31</sup> Some researchers also note that governments and their representatives sometimes act as accomplices in operations run by traffickers,<sup>32</sup> which could explain, in part, the victims' mistrust of authorities and their reluctance to speak out and co-operate during investigations.<sup>33</sup>

## 1.3 Traffickers' Recruiting Methods

With respect to trans-border trafficking, some suggest that traffickers in developing countries lure their victims with enticing promises of well-paying jobs or marriage proposals. In many cases, it is known that the victim's family members are involved in the recruitment process by conspiring with the trafficker in exchange for money.<sup>34</sup> Lies, manipulation and blackmail are often used for recruiting. Children are perceived as objects with a market value and parents, who should be protecting their children, are sometimes enticed by the traffickers' proposals.<sup>35</sup>

<sup>25</sup> Roz PROBER, Mark HECHT and Nancy EMBRY, *Commercial Sexual Exploitation of Children in Canada*, Beyond Borders, 2004. Available online at: <http://www.beyondborders.org/Publications/Fact%20Sheet%20-%20CSEC%20in%20Canada3.pdf>.

<sup>26</sup> J. OXMAN-MARTINEZ; M. LACROIX and J. HANLEY, loc.cit. note 14.

<sup>27</sup> Authors RUTMAN, DURIE, LUNDQUIST and JACKSON are quoted in Cindy BLACKSTOCK, loc. cit. note 24, pp. 186-187.

<sup>28</sup> Maggy LEE, *Human Trade and the Criminalization of Irregular Migration*, International Journal of the Sociology of Law, col. 33, 2005.

<sup>29</sup> Jyoti SANGHERA, *Unpacking the Trafficking Discourse*, "Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights", Kamala Kempadoo and Jyoti Sanghera (Eds.), Bandana Pattanaik Paradigm Publishers: Boulder, CO, 2005, p.15.

<sup>30</sup> Ibid, p. 16.

<sup>31</sup> INTERNATIONAL HUMAN RIGHTS INSTITUTE, op. cit. note 23.

<sup>32</sup> James O. FINCKENAUER and Jennifer SCHROCK, *Human Trafficking: A Growing Criminal Market in the U.S. Trafficking in Women and Children: Current Issues and Developments*, Anna M. Troubnikoff. Nova Science Publishers Inc., New York, 2003, p. 34.

<sup>33</sup> Donna M. HUGHES, *The Role of 'Marriage Agencies' in the Sexual Exploitation and Trafficking of Women from the Former Soviet Union*, "International Journal of Victimology", 11, 2004, pp. 49-71.

<sup>34</sup> ASIAN DEVELOPMENT BANK, *Combating Trafficking of Women and Children in South Asia: Regional Synthesis Paper for Bangladesh, India and Nepal*, April 2003; FAFO, *Travel to Uncertainty. A Study on Child Relocation in Burkina Faso, Ghana and Mali*, Kari Hauge Riisoen, Anne Hatloy, Lise Bjerken. Fafo: Research Program on Trafficking and Child Labour, 2004.

<sup>35</sup> Mike DOTTRIDGE, *Kids as Commodities? Child Trafficking and What to do about it*, Lausanne: Terre des Hommes, 2004; Elzbieta GOZDZIAK, Micah N. BUMP, Julianne DUNCAN, Margaret MacDONNELL and Mindy B. LOISELLE, *The*

Traffickers also use legitimate enterprises, such as travel, marriage or modeling agencies, as fronts to attract young girls.<sup>36</sup> For example, the mail-order bride industry can create a dependency that could lead to the exploitation of migrant women and young girls. Isolation from their social network, economic dependency, cultural constraints and the fear of being deported are all factors that keep the mail-order bride in a relationship, even though it may be abusive. In the worst situations, these women and young girls become victims of trafficking when their passports are taken away and they are forced into prostitution.<sup>37</sup>

Migrant live-in caregivers are equally considered to be potential victims of trafficking. The terms of their employment contract, such as the stipulation that they reside with their employer, place them in potentially exploitative work situations. It is also reported that placement agencies and immigration counsellors offer temporary work visas, particularly to Filipinos, with the intention of recruiting people who will eventually be exploited once they arrive in Canada.<sup>38</sup> In certain cases, the agencies can refuse to renew the temporary visa, thereby keeping the worker here illegally. Threats of detention and removal may also be used to maintain control over a victim.<sup>39</sup> Furthermore, traffickers benefit from the lack of a comprehensive verification procedure associated with immigration documents and work permits, as it contributes to the proliferation of clandestine networks.<sup>40</sup>

Recruiting within Quebec is often the work of street gangs and is based on developing a personal relationship with a victim and creating a dependency on the trafficker. Recruiting is typically carried out by a girl or a boy who attempts to develop personal ties with a young girl by approaching her in public places, such as a school, subway station, park or shopping mall. Once the young girl has revealed personal information to the recruiter, it is then used to suggest a solution that appears to address the victim's needs. During the following weeks, the recruiter will continue to manipulate the young girl by isolating her from her family or friends and by becoming her confidant. At this point, the young girl often believes that she is in a personal relationship with the young boy who recruited her. Traffickers will then subdue the victim with physical, psychological and sexual abuse and force her into prostitution. They then maintain control over her by confining her, providing her with drugs, using psychological abuse and even using weapons.<sup>41</sup>

There are cases however, in which young girls will make the first step and approach a street gang member. In other situations, some young girls may be involved in the recruiting process to get away from prostitution and to attain higher ranking within the gang.<sup>42</sup>

During the recruiting process, many girls will accept gifts and other material goods, unaware that they are creating a debt that they are expected to repay. In fact, this pretext is often used as bait to induce them into prostitution. Rivalry can also develop among girls as they vie for the affection and attention of their recruiter.<sup>43</sup>

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*Trafficked Child: trauma and resilience*, "Forced Migration review", issue 25, May 2006, p. 14; IOM report, Monica ALEXANDRU and Sebastian LAZARO, loc. cit., note 23.

<sup>36</sup> IOM report, *Ibid.*

<sup>37</sup> L. LANGEVIN and M. BELLEAU, *Le trafic des femmes au Canada: analyse critique du cadre juridique de l'embauche d'aides familiales immigrantes résidentes et de la pratique des promesses par correspondance*, Ottawa, Status of Women Canada, 2000.

<sup>38</sup> J. OXMAN-MARTINEZ, M. LACROIX and J. HANLEY, loc. cit. note 14.

<sup>39</sup> *Ibid.*

<sup>40</sup> Nancy CÉLESTIN, *Trafic des aides familiales*, Association des aides familiales du Québec, 2006.

<sup>41</sup> Michelle CÔTÉ, loc. cit. note 20, p. 26.

<sup>42</sup> *Ibid.*, p. 19.

<sup>43</sup> *Ibid.*, p. 18; NATIVE URBAN YOUTH ASSOCIATION *Full Circle*, Vancouver, 2002.



## 1.4 Motives for Exploitation

Although children are recruited for many forms of exploitation, the two most common are the sex trade and forced labour. Even if sexual exploitation was not the original intent, a child will often end up being subjected to this form of exploitation.<sup>44</sup>

Children are exploited in different ways, according to their age, sex and where they live. Sexual exploitation is more prevalent among teenagers; in fact, mail-order brides are exclusively teenagers and young women. Then again, boys and girls brought into forced labour are put to work in fields, factories or private homes. Children under the age of 14 are forced to do dangerous work and some are even enlisted as soldiers. And younger children are used for begging whereas older ones are forced to participate in burglaries, fraud and other types of theft.<sup>45</sup>

Current literature identifies a host of risk factors that render children vulnerable to trafficking, and traffickers usually take advantage of situations where many of these factors come into play collectively.

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<sup>44</sup> Jyoti SANGHERA, loc. cit. note 29, p.7.

<sup>45</sup> Mike DOTTRIDGE, loc. cit. note 35.



## 2 Risk Factors

Girls are much more vulnerable to child trafficking than boys. This is because, in many countries, girls are held in lower esteem than boys and are perceived as sexual objects or are compelled to do domestic work. Furthermore, girls who live in these countries have less opportunity to pursue their schooling since they can only leave their parents' home once married.<sup>46</sup>

### 2.1 Poverty

Poverty, which is often linked to worldwide economic disparity, is cited in nearly all the relevant literature as the main factor in vulnerability to trafficking in persons. Women and girls are more particularly affected by poverty and lack of opportunity which motivates their migration.<sup>47</sup> In certain cases, the trafficker's own poverty is also a factor to be considered. With little or no options, some people are tempted to benefit from this lucrative market. Furthermore, poverty also entices parents to seek better living conditions for their children, conditioning them for manipulation, deceit and exploitation.<sup>48</sup>

Poverty and illiteracy are more prevalent among girls, thereby making them more vulnerable to trafficking. Because of their lack of education and their family's financial situation young girls are often considered to be a financial burden for their families, and, in some countries, destitute parents sell their daughters to traffickers for a modest sum of money.<sup>49</sup> Furthermore, a study on the trafficking of boys in Nepal and India points out that illiteracy is omnipresent among victims of trafficking.<sup>50</sup>

### 2.2 Globalization

Much attention has been paid to the impact of globalization on populations. One of the more prevalent consequences is the elimination of traditional jobs. This causes a loss of income for many families who find themselves raising their children in poverty. These children become a prime target for traffickers who are looking for cheap, submissive labour.<sup>51</sup> Thus, globalization is a major factor in trafficking in persons to the extent that it contributes to the mobility of persons, poverty, unemployment, unstable jobs for young people, illiteracy, and the expansion of international organized crime.<sup>52</sup>

<sup>46</sup> Ibid, p. 38; INTERNATIONAL HUMAN RIGHTS INSTITUTE, op. cit. note 23.

<sup>47</sup> J. OXMAN-MARTINEZ, M. LACROIX and J. HANLEY, loc. cit. note 14; U.S. State Department and Global SchoolNet, *Poverty – The Motivating Factor behind Child Trafficking*, "Doors to diplomacy 2006". Available online at: <http://www.fightpoverty.mmbrico.com/consequences/trafficking.html>.

Kelly E. HYLAND, *Protecting Human Victims of Trafficking: An American Framework*, 16 Berkley Women's L. J., 2001 pp. 29-35.

<sup>48</sup> Mike DOTTRIDGE, *Trafficking in Children in West and Central Africa*, "Gender, Trafficking, and Slavery", Rachel Masika (Éd.), Oxfam, Oxford, Great Britain, 2002, p. 38.

<sup>49</sup> Francis T. MIKO, *Trafficking in Women and Children. The U.S. and International Response*, « *Trafficking in Women and Children: Current Issues and Developments* », Anna M. Troubnikoff (Éd.), Nova Science Publishers Inc., New York, 2003.

<sup>50</sup> International Labor Organization-International Programme on the Elimination of Child Labour, *Cross Border Trafficking of Boys*, Rehabilitation Center for Women Gaushala, Katmandu, 2002.

<sup>51</sup> Chris BEYRER, loc. cit. note 7; IOM Report, Monica ALEXANDRU and Sebastian LAZAROIU, loc. cit. note 23.

<sup>52</sup> UNICEF Report 2003 and Preparatory Studies from World Congress Against Sexual Exploitation of the children for commercial purposes from Stockholm and Yokohama, cited by Michelle CÔTÉ, loc. cit. note 20, at 43.

Others argue that globalization, the commercialisation of sex and legislation on prostitution, all contribute to child trafficking. For example, reports show that seasonal workers and truck drivers on Canadian and U.S. highways are partially responsible for the increase in demand.<sup>53</sup>

In a report addressed to the United Nations regarding trafficking in persons, representatives of Costa Rica reported that globalization has played a major role in the proliferation of trans-border trafficking in persons. Globalization encourages human trafficking, as well as arms and drug trafficking, contributing to the expansion of international crime.<sup>54</sup>

## 2.3 Social Isolation

Social isolation is a factor that contributes to the recruitment of victims of trafficking. In fact, it is easier for traffickers to recruit young people with family problems, a history of sexual abuse or mental health disorders. This also applies to young girls and children with little education and those struggling with drug and alcohol addiction.<sup>55</sup>

Young girls who have been physically, psychologically or sexually abused are often further victimized by traffickers. They may perceive the traffickers' proposals as their way out of a hostile environment. The lack of communication and affective ties with family members makes children feel isolated and therefore vulnerable as they seek affection elsewhere.<sup>56</sup>

Many child victims of trafficking come from dysfunctional families and live in a violent environment. Characterized by a lack of supervision, these families are being unable to provide adequate protection for the children.<sup>57</sup> Severe emotional deprivation, a hostile family environment, drug abuse, violence and sexual abuse are all factors that increase a child's risk of becoming a victim of trafficking.<sup>58</sup> The same is true for runaways or children with low self-esteem. According to a study by the *National Incidence Studies of Missing, Abducted, Runaway and Thrownaway Children in the United States*, an estimated 1.6 million children were living on the streets in the U.S. in 2002. Roughly 40,000 of these children were recruited by traffickers for sexual exploitation.<sup>59</sup>

## 2.4 Situations of Armed Conflict

In situations of armed conflict, children are even more vulnerable. They are recruited as child soldiers or are sexually abused. Beyrer notes that in conflict zones, notably Myanmar, Uganda, Liberia, Sierra Leone and the Ivory Coast, children are particularly vulnerable to recruitment by paramilitary groups who operate

<sup>53</sup> INTERNATIONAL HUMAN RIGHTS INSTITUTE, op. cit. note 23.

<sup>54</sup> Ibid.

<sup>55</sup> International Programme on the Elimination of Child Labour, loc. cit. note 50.

<sup>56</sup> Rapport d'OIM 2003, Monica ALEXANDRU and Sebastian LAZAROIU, loc. cit. note 23.

<sup>57</sup> INTERNATIONAL HUMAN RIGHTS INSTITUTE, op. cit. note 23.

<sup>58</sup> IVES, 2001 and CAPLAN cited by Michelle CÔTÉ, loc. cit. note 20, pp. 41-42.

<sup>59</sup> Chris SWECKER, *Protecting the Trafficker's Despair, Vital Speeches of the Despair*, Vol. 71(19), 2005.

extensively as organized groups outside the control by the State.<sup>60</sup> Soldiers participating in international military units and expatriates play a significant role as clients.<sup>61</sup>

During armed conflicts, governments and their administrations are often rendered ineffective or inoperative; poverty increases, particularly with the death of a parent or guardian, making children more vulnerable to trafficking. For example, the most recent conflict in Iraq has led to a resurgence of child trafficking; without a stable government, the number of traffickers has increased dramatically, thereby paralyzing officials and other authorities working with children.<sup>62</sup>

## 2.5 New Technologies

New technologies also contribute to the expansion of the trafficking phenomenon.<sup>63</sup> Many people seek work through informal networks. Increasingly, young people are checking Internet postings instead of going through an agency. Moreover, parents and children alike have a false sense of security about offers they receive through someone they know or offers posted on the Internet.<sup>64</sup>

## 2.6 Restrictive Immigration Policies

Faced with increasing migration and terrorist threats, most governments have tightened their immigration policies which, some claim, contribute to the increase of trafficking in persons. Stricter immigration laws and border controls have made it more difficult for children to seek asylum, while making it easier for traffickers to promise easy access to another country.<sup>65</sup>

## 2.7 Other Risk Factors

Among other risk factors mentioned in the literature, eroticization of children in the media, inadequate legislation and a lack of police involvement have all been emphasized.<sup>66</sup> Also, a country's geographical location can partially explain the high number of victims in child trafficking. For example, geographically, the Balkans provide easier transactions between traffickers and their clients.<sup>67</sup> In Africa, the AIDS pandemic has left over 14 million orphans. Many children are left without an adequate guardian and must sometimes look after younger orphans, which again increases their vulnerability.<sup>68</sup> Moreover, children without birth

<sup>60</sup> Chris BEYRER, loc. cit. note 7.

<sup>61</sup> IOM Report 2001, *Victimes de traite dans les Balkans : une étude de traite des femmes et d'enfants pour l'exploitation sexuelle de la région des Balkans*, Republic of Slovakia.

<sup>62</sup> Brian BENNETT, *Epidemic of kidnappings in Iraq*, «Time Magazine», 2006.

<sup>63</sup> INTERNATIONAL HUMAN RIGHTS INSTITUTE, op. cit. note 23.

<sup>64</sup> IOM Report 2001, loc. cit. note 61.

<sup>65</sup> Suzanne WILLIAMS and Rachel MASIKA, *Editorial Gender, Trafficking and Slavery*, Rachel Masika (Éd.), Oxfam, Oxford, Great Britain, 2002.

<sup>66</sup> UNICEF Report 2003 and the World Congress Against Sexual Exploitation of the Children for commercial purposes from Stockholm and Yokohama cited by Michelle CÔTÉ, loc. cit. note 20.

<sup>67</sup> IOM Report 2001, loc. cit. note 61.

<sup>68</sup> Kempe Ronald HOPE, *Child Survival, Poverty, and Labor*, «Africa, Journal of Children and Poverty», Vol. 11 (1), 2005; Chris BEYRER, loc. cit. note 7.

certificates are deprived of basic services throughout their lifetime. Discrimination keeps them on the margins of society, making them more vulnerable to being recruited by traffickers.<sup>69</sup>

And finally, closer to home, the present trafficking situation of Aboriginal children is very closely linked to past experiences and traumas suffered by previous generations.<sup>70</sup> The *Save the Children Canada* report points out that fragmentation of the Aboriginal cultural identity has disrupted the relationships Aboriginal youths have with their land, language and traditions, which has in turn led to a collective loss of self-esteem. To better understand commercial sexual exploitation among Aboriginal children, we must necessarily examine the historical context which has an ongoing effect on their environment.<sup>71</sup>

To prevent the commercial sexual exploitation of Aboriginal youths, the same study demonstrates that the following factors must be considered: low self-esteem; previous experience of physical, sexual and psychological abuse; a history of running away from home or from youth shelters in search of a safe refuge; few job opportunities; temporary or permanent homelessness; a culture and family system fragmented by colonization; a lack of role models and of attention from elders who could provide guidance in difficult times; a disproportionate representation in the judicial system; and finally, the media that depicts Aboriginal youths as an embittered problem group, or even as defenceless victims, to be pitied and requiring special government attention, due in large part to their high suicide risk.<sup>72</sup>

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<sup>69</sup> Chris BEYRER, *ibid.*

<sup>70</sup> Cindy BLACKSTOCK, Sarah CLARKE, James CULLEN, Jeffrey D'HONDT and Jocelyn FORMSMA, *Keeping the Promise: The Convention on the Rights of the Child and the Lived Experience of First Nations Children and Youth*, First Nations Child and Family Caring Society, Ottawa, 2004, p. 17.

<sup>71</sup> Cherry KINGSLEY and Melanie MARK, *Sacred Lives: Canadian Aboriginal Children and Youth Speak out about Sexual Exploitation*, Save the Children Canada, Ottawa, 2000.

<sup>72</sup> *Ibid.*

## 3 Consequences of Trafficking

Children who are victims of trafficking suffer a multitude of consequences. Some of these, which illustrate the hardships endured by these victims, are listed in the literature.

### 3.1 Psychosocial Difficulties

Children who are victims of trafficking face many psychosocial hardships. Deprived from their family and support system, they feel a sense of loss and experience difficulties in adapting to their new society. Moreover, the particular situation of young victims of sexual exploitation contributes to the trauma they suffer and can lead to mental health disorders.<sup>73</sup> These children suffer from depression, anxiety, thoughts of suicide and low self-esteem<sup>74</sup> in addition to frequent post-traumatic stress, eating and sleep disorders.<sup>75</sup> For many victims who have experienced previous sexual abuse, psychological distress is even greater.<sup>76</sup>

To maintain their hold on the victims, traffickers resort to psychological coercion by threatening family members<sup>77</sup> or the victims themselves by exposing them as sex trade workers which can induce feelings of shame.<sup>78</sup> This, combined with feelings of guilt, prevents these children from seeking outside help. In fact, they sometimes are incapable of perceiving themselves as victims. Because they live in fear of the authorities and in some cases do not speak the local language, trafficked children become isolated and are consequently unaware of their rights and the services that are available to them.

Some victims are too afraid to reveal their situation for fear of retaliation and of being ostracised by their family and their community.<sup>79</sup> Victims who manage to break away from the trafficker's hold experience persistent psychological consequences. Often, they have to face the judicial process and protective measures, which are sometimes forced upon them, not to mention the fear of retaliation and threats from traffickers. These children also experience feelings of intense loneliness from having lost their social ties.<sup>80</sup>

### 3.2 Physical Health Problems

Besides the trauma caused by the exploitative situation, young victims often suffer physical abuse resulting in bruising, burns, lacerations and fractures, as well as contracting HIV and other sexually transmitted infections.<sup>81</sup> Sexual abuse can lead to infertility or early pregnancies for young girls<sup>82</sup> who must resort to

<sup>73</sup> M.J. FRIEDMAN, A.J. MARSELLA, E.T. GERITTY and R.M. SCURFIELD, *Ethno Cultural Aspects of Posttraumatic Stress Disorders: Issues, Research, and Clinical Applications*, American Psychological Association, Washington DC, pp. 11-32.

<sup>74</sup> World Health Organization Report, September 6, 2006, *Child Sexual Abuse and Violence*. Available online at: [http://www.searo.who.int/LinkFiles/Disability,\\_Injury\\_Prevention\\_&Rehabilitation\\_child.pdf](http://www.searo.who.int/LinkFiles/Disability,_Injury_Prevention_&Rehabilitation_child.pdf).

<sup>75</sup> Report of the Ministry of Industry, Employment and Communications, Prostitution and Trafficking in Human Beings, Division for Gender Equality, Stockholm, April 18, 2005. Available online at: [http://www.sweden.gov.se/sb/d/574/a/42896;jsessionid=apOpbjgOnP\\_4](http://www.sweden.gov.se/sb/d/574/a/42896;jsessionid=apOpbjgOnP_4)

<sup>76</sup> INTERNATIONAL HUMAN RIGHTS LAW INSTITUTE, op. cit. note 23.

<sup>77</sup> J. OXMAN-MARTINEZ, M. LACROIX and J. HANLEY, loc. cit. note 14.

<sup>78</sup> Maja MUFTIĆ, loc. cit. note 75.

<sup>79</sup> Salvation Army USA.: Available online at: [http://www.salvationarmyusa.org/usn%5Cwww\\_usn.nsf/vw-sublinks/323F7FB8E28FE18B85256F6600598FB3?openDocument#Intro](http://www.salvationarmyusa.org/usn%5Cwww_usn.nsf/vw-sublinks/323F7FB8E28FE18B85256F6600598FB3?openDocument#Intro)

<sup>80</sup> Michelle CÔTÉ, loc. cit. note 20, p. 40.

<sup>81</sup> B. SINCLAIR, *Aboriginal Street Youth and Sex Trade Workers*, Study for the Joint National Committee on Aboriginal AIDS Education and Prevention, Edmonton, Alberta Indian Health Care Commission, 1993.

dangerous abortions or infanticide. In addition, some children sustain permanent damage to their bones or even to their genitals.<sup>83</sup> Children who are victims of sexual exploitation are more vulnerable to serious infections due to their more fragile bodily tissues and because they are often unable to negotiate protected sex practices. Young girls may also suffer from gynaecological complications, notably vaginal bleeding, chronic pelvic pain and severe urinary tract infections.<sup>84</sup> Moreover, young victims of sexual exploitation may develop alcohol and drug problems, often instigated by their trafficker.<sup>85</sup> It has also been found that most Aboriginal youths involved in the sex trade wrestle with multiple drug addictions<sup>86</sup> and do not use condoms since their clients insist on unprotected sex, thus increasing the rate of HIV and sexually transmitted infections.<sup>87</sup>

### 3.3 Other Consequences

Consequences can also be economic, political and legal. Child trafficking often traps the victims into debt bondage relationships. If they are brought into Canada from other countries, the children must repay US\$5,000–\$10,000 in addition to the airfare and any administrative fees incurred during the immigration process. As long as these debts have not been paid, which can often take twenty years or more, the victims are forced to work under intolerable conditions: long hours, salary cuts, inadequate safety, lack of access to health services, etc...<sup>88</sup>

The study conducted by Oxman-Martinez, Lacroix and Hanley reports that trafficking victims in Vancouver and Toronto are usually detained when they are found by police or immigration officers. In many cases, victims have been deported against their will,<sup>89</sup> but in a situation of internal trafficking, it is more difficult for the authorities to send the victims back home. When dealing with a minor, the authorities must return the child to his parents or designate a guardian if the family environment is deemed inadequate.<sup>90</sup>

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<sup>82</sup> IOM Report 2004, G. SCHININA, Psychological Support to Groups of Human Trafficking in Transit Situation, Geneva.

<sup>83</sup> Report of the Ministry of Industry, Employment and Communications, loc. cit. note 75.

<sup>84</sup> World Health Organization Report, loc. cit. note 74.

<sup>85</sup> Roz PROBER, Mark HECHT and Nancy EMBRY, loc. cit. note 25.

<sup>86</sup> Cherry KINGSLEY and Melanie MARK, loc. cit. note 71.

<sup>87</sup> B. SINCLAIR, loc. cit. note 81.

<sup>88</sup> J. OXMAN-MARTINEZ, M. LACROIX and J. HANLEY, loc. cit. note 14.

<sup>89</sup> Ibid.

<sup>90</sup> Ibid.



## 4 Response from the International Community

Faced with this problem, governments have reacted in many different ways over the years and have adopted various policies and measures to fight child trafficking.

### 4.1 International Instruments

The first international convention on the phenomenon of trafficking in persons dates back to 1926 and was adopted as the *Slavery Convention* by the former League of Nations in order to incite State parties to prevent and abolish slavery.<sup>91</sup> Although Canada was not party to the *Slavery Convention*, it nonetheless ratified the *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*<sup>92</sup> of 1956. The latter convention called upon all State parties to increase their efforts to completely abolish slavery, and to adopt measures that would eliminate “any institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.”<sup>93</sup> The convention also incites State parties to prohibit the trans-border slave trade.<sup>94</sup>

The *Universal Declaration of Human Rights*<sup>95</sup> of 1948 and the *International Covenant on Civil and Political Rights*<sup>96</sup> of 1966 condemn all forms of slave trade, whereas the *International Covenant on Economic, Social and Cultural Rights*<sup>97</sup> is a reminder that children and adolescents must be protected against economic and social exploitation.

By ratifying the *Convention on the Rights of the Child*,<sup>98</sup> Canada has committed to protect the child<sup>99</sup> against any form of exploitation; this includes economic exploitation,<sup>100</sup> all forms of sexual exploitation and sexual violence.<sup>101</sup> It has also committed to take “all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.”<sup>102</sup>

<sup>91</sup> *Slavery Convention* signed on September 26, 1926 and entered into force on March 9, 1927. The first article defined slavery as: “all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves”.

<sup>92</sup> *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*, signed September 7, 1956 and entered into force on April 30, 1957.

<sup>93</sup> *Ibid*, alinéa d) de l'article 1.

<sup>94</sup> *Ibid*, article 3.

<sup>95</sup> *Universal Declaration on Human Rights*, adopted by the United Nations General Assembly Resolution 217A (III) on 10 December 1948, article 48.

<sup>96</sup> *International Covenant on Civil and Political Rights* adopted by General Assembly resolution 2200A (XXI) on 16 December 1966 and entered into force 23 March 1976, article 8, paragraph 1.

<sup>97</sup> *International Covenant on Civil and Political Rights* adopted by General Assembly resolution 2200A (XXI) on 16 December 1966 and entered into force 23 March 1976, article 8, paragraph 1.

<sup>98</sup> *Convention on the Rights of the Child*, loc. cit. note 2.

<sup>99</sup> To begin, it is important to establish who qualifies as a “child” because the definition can vary depending on one’s culture. Article 1 of the United Nations Convention on the Rights of the Child defines a child as “every human being below the age of eighteen years.” In human trafficking situations, article 3 of the Palermo Protocol states that a child “shall mean any person under eighteen years of age”.

<sup>100</sup> *Ibid*, article 32.

<sup>101</sup> *Ibid*, article 34.

<sup>102</sup> *Ibid*, article 35.

The *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*<sup>103</sup> which was also ratified by Canada,<sup>104</sup> gives the following definition of the sale of children: “Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration.”<sup>105</sup> And most importantly, under article 3 of the protocol, it is stated that:

*Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:*

- (a) In the context of sale of children as defined in article 2:*
  - i) Offering, delivering or accepting, by whatever means, a child for the purpose of:*
    - a. Sexual exploitation of the child;*
    - b. Transfer of organs of the child for profit;*
    - c. Engagement of the child in forced labour; ...*
- (b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2...*

Furthermore, by acceding to this protocol, State parties commit to collaborate on matters of extradition,<sup>106</sup> mutual legal assistance<sup>107</sup> and assistance to the victims.<sup>108</sup>

The *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*,<sup>109</sup> commonly known as the “Palermo Protocol,” is the most recent international instrument in the field. This protocol, which Canada is a party to,<sup>110</sup> defines trafficking in persons as follows:

*the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.*<sup>111</sup>

State parties also commit to criminalize these offences when carried out at a transnational level and when an organized crime group is involved.<sup>112</sup>

<sup>103</sup> *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, A/RES/54/263, Adopted and opened for signature, ratification and accession by General Assembly resolution of 25 May 2000 and entered into force on 18 January 2002.

<sup>104</sup> Canada ratified the Optional Protocol on September 14, 2005.

<sup>105</sup> *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, supra note 109, article 2, subsection a.

<sup>106</sup> *Ibid.*, articles 5 and 6.

<sup>107</sup> *Ibid.*, article 6.

<sup>108</sup> *Ibid.*, articles 8 and 9.

<sup>109</sup> *Palermo Protocol*, loc. cit. note 1.

<sup>110</sup> Canada ratified the *Palermo Protocol* on May 13, 2002.

<sup>111</sup> *Ibid.*, article 3a).

<sup>112</sup> *Ibid.*, article 4.

Obviously, when one of the previously mentioned means is used (force, threats, deceit, etc.), a victim's consent cannot be used as evidence.<sup>113</sup> Moreover, when dealing with victims younger than 18 years, a trafficking case does not require proof of the use of coercion.<sup>114</sup>

Still under the Palermo Protocol, State parties commit to provide assistance and protection to victims, to implement measures aimed at restoring their physical, psychological and social well-being<sup>115</sup> and to consider adopting measures that would allow victims to remain on their territory on a permanent or temporary basis.<sup>116</sup> State parties are also called upon to co-operate with each other and with civil society to prevent trafficking in persons, bring the traffickers before the courts and ensure the victims' rights.<sup>117</sup>

Some academics define trafficking in persons as a situation in which an illegal migrant or a victim of forced labour is abducted in exchange for a large sum of money.<sup>118</sup> Other authors<sup>119</sup> assert that transportation and resettlement are essential elements in proving that trafficking in persons has occurred, even if it did not involve financial gain.

The United Nations and most governments consider trafficking in persons to be a crime, and yet, this concept has received some criticism in the literature. Kempadoo, in presenting this case, considers that the criminalisation of trafficking leads governments to implement stricter immigration policies which obstruct migratory trajectories, thereby ignoring one of the underlying causes of trafficking.<sup>120</sup> A report from the Asian Development Bank adds that "the fact that a vast majority of trafficking episodes start after migration or movement from one place to another has already begun, validates the need to look at what causes people to move, and why they are vulnerable to being trafficked."<sup>121</sup>

Others have examined the close link between slavery and trafficking. In fact, O'Connell Davidson and the U.S. Department of Justice define trafficking as a modern form of slavery.<sup>122</sup> Manzo's view is that trafficking and slavery are two distinct, though related, concepts.<sup>123</sup> Slavery is a form of exploitation, whereas trafficking is a means to exploitation.

Finally, most definitions encountered in the literature and in governmental policies share three core elements: the movement of a person, the use of deception or coercion and the existence of an exploitative

<sup>113</sup> Ibid, article 1b).

<sup>114</sup> Ibid, article 1c) and d); Jyoti SANGHERA, loc. cit. note 29, p.19; Kamala KEMPADOO, *Introduction: From Moral Panic to Global Justice. Changing Perspective on Trafficking*, «Trafficking and Prostitution Reconsidered: New Perspectives on Migration », Sex Work, and Human Rights, Kamala Kempadoo, Jyoti Sanghera and Bandana Pattanaik (Éds.), Paradigm Publishers: Boulder, CO, 2005.

<sup>115</sup> *Palermo*, supra note 113, article 6, paragraph 3.

<sup>116</sup> Ibid, article 7, paragraph 1.

<sup>117</sup> Ibid, article 6, paragraph 3, article 9, paragraph 3 and article 10, paragraph 2.

<sup>118</sup> Maggy LEE, loc. cit. note 28.

<sup>119</sup> Mikhail KLEIMENOV and Stanislav SHAMKOV, *Criminal Transportation of Persons: Trends and Recommendations*, 'Human Traffic and Transnational Crime: Eurasian and America Perspective', Sally Stoecker and Louise Shelley Rowman (Éds), Littlefield Publishers Inc., Lanham, MD, 2005, p. 30.

<sup>120</sup> Kamala KEMPADOO, loc. cit. note 116.

<sup>121</sup> ASIAN DEVELOPMENT BANK, loc. cit. note 34.

<sup>122</sup> Julia O'CONNELL DAVIDSON, *Children in the Global Sex Trade*, Polity Press Ltd., Cambridge, United Kingdom, 2005; Francis T. MIKO, loc. cit. note 49, p. 39.

<sup>123</sup> Kate MANZO, loc. cit. note 93, p. 393.

situation.<sup>124</sup> Any person who engages in any of these components is committing an offence in the trafficking of persons.<sup>125</sup>

## 4.2 Distinction between Trafficking and Smuggling

The phenomena of human trafficking and smuggling have common elements, such as the movement of persons and the vulnerability of the affected persons.

“Smuggling of migrants” is used in the context of the *Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime*,<sup>126</sup> which defines it as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.”<sup>127</sup>

However, it is clear in the literature that these are two distinct phenomena. According to Finckenaue and Schrock, trafficking differs from smuggling insofar as the former involves coercion and exploitation and it benefits from long-term financial gain whereas the latter profits from short-term gain.<sup>128</sup>

Relating to this, the 2006 report from the *United Nations Office on Drugs and Crime*<sup>129</sup> points out three major differences: (1) migrants who were victims of smuggling, despite the fact that their movement took place under dangerous and degrading conditions, did give their consent, while victims of trafficking never had the opportunity to agree to the situation, or their consent was rendered invalid because they were manipulated, deceived or coerced by the traffickers. (2) Smuggling ends once the migrants arrive at their destination, whereas trafficking in persons involves continuous exploitation of its victims for the purpose of illegal profit on behalf of the traffickers. Realistically speaking, victims of trafficking are usually affected more severely; their experiences leave them traumatized and they are in greater need of protection against revictimization. (3) Smuggling is always a trans-border occurrence, whereas trafficking can occur either between countries or within one country.

## 4.3 Regional Instruments

The *Inter-American Convention on International Traffic in Minors*<sup>130</sup> defines “international traffic in minors” (younger than 18 years)<sup>131</sup> as “the abduction, removal or retention, or attempted abduction, removal or retention, of a minor for unlawful purposes or by unlawful means.” The term “unlawful purposes” is described as “among others, prostitution, sexual exploitation, servitude or any other purpose unlawful in

<sup>124</sup> Jyoti SANGHERA, loc. cit. note 29, p.11; Maggy LEE, loc. cit. note 28.

<sup>125</sup> International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme (ISPAC), *Trafficking: Networks and Logistics of Transnational Crime and International Terrorism*, Courmayeur Mont-Blanc, Italy, December 6 to 8, 2002, Dimitri Vlassis (Ed.), p. 166.

<sup>126</sup> *United Nations Protocol Against Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime*, A/RES/55/25 25, 2000.

<sup>127</sup> Ibid, article 3a).

<sup>128</sup> James O. FINCKENAUER and Jennifer SCHROCK, loc. cit. note 32, at 32.

<sup>129</sup> UN Office on Drugs and Crime Report, April 2006, loc. cit. note 12, at 51.

<sup>130</sup> *Inter-American Convention on International Traffic in Minors*. Adopted in D.F. Mexico on March 18, 1994 at the Fifth Inter-American Specialized Conference on Private International Law, article 2, subsection a.

<sup>131</sup> Ibid, article 2a).

either the State of the minor's habitual residence or the State Party where the minor is located."<sup>132</sup> And finally, "unlawful means" is described as "kidnapping, fraudulent or coerced consent, the giving or receipt of unlawful payments or benefits to achieve the consent of the parents, persons or institutions having care of the child, or any other means unlawful in either the State of the minor's habitual residence or the State Party where the minor is located."<sup>133</sup>

The *Inter-American Convention*, which in February 2007, Canada has not yet signed, specifies how State parties must assist minors in returning home<sup>134</sup> and urges the parties to prosecute traffickers<sup>135</sup> in order to recover the costs of identifying the victims and returning them home.<sup>136</sup>

Moreover, as a member of the Permanent Council of the Organization of American States, Canada has participated since 2003 in the study of several draft resolutions aimed at fighting trafficking in persons. Further to this, on June 29, 2004 the North Atlantic Treaty Organization adopted a zero tolerance policy regarding trafficking in persons for members of its forces and its civilian staff.<sup>137</sup>

Finally, the *Council of Europe Convention on Action against Trafficking in Human Beings*,<sup>138</sup> which was adopted in 2005, addresses both internal and external trafficking. As with the Palermo Protocol,<sup>139</sup> this convention deals with all aspects of preventing, trafficking and protecting victims as well as prosecuting traffickers. Moreover, to ensure the implementation of these provisions, an independent monitoring mechanism is to be set up.<sup>140</sup>

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<sup>132</sup> *Ibid*, article 2c).

<sup>133</sup> *Ibid*, article 2d).

<sup>134</sup> *Ibid*, articles 11 to 22.

<sup>135</sup> *Ibid*, articles 7 to 10.

<sup>136</sup> *Ibid*, article 21.

<sup>137</sup> Available online at: <http://www.nato.int/issues/trafficking/index.html>.

<sup>138</sup> *Inter-American Convention on International Traffic in Minors*. Adopted in D.F. Mexico on March 18, 1994 at the Fifth Inter-American Specialized Conference on Private International Law, article 2, subsection a.

<sup>139</sup> *Palermo Protocol*, loc. cit. note 1.

<sup>140</sup> Council of Europe Convention on action against trafficking in human beings *Convention du Conseil de l'Europe sur la lutte contre la traite des êtres humains* (STCE N° 197), supra note 147, article 1, paragraph 2.



## 5 Canada's Response

With the rise in trafficking persons across the globe, Canada has not remained unaffected. As a result, Canada has developed measures to combat trafficking in persons.

### 5.1 Immigration Law

The *Immigration and Refugee Protection Act*<sup>141</sup> condemns any illegal entry into the country. In accordance with article 117 of the *Act*, any person who arranges the illegal entry into Canada of another person or who induces, aids or abets such a person to enter Canada is committing an offence and is liable to a fine of one million dollars and to life imprisonment. This constitutes “smuggling” illegal immigrants.

Article 118 of the same *Act* addresses more directly cases in which the person who organizes (recruits, transports, receives and harbours) the entry into Canada of another person does so by means of fraud, deceit, abduction or threat, or by force or any other type of coercion. This is therefore more a matter of “trafficking” in persons, except for the fact that the exploitation of the victim is not a factor in the offence but simply an aggravating factor that will be taken into consideration at the time of sentencing. Furthermore, the ability to give one’s consent is a major factor that distinguishes trafficking in persons from smuggling of people.

It should be noted that any person involved in organized crime, including trafficking in persons, is not admissible for entry into Canada.<sup>142</sup>

Until now, only one person has been charged under article 118 of the *Act*. In 2005, twenty-one charges have been laid against this person for organizing the entry of two Chinese women into Canada for the purpose of forcing them into prostitution in massage parlours. As of February 2007, a decision in the case is still pending.<sup>143</sup>

In relation to victims, the new *CIC Human Trafficking Interim Guidelines* were issued in May 2006.<sup>144</sup> These were drawn up to assist immigration officers in determining whether a temporary resident permit should be issued to victims of trafficking. The RCMP and the Canada Border Services Agency can both be involved in the evaluation process of cases. Throughout the procedure, immigration officers refer the victims to their embassy and to government and non-government agencies, and help them, if needed, establish first contacts. Regarding the process for identifying children who are victims of trafficking, the interim guidelines<sup>145</sup> refer to chapter 21 of the ENF manual entitled *Recovering Missing, Abducted and Exploited Children*.<sup>146</sup>

<sup>141</sup> *An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger*, 2001, ch. 27 (Commonly known as the “*Law on immigration and the protection of refugees*”).

<sup>142</sup> *Ibid.*, Article 37, paragraph 1b).

<sup>143</sup> *Wai Chi Michael Ng Case* (The trial commenced on 28 March 2006 in Vancouver, British Columbia).

<sup>144</sup> *Citizenship and Immigration Canada Human Trafficking Interim Guidelines*, May 2006.

<sup>145</sup> *Ibid.*

<sup>146</sup> ENF-21: *Recovering Missing, Abducted and Exploited Children*, Citizenship and Immigration Canada, 2004. Available online at: <http://www.cic.gc.ca/manuals-guides>.

Immigration officers have 48 hours to decide whether to issue a short-term temporary resident permit, after which time the Canada Border Services Agency can release the person. Victims are then given a reflection period of 120 days, during which they are eligible for the Interim Federal Health Program<sup>147</sup> and can also request an extension of stay from the immigration officer. This request may be granted under certain conditions in accordance with the guidelines.

As a final note, since victims of trafficking have recourse to the provisions in the *Immigration and Refugee Protection Act*,<sup>148</sup> immigration officers also have the discretionary power to grant a permit that could lead to obtaining permanent residency.

## 5.2 Canadian Criminal Code

The *Criminal Code*<sup>149</sup> has only recently been amended to explicitly prohibit trafficking in persons in Canada as well as any financial benefit from such trafficking. On November 25, 2005 *Bill C-49* was granted Royal Assent, thereby instituting new offences that pertain to three aspects of trafficking in persons.<sup>150</sup> With this amendment, Canada has adhered to certain international obligations it assumed when it ratified the *Palermo Protocol*,<sup>151</sup> namely making trafficking in persons a criminal offence and allowing victims to remain on its territory on a temporary or permanent basis.

Firstly, by virtue of the first subsection in article 279.01 of the *Code*, "every person who recruits, transports, transfers, receives, holds, conceals or harbours a person, or exercises control, direction or influence over the movements of a person, for the purpose of exploiting them or facilitating their exploitation"<sup>152</sup> is committing a criminal offence, namely trafficking in persons. The maximum penalty for this offence is life imprisonment (when the accused kidnapped the victim, committed aggravated assault or aggravated sexual assault to or caused the death of the victim while committing the offence) or a maximum of fourteen years imprisonment (in all other cases). The second subsection of this article specifies that no consent to the activity for which charges are being laid is valid.<sup>153</sup> Furthermore, as was pointed out during the parliamentary debates on *Bill C-49*, no one can consent to being exploited.

Article 279.02 of the *Code*<sup>154</sup> adds that "every person who receives a financial or other material benefit," knowing that it derives from the trafficking in persons, is committing a criminal offence and is liable to a maximum imprisonment of ten years. Furthermore, under article 279.03 of the *Code*,<sup>155</sup> any person who, for the purpose of committing or facilitating trafficking in persons, conceals, removes, withholds or destroys any travel document or document pertaining to a person's identity or immigrant status is committing a criminal offence and is liable to a maximum imprisonment of five years.

<sup>147</sup> Available online at: [http://www.fasadmin.com/images/pdf/IFH\\_manuel\\_d'information\\_sur\\_le\\_FSI.PDF](http://www.fasadmin.com/images/pdf/IFH_manuel_d'information_sur_le_FSI.PDF).

<sup>148</sup> *Immigration and Refugee Protection Act*, supra note 145.

<sup>149</sup> *Criminal Code* L.R., 1985, ch. C-46.

<sup>150</sup> *Bill C-49* (2005, ch. 43, art. 3) modifying the *Criminal Code*, L.R., 1985, ch. C-46, articles 279.01, 279.02 and 279.03.

<sup>151</sup> *Palermo Protocol*, loc. cit. note 1.

<sup>152</sup> *C.cr.*, supra note 153, article 279.01, paragraph 1.

<sup>153</sup> *Ibid.*, article 279.01, paragraph 2.

<sup>154</sup> *C.cr.*, supra note 153, article 279.02.

<sup>155</sup> *Ibid.*, article 279.03.



Exploitation<sup>156</sup> and coercion are constituent elements of trafficking in persons and must therefore be proven. When dealing with coercion, the accused may try to prove that the victim gave his consent. It must be recognized that contrary to the provisions in the *Palermo Protocol*, Canadian legislation does not make any distinction as to whether the victim is an adult or a child. Furthermore, the initial consent given by a person, such as an agreement with a trafficker to undertake a migratory trajectory, is not equivalent to consenting to be exploited.

To this day, no charges have been laid under the new provisions of the *Criminal Code* regarding trafficking in persons. Nonetheless, other more recent legislative amendments could affect such legal cases, if applicable.

*Bill C-2*<sup>157</sup> has in fact generated substantial amendments to the *Criminal Code* and the *Canada Evidence Act*<sup>158</sup> to protect not only children but any vulnerable person from sexual exploitation, violence, maltreatment or negligence.

Changes in legislation have, in particular, extended the scope of certain offences (linked to child sexual exploitation), limited the possibility of using certain grounds of defence provided for by law (regarding child pornography) and increased the applicable penalties. Parliament has introduced several other changes to facilitate the testimony of adolescents and improve the court system's ability to accommodate the needs of children and other vulnerable witnesses during various legal proceedings, including those related to trafficking in persons. In particular, the legislative changes provide greater access to devices, such as screens and closed-circuit television during testimonies before the courts.

These recent amendments aimed at assisting child victims and witnesses are in line with the United Nations' adoption of the *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*<sup>159</sup> which were originally drawn up by the International Bureau for Children's Rights.

Most of the amendments were well received by Canadian Parliamentarians. However, during debates, some questioned the consequences of the ruling of a publication ban in regards to the public's trust in the legal system. Parliament responded that the public would not have confidence in a system unable to prosecute traffickers because no one would be willing to testify.

The president of the Canadian Resource Centre for Victims of Crime,<sup>160</sup> who acknowledged before the parliamentary committee that publication ban orders are intended to protect minors, did express a certain reservation regarding the use of these orders. Some victims, unable to fully express what they lived through, feel deprived of a full reintegration process.

<sup>156</sup> Article 279.04 of the *Canadian Criminal Code* offers the following definition of exploitation: "For the purposes of sections 279.01 to 279.03, a person exploits another person if they (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>157</sup> *Bill C-2*, Canadian Parliament, 38<sup>th</sup> Legislature, 1<sup>st</sup> session, Royal assent July 20 2005, L.C. 2005, ch 32.

<sup>158</sup> *Canada Evidence Act*, R.S. 1985, c. C-5.

<sup>159</sup> United Nations Economic and Social Council resolution 2005/20, July 22, 2005. Originally presented by Canada and co-sponsored by more than fifty countries, this resolution adopted the *Guidelines on Justice for Child Victims and Witnesses of Crime* and invites member states to be inspired to elaborate their laws, procedures, political measures and practices.

<sup>160</sup> M. Steve Sullivan.

Finally, regarding sentencing, when the offence committed constitutes abuse toward a person who is younger than 18 years,<sup>161</sup> it then becomes an aggravating factor. In such cases, the judge must also pay particular attention to the goals in terms of denunciation and deterrence.<sup>162</sup>

### 5.3 Quebec Legislation

Quebec does not have any legislation that is particular to trafficking in persons. Nevertheless, since the administration of justice and the delivery of health and social services are provincial responsibilities, certain provisions of Quebec legislation may be applicable to children who are victims of trafficking. Such is the case of the *Quebec Charter of Human Rights and Freedoms*,<sup>163</sup> the *Civil Code of Quebec*<sup>164</sup> and the *Youth Protection Act*<sup>165</sup>

Moreover, in 2001, a number of Quebec Government departments<sup>166</sup> created the *Entente multisectorielle relative aux enfants victimes d'abus sexuels, de mauvais traitements physiques ou d'une absence de soins menaçant leur santé physique* [Multisectoral Agreement on Child Victims of Sexual Abuse, Physical Abuse or Neglect that Threatens their Physical Health].<sup>167</sup> The main objective of this agreement is to support a more effective collaboration among representatives of the departments, institutions and agencies who want to ensure better protection and assistance for children who are victims of abuse.

<sup>161</sup> *C.cr.*, supra note 153, article 718.2a), subsection (ii 1).

<sup>162</sup> *Ibid.*, article 718.01.

<sup>163</sup> *Quebec Charter of Rights and Freedoms*, LRQ, ch. C-12.

<sup>164</sup> *Civil Code of Quebec*, C.c.Q. 1980.

<sup>165</sup> *Youth Protection Act*, LRQ, ch. P-34.1. The articles that are specific to Aboriginal communities are included in this act, taking into consideration the specific characteristics of Aboriginal communities during interventions and apply until agreements are developed for the establishment of a special youth protection program. See in particular articles 2.4(5)c), 33, 37.5.

<sup>166</sup> Minister of Health and Social Services, Minister of Justice, Minister of Public Security, Minister of Education and Ministry of Children and Family.

<sup>167</sup> *Entente multisectorielle relative aux enfants victimes d'abus sexuels, de mauvais traitement physiques ou d'une absence de soins menaçant leur santé physique*, Government of Québec, 2001. Available online at: [www.msss.gouv.qc.ca](http://www.msss.gouv.qc.ca).

## **PART II: PRESENTATION OF THE RESULTS OF INTERVIEWS COMPLETED AS PART OF THE ACTION RESEARCH**

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The second part of the report is a presentation of the study's methodological framework and an analysis of the results gathered from interviews with people who are concerned with child trafficking. This section of the report concludes in the third section of this report with a discussion on the principal results in relation with our assessment and prospects.



## 6 Methodological Framework

This section of the report focuses on the study's objectives and presents the ethical standards, the sample description, the interview process and the method of analyzing data.

### 6.1 Objectives of the Study

The overall objectives of this research project are to protect the rights of children who are victims of trafficking, prevent child trafficking and help reduce this crime by increasing our understanding of this phenomenon. In more specific terms, the goals of the study's first part are: (1) to promote awareness of the rights of child victims of trafficking, and the preventative, protective and reintegration measures designed to assist these victims; (2) to allow concerned actors to express their views on child trafficking, share their knowledge of initiatives relating to emerging practices and experiences at the local, regional and provincial levels, and voice their concerns and needs with respect to child trafficking.

### 6.2 Ethical Standards

Upon first meeting the participants, a consent and confidentiality form was explained to them, which they signed and returned to the interviewer. Comments expressed during the interviews were then recorded on audiotape for analysis. The confidentiality and anonymity of all responses have been maintained in the report. Finally, all transcripts and recordings will be destroyed after five years, in accordance with the consent form signed by the parties involved in this study.

### 6.3 Sample Description

The empirical part of this study was carried out in eight Quebec regions: Centre du Quebec, Eastern Townships, Monteregion, Outaouais, Quebec and Saguenay regions, as well as Montreal and its surrounding area. Organizations that have direct or indirect experience with victims of trafficking were approached to take part in the project. However, because the phenomenon of trafficking in Quebec has only recently been recognized and only a small number of organizations' mandates involve direct intervention, "snowball" sampling (participants proposing other interviewees from among their acquaintances) was used to recruit participants. We therefore recruited the interviewees through members of the advisory committee and by searching the Internet for various pertinent organizations. After contacting these organizations, we were referred to other groups potentially interested in participating in the research.

Fifty interviews were conducted for the study, 31 were done on an individual basis and 19 with groups. A total of 89 people participated in the interviews. The organizations and experts interviewed were selected in order to obtain a broad representation of the parties concerned with child trafficking. Table I shows the various organizations' mandates within each region.

**Table 1 : Organization or Institution’s Mandate**

Mandate	Montreal	Centre du Quebec	Quebec	Saguenay	Eastern Townships	Monteregie	Outaouais	Laurentians	Total
Trafficking activities	1	1	--	--	--	--	--	--	2
Live-in caregiver	1	--	--	--	--	--	--	--	1
Adoption	1	--	--	--	--	--	--	--	1
Sexual assault	1	--	--	--	--	2	--	--	3
Advocacy	3	--	1	--	--	--	--	--	4
Women in crisis	1	--	--	--	1	--	--	--	2
Street gangs	1	--	--	--	--	--	--	--	1
Youths in crisis	4	1	--	1	--	1	1	1	9
Immigrants & refugees	6	--	1	--	--	--	--	1	8
Aboriginal Communities	--	--	--	--	--	--	2	--	2
Child protection	2	--	--	--	--	--	--	--	2
Health care	3	--	--	--	--	--	--	--	3
Family support	3	--	--	--	--	--	--	--	3
Trafficking	1	--	--	--	--	--	--	--	1
Sex trade workers	1	--	--	--	--	--	1	--	2
Crime victims	4	--	1	1	--	--	--	--	6
<b>Total</b>	<b>33</b>	<b>2</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>4</b>	<b>2</b>	<b>50</b>

Although all the organizations we met have a particular interest in child victims of trafficking in Quebec or throughout Canada, only one has a specific mandate regarding trafficking in persons, and two organizations undertake activities directly related to trafficking. Most people whom we met work in organizations with a mandate focusing on youths in crisis (runaways, drug addicts, street gangs), immigrants and refugees, and crime victims. Other organizations’ mandates are advocacy of victims’ rights, sexual assault, child protection, family support, health care, women in crisis, sex trade workers and Aboriginal communities.

Table II presents socio-demographic data from the 89 interviewees: by sex, type of workplace, type of job, number of years at that job and number of years’ experience in their field.

**Table 2 : Socio-demographic Data**

Variables	Number (N = 89)	Percentage %
<b>Sex</b>		
Female	55	61.8
Male	34	38.2
<b>Type of workplace</b>		
Community	36	40.4
Governmental and para governmental	35	39.3
Police	12	13.5
Youth centres	4	4.5
Hospitals	2	2.2
<b>Type of job</b>		
Co-ordinator / counsellor	33	37.1
Director / assistant-director	22	24.7
Field worker	13	14.6
Police officer	9	10.1
Research officer	6	6.7
Other	6	6.7
<b>Number of years' experience</b>		
Fewer than 5 years	7	7.9
5 to 9 years	4	4.5
10 to 14 years	6	6.7
15 years or more	29	32.6
Unknown	43	48.3
<b>Number of years on the job</b>		
Less than 5 years	44	49.4
5 to 9 years	18	20.2
10 to 14 years	6	6.7
15 years or more	9	10.1
Unknown	12	13.5

The total sample includes 89 people of which 55 are women (61.8%) and 34 are men (38.2%). Over a third of the participants are from the community sector (40.4%) and another third from the governmental and para governmental sectors (39.3%); the remainder work for the police (13.5%), youth protection (4.5%) or in hospitals (2.2%). Over one-third of the participants (37.1%) work as co-ordinators or counsellors, 24.7% are directors or assistant-directors, 14.6% are field workers, 10.1% are police officers, 6.7% are research officers and 6.7% hold other positions. Although 32.6% of the participants have more than 15 years' experience in their field, about half (49.4%) have been working at their present job for only 4 years at the most. Regarding this last figure, some participants mentioned that their job has only recently been created in response to the trafficking phenomenon or to related matters (sexual assault, street gangs, separated children, etc.).

## 6.4 Interview Process

Data were gathered through a semi-structured interview process that was specifically designed for this study. Each interview lasted approximately two hours and was conducted in either French or English, according to the participant's preference. In light of the wide variety of mandates of each organization, interview guidelines were flexible because not all questions were applicable to the work carried out by each organization. Lastly, depending on the context and the participants' preferences, we conducted interviews with individuals or groups.

The interviewers knew very little or nothing at all about the participants, which allowed for ample exchanges and unrestricted discussion. They also encouraged the interviewees to discuss issues by raising various ideas while keeping the discussion within the core theme. Because of their knowledge of the subject, interviewers were flexible, attentive and could adapt to each interview. To optimize their effectiveness, the interviews followed a protocol that included pre-set themes and questions. The semi-structured format gave participants the opportunity to talk about their personal experiences and to express their opinions on matters pertaining to the study's objectives. Lastly, interviews were conducted until respondents could provide no more relevant information.

## 6.5 Data Analysis

For statistical purposes, univariate analyses (central tendency, dispersion and distribution measures) were done on all descriptive variables in order to reflect the sample. Data gathered from the interviews were systematically analyzed using a qualitative method based on data reduction and presentation. Content analysis was done in seven steps in order to optimize the data reliability and validity: 1) verbatim transcriptions; 2) re-reading of the material; 3) identifying a thematic structure and separating the material into different themes; 4) specifying the themes, sub-themes and indicators, and creating an index; 5) revising the themes to reach a consensus; 6) coding the material; 7) presenting the results and interpreting the data. N'Vivo software was used to code the material by theme. A horizontal analysis was also done<sup>168</sup> where each interview was considered<sup>169</sup> as a single case for this analysis since it represents a whole rather than a compilation of individual answers, even if the answers were provided by a group. With respect to validity, inter-judge consensus on the coding and themes allowed for a qualitative match between the interpretations.<sup>170</sup> Also, the recording of the interviews, *in extenso* verbatim transcriptions and constant verification throughout ensured the reliability of the analysis, and lastly, quotations used in the presentation of the results corroborate the research themes.<sup>171</sup>

<sup>168</sup> M.Q. PATTON, *Qualitative Research and Evaluation Methods* (third edition), Thousand Oaks, CA : Sage Publications, 1997.

<sup>169</sup> J.M. MORSE, *Emerging from data: The cognitive processes of analysis in qualitative inquiry*, 1994, in J.M. Inc. (Ed.), *Critical issues in qualitative research methods*, pp. 23-45, Thousand Oaks, CA: Sage Publications.

<sup>169</sup> Ibid.

<sup>170</sup> Ibid.

<sup>171</sup> Y.S, LINCOLN, *Emerging criteria for quality in qualitative and interpretive research*, "Qualitative Inquiry", 1, pp. 275-289.



## 7 Content of interviews with concerned parties

In this section, responses from interviewees have been divided into four major categories: 1) current knowledge of the phenomenon; 2) victims of child trafficking; 3) services available in Quebec; and 4) needs and recommendations.

### 7.1 Current Knowledge of the Phenomenon

The first section raises the issue of what is known about the trafficking phenomenon, for instance awareness of its existence and its definition, the nature and scope of the phenomenon as well as the probability of encountering child trafficking.

#### 7.1.1 Awareness of its Existence

Respondents were asked about their level of awareness of the trafficking phenomenon, particularly with children, in Quebec and the rest of Canada.

During the interviews, most participants acknowledged that they were aware of trafficking in persons. However, many mentioned that they knew little about child trafficking. While some participants mentioned the lack of information on trafficking, others noted how difficult it is to measure the scope of this phenomenon and be fully aware of its reality. The following quote is one participant's opinion of the matter:

*Known, it's not known, at the police level. It's more or less known. Mostly, it's not really dealt with. It's not been seriously investigated, there's a lack of awareness, there's a lack of serious interest. It's because there's no training, no resources. It's not known, I'm just talking about prosecutors who are the ones who lay charges...*

#### 7.1.2 Definition of Trafficking

Participants were asked to define trafficking in minors to ascertain their understanding of the phenomenon and to establish a common analysis framework.

Very few of those interviewed made systematic reference to the definitions stipulated in international and national legislation. The variety of definitions given by the participants proves that there is no consensus on a proper definition of the phenomenon of trafficking in minors. In fact, the definitions they provided largely depended on their organizations' particular needs or political stance. The array of terms used when talking about trafficking could lead to confusion. The words 'trafficking,' 'smuggling,' 'procuring,' 'exploitation,' 'abuse' and 'slavery' were all used by the respondents. Although the terms and definitions varied from one person to the next, certain common elements emerged, mostly the concepts of movement, transportation, harbouring, exploitation and non-consent, as well as the financial aspect linked to the phenomenon (i.e. the victims' debt and traffickers' profits). However, in spite of the profusion of definitions, two points emerge consistently: unequal relationships and exploitation of the child "victim".

Several people made a clear distinction between “trafficking in persons” and “smuggling”, pointing out that these are two distinct phenomena and that trafficking in persons always involves exploitation of the victim. They are aware that smuggling refers to an illegal entry into the country whereas trafficking exists even if the entry into Canada was done legally. Furthermore, they specify that contrary to those who are smuggled in, the people who are trafficked remain under the control of the trafficker or of a third party even once they have reached their destination. In fact, some respondents mentioned that it is often difficult to differentiate clearly between trafficking and smuggling insofar as they both use the same migration routes.

Above all else, the respondents associate trafficking with sexual exploitation. However, some of them, especially those who work with immigrants and refugees, acknowledge that different types of exploitation exist: domestic work, forced marriage, forced labour, servitude and other forms of modern slavery (e.g. certain jobs in restaurants and agricultural enterprises).

Lastly, some respondents make a distinction between internal trafficking (within national boundaries) and external trafficking (trans-border). According to them, the former, which they believe to be more prevalent in Quebec, would be closely linked to street gangs and prostitution, while the latter would be a more restricted phenomenon led by more organized groups. Two of the respondents had the following comments:

*... they are recruited, conditioned, then transported; they're put to work, sexually exploited and to me that corresponds to internal trafficking.*

*It's using force, directly, to get a person to do things; she comes to the country under false pretences, she is led to believe that it's for work. I'll give you an example we had over at the Major Crimes Unit, it was a modeling agency, they promised her that she would come to Canada for photo sessions, etc. But it wasn't for photos. She ended up in a strip club. She had to dance to survive, to earn some money and eat. She didn't speak the language, not French or English. This definitely adds to the problem in my opinion. Definitely, forcing young girls to prostitute themselves with a pimp or a gang is trafficking to me.*

After giving their own definition, respondents were given the one stipulated in the *Palermo Protocol*.<sup>172</sup> This definition was then used as a reference for the remainder of the interview.

### 7.1.3 Nature and Scope of Trafficking in Persons

When asked about the nature and scope of the phenomenon, most participants stated that the extent of child trafficking is largely unknown and greatly underestimated. However, echoing what the literature states, respondents said that this is a growing problem. Two of our participants said:

*It's a phenomenon that is going to continue spreading. It is increasing exponentially from one year to the next.*

*It's an emerging crime, especially with globalization and the ready access to transportation.*

According to the results from this study, there is neither a common registry nor any official or reliable statistical data on child trafficking in Quebec, or even in Canada. Furthermore, it is difficult to gather reliable

<sup>172</sup> *Palermo Protocol*, loc. cit. note 1.

and consistent data from so many child protection agencies, each with its own sets of rules and criteria for collecting data. The following participant's comment sums it up well:

*We don't even have an estimate of the number of prostitutes in Canada, much less the number of underage prostitutes in Canada, so we can't expect any estimates on the number of women and children who are victims of trafficking. The RCMP mentioned 800 people every year, other organizations say 15,000 people. It varies between 800 to 16,000. It's very hard to get a good estimate.*

Many participants confirm that trafficking occurs mostly in Quebec's larger cities and that Montreal is a point of origin, transit and destination. Furthermore, some participants have identified links between Montreal and the cities of Quebec, Saguenay, Sherbrooke, Kingston, Niagara Falls, Ottawa, Toronto, Vancouver, Halifax and New York, as well as Alberta and New Brunswick. However, because it is difficult to keep track of victims of trafficking, authorities have little information on their movement, length of stay, particular conditions, etc.

In the case of trans-border trafficking, child victims originate mostly from Southeast Asia and Eastern Europe and to a lesser extent from Latin America, the Caribbean and Africa. This comment from a respondent highlights the illicit and complex nature of external trafficking:

*What makes this phenomenon so complicated is that as opposed to drugs, a drug sale is real, something is received and it ends there. Because a drug can't be sold many times like a child or in trafficking, the person will be sold several times, to a number of people at the same time, or in a serial way, and it gets more complex.*

## 7.2 Victims of Child Trafficking

Participants were asked to develop a profile of the child victims of trafficking that they met in the context of their work. Respondents were also asked about recruiting methods, types of exploitation, victim identification and the specific needs of minors.

### 7.2.1 Victim Profile

A large number of respondents said that it is very likely that they would meet trafficking victims in the course of their work. By virtue of their mandate, police services, youth centres and certain community organizations (e.g. those who work with cases of sexual assault, assist immigrants and refugees, and work in Aboriginal communities) are particularly concerned about the problem of child trafficking.

With the exception of one respondent, every person who was consulted reported at least one case of trafficking in persons either directly or indirectly, that is to say either personally or through a case file. While some people said they had met only one victim, others have worked with a hundred or so. Because there is no official registry of these cases, it is difficult to estimate their numbers.

Based on the descriptions provided, most trafficking victims are young girls between the ages of 14 and 17, with, in some regions, an overrepresentation of girls from Aboriginal communities. It is much more difficult to estimate the number of boys given the taboo associated with homosexuality. Furthermore, runaways,

street gangs and prostitution are all closely linked to trafficking in minors. As one of the interviewees said:

*We work mostly with young female runaways, or girls who come from dysfunctional families or who are placed in youth protection centres and who, after running away end up, and this is very common, end up being recruited by a street gang and doing prostitution for them, either on the street or in strip clubs in Montreal itself or the Montreal region or for escort agencies.*

When asked about the vulnerability factors, several respondents confirmed that victims of internal trafficking primarily come from economically and socially underprivileged environments and live in families that are defined by conflict, disorganization and inadequate child-rearing. These young people's lives are marked by emotional deprivation, lack of attention, physical, sexual and psychological violence as well as other domestic problems. The following statements summarize the general idea that was discussed during the interviews:

*...they are young girls with low self-esteem, who have been abused or who have a dysfunctional family, who need attention or who need comforting. And the exploiters use that to recruit them.*

*All are girls who come from underprivileged environments; a lot of parental neglect, mostly in terms of emotional dependence; young girls who were tremendously deprived of love and attention from their parents or their environment and who will latch on to just anyone.*

Although each case is unique, this excerpt clearly demonstrates the vulnerability of some young girls who are victims of internal trafficking:

*The classic type is a young teenager, 11-13 years old, who was gang raped and who is brought to us because we are one of the centres for sexual assault victims, who is brought to us at that point and who usually comes from a rather underprivileged environment. And then, a few months later she comes back because she's in love with some prince charming and she doesn't see the link with the gang rape. And little by little this gets her into prostitution and she doesn't even realize that he's becoming her pimp. He later gets her into drugs and then it depends on if the authorities will intervene or not. But they can create such a strong link that even if the girl that I usually see under youth protection, the girls will run away and go back to this prince charming and sink lower and lower. And they have such low self-esteem, after 2-3 years, they think it's the only thing they can do and it gets more and more violent. They'll come back with marks from beatings, and then drugs clearly become more and more important. And the next time she runs away and goes back to that environment, she could be beaten and get into a ring in another city, Ottawa, Toronto or somewhere else that's very big. Sometimes we find them in other cities in Canada and they'll come back and sometimes that's when we lose them.*

Regarding trans-border trafficking in minors, participants cited poverty and economic disparities as the main causes for the victims' vulnerability. In fact, poverty has a greater effect on women and young girls who are searching for ways to provide for their family in their homeland. The following comment describes

a case of external trafficking:

*... they're mostly girls who came from the Caribbean who were brought over by relatives, friends of the family, who easily got them across the Canadian border, because they're minors but also because they're part of the Commonwealth, so they don't need a visa, only authorization that they got in their country. And they had them brought to Canada to work for years as minors; and they were kept confined, assaulted or otherwise abused and couldn't talk or communicate or anything at all until they were of legal age. Then they came to us, even as minors to say, look I'm working as a domestic, I have no rights, I have no documents, I have no papers, what do I do?*

A few participants mentioned that “if we only look at the typical profiles, we’re going to miss some situations.” Even when the parents are present, children nonetheless can end up in a trafficking situation. Other participants specified that some minors “accept” to be exploited because of their need or desire for affection or money, or to migrate:

*The girls know other young girls' stories. And those who have networks that are less supportive become even easier prey. And then, there are girls who do want to be a part of these gangs because, for them, they're shown the glamorous side; that whole side that gives them a feeling of belonging. These young girls are told that they're pretty, that they're nice, that they're loved; because they're not often told this and in these networks this is what they are told.*

Several participants brought up the notion of revictimization, specifying that many young girls who end up in a trafficking situation have often suffered multiple forms of violence. As a result of these previous abuses, they are more fragile and at greater risk of being revictimized. This is one participant’s comment on the matter:

*Vulnerability is there for many reasons, apart from the fact that she doesn't have her network, apart from the fact that she's already been exposed to sexual violence. So, previous abuse, at that point it's easier to get recruited. They already see the economic effect and in relation to self-esteem. Sometimes she gets taken in for these reasons or because sometimes she starts taking drugs on her own. The problem with drug use is that it creates a dependency and you have to buy drugs. Here, we had a situation where a girl who, after running away, was found in Toronto, dead in a hotel room from an overdose. But here there was sexual abuse, there was sex along with drugs and she died. Then she wasn't in the network any more. She died while she was running away. She had run away several times before. But when she ended up in networks and when it became too hot or too dangerous for her, she'd call us and we would go get her in the street but this time we weren't able to get her back. So it's like a cycle ...*

In short, these numerous factors explain why children are vulnerable and become easy prey to traffickers. Clearly, we cannot draw a single profile from such an array of concomitant factors that show the complexity of trafficking in minors.

## 7.2.2 Recruiting Methods and Types of Exploitation

Participants indicated that, regarding internal trafficking, recruiting methods vary substantially but are all based on establishing a friendly or amorous relationship with the victims and on developing their dependency on the trafficker. The following excerpt from an interview sums up participants' comments:

*Your typical case, I would say, is really the case of a girl; it's the average story, like the core of the problem. A girl who meets a guy; she falls in love with him, they make plans for the future, and then the guy says he needs money for something, a debt to pay. He has a fine to pay, the police are after him, whatever. Any scenario is good enough to justify the need for money. I've seen cases where it was wanting a child, so the guy played on that, wanting an apartment together as lovers, the well-known problem of a debt, losing his job, so there are different scenarios. That's often when the idea of selling her sexual services comes up. I have two scenarios: so, there are situations where the guy will say 'I know a way to make money, easy and not too complicated,' and then he suggests a few activities that the young girl could do; the first ones are usually nude dancing and she's quickly put in contact with nude dancing establishments; or the girl will suggest to the boy that she could go and work because she knows other girls who've said they know a way, I know someone, and so on. So usually, at first the girls will really do it, based on either one of these scenarios. She'll do it out of love for her partner. I call this the Mother Theresa syndrome. She will really love him, she'll do everything to make him happy, and then at some point he won't make me do these things... And often, at the same time, what we often see, is that, within the gang, the girl will be sold. Sometimes actually sold for money. Sometimes just lent to other guys in the gang. So the boyfriend will say to the young girl, for example, that it's his best friend's birthday, his girlfriend just broke up with him, it'd be nice if you took care of him.*

Moreover, according to the respondents, recruiting for internal trafficking takes on different forms and happens in various places, especially in youth centres, subway stations, shopping malls and schools. The Internet is also a means of recruitment of minors. As a general rule, to ensure obedience from their victims, traffickers use force, fear and deceit. Therefore, physical and psychological violence as well as sexual assault are all used to compromise the victims' dignity and integrity as well as their physical and psychological independence. Force is also used to discourage any form of rebellion. Fear is instilled with threats against the victims themselves or their family members, and victims are deceptively seduced with attractive incentives or the hope of a better life.

Most respondents have little information regarding recruiting methods that are used in trans-border trafficking. In the same way as internal trafficking, various forms of violence and deceit are used by traffickers to maintain control over victims. In addition to being enticed with false information regarding the reception, work conditions, immigration and legal systems that await them in the country of destination, illegal immigrants are often blackmailed as a consequence of their illegal status.

Almost all reported cases of internal and external trafficking are related to sexual exploitation. Young girls work in the sex trade as strippers and prostitutes on the street, in motels or in massage parlours. It is difficult to obtain explicit testimonies that would allow us to draw a more precise portrait. Some participants, moreover, reported that some trafficking victims are domestic employees.

Based on the analysis of the interviews, not all cases of child trafficking, whether internal or external, are carried out through organized crime rings. Even though organized crime undisputedly plays a key role in the trafficking phenomenon, police services and community workers whom we consulted stress that we cannot assume that organized crime alone is at the root of the phenomenon, especially when dealing with internal trafficking. Their combined experiences confirm that small criminal gangs, even individuals, are involved in trafficking in minors, as described in the following statement:

*Street gangs don't work on a pyramid scale like other crime organizations, like the mafia or bikers; it's more circular. They have an inner core of three or four people; around that are the more influential, more active members; and then there are the more distant contacts. Distant contacts can be found in high schools, a member's little brother who is always with little girls, who tries to lure them in at hip-hop dances, tries to lure them in at the shopping centre. There's always recruiting going on. They won't directly go and get you. So it's not a recruitment that's easy to identify. The little 12-13 year old boy, he finds the girls who are most at risk, easier, girls who are really into Black guys. So he brings them in and the others who are higher up, are like Kings with more money, more jewellery, with attitudes of a leader. They act like the rappers we see on TV, to really impress the girls. And then, 12-13-14 (years old), they slowly pull her in.*

Although many respondents describe a typical recruiting method aimed at young girls who are forced into prostitution, they also emphasize how important it is to take into account the individual cases that don't fit this stereotype. The degree of violence or deceit varies from one case to another, as do the conditions that pertain to each victim. Furthermore, these traffickers who do not work for organized rings can change their methods and quickly adapt them to new circumstances, particularly stricter border policies, new legislation on asylum claims or a tighter immigration policy regarding external trafficking.

### **7.2.3 Victim Identification**

The majority of respondents remarked how difficult it is to identify child victims of trafficking. They stated that this is due to rare and scattered information on trafficking, the lack of available resources, the fact that there is no standard definition that is used, and a divergence of perceptions regarding the victim as well as the small number of witnesses, complaints and lawsuits that emerge.

Very often, minors are reported to the authorities for cases of sexual exploitation or for other reasons such as running away, skipping school or behavioural disorders. These children are rarely identified as victims of trafficking. Moreover, each case must be reported by either the victim or a third party, making the identification process even more laborious:

*The problem is that girls are rarely, to my knowledge, reported. The reason for the reporting, which is their gateway to the youth centre, the reason for the reporting is rarely their activity linked to sexual exploitation in a gang. It's often concomitant problems: she doesn't go to school, she runs away, she takes drugs, those are the reasons for reporting. Sometimes during a reporting, the person reporting will say that she also hangs around guys who are in gangs. We might think she is at risk, but when they come in, we rarely have access to that information, it's often during the case management when either the young girl will reveal on her own what she's going through or the case workers will be*

*alerted by certain behaviours, attitudes, people she hangs out with. So, often, it's only as we go further into her case that we find out, that we'll be able to identify the real problem...*

Considering how inefficient the system is right now at identifying victims, there is very little data on the phenomenon. Detection and intervention are poorly structured:

*Cases are not documented, so we don't know. There's no way we can have any idea of the phenomenon. There are no statistics. The level of awareness has to be raised. We're at the point where we're becoming aware, but people don't even know what it is. When you don't know about it, you can't say this is it and this isn't it.*

Furthermore, some respondents specify that when a child is intercepted, especially at the border, exploitation may not have taken place yet. So even if a child was brought into a country for exploitation, it is difficult to obtain evidence to this effect. Several participants raised these two questions: How do we define the notion of exploitation? How do we prove that the intention is to exploit the child?

Several participants are of the opinion that the problem regarding Access to Information can be an obstacle to the identification of a child victim of trafficking because of the many different people involved in the case. The following is one participant's comments:

*Because of Access to Information, we're not allowed to say who is who. We try to help but we're all isolated in our little compartments and we can't say "Go and help, things aren't going well..." We can't say because we can't provide any names. It isolates us all in our departments. They talk about partnership, well partnership is all very nice, we're going to help each other out and all that, but if we're not allowed to say anything it won't help us. We can't move forward. And of course we talk to each other but in code. And then there are agencies that say "We can't do that because it goes against the Charter of Right and Freedoms." So then we're stuck and what do we do? We want to help the kids but we don't want to do too much because it would be infringing on their rights. That's where we end up when we talk about partnership. Partnership is fine, it's all very well, but we have to be able to talk realistically. And often the real things are not said.*

#### **7.2.4 Particular Needs of Victims who are Minors**

All the people we met indicated that children who are victims of both internal and external trafficking have physical and psychological problems that shape their health needs. In this respect, we note: a) physical and sexual violence, confinement and torture; b) trauma (notably dissociation and post-traumatic stress disorder), loss of integrity, distress, lack of self-esteem and trust in others, fear, isolation, loss of family and social circle, inability to control one's life as well as many psychiatric disorders and c) alcohol and drug problems, various sexually transmitted infections, poor nutrition and abortions. The combination of these problems faced by each child victim of trafficking demonstrates the extent of their vulnerability and fragility:

*... then she is exploited by the group, unbridled sexual lifestyle along with all the associated risks: becoming a drug addict, an alcoholic, dropping out of school, risk of venereal diseases, don't want to eat, how far are you going to go with drugs, all the way to heroin, AIDS, etc. Worst that can happen is that you become vulnerable to everything.*



*Low self-esteem, he'll probably become addicted to drugs. He'll start using narcotics, maybe to forget what he's doing. He's going to jeopardize his mental health, his ability to function in society; it makes for people who are marked for life. For sure, they don't come out of it. We see young girls who were victimized ten years ago and who are now women; these are fragile people who are unsure of themselves, who lack confidence and have trouble moving ahead in life, pushing ahead.*

The difficulties identified by the respondents highlight the need to provide victims of trafficking with healthcare as well as services relating to mental health, drug abuse treatment and rehabilitation, and reintegration—all of which must be adapted to the particular needs of each victim.

Furthermore, in some countries of origin, corruption combined with an inefficient, or almost non-existent, judicial system and social safety net are factors that support practices related to child trafficking. These factors directly influence the way youths perceive the authorities and must be taken into account when intervening on their behalf:

*Among young immigrants, young people are afraid of the police. Sometimes kids come from countries where the police are corrupt. So they can't stop a police officer and ask for help for fear of going to prison; I'm the bad person (...)*

The child's developmental stage must also be taken into consideration, as different issues arise depending on the victim's age. These children are deprived of their family and of their community in addition to having to take on adult responsibilities, which increases their level of distress. Some characteristics specific to young people will influence how the interventions are carried out:

*A teenager who's trapped in this and who wants out, doesn't know how; I'm not sure that the resources... I'm not sure that other than telling a girl, "you can call 911," I'm not sure that she is told, whether at school or by someone in the family, I'm not sure that he would really know where to go if he was in a difficult situation. So in this context, the teenager who is caught in this situation and who all of a sudden wants to get out of it, well I'm not sure that all the kids know about "Maison Dauphine" or that they know where to go knocking. It becomes a vicious circle. They don't really know about the resources and I think that the teenagers... Teenagers are very secretive and... don't trust adults. So, of course I find that this is a factor that makes their situation worse. They don't trust us, whether it's their teacher, their parents. Us, maybe a bit more, the lawyer, because they feel we're on their side. But from that to saying that, after I meet them a few times, they have such trust in me that they will confide "I worked as a prostitute." I think that teens' natural mistrust of adults complicates our interventions as well.*

**When evaluating child victims, one must take into account the diversity of each child's experiences in order to respond as effectively as possible to their needs and to determine which interventions are most appropriate.**

## 7.3 Existing Services

The people we met were asked to describe the best practices used within their organization as well as the ways in which they collaborate with other organizations. Respondents discussed the various levels of services and pointed out certain gaps and obstacles inherent to these services.

### 7.3.1 Best Practices

The organizations we talked to work with immigrants and refugees, with children who are victims of various types of crimes, with street gangs and with youths in crisis. They determine, according to their respective mandates, the most urgent needs of children who are victims of trafficking.

Firstly, as part of their procedures, organizations pay particular attention to the distinction between adults and children:

*Already, as a first intervention, when we are dealing with a minor, of course we use a completely different intervention, whether it is a different psychological or social approach. Of course we don't intervene in the same way. And also, the factors under which our partners will intervene will not be the same for adults.*

Respondents generally acknowledged that underage victims of trafficking should have access to a host of services, including: safe housing, food and clothing, medical and psychological care, intensive follow-ups and the opportunity to go to school. However, none of the people we met reported any specific intervention procedures intended specifically for children who are victims of trafficking.

According to the respondents, it seems that covertness and isolation, two factors inherent to the trafficking in minors, seriously hamper efforts to help the victims. On one hand, the victims cannot divulge their situation without risk, and on the other, they are prevented from having access to any service, including the most basic care.

Furthermore, the people we met raised the fact that the children are subjected to physical and psychological coercion, which is used by the traffickers to prevent them from having access to services. Thus, regardless of the type of trafficking, low self-esteem, fear and violence are major obstacles to obtaining services. In the case of external trafficking, immigrant minors live with the added fear of arrest and deportation.

Although not specific to the trafficking in minors, some people spoke of interventions that they use within their organization, which they believe could serve as models. In this respect, respondents agreed on some considerations, particularly those interventions that focus on empowerment: participation in sports and cultural activities, peer groups, telephone support groups or field intervention teams. Finally, respondents stressed the importance of prevention aimed specifically at parents through information sessions on the trafficking phenomenon and related subjects, as well as assistance to families in view of reintegrating their children.

In short, many agree that despite common characteristics in the victims, services must be personalized to meet each victim's specific needs:

*Although there are patterns each individual is going to have a special circumstance; and they don't prioritize what their first need might be. And it is critical that we meet that need according to their definition of it. It may not be what we think is the most important for them. But it really is not about that in the long term. It's about giving people the sense that they can make change in their life, and they can be a power in their life and define something for the first time when all this power has been stripped away.*

### 7.3.2 Collaboration with Other Organizations

Everyone we met agrees on the importance of good collaboration with other organizations to combat child trafficking. As one participant mentions, "It's daily, our daily activities depend on this, good collaboration, sharing information."

The interviews allowed us to identify the majority of the organizations that intervene directly or indirectly with children who are victims of trafficking. The diversity of these organizations makes one realize the complexity of the collaborations that need to be developed and maintained. While certain subgroups work together regularly, notably the Director of Youth Protection, the *Programme régional d'accueil et d'intégration des demandeurs d'asile* (PRAIDA) [Regional Reception and Integration Program for Asylum Applicants], police services and hospitals, there are organizations (including Aboriginal organizations) that find it more difficult to establish and maintain continued collaboration. Many prefer organizations to function within a network rather than count on individual partnerships.

## 7.4 Needs and Recommendations

Interviewees were asked to specify the needs regarding child trafficking and to make recommendations in terms of prevention, protection and prosecution.

### 7.4.1 Prevention

Several participants suggested using a media campaign to promote public awareness as a tool to help prevent child trafficking.

Similarly, according to statements collected, immigration officers, community and health workers as well as police officers should receive special training on the subject of child trafficking, which would focus on the overall problem, on evaluating the situation, assessing the victims' needs and intervening with the victims. This training should also address the major issues related to the phenomenon: advocacy, gender equality, access to education and work, prejudice and discrimination against immigrants, etc. Some respondents suggested discussion forums addressing the issue of trafficking in view of getting various partners involved.

With regard to youths specifically, respondents mentioned that prevention workshops should be included in the school curriculum not only to make children aware of trafficking in minors, but also to inform them adequately on the subject (victim profiles, recruiting method, work conditions, etc.). To this effect, some participants singled out the play entitled *“The charming snake”*, which is a prevention tool developed in Quebec and presented by the Théâtre Parminou, or the comic strip named *“Le silence de Cendrillon”* [Cinderella’s Silence], both of which are intended for young people.

The large majority of the people we met mentioned the importance of using existing tools that address related phenomena (street gangs, sexual assault, prostitution, etc.) and therefore not develop new programs. This participant’s statement summarizes the general picture presented by our informants:

*I don’t think that we need to create specific programmes, but I think that we should use what we have, adapt it, develop programmes, in fact, use existing programmes and make them more appropriate to this profile. But I think that we already have very interesting tools that allow us to work on this particular problem. And at the youth centre I think that we are, all in all, fairly well-equipped to do so. Now, I would say that once, obviously, we’ve done so, I think that the problem is probably from the outset: How to better identify cases and become more sensitive to the situation? That, I think, is something we have to reflect on.*

Furthermore, some respondents discussed the importance of developing a screening instrument that would enable them to make an evaluation and to quickly and efficiently take care of children who are at risk of ending up in a trafficking environment.

Developing links with the international community emerged in the interviews as a major aspect of the fight against trans-border trafficking. Relations with various international organizations would allow us to consider their experiences, notably in developing and implementing best practices that reflect the specificities of different cultures.

#### **7.4.2 Protection**

It is important to recall not only that none of the people we met reported any protective measures developed specifically to intervene with victims of trafficking, but also that several organizations do not have the means to intervene with minors. Participants highlighted the need for training related to the specific dynamics of trafficking in persons, including child trafficking.

However, the interviews brought out a range of needs that should be identified in order to intervene effectively. More specific to external trafficking, it is important to have access to interpreters because the linguistic barrier not only affects victims’ ability to receive support services but also makes it difficult to intervene adequately. We must then count on access to safe housing as well as medical and psychosocial services adapted to the specific needs of the young victims. On this subject, the respondents view housing services as being closely linked to protective services. When they meet a victim of trafficking, she is in a crisis situation, and immediately available safe housing is essential for her protection from the trafficker or the ring that she previously lived with.

Furthermore, while some respondents simply deplore the lack of services, others emphasize the need for swift action for the victims, a factor inherent to the quality of the protective services offered:

*But that's the major difficulty. It's that you don't have the resources to respond when you have kids for whom you must respond immediately.*

*Because it's very difficult. I think we need to intervene earlier and recognize sooner that that's what's going on. I don't think it's a coincidence when a girl is gang-raped. And it's always in the same parts of town and it isn't coincidence. We, as a hospital, we can do nothing legally, we have no power. So the only power that exists is youth protection and I have the feeling that they don't recognize the problem. A girl who has been gang-raped is not held in youth protection, that's for sure. We, as a health network, we can do absolutely nothing, we have no legal power. So I think that youth protection should intervene much more forcefully at this point.*

Some respondents mentioned that the current system too often labels young girls caught in trafficking situations as “delinquents,” which can be problematic in terms of protecting them. Similarly, they criticize the lack of awareness of the problem and the poor use of existing resources. This participant sums up this concern well:

*Always because of the tension between protection and delinquency. Also in the youth centres, it isn't easy to distinguish between protection and delinquency. Those working in the field favour the delinquency aspect. For protection, the youths who need help, they favour prosecution. In discussions in universities, prosecuting is preferred. You know, we're talking about resources among others for minors; that there is a lack of resources, it isn't because there's a lack of resources in the youth centres. All the local community health centres (CLSCs) have youth teams, there are also specialized centres that have emerged, there are all the schools where social and health care workers are now linked with the CLSCs. In all sectors, there are resources. It's more in terms of organization and where we put our priorities. Yes and also the understanding of what the youths are experiencing in reality. And at the same time, it's just a thought like that: trafficking, why does a young person become exploited, what is the cause? There isn't just a consequence or a symptom, there's something else. So we have to go look closer to the source. Probably, what is often done is that within the resources, the people are seen for other problems they are experiencing, and the work is done relative to poverty or gangs... As for me, the experience I have in terms of young minors linked to prostitution, it's not that there's a lack of social workers in their lives. There's everything that's needed, but what they understand about it is that people wouldn't listen to them.*

Furthermore, the lack of continuity between the youth system and the one dealing with adults prevents follow-ups of those who entered the protection system as minors and are now adults, and this compromises the protection of victims of trafficking:

*To the extent that we can determine that a particular youth has been a victim of trafficking, we can intervene, then the law allows us to take adequate measures. But resources for the clientele that leaves us, it's as far as we can stretch our resources, really, but we've found that it really pays to offer support to young people who leave our network, but we don't have sufficient resources to offer the necessary support.*

Moreover, the people we met raised the urgent need for organizations to work together to increase protection of victims of trafficking. On this subject, one participant states:

*As long as we each work on our own, we will get nowhere. One agency solves one little problem, the other one will solve another. We will never get anywhere, ever. We will always miss the main problem.*

Regarding trans-border trafficking, respondents mentioned the need for some sort of legal status (temporary visa, resident status) for child victims of trafficking, in order to help protect them and to enable interventions that are adapted to their situation<sup>173</sup>.

Finally, what comes out of the interviews is that the flagrant lack of resources (financial, human and material) is one of the main obstacles to developing and providing services. There is a lack of funding allocated to developing services, hiring qualified staff or offering staff development programmes (continued training for those working in the field). This excerpt from an interview deplors the lack of political will:

*Ultimately, we need to know where she is going, there has to be a follow-up, but this doesn't necessarily happen in most cases. There has to be a desire by our society and our government to solve this problem and as long as we don't have that, we'll always be scratching the surface, applying a Band-Aid. We'll put it in one place and take it away from the other. We need a real policy, a real willingness by our society to say that we are going to deal with the sexual exploitation of young girls.*

### 7.4.3 Prosecution

The interviews revealed a striking lack of awareness of the various laws whether at the provincial, national or international level. In fact, respondents stated not only that they know little about the laws that apply to child trafficking, but that this ignorance also exists with immigration officers, investigators and prosecutors; which causes prejudice to the victims.

Besides the problem of not knowing about the legislation, respondents also mention the problem of how the law is applied. Although there are new provisions in Canadian law which support the prosecution of traffickers, these means must be known, well interpreted and applied. One respondent also establishes a link with the *Convention on the Rights of the Child*:

*We need to implement the laws we have now. We need to stop taking this airy-fairy approach and you know where we have the obligations under the international law, like the UN Convention we need to implement it; and we also need to implement our criminal laws when it comes to this and to make it a priority. And I personally think that crimes against children should have more significant penalties than the crimes against adults.*

Finally, the people we met discussed the lack of coherence among the laws of the different provinces and territories within Canada. The problem exists within the various youth protection services:

*I believe that it is a matter of coherence in terms of the laws between the different provinces; they're not quite the same in how they apply to youths. We work with young*

<sup>173</sup> Please note that the interviews were conducted before Citizenship and Immigration Canada released its interim guidelines in May 2006 which allows immigration agents to grant temporary visas to individuals who are victims of trafficking.

*people up to 18 years of age here. In some provinces, it isn't up to 18 years. That may be where I see a deficiency, but there each province applies its own.*

Another organizational problem with prosecutions lies in the fact that the different authorities do not have access to a standard census and recording system. The people we consulted called for harmonized data-collection systems throughout Canada.

Furthermore, testimony we gathered shows how few means are available to conduct investigations that would allow them to track down the trafficking rings. It is hard to get victims to cooperate during prosecution and to convince them to testify against their traffickers.

*The laws are not well adapted. They are a bit more so since the adoption of the bill but they could do more. They could do more because there are pimps who are extremely violent and for whom we will never have victims, witnesses willing to tell their story. What we would need is to be able to handle these cases as crimes without complainants. A bit like narcotics: they tail them, do surveillance, wiretapping... And through undercover agents, using those techniques, be able to establish a portrait and provide the evidence to these people in court, so they are convicted and then stop producing more victims. That's the part that we're missing, that causes us problems.*

Moreover, statements from several of the respondents indicate a general feeling that the sentences for the clients and the traffickers are too lenient when it comes to child trafficking. In fact, the people we met indicated that efforts should be made when prosecuting, on the one hand, against the traffickers and their accomplices by giving them sentences with a set minimum number of years in prison according to the severity of the crime, and, on the other hand, against the clients who should be fined or sentenced to prison, depending on the situation. All these people who are convicted for offences related to child trafficking should have a criminal record to make it possible to eventually track them down.





## **PART III: ASSESSMENT AND PROSPECTS**

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## 8 Assessment and prospects

This part of the research paper presents our analysis of the phenomenon of child trafficking in Quebec, based on the study of the documentation and results that were gathered from the interviews.

1. The analysis of the results highlights the obvious lack of knowledge among interview participants with respect to the phenomenon of trafficking in persons and, more specifically, child trafficking. Moreover, the interviews have clearly shown the confusion that exists between the terms “trafficking in persons,” “prostitution” and “sexual exploitation.” The confusion lies in the fact they are closely related, while they reflect different realities. As mentioned during the interviews, it is essential to raise the awareness of the public and all concerned through an information campaign involving the media and advocacy groups. While some respondents mentioned the public’s lack of awareness, others perceived the need for training the professionals who work directly or indirectly with children who are victims of trafficking or youths who are at risk.

Trafficking in persons is both a national and international problem. When questioned about the definition of trafficking in persons, several respondents associated it with illegal entry into Canada. However, the literature shows that in many cases it is linked to legitimate Canadian immigration programmes.<sup>174</sup> It is interesting to note that respondents are not very aware of external trafficking, with the exception of those who work in immigration. In fact, most were able only to identify cases of internal trafficking. This is a very real situation that exists in Quebec and in all of Canada. As described in the overview of the situation, Aboriginal communities are particularly affected by this problem.

2. It was equally noted in the literature and during the interviews that the lack of a common definition for “child trafficking” is considered a problem. A standard definition would transmit a message about the importance of the children, suggest legal remedies and define the preventative and intervention measures to combat this phenomenon. Most of the participants use various elements of the definition found in the *Palermo Protocol*<sup>175</sup> which include recruitment, movement, coercion and exploitation. Consequently, the great majority of participants would like to see one uniform, precise definition relevant to the realities that exist within Quebec and Canada, and which could be used by all organizations across the country. According to the respondents, the use of a standard definition would improve communication and make it much easier to identify the victims. In addition to this, most respondents admitted to having little knowledge of the laws that apply to trafficking in persons. Since legislation states not only the definitions, rights and available remedies but also the framework in which case workers and others can work, it is essential to develop an awareness campaign that would include a segment on legislation pertaining to trafficking in persons.

3. The exact extent of trafficking in persons in Quebec, and all of Canada, is difficult to assess. As has also been found at the international level, the organizations that participated in our study agree on the lack of reliable statistics. Having said this, the people we consulted noted that trafficking is a growing phenomenon and additional efforts are needed to better understand it. Thus, one requirement expressed by our participants refers to the need to collect data on victims of child trafficking in order to facilitate the work of

<sup>174</sup> L. LANGEVIN, M.-C. BELLEAU, loc. cit. note 37.

<sup>175</sup> *Palermo Protocol*, loc. cit. note 1.

governmental agencies and non-governmental organizations, while taking into account the scope and the real gravity of the problem.

4. In other respects, since trafficking in children is clandestine, it is inherently difficult to detect, even for trained and informed professionals. Although some respondents say they came across one or more cases of trafficking in persons during the course of their work, it was often unclear if the person was in fact a victim of trafficking. The inadequate exchange of information between professionals only adds to the previously mentioned problems of identifying victims.

5. Most respondents stated that they have either been in contact or worked with different agencies working in the field of trafficking. Respondents said they would like to be supported in building and encouraging partnerships to fight against child trafficking. Despite the apparent collaboration, there seems to be no exchange of information on specific cases. Co-operation between the various governmental and non-governmental partners is essential to ensure victims' protection and to minimize their risk of being revictimized. In fact, it is almost impossible to intervene effectively in a victim's case when important elements of the victim's case history or identity are not given to those who are assigned to help. There must be better sharing of information to intervene effectively and to follow up on the victim, while respecting the victim's right to confidentiality.

6. Many children who are caught in trafficking do not perceive themselves as victims. Moreover, victims of trafficking hesitate to identify themselves as such because their trust in the authorities and the network of services has been compromised by their exploitation experience and by a feeling of constant insecurity. This is added to the fact that the system does not identify them as victims of trafficking while, according to the people we met, these children may have been seen for a related problem that turned out to be a direct consequence of trafficking. Hence the need to develop a screening tool that would facilitate victim identification and allow the relevant authorities to act on the main problem, that is child exploitation. By taking the context into account, more sustained follow-ups could be provided for children with problems such as a violent family environment, previous abuse, drug abuse, poverty, isolation, insecurity, low-self esteem and disengagement by adults in the child's environment.

7. As stated in the literature, it is clear that services must be offered with each child's specific needs in mind. For example, placement should correspond to a child's needs, culture, language, religion and specific situation. Several case workers for street youths, Aboriginal youths and other cultural minority youths maintain that an individual approach to each case must be developed, based on each victim's situation.

Regarding victim assistance, the goal is to guarantee the victim's physical, psychological and social recovery while providing safe housing, medical and psychological assistance, a thorough follow-up, financial support, legal advice and employment along with the possibility of schooling and training. All information must be communicated to the children in a language they understand.

8. There is reason to question the network of health and social services' ability to meet the specific needs of young victims once they have been identified or when they drop in without any referral asking for help. Although the health and social services network does provide protection services to young victims of trafficking, it does not yet have any tools designed to meet the specific needs of these vulnerable persons. If the network is to provide these special services, governments must make child trafficking a priority and provide the funding to strengthen the programmes.

9. Until now, Canadian policies and legislation have focused mainly on measures to identify the criminals and press charges against them, seize their gains and dismantle their rings. These measures are, indeed, important, but they could not be effective without the victims' collaboration. This approach, which focuses on suppressing and criminalizing traffickers, is far from sufficient and provides few effective solutions for victims of trafficking.

Child trafficking is often linked to organized crime and must be combated in Canada with the same intensity as drug trafficking and money laundering. Experience has shown that the implementation of legislative instruments on a national level strengthens any action taken on an international level; as such, offences under the *Criminal Code*<sup>176</sup> can be prosecuted. In fact, Canada is presently taking measures to create a more complete and effective legal framework to combat trafficking in persons.<sup>177</sup> The introduction of several changes to facilitate the testimony of child victims, especially those who are victims of trafficking are important to mention.<sup>178</sup>

Victims must be allowed to tell their story at their own pace, without undue pressure, to well-trained professionals. During the intervention, special attention must be given to the investigation methods since they can be traumatizing for the victims.

10. Victims must not be penalized for offences that are a direct result of circumstances related to trafficking, particularly if they have no identification documents or legal status, or if they have entered the country illegally, or violated existing laws and regulations on prostitution, work or panhandling. To ensure effective protection, these children must be recognized and treated as people in need of assistance. This may seem obvious at first, but far too often they are considered to be responsible for their own fate. Yet, these are vulnerable minors who are trying to survive or improve their situation, far from their family and their community, within their own country or in a strange land. They were lured by traffickers, trapped by clients and abandoned by a legal and social system that does not protect them since it cannot free them from their captors. We must therefore establish procedures to help identify children who are in risk situations and are likely to be exploited by traffickers. Particular attention must be given to individuals who are apprehended for violation of laws on immigration, prostitution, panhandling or illegal work; in these circumstances, we cannot expect victims of trafficking to identify themselves. Investigative methods, by way of interviews in safe and non-threatening environments, with trained counsellors and interpreters, help to detect trafficking indicators.

11. Even though most of the respondents do not have a specific mandate regarding the prevention of child trafficking or the protection of its victims, they do however address some of these needs. It is significant that almost all the participating organizations insist on the need for sufficient funding in order to adequately fulfill their expanded mandate.

Consistent with what we found in the literature, certain respondents mentioned the importance of developing strategies and the means to encourage empowerment among youths. By allowing a child victim of trafficking to exercise some power, that is by including him in his reintegration process and by accompanying him as he takes new steps in his life, we are increasing his chances of success.

<sup>176</sup> *C.c.* loc. cit. note 157.

<sup>177</sup> *Ibid.* articles 279.01, 279.02 and 279.03.

<sup>178</sup> Bill C-2, loc. cit. note 157.

12. In the specific case of external trafficking, the regularization of immigrant status for victims and respect of their fundamental rights are also identified as pressing needs. It is important to recall that in May 2006, Citizenship and Immigration Canada issued guidelines that allow immigration officers to grant temporary resident permits to victims of trafficking.<sup>179</sup> These guidelines provide the officers with information on the distress these trafficking victims might be experiencing and urge the officers to conduct their interviews with caution. The goal is to ensure the victims' co-operation and avoid deporting them until it is confirmed they are *not* trafficking victims.

13. Finally, we must recall that worldwide economic disparities between northern and southern countries as well as the colonization of Aboriginal people are contributing factors to the national and international trade in persons. The exploitation of children is an unacceptable phenomenon that brings to light the need for the will to combat this scourge and the pressing need to intervene on all three fronts: prevention, protection and prosecution.

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<sup>179</sup> *Interim Human Trafficking guidelines*, loc. cit. note 144.

## Conclusion

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Trafficking clearly exists in Quebec. Children who are victims of internal trafficking are displaced from their place of origin to cities within Quebec, Canada or even other countries, whereas victims of external trafficking are brought here directly from another country or arrive in transit. There is presently very little information on the actual scope of the situation, although most authors and respondents agree that child trafficking is on the increase.

In the interviews, most participants expressed the lack of knowledge on this problem and the importance to refer to a standard definition. This study also looked at the many risk factors which contribute to the vulnerability of children who are victims of trafficking. It has been reported that the many aspects of exploitation that these young victims have suffered cause disastrous consequences on their lives and on those around them.

The immediate challenge is to detect children at risk before they become victims of traffickers and to identify the children who are victims of trafficking. This study has shown that it is apparent that services offered must meet each child's specific needs.

Several respondents indicated they were prepared to work in close collaboration with actors in different sectors to prevent child trafficking, protect the victims and prosecute the traffickers.

By creating new offences related to trafficking in persons and developing corresponding measures, Canada is openly opposing trafficking in persons and is taking the steps to combat this scourge.

With the results of the first part of this study, the International Bureau for Children's Rights will soon be issuing a series of recommendations which pertain to the fight against child trafficking in Quebec. These recommendations will serve as the foundation of an action plan that will be elaborated and implemented in close collaboration with its partners in the course of 2007.





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