

Trafficking in Children in Canada: Preliminary Assessment

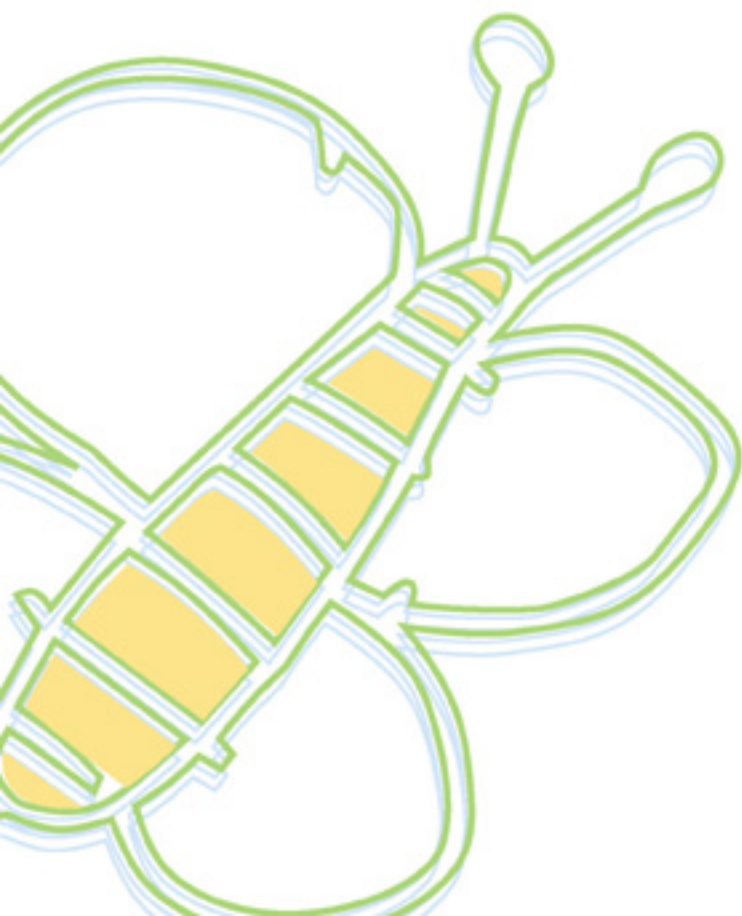
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Department of Justice
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**Trafficking in Children in Canada:
Preliminary Assessment**
Final Report

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Introduction

The international community is joining forces: the child trafficking problem is increasing worldwide.¹ Canada is not exempt. It is a country of destination and transit,² even a country of origin. However, few Canadian studies have been done on the topic.³ There is also a need to raise the awareness of decision-makers and the Canadian public in general regarding this issue. This assessment aims to gather the preliminary information and establish contact with the appropriate governmental agencies and to locate the various relevant institutions and non-governmental organizations. It also aims to provide a clear picture of the potential players in the fight against human trafficking in Canada by focussing on the experts who would be able to help in the development and possible implementation of policies against child trafficking in Canada. This assessment will also begin the information and data collection process regarding the nature and main trends in child trafficking as an organized crime in Canada and thus establish a foundation of research for a more in-depth multidisciplinary study on child trafficking in Canada.⁴

Following a presentation of the child trafficking problem in Canada, we propose a definition of the concept of child trafficking. Then, we draw up a list of international documents and federal, provincial and territorial statutes that apply. Next we describe work done in Montreal, Toronto and Vancouver. Last, we propose a series of recommendations and considerations that will have to be explored at a later date, including research, policies, legislation and follow-up measures. A bibliography is included in the appendix.

¹ As mentioned in para. 3 of the preamble of the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, 2000. Canada signed this Protocol on November 10, 2001, but still has not ratified it. It came into force on January 18, 2002. [Online] <http://www.unhchr.ch/html/menu2/dopchild.htm> (date accessed: March 22, 2004).

² For an overview of the issue of trafficking in children in Canada, see Sabine Dusch "Le trafic d'êtres humains" (Paris: Presses universitaires de France 2002) at 208-210.

³ For a review of written scientific material on this topic, see Christine Bruckert and Colette Parent "Trafficking in Human Beings and Organized Crime, A Literature Review," (Ottawa: Research and Evaluation Branch of the Royal Canadian Mounted Police, 2002).

⁴ Canada has a legal obligation to conduct studies on this topic. Art. 9 (2), *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, 2000, Doc. A /55/383 [hereinafter "The Protocol"]. Canada ratified this Protocol on May 13, 2002. By March 2004, 45 countries had ratified it. It came into force on December 15, 2003. For the English version of the Protocol, [Online] http://www.unodc.org/unodc/en/crime_cicp_convention.html (date accessed: March 22, 2004).

1. The problem of trafficking in children in Canada

Far from being a new problem,⁵ human trafficking has grown with the globalization of markets, growing inequalities in the distribution of wealth and restrictions on immigration.⁶ This type of trafficking brings in almost as much money as weapons or drug trafficking.⁷ In spite of its reputation as a human rights defender, Canada is not immune from this problem. Even though studies show that Canada is a country of destination and transit for the trafficking in women and children,⁸ information from the field indicates that Canada is also a country of origin and trafficking also occurs within its borders. In addition, in March 2004, the Department of Justice Canada announced the creation of a special Royal Canadian Mounted Police unit to deal with human trafficking.⁹

As it is an underground problem, it is difficult to measure its scope.¹⁰ According to the estimates of the International Labour Organization, in 2000, 1.2 million children were being trafficked worldwide for sexual exploitation or for work.¹¹ There are several reasons

⁵ The first international document on this topic was adopted in 1904 and came into force on July 5, 1905, International Agreement of 18 May 1904 for the Suppression of the White Slave Traffic, 1904.

⁶ Due to a lack of official data in Canada on this issue, see the situation in the United States: James O. Finckenauer and Jennifer Schrock "Human Trafficking: A Growing Market in the U.S." (International Center, National Institute of Justice, U.S. Department of Justice 2000) 8 p. [Online] <http://www.ojp.usdoj.gov/nj/international/ht.html> (date accessed: March 9, 2004).

⁷ See OIPC-Interpol, General Assembly, Budapest, September 24-28, 2001, cited in Dusch, *supra* note 2 at 6.

⁸ See Sheldon Alberts "Law on Human Smuggling to get Tougher" National Post, March 8, 2004, p. A1. There are few if any official Canadian data on this topic, as shown in the report of the Interdepartmental Working Group on Trafficking in Women (IWGT), *Trafficking in Women: Inventory of Information Needs and Available Information* (Ottawa: Consulting and Audit Canada/Citizenship and Immigration Canada, 2000) 29 p. [Online] <http://www.cic.gc.ca/english/research/papers/trafficking/trafficking-toc.html> (date accessed: March 5, 2004). See also The Protection Project, *Human Rights Report on Trafficking in Persons, Especially Women and Children, A Country-by-Country Report on a Contemporary Form of Slavery*, 2002. [Online] <http://www.protectionproject.org/main1.htm> (date accessed: March 2, 2004); U.S. Department of State, *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, 2003, [Online] <http://www.state.gov/g/tip/rls/tiprpt/2003/> (date accessed: March 4, 2004); U.S. Department of State, *Human Rights Report*, 2003. [Online] <http://www.state.gov/g/drl/rls/hrrpt/2003/27889.htm> (date accessed: March 5, 2004); Lauzon, Johanne "La traite des femmes au Canada aussi," *La Gazette des femmes*, 19: No. 6, March-April 1998, p. 25-27; Dusch, *supra* note 2.

⁹ See Simon Doyle "New RCMP Unit to Tackle Slave Trade," *The Gazette*, March 9, 2004, p. A18.

¹⁰ For a study on worldwide child and human trafficking see Dusch, *supra* note 2.

¹¹ International Labour Office, *Every Child Counts-New Global Estimates on Child Labour*, Geneva, 2002. See also Unicef, *Factsheet: Trafficking*. [Online] <http://www.unicef.org/protection/trafficking.pdf> (date accessed: March 4, 2004); Unicef, *End Child Exploitation, Facts and Figures*, 2003. [Online] http://www.endchildexploitation.org.uk/pdf/facts_figures.PDF (date accessed: March 6, 2004); Unicef U.K.,

to explain the increase in child trafficking since the beginning of the 1990s. The economic and political instability in their country of origin forces them to seek a better future; war may have left them orphaned and they are trying to survive; and they may also be naïve about propositions from traffickers. Their parents may have also encouraged them to migrate to obtain an education or they may have sold them or expect to get their child's wages from abroad. The traffickers may also have deceived the parents. It is therefore necessary to conduct investigations to obtain statistics for this situation, although the lack of complete statistics should not prevent States from taking immediate action to resolve this serious problem.

Apart from its being an underground issue and the difficulty in obtaining statistics for it, trafficking in humans, and specifically in children, raises a number of issues that call for different solutions.¹² Obviously, there are immigration, national security and crime issues, but how does one find a balance between protecting national security, which results in a tighter control over immigration (to prevent Canada from becoming a paradise for human trafficking making organized crime groups wealthy) and respecting the fundamental rights of victims of trafficking and the illegal immigration caused by more severe immigration measures?¹³ In addition to the issues of immigration, national security, crime and fundamental rights, human trafficking also raises issues concerning the right to work, in addition to considerations about the particular status of children and their greater vulnerability.

End Child Exploitation: Stop the Traffic, London, 2003; International Organization for Migration, "New IOM Figures on the Global Scale of Trafficking", *Trafficking in Migrants, Quarterly Bulletin*, no. 23, April 2001. [Online] <http://www.iom.int/documents/publication/en/tm23.pdf> (date accessed: March 6, 2004).

¹² Regarding the need for a multidimensional approach to the human trafficking problem see Sunera Thobani "Benevolent State, Law-Breaking Smugglers, and Deportable and Expendable Women: An Analysis of the Canadian State's Strategy to Address Trafficking in Women" *Refuge, Canada's Periodical on Refugees*, Vol. 19, No. 4, 2000, pp. 24-33; Jacqueline Oxman-Martinez, Andrea Martinez and Jill Hanley "Human Trafficking: Canadian Government Policy and Practice" *Refuge, Canada's Periodical on Refugees*, Vol. 19, No. 4, 2000, pp.14-24; Van Impe, Kristof, "People for Sale: The Need for a Multidisciplinary Approach towards Human Trafficking," *International Migration*, Vol. 38, Special Issue 2000/1, pp.113-131.

¹³ For an approach based on the respect of the fundamental rights of victims of trafficking, see Ann D. Jordan *The Annotated Guide to the Complete UN Trafficking Protocol*, International Human Rights Law Group, 2002. [Online] http://www.hrlawgroup.org/resources/content/Traff_AnnoProtocol.pdf (date accessed: March 22, 2004).

Given the dilemmas arising from trafficking in humans, and specifically in children, the following perspectives prompted this preliminary assessment. First, all positions taken must be based on the best interests of the child.¹⁴ Next, the particular situation of little girls must be taken into consideration. Finally, the fundamental rights of victims must be respected.

2. Definition of “trafficking in children”

For the purposes of our report, we are proposing a definition for the expression “trafficking in children.”¹⁵ It is important to use a definition that is adapted to the reality of child victims of trafficking because it will have an effect on the policies to combat trafficking.

There is no consensus among the international community on any definition of human trafficking.¹⁶ Experts do not agree on the need to make sexual exploitation an element of

¹⁴ Art. 3, *Convention on the Rights of the Child*, 1989; *Baker v. M.C.I.*, [1999] 2 S.C.R. 817 at para. 71.

¹⁵ International documents in French use the term “traite” [trade]. However, the term “trafic d’êtres humains” [trafficking in human beings] is acceptable. See *Le nouveau petit Robert*, Paris, Dictionnaires Le Robert, 1995, see “trafic.”

¹⁶ Marjan Wijers and Lin Lap-Chew propose the following definition: “Trafficking in Women: all acts involved in the recruitment and/or transportation of a woman, within and across national borders for work or services by means of violence or threat of violence, abuse of authority or dominant position, debt bondage, deception or other forms of coercion.”

“Forced Labour and Slavery-like Practices: the extraction of work or services from any woman, or the appropriation of the legal identity and/or physical person of any woman by means of violence or threat of violence, abuse of authority or dominant position, debt bondage, deception or other forms of coercion.” *Trafficking in Women, Forced Labour and Slavery-Like Practices in Marriage, Domestic Labour and Prostitution* (Utrecht: Foundation Against Trafficking in Women, 1997) at 36. The authors explain that the definition must contain two elements, namely, trafficking and forced labour, because there are situations where recruitment is conducted legally, but working conditions become abusive. For example, an arranged marriage may appear at first glance to be a form of trafficking. However, this is not necessarily the case if it is neither abusive nor violent thereafter. On the other hand, a mail-order bride transaction may seem to have been conducted in good faith, but can lead to prostitution rings, sexual abuse or even domestic violence.

See also the Global Alliance Against Traffic in Women (GAATW) definition: “All acts and attempted act involved in the recruitment, transportation within or across borders, purchase, sale, transfer, receipt or harbouring of a person involving the use of deception, coercion (including the use or threat of force, or the abuse of authority) or debt bondage for the purpose of placing or holding such person, whether for pay or not, in involuntary servitude, (domestic, sexual or reproductive), in forced or bonded labour, or in slavery-like conditions, in a community other than the one in which such person lived at the time of the original deception, coercion or debt bondage,” see Global Alliance Against Traffic in Women (GAATW), Foundation Against Trafficking in Women, and International Human Rights Law Group, *Human Rights Standards for the Treatment of Trafficked Persons*, January 1999, p. 1.

the definition or to take into account the victim's consent. The entire debate on the criminalization or legalization of prostitution is included here. In the case of child trafficking, these differences in opinion are irrelevant. In fact, children cannot be considered to be sex workers who want to migrate to work, and their consent, even by assuming that it can be free and clear, cannot be taken into consideration. Some children are under the control of their parents who, in desperation, hand them over to traffickers.

Moreover, in spite of the differences, the fundamental elements of the definition are clear: the vulnerability and exploitation of victims, the power relationship between the trafficker and the person being trafficked, and the violations of the victims' fundamental rights.¹⁷

But it still is not easy to define this complex problem that affects children.

First, should children be included with women in the definition of trafficking?¹⁸ Would children be better protected under a definition of trafficking that only concerns them? The written material on this topic address trafficking in women and in children together. International documents, such as the Protocol, also adopt this method by proposing a definition of trafficking that includes women and children (Art. 3, Protocol). It is true that the same mechanisms and processes are being used and that women and children are victims of discrimination and exploitation. However, there are several reasons supporting a definition of child trafficking adapted to their situations and which is different from the definition of trafficking in women. First, trafficked children have special needs. This mainly refers to the physical, psychological and psychosocial problems that are specific to children

See also Janie Chuang "Redirecting the Debate over Trafficking in Women: Definitions, Paradigms, and Contexts" (1998) 11 *Harvard Human Rights Journal* 65.

¹⁷ These elements distinguish human trafficking from smuggling. In the latter case, the migrants have consented to a dangerous venture. Their relationship with the smugglers ends when they arrive at the country of destination, but it is not always easy to distinguish trafficking from smuggling, especially with children. See Art. 3 of the *Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime*; see also *Anti-Slavery, The Migration Trafficking-Nexus, Combating Trafficking Through the Protection of Migrants' Human Rights*, 2003. [Online] <http://www.antislavery.org/homepage/resources/PDFpublicatio.htm#nexus> (date accessed: March 6, 2004); Christine Bruckert and Colette Parent, *Crime organisé et trafic de personnes au Canada : perceptions et discours*, Ottawa: Research and Evaluation Branch, Community, Contract and Aboriginal Policing Services Directorate, Royal Canadian Mounted Police, December 2003.

¹⁸ Regarding this discussion, see International Labour Office, *Unbearable to the Human Heart: Child Trafficking and Action to Eliminate It*, 2002. [Online] <http://www.ilo.org/public/english/standards/ipecc/publ/childtraf/unbearable.pdf> (date accessed: March 26, 2004).

and to their increased vulnerability to exploitation. Second, it can be unfavourable to children to include them in the definition of trafficking in women. For example, it is easy to forget that girls aged 16-17 and who are victims of trafficking are still children who are subject to special protections. In addition, grouping children and women together in the same definition can also have a negative impact on children as the applicable policies and protective measures can lose sight of the children's needs. We are therefore adopting a definition of child trafficking that is distinguished from the definition for trafficking in women and adapted to the situations experienced by children.¹⁹

Next, should we speak about trafficking in girls rather than trafficking in children? It should be specified that 90% of human trafficking on the planet involves women, adolescent girls and little girls from third-world countries, and especially for sexual exploitation.²⁰ There are several reasons to explain why adolescent girls and little girls are victims of trafficking more than boys.²¹ In general, the sexual discrimination they suffer provides one answer: in traditional societies they are valued less, they do not always have access to education, they are poorer and the family must provide a dowry to be able to have a daughter married, which it is not always able to do. Furthermore, in a patriarchal society, women and girls alike are often considered to be sexual objects. All these reasons make them more vulnerable prey for traffickers. This gender-based reality must be taken into account in the development of protective measures.²² As boys are also victims of trafficking, they must be included in the definition of trafficking in children. We therefore propose a definition of trafficking in children that includes girls and boys.

¹⁹ We are, moreover, aware of the danger for women in grouping them with children. It is easy to view women like children who cannot make decision. They are also confined to their "natural" role of child caregivers, which is not the case for a large number of women migrants who must support themselves and their family.

²⁰ Council of Europe, *Trafficking in Human Beings for the Purpose of Sexual Exploitation*, Recommendation no. R (2000) 11 adopted by the Committee of Ministers of the Council of Europe on 19 May 2000 and Explanatory Memorandum, Strasbourg, Division Equality between Women and Men, 2000, 35 p. [Online] [http://www.coe.int/T/E/Human_Rights/Equality/05._Trafficking_in_human_beings/002_Rec\(2000\)11.asp](http://www.coe.int/T/E/Human_Rights/Equality/05._Trafficking_in_human_beings/002_Rec(2000)11.asp) (date accessed: March 5, 2004).

²¹ As mentioned in the preamble of the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, 2000.

²² See Art. 6(4) of the Protocol, *supra* note 4.

Even though human trafficking serves the purpose of sexual exploitation above all else, it can be used for other purposes, such as domestic work, farming and underground factories. The definition of trafficking in children must also include these activities.

The definition that we propose was first drawn from the definition created in the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*:²³

Article 3

Use of Terms

For the purposes of the Protocol:

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

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

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

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

This definition has the added benefit of appearing in an international document that has been ratified by 45 countries, of being the result of international consideration and discussions and of being used by other international organizations.²⁴ Its suitability should be noted with relation to the specific situation of child victims of trafficking. First, the

²³ *Supra* note 4.

²⁴ For example, the International Organization for Migrations also adopted this definition. [Online] http://www.iom.int/en/who/main_service_areas_counter.shtml (date accessed: March 21, 2004).

child's consent to the activity, regardless of age, is irrelevant.²⁵ The child's vulnerability prevents him or her from giving a free and clear consent. Second, exploitation is not limited to sexual exploitation. It also involves child pornography, domestic servitude, illegal child labour in sweatshops, farming, illegal international adoption, removal of organs,²⁶ illegal drug sales, theft and begging. Paragraph (c) is particularly noteworthy: "trafficking in children" applies even without any form of constraint.²⁷ Here we are mainly referring to the seduction of children in order to use them in pedophile or prostitution networks, false adoptions and arranged marriages that take place with the consent of the child's parents. Finally, the term "child" includes any person under the age of 18, regardless of marital status.²⁸ However, this definition is also the result of a compromise between countries and may set certain elements aside. This is why we have not fully adopted it.

We would like to point out the age that determines the status of minors. A child's age can be an issue in trafficking. What should be done with young women over 18 who are stuck in a prostitution ring, who are domestic slaves or who have been married without their consent? The special protective measures used for children (youth protection laws, among others) do not apply to them. Furthermore, it is not always easy to determine the age of trafficked children. Increasing the age of minors to 21 could be a possibility. However, this proposal is Utopian given that the Canadian federal and provincial statutes, as well as the *Convention on the Rights of the Child* (Art. 1) have set the age of minority as under 18.

The Protocol concerns cross-border trafficking, which normally takes place from a developing country to an industrialized country. It may also take place within a country's borders. The definition we propose addresses both of these situations.

²⁵ Regarding the issue of the consent of minors between the ages of 15 and 17 who are involved in trafficking in Canada and are requesting refugee status, see *Zhu v. Canada (Minister of Citizenship and Immigration)*, [2001] F.C.J. No. 1251 (F.C.T.D.) (Q.L.); *Li v. Canada (Minister of Citizenship and Immigration)*, [2000] F.C.J. No. 2037 (F.C.T.D.) (Q.L.); *Zheng v. Canada (Minister of Citizenship and Immigration)*, [2002] F.C.J. No. 580 (F.C.T.D.) (Q.L.).

²⁶ The Protocol mentions the removal of organs, but not the trafficking of organs, i.e., organs that have already been removed and which will be trafficked.

²⁷ In the definition found in the Protocol, violence is not a criterion for trafficking. It can be another type of constraint or abuse of authority.

²⁸ In some cultures, a married girl under the age of 18 can be considered an adult.

We also draw from the definition that we already gave in a study on trafficking in women in Canada:

Trafficking in women means the exploitation of a woman, in particular for her labour or services, with or without pay and with or without her consent, by a person or group of persons with whom she is in an unequal power relationship. Trafficking in women, which can take the form of abduction, the use of force, fraud, deception or violence, results in the movement of people between countries differentiated by economic inequality. The consequences of this trafficking include the legal or illegal immigration of women to Canada and the violation of their fundamental rights.²⁹

By combining these two definitions, we propose a definition for trafficking in children adapted to their situation:³⁰

“Trafficking in children” means the recruitment, transportation, transfer, harbouring or receipt of children, by the threat or use of abduction, force, fraud, deception, abuse of power or of a situation of vulnerability or by giving or receiving of unlawful payments to achieve the consent of a person having control over a child for the purpose of exploitation.

Exploitation includes, at a minimum, the exploitation of children through prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation are considered to be “trafficking in children” even if they do not involve any of the means listed above.

The consent of a child victim of trafficking is irrelevant when one of the means listed above is used.

Trafficking in children can occur internationally and nationally. International trafficking results in transborder movement of children and can lead to the legal or illegal immigration of children to Canada and violates their fundamental rights.

“Child” shall mean any person under 18 years of age.

This definition must be read in light of international documents protecting the fundamental rights of children, such as the *Convention on the Rights of the Child*,³¹ and the *Optional*

²⁹ Louise Langevin and Marie-Claire Belleau, *Trafficking in Women in Canada: A Critical Analysis of the Legal Framework Governing Immigrant Live-in Caregivers and Mail-Order Brides* (Ottawa: Status of Women Canada) 2000 at 8.

³⁰ It should be noted that this definition cannot be used in a provision prohibiting human trafficking in the *Criminal Code*. It contains significant evidence which would make the Attorney General’s work very difficult. See Ann D. Jordan *The Annotated Guide to the Complete UN Trafficking Protocol*, International Human Rights Law Group, at 7. [Online]

http://www.hrlawgroup.org/resources/content/Traff_AnnoProtocol.pdf (date accessed: March 22, 2004).

*Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.*³²

3. International documents

The Council of Europe accurately summarizes the history of the international documents prohibiting human trafficking:

To put an end to what was commonly known as “white slaving,” two international conferences were held in Paris in 1902 and 1910. This work culminated in the signing of the *International Convention for the Suppression of the White Slave Traffic* (Paris, 4 May 1910), later supplemented by the *International Convention for the Suppression of the Traffic in Women and Children* (30 September 1921) and the *International Convention for the Suppression of the Traffic in Women of Full Age* (Geneva, 11 October 1933). The *Convention for the Suppression of the Traffic in Persons and the exploitation of the Prostitution of Others* (New York, 2 December 1949) cancelled and replaced, in parts, the provisions of the earlier international instruments.³³

We have listed the international documents that prohibit human and child trafficking.

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol, 2000):

- Canada signed it on December 14, 2000, and ratified it on May 13, 2002. To date, 45 countries have ratified it and it has been in force since December 15, 2003.
- The following articles pertain to child trafficking: Arts. 3, 6, 7, 8, 9, 10.

Convention on the Rights of the Child, 1989, Arts. 34, 35, 36, 37 (ratified by Canada on December 13, 1991);

³¹ See *infra*.

³² See *supra* note 1.

³³ See Council of Europe, *Trafficking in Human Beings for the Purpose of Sexual Exploitation*, Recommendation No. R (2000) 11 adopted by the Committee of Ministers of the Council of Europe on 19 May 2000 and *Explanatory Memorandum*, *supra* note 20. For a complete history, see Goldman, Emma “The Traffic in Women,” in *Anarchism and Other Essays* 177 (1910), reproduced in (2002) 13 *Hastings Women Law Journal* 9.

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2000, Arts. 3, 8(1). Canada signed this Protocol on November 10, 2001, but still has not ratified it.

International Covenant on Civil and Political Rights, 1966, Art. 8;

International Covenant on Economic, Social and Cultural Rights, 1988, Art. 10(3);

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999, ILO C 182, Art. 3(a). (ratified by Canada on June 6, 2000);

1993 Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993 (ratified by Canada on December 19, 1996);

Convention on the Elimination of All Forms of Discrimination Against Women, 1979, Art. 6 (ratified by Canada on December 10, 1981);

Inter-American Convention on International Traffic in Minors, 1994; and

Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, 1994.

4. Relevant federal, provincial and territorial legislation

We have listed the federal, provincial and territorial statutes that apply to child trafficking.³⁴ More comprehensive studies are required to explore the relationship between these statutes.

4.1. Federal statutes

(1) The *Canadian Charter of Rights and Freedoms*,³⁵ ss. 2, 7, 8, 9, 10 and 15. It should be noted that it applies to all persons on Canadian soil, even if they are not Canadian citizens.³⁶

(2) The *Criminal Code*: although the situation may change, no sections directly address human trafficking,³⁷ but a number of other sections may apply. Sections on criminal

³⁴ See also the Department of Justice Canada, *Tool Kit for Canadian Investigations and Prosecutions of Human Trafficking Cases*, March 2004.

³⁵ Part 1 of the *Constitution Act, 1982*, Schedule B to the *Canada Act, 1982* (U.K.), 1982, c. 11.

³⁶ *Singh v. Canada (Minister of Citizenship and Immigration)*, [1985] 1 S.C.R. 177

negligence (s. 220), murder (s. 229), assault (s. 265), sexual assault (s. 271), threats and unlawful confinement may apply to these victims, as would keeping common bawdy houses (s. 210). Furthermore, the Code deals with procuring, including procuring a person to enter or leave Canada, for the purpose of prostitution (para. 212(1)(g) Cr.C.). In addition, certain sections prohibit organized crime, which apparently makes large profits from human trafficking (ss. 467.1, 462.31. Cr.C.).³⁸

(3) The *Immigration and Refugee Protection Act*³⁹ provides for the criminalization of traffickers for human trafficking in Canada (s. 118), smugglers or persons who use or have false documents in their possession. This Act imposes more severe penalties and prison sentences (subs. 117(3)).⁴⁰ However, it does not provide for protective measures for victims of trafficking.⁴¹

(4) The *Witness Protection Program Act*⁴² aims to protect witnesses involved in the criminal process (s. 3).

³⁷ The Minister of Justice Canada has, however, promised a revision to the *Criminal Code* to take into account trade in human beings. See Sheldon Alberts “Law on Human Smuggling to get Tougher,” *National Post*, March 8, 2004, p. A1.

³⁸ The *Tool Kit for Canadian Investigations and Prosecutions of Human Trafficking Cases* provides a complete summary of the relevant sections in the *Criminal Code*, *supra* note 34.

³⁹ S.C. 2001 c. 27.

⁴⁰ For comments regarding Bill C-11, see National Association of Women and the Law et al., *Brief on the Proposed Immigration and Refugee Protection Act (Bill C-11)* submitted to the Standing Committee on Citizenship and Immigration by The National Association of Women and the Law, The National Organization of Immigrant and Visible Minority Women of Canada, La Table féministe francophone de concertation provinciale de l'Ontario, The West Coast Domestic Workers Association, West Coast LEAF, Le Mouvement ontarien des femmes immigrantes francophones. April 2001. [Online] http://www.nawl.ca/immigrate_e.htm#6.1 (date accessed: March 4, 2004).

⁴¹ See Immigration and Refugee Board, *Child Refugee Claimants: Procedural and Evidentiary Issues, Guidelines Issued by the Chairperson Pursuant to Section 65(3) of the Immigration Act*, Ottawa, 1996. [Online] http://www.cisr-irb.gc.ca/en/about/guidelines/child_e.htm (date accessed: March 25, 2004).

⁴² S.C. 1996, c. 15.

4.2. Provincial and territorial statutes

4.2.1. Provincial and territorial legislation concerning child welfare

Alberta

Child and Family Services Authorities Act, R.S.A 2000, c. C-11

Child Welfare Act, R.S.A. 2000, c. C-12

British Columbia

Child, Family and Community Services Act, R.S.B.C. 1996, c. 46

Family Relations Act, R.S.B.C. 1996, c.128

Manitoba

Child and Family Services Act, C.C.S.M. c. C80

New Brunswick

Family Services Act, S.N.B. 2004, c. F-2.2

Youth Assistance Act, S.N.B. 2004, c.Y-2.

Newfoundland and Labrador

Child, Youth and Family Services Act, R.S.N.L. 1998, c. C-12.1

Northwest Territories and Nunavut

Child and Family Services Act, S.N.W.T. 1997, c. 13

Children's Law Act, S.N.W.T. 1997, c. 14

Nova Scotia

Children and Family Services Act, R.N.S. 2004, c. 5

Ontario

Child and Family Services Act, R.S.O. 1990, c. C.11

Children's Law Reform Act, R.S.O. 1990, c. C. 12

Prince Edward Island

Child Protection Act, SPEI 2003, c. 5.1

Quebec

Civil Code of Quebec, S.Q., 1991, c.64

Youth Protection Act, R.S.Q., c. P-34.1

Saskatchewan

Child and Family Services Act, S.S. 1989, C-7.2

Yukon

Children's Act, R.S.Y. 2002, c. 31.

4.2.2. Provincial and territorial legislation concerning the treatment of victims in the legal process

The provinces adopted legislation to respect the rights of victims in the criminal process. This legislation therefore applies to child victims of trafficking who have to testify in court against traffickers.

Alberta

Victims of Crime Act, R.S.A. 2000, c. V-3.

British Columbia

Victims of Crime Act, R.S.B.C. 1996, c. 478

Manitoba

The Victims Bill of Rights, C.C.S.M., c.V55

New Brunswick

Victims Services Act, S.N.B., c. V-2.1

Newfoundland and Labrador

Victims of Crime Services Act, R.S.N.L., c. V-5

Northwest Territories

Victims of Crime Act, R.S.N.W.T. 1988, c. 9

Nova Scotia

Victim's Right and Services Act, R.N.S. 2004, c. 14.

Ontario

Victims' Bill of Rights, 1995, S.O. 1995, c. 6

Prince Edward Island

Victims of Crime Act, R.S.P.E.I., 2004, c.V-3.1

Quebec

An Act Respecting Assistance for Victims of Crime, R.S.Q., c. A-13.2

Saskatchewan

Victims of Crime Act, S.S., c.V-6.0

5. The reality and practices in Canada: appreciation of the situation and next steps

Based on some available statistics and information,⁴³ Montreal, Vancouver and Toronto are the main points of entry and exit for cross-border child trafficking in Canada. These cities are also important destinations for domestic child trafficking. This is why the International Bureau for Children's Rights (IBCR) decided to collect preliminary information on existing expertise and practices in child trafficking matters in these three cities.

On March 18, 2004, IBCR invited representatives from the federal and provincial governments (Quebec), representatives from different police agencies (federal, provincial and municipal), prosecutors, counsel, researchers, non-governmental organizations (NGOs) and independent experts from the Montreal and Ottawa regions to a meeting of experts on "child trafficking in Canada." This meeting was organized jointly with the International Crime Prevention Centre (ICPC) and the Department of Justice Canada. It facilitated information exchanges on the current child trafficking situation in Canada and discussions on effective ways to fight human and child trafficking, in addition to initiating co-ordinated work between the various players and levels of government, and suggesting short- and long-term initiatives.

⁴³ For example, see Aebi, Renata "Trafficking in Children for the Purpose of Prostitution: British Columbia, Canada", prepared for the National Judicial Institute International Instruments and Domestic Law Conference, Montreal, Canada, November 9-12, 2001.

The head of this project for IBCR also went to Vancouver and Toronto. The objectives of this fact-finding mission were similar to those of the meeting of experts in Montreal. These were, namely, to know which organizations work on the issue of child trafficking and other related topics; to know their strategies; to know the degree to which information is shared and action is carried out between them; and to ascertain the possibility of setting up a relationship with these players in a future project to combat child trafficking. The project head met with some local experts, such as police representatives, prosecutors, counsel, university researchers, NGOs and independent experts.

Following these meetings and discussions in Montreal, Vancouver and Toronto, important information was collected regarding trends in child trafficking, existing projects and methods to fight child trafficking and challenges and difficulties associated with this problem. This information makes it possible to devise actions that can improve the effectiveness of measures taken against child trafficking before they are implemented. Collecting information, often detailed and specific, makes it possible to describe the general trends in the current child trafficking situation in Canada and to decide in which directions anti-trafficking projects could be developed.

General remarks on the child trafficking situation in Canada

The meeting in Montreal and the fact-finding mission in Vancouver and Toronto revealed that the main weaknesses in the fight against child trafficking are the absence of complementarity, co-operation and synchronization between existing projects. The work of governmental agencies (including police agencies, prosecutors and judges) lacks an overall vision of the situation, clear directives and effective strategies, and at times, even co-ordination and co-operation. For example, representatives from a specialized unit of the Royal Canadian Mounted Police stated that there are not enough information exchanges and co-ordination of actions with immigration services. Some experts and professionals that were met indicated that there are too many people working on human and child trafficking without any improvements made to the services provided, resulting in a complicated and bureaucratic process.

Given Canada's geographic scope, various trends exist in child trafficking in different parts of the country. It appears that the victims of cross-border trafficking arriving in Montreal

and Toronto are originally from Eastern Europe, the Caribbean and Africa, while persons in Vancouver come from Southeast Asia and Latin America. This difference in child trafficking trends creates a division in anti-trafficking programs and results in a lack of co-ordination and information between the various players and governmental agencies. Certain police agencies do not know what other agencies are doing about child trafficking and in this regard, complementary approaches at the national level are necessary in order to set up effective anti-trafficking projects.

In many cases, police agencies, prosecutors, counsel and NGOs have successfully worked together in the fight against child trafficking, which has provided better support for victims. However, this joint effort must become common practice across Canada and must encourage greater co-operation. There is a need to involve more social workers, especially in the fight against trafficking when children are victims. Moreover, in general, co-operation between police agencies, prosecutors, counsel and representatives of ethnic communities (including Aboriginal people) remains very low in many regions of Canada. Considering that child victims of cross-border trafficking “disappear” in their respective ethnic community once they have arrived in Canada, special efforts must be made to work closely with these communities.

The general belief that Canada is only a country of destination or transit does not accurately reflect reality. In fact, there are strong indications from concrete cases that Canada is becoming more and more of a country of origin in child trafficking (mostly to the United States). In addition to cases of trafficked Canadian children crossing the border, there are many cases of Canadian child victims of trafficking within Canada. Because the professionals and other individuals dealing with child trafficking are most familiar with the cross-border child trafficking problem, little attention is paid to child victims of trafficking inside Canada. Moreover, there are indications that domestic child trafficking is also widespread and can be compared to cross-border child trafficking.

However, child victims of cross-border trafficking experience a situation that is often worse than that of victims of domestic trafficking. These children find themselves in an unfamiliar environment, they do not speak the language of the country of destination and they are subjected to the negative attitude of traffickers and of the public in general. In

addition, there are other psychological and physiological factors that will lead to isolation and alienation, resulting in difficulties in identification and protection.

There is normally little or no co-operation and co-ordination between the various countries in the fight against child trafficking. This can be explained by the lack of a common legal framework (and that the international law provisions in this area are inadequate) and sometimes by the incompatibility of approaches and actions taken. The child trafficking issue is further complicated by the unwillingness of some countries of origin to fight human trafficking and smuggling because these categories of “migrants” represent a source of revenue for these economically fragile countries, namely through money sent to family members.

In this regard, it has been mentioned in several discussions that a long-term solution to child and human trafficking in general would be to eliminate economic disparity between countries. Although that is a long-term project, one of the possible short-term solutions would be to create a special limited economic visa for migrant workers coming from developing countries that could enable them to legally earn money in industrialized countries. Practice shows that bilateral and regional co-operation is more effective than a worldwide strategy in the international fight against trafficking. In some cases, Canada could encourage hesitant States to act more quickly in the fight against trafficking through political and diplomatic channels (both in bilateral relationships and with multilateral organizations).

Some countries (those of the European Union, United States, Australia and Thailand) are relatively advanced in creating co-operative conditions for police forces, prosecutors, counsel, judges and other players with a law-enforcing role. There are also regional initiatives or special services for human trafficking, especially in the southern region of Eastern Europe and in Southeast Asia. An effective tool to be used against child trafficking includes support and active participation in these initiatives and special services, related measures to apply legislation, and prosecutions.

Special attention must be given to the protection of child victims of trafficking and their participation as witnesses in fighting against child trafficking. At our meetings, procedures have been discussed that allow victims of cross-border trafficking to remain in Canada and

assist investigators during legal proceedings against traffickers. Moreover, the professionals dealing with trafficking do not actually appear to be familiar with them, probably because they are used in exceptional cases and because they are not clearly identified. A clear procedure, similar to that used in the United States (T Visa), which is easily identified by its name, makes it possible to significantly increase the protection given to child victims of trafficking and facilitates co-operation with witnesses. Some experts also recommend using temporary refugee status for child victims of trafficking, which could be prolonged as long as the child is in danger or at risk of being sent back into the trafficking ring upon returning home.

A public information campaign and training on the dangers of trafficking are avenues that should be taken into account by federal and provincial authorities. Two avenues could be developed: first, a general public information campaign, and, second, specialized training for professionals and others who, by the nature of their work, are in contact with victims of trafficking. The public information campaign should include general information to make the public aware of the human trafficking issue and thus change certain negative attitudes and perceptions regarding victims (particularly victims of cross-border trafficking). This information campaign should also address the various children at risk and other potential victims and explain the dangers of trafficking. In addition, the specialized training should be made accessible to the various professionals who are likely to be in contact with child victims of trafficking through their work. This mainly concerns law enforcers, such as police officers, prosecutors, counsel and judges, as well as staff from immigration services.

The collected information made it possible to update information regarding an alarming trend in the increase of crimes committed via the Internet, particularly Internet use for child trafficking purposes. Over the last ten years, communication via the Internet has become more popular with youth worldwide. Given its virtual nature, the authorities have very little control over the Internet, which makes it possible to use it for trafficking, pornography, pedophilia and other crimes. It is therefore easy to deceive children with false romantic stories or other means to entice them into trafficking. Many child victims of trafficking for the purposes of sexual exploitation have been forced to participate in the production of child pornography, which is also available over the Internet. Given the speed with which information technology is being developed (including the Internet and other

methods of virtual communication), the authorities should immediately take the necessary action to enforce laws governing cyberspace by creating several special units, strengthening existing services and providing school-aged children with information on the dangers and responsibilities of using the Internet. Some experts have also suggested creating special Internet sites that would circulate general information on the risks of trafficking and ways to get out of the trafficking ring for victims who have access to the Internet. This requires a close working relationship between educational, justice and media authorities.

In addition to being one of the most secret types of crime, trafficking easily adapts itself to the market. By quickly adapting to local conditions and the “clientele,” trafficking changes in form and occurs differently from one country to another and from one region to another. In some cases, trafficking consists of secretly bringing people in to work in sweatshops, of children illegally importing and selling drugs, or even of enticing young Aboriginal girls to work on fishing boats as kitchen help to ultimately force them to have sexual relations with members of the crew once they are offshore. Methods of deceit vary: false promises of employment, false stories of romance or child adoption or sponsorship, or even the cross-border trafficking of human organs.

Furthermore, child trafficking in Canada only represents one part of the problem—sex tourism is also a concern. In fact, some Canadian citizens travel abroad to sexually exploit children. The nature of child trafficking requires that we remain vigilant and that we keep our eyes open because there are other types of child exploitation. However, regardless of the type of exploitation at hand, protecting victims should always be the top priority for anti-trafficking organizations.

Finally, in order to fight against human and child trafficking, we must first fight against the enormous disparity in living conditions and the poor wages that exist in many countries. To do this, long-term co-operation is required in the form of a co-ordinated worldwide strategy. Fortunately, some countries are advancing in this direction through national response. For example, the United States has created a special temporary economic visa for certain categories of migrant workers, while Singapore has a system with a temporary work permit, which is relatively easy to obtain directly from the employer vis-à-vis the

migrant worker and the State. Canadian authorities have to further analyze these temporary solutions or any other existing solutions and determine whether these procedures could have a positive impact on reducing trafficking in Canada.

6. Recommendations and considerations

A one-dimensional approach would be effective in response to a problem as complex as child trafficking; it must be dealt with by a unified and multidisciplinary approach. Accordingly, it is necessary to encourage the exchange of information, sharing of best practices and research into solutions in collaboration with all the actors involved: federal authorities, provincial authorities, police forces, legal professionals and civil society (particularly those working in the field directly with the victims).

Some solutions are possible in the short term, whereas others will take more time. The following are solutions that we were able to identify through this preliminary assessment, despite the constraints, in particular, the tight deadline.

6.1. Immediate actions

Although the development of long-term strategies would require further research, there are several concrete actions that could be taken in a relatively short period of time. One of these actions is the creation of an advisory group led by the Department of Justice Canada or any other competent governmental organization. Given the multidisciplinary nature of trafficking in children, the advisory group could be made up of specialists in the fields of law, public security, sociology, criminology, child psychology and other relevant fields. The advisory group on trafficking in children could first support the work of the existing interdepartmental working group in gathering additional information on child trafficking. The International Bureau for Children's Rights (IBCR) has suggested that it coordinate the advisory group to maintain the neutrality of the work, facilitate discussions and rapid action, promote informal exchanges and emphasize an approach based on children's rights. The advisory group would be ready to lend its support when the competent governmental organizations decide to develop and implement actions and strategies to combat trafficking.

Given the weaknesses and constraints stemming from the geographic complexities of trafficking in children in Canada and the lack of coordination of measures adopted so far, a special national action plan to combat trafficking in humans (with a specific section on trafficking in children) must be developed and implemented. This plan would include

strategies and priority actions requiring cooperation between the competent governmental organizations and members of civil society. The advisory group could start the preliminary work needed to develop this special national action plan to combat trafficking in humans and children.

6.2. Medium- and long-term actions

6.2.1. Research

As a follow-up to this preliminary assessment, various research topics should be explored to better understand child trafficking and better protect the victims.⁴⁴ More information is needed on the scope and extent of trafficking in children. Although the underground nature of trafficking in children makes it more difficult to gather information and statistics, an effort should still be made to gather information about identified victims and the main trends. In some cases, it is possible and realistic to access this information.

The following proposals are not in order of priority; given the absence of in-depth studies in Canada on trafficking in humans and particularly children, they are all priority topics:

- What is the extent of the problem in Canada? At the moment, there is no database on this subject in Canada.⁴⁵ Nevertheless, statistics on the following topics should be gathered:
 - Child victims of trafficking, including their sex, age, origin (and nationality);⁴⁶

⁴⁴ Regarding research topics to explore, see, *inter alia*, La traite des êtres humains aux fins d'exploitation sexuelle, *Recommandation R(2000)11* adoptée par le Conseil des Ministres du Conseil de l'Europe le 19 mai 2000 et exposé des motifs, *supra* note 20.

⁴⁵ See Interdepartmental Working Group on Trafficking in Women (IWGT), *Trafficking in Women: Inventory of Information Needs and Available Informatio*, *supra* note 8. Regarding methodological difficulties in gathering statistics see John Salt, "Trafficking and Human Smuggling: A European Perspective" *International migration*, vol. 38, Special Issue 2000/1, p. 31-55 at 37.

⁴⁶ Although we are discussing a clandestine problem, it is possible to conduct empirical investigations among community workers who work directly with the children involved and thus, who are able to document child trafficking in Canada (and also suggest solutions that respect those most affected), such as streetworkers and community groups working with ethnic communities. In this respect, the studies already in progress should be well documented in order to avoid duplication and encourage complementary work. In this light, the IBCR has already contacted (and invited to the meeting of March 18 in Montreal as part of this preliminary study) a research team from the Université du Québec à Montreal that recently started (with funding from

- The role of new information technologies with respect to trafficking in children;⁴⁷
 - Men who are “clients” of prostitution in Canada and their motives;⁴⁸
 - The links between cross-border trafficking in children and trafficking within Canada;
 - The role of organized crime in child trafficking in Canada,⁴⁹ as well as the methods used by traffickers.
- What forms of trafficking, other than for prostitution, are there in Canada? It would be necessary to look at these other types of trafficking and related practices:
 - Hiring au pairs in Canada (a field that is not currently regulated in Canada);⁵⁰
 - International adoption in Canada;⁵¹

Status of Women Canada) a research project that will describe and analyze the reality of sexual trafficking in Quebec.

⁴⁷ For example, the role of the Internet in the emergence of trafficking in children could be looked at. In particular, consider the sale of pornography and marriage agencies that are more easily accessible by Internet.

⁴⁸ How do we explain the increase in the demand in Canada for human beings at low cost, and children in particular (child labourers, very young prostitutes, domestic helpers under 18 years of age or mail-order brides under 18 years of age)?

⁴⁹ What is the link between trafficking in humans and trafficking in drugs, money laundering linked to sexual exploitation and other activities involving organized crime?

⁵⁰ There is no official program in Canada like the one in the United States. This should not be confused with the Live-in Caregiver Program from the Department of Citizenship and Immigration Canada, which is often presented as a program for au pairs on Web sites. See Langevin and Belleau, *supra* note 29.

However, through individual agreements between the host family and the girls, there are au pairs who come to work in Canada. In this respect, see, inter alia, the following sites:

<http://www.snellingpa.com/caregiver.htm>, <http://www.aupair-options.com>, <http://www.findaupair.com>
<http://www.aupair-visa-canada.greataupair.com/> (date accessed: March 21, 2004).

In some countries, the au pair programs were controlled by organized crime and led to trafficking in women and girls. This is the case of Luxembourg, which just withdrew its support for the *European Agreement on "au pair" Placement*, Council of Europe (1969). Information obtained on March 11, 2004, at the conference on domestic slavery organized by the Council of Europe and held in Paris.

⁵¹ Canada is one of the countries that makes the most requests for foreign adoption. Why? Although, naturally, not all international adoptions are fraudulent, this area should be studied to verify whether the conventions and laws are well respected.

- The situation of foreign diplomats in Canada who bring their own servants with them;⁵²
- Children who work in underground factories or on farms;
- Canadians who travel abroad as sexual tourists.⁵³
- How are trafficking situations dealt with by the courts? Given the lack of specific provisions in the Criminal Code regarding trafficking in humans, whether and how Canadian courts take into consideration the fact that children may have been victims of trafficking should be looked at. In this regard, the following should be analyzed:
 - Canadian court decisions on prostitution and illegal migrants, as well as applications for refugee status by children;
 - Decisions regarding the application of the new sections of the *Immigration and Refugee Protection Act*⁵⁴ with respect to trafficking in human beings.
- What are the overall global factors influencing emigration (for example, underdevelopment, economic disparity, poverty, inequality in socio-economic systems, etc.) and how can we work on these factors over the long term and keep them in consideration in our short- and medium-term strategies?

6.2.2. Policies

There is a need to develop a national policy on child trafficking. That national policy, to be developed over the next three years, should:

- Have as its highest priority the best interests of child victims and the enforcement of their rights.

⁵² Are there children working as servants? [Translation] “In February 2001, Canadian authorities ordered an investigation into allegations regarding foreign diplomats. Some diplomats had secretly brought children to Canada, used them as unpaid servants and sexually abused them.” Agence France Presse, February 8, 2001, quoted in Dusch, *supra* note 2 at 210.

In other countries, the behaviour of some diplomats was a source of abuse of trafficked children. In these situations we face the added problem of diplomatic immunity.

⁵³ Despite recent amendments in 2002 regarding extraterritorial application of *Criminal Code* provisions concerning sexual exploitation of children, the first conviction in Canada of a Canadian sexual tourist has yet to happen. We should look at the obstacles to these prosecutions and ways of encouraging prosecutions.

⁵⁴ *Supra*, note 39.

- Promote appropriate protection measures for child victims of trafficking by, namely:
 - Avoiding any measure that could lead to the criminalization of those children or to their forced return to their country of origin;
 - Giving them a true identity (“trafficked person” for example);
 - Ensuring that the special measures intended to protect and help child victims of human trafficking⁵⁵ are consistent with the *Human Rights Standards for the Treatment of Trafficked Persons*.⁵⁶
 - Encouraging the provinces to apply their youth protection legislation to child victims of trafficking.
 - Exploring the possibility of instituting civil proceedings against traffickers and other individuals involved in trafficking on behalf of the child victims, in order to compensate the victims and their families.⁵⁷
- Promote a multidisciplinary and coordinated approach. In that regard, it is necessary to encourage the exchange of information, the sharing of best practices and the search for solutions in collaboration with all the actors involved: federal and provincial authorities; police, customs, administrative and social agencies; legal professionals; and civil society (including NGOs).
- Develop awareness campaigns for journalists and the Canadian public⁵⁸ on the existence of this problem in Canada and its serious effects on the victims.

⁵⁵ See Provincial and Territorial Legislation Concerning the Treatment of Victims in the Legal Process, *supra* section 4.2.2.

⁵⁶ Although those standards do not specifically refer to child trafficking, Canadian statutes should at least respect them. See Global Alliance Against Traffic in Women (GAATW), Foundation Against Trafficking in Women, and International Human Rights Law Group, *Human Rights Standards for the Treatment of Trafficked Persons*, January 1999. [Online] http://www.hrlawgroup.org/resources/content/IHRLGTraffickin_tsStandards.pdf (date accessed: March 23, 2004).

⁵⁷ Although that type of action is fraught with pitfalls, they have been instituted and won by child victims of sexual abuse. On that matter, see Nathalie Des Rosiers and Louise Langevin, *Representing victims of sexual and spousal abuse*. Toronto: Irwin Law, 2002.

⁵⁸ Journalists and members of the public are often the “neighbour” who can expose cases of child trafficking.

- Take into account the relevant expertise already existing in Canada on matters pertaining to human and child trafficking.⁵⁹
- Take into account the foreign experience and good practices in this area.⁶⁰
- Develop a concrete action plan.

6.2.3. Legislation

It is important to consider the possibilities of amending some existing federal legislation, including:

- The *Immigration and Refugee Protection Act*.⁶¹ Is Canada contributing to child trafficking through its immigration policies?⁶² Should it allow more individuals from third world countries to immigrate to Canada and ensure better protection of trafficking victims in Canada? Tightening border controls only increases human trafficking. How can that Act be amended to provide protection measures for victims of trafficking?⁶³
- The *Criminal Code*. Recent amendments to the *Criminal Code* have made it possible to update the provisions on certain aspects of trafficking such as sexual exploitation, sexual exploitation involving the use of the internet,⁶⁴ child pornography, procuring

⁵⁹ For example, the Vancouver police service developed the “Deter Identify Sex-Trade Consumers” (DISC) kit, which could be used on a larger scale across Canada.

⁶⁰ In some areas of the world, human and child trafficking is widespread. For that reason, certain international organizations and specialized national agencies of the countries affected by that trafficking have developed methodical and well-coordinated measures to fight against child trafficking, allowing them to develop an expertise and tools that have proven to be effective. Europe (through the European Union, the Council of Europe and the OECD) and Southeast Asia are excellent examples. By conscientiously studying the experience and practices developed by other regions in the world, Canada could save time and energy and avoid repetition in its search for appropriate initiatives to fight against child trafficking. This includes the American experience related to the enforcement of the *Trafficking Victims Protection Act, 2000* (See US Department of State, *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report, 2003*, *supra* note 8).

⁶¹ *Supra*, note 39.

⁶² See Thobani, *supra* note 12.

⁶³ Jacqueline Oxman-Martinez, Andrea Martinez, and Jill Hanley, *Human Trafficking and Government Policy: Best Practices from a Canadian Perspective*, 2001. [Online] http://canada.metropolis.net/events/ottawa/workshops/human_traf.htm (date accessed: March 5, 2004).

⁶⁴ Bill C-15A, 2002, *An Act to amend the Criminal Code and to amend other Acts*, S.C., 2002, c. 13.

and other activities of organized gangs.⁶⁵ However, given the low number of human trafficking prosecutions (or reported cases), it is necessary to consider whether other amendments should be made to the *Criminal Code*, particularly in order to include a new provision specifically covering human trafficking and, more specifically, child trafficking. Such consideration could take place in the context of the review of Bill C-12⁶⁶ introduced by the government in February 2004, and which precisely concerns the protection of children and other vulnerable persons, including in sexual exploitation matters. Other measures could also be considered in order to encourage prosecutions.

6.2.4. Follow-up

- It is necessary to consider the establishment of follow-up mechanisms to monitor the implementation of the action plan developed as part of the national policy on child trafficking in Canada.
- In particular, it is necessary to ensure that the action plan is implemented in a way that respects the fundamental rights of children.

⁶⁵ Bill C-24, 2001, *An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts*, S.C., 2001, c. 32.

⁶⁶ Bill C-12, 2004, *An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act*, First reading, February 12, 2004.

Conclusion

The NGOs, government organizations and public opinion denounce the problem of human trafficking in Canada and elsewhere. The Canadian government is aware of the problem and is participating in the search for solutions. This assessment is proof of that. It is now important to continue on this path and document the problem in order to establish effective countermeasure strategies and especially effective measures for protecting victims of human trafficking, particularly the children.

A one-dimensional approach would not be effective in response to a problem as complex as child trafficking; it must be dealt with using a multidisciplinary and coordinated approach.

To achieve this, we suggest establishing an advisory group that could support the efforts of the interdepartmental working group already in place and begin establishing strategies and setting up research, medium- and long-term, while ensuring the link between government officials and the other actors involved.

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This bibliography lists written works, both Canadian and foreign, on trafficking in children. Written works on trafficking in women were also listed because both forms of trafficking share common traits and are often dealt with together. We did not list studies that deal only with prostitution and sexual exploitation of women, nor those dealing with trafficking in humans in specific regions of the world.

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RESEARCH IN **REPÈRE** DATABASE

INTERNET RESEARCH WITH THE SEARCH ENGINE **GOOGLE**

RESEARCH IN DATABASES **LEGAL TRAC, LE DOCTRINAL.**

KEYWORDS USED FOR RESEARCH ON TRAFFICKING IN CHILDREN AND WOMEN

Anti slavery

Child exploitation, Women exploitation

Children Enslaved

Slavery Children

Child trafficking

Organized crime

Child victims

Trafficking women, trafficking children

Stolen children

Sale of children

Human smuggling

Free the slaves

Exploitation économique

Exploitation des enfants, des femmes

Exploitation sexuelle des enfants

Esclavage, esclavage d'enfants

Travail des enfants

Travail clandestin

Immigrants clandestins

Traite d'enfant, des femmes

Traite d'être humain

Trafic illégal, trafic d'enfants, trafic êtres humains, trafic des femmes

Droit et enfant

Droit criminel et enfant

Servitude pour dettes

Vente et traite