



Testimony

of

Comité d'action contre la traite humaine interne et international
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At the Justice and Human Rights Committee

Regarding

Bill C-452, An Act to amend the Criminal Code
(exploitation and trafficking in persons)

May 2013

Introduction

The Comité d'action contre la traite humaine interne et internationale, or CATHII, has worked since 2004 to address the issue of human trafficking, whether for the purposes of sexual exploitation or forced labour. Since its inception by religious communities in Quebec, CATHII has become a major player in the fight against exploitation and the violation of fundamental rights.

CATHII's members are involved in three types of activities: research on the reality of trafficking and on Canadian and international laws on trafficking; training with a view to action; and, finally, giving priority to providing shelter and support to victims of human trafficking.

CATHII also wanted to contribute to an understanding of the issue. One of its activities was the release of a research study carried out in partnership with anthropologist Aurélie Lebrun in order to better understand prostitution from the standpoint of its clients. The organization also published a reflection paper entitled “Acting Against Human Trafficking”.

In 2006, CATHII organized a one-day conference. That meeting brought together the main community, government, police and academic players to define the needs of victims. A number of organizations pointed out that there were not enough services for human trafficking victims, an observation reiterated at the consultation meeting with the members of the Sous-comité interministériel sur la traite des femmes migrantes du Québec, which we organized in 2007. Another meeting in April confirmed the need to take concerted action, making sure that victims are the focus of concerns and initiatives.

Recently, CATHII started a Quebec coalition against human trafficking with over 25 organizations working for human trafficking victims.

Human trafficking in Canada

Human trafficking, especially of women and children, is a violation of fundamental human rights. It has become an increasing issue in Canada and around the world. Canada is a source country, a transit country and a destination country all at once.

In 2005, Canada amended the Criminal Code to include human trafficking. Since then, it has added minimum sentences for traffickers of minor children, followed by human trafficking in the form of offences committed abroad for which Canadian citizens and permanent residents can be prosecuted in Canada. So the Criminal Code has been amended to specify some of the factors that courts can take into consideration when determining what exploitation means.

Bill C-452 is one of the measures intended to provide tools to legal and judicial stakeholders who are fighting against human trafficking.

Comments on bill C-452

We believe that Bill C-452, An Act to amend the Criminal Code (exploitation and trafficking in persons), introduced by Maria Mourani, will help to counter procuring and human trafficking in Canada. This bill provides solutions to the limits of the justice system while responding to some of our concerns about the needs of victims. It also will also go some way to providing the social and economic measures necessary to support those who have been exploited.

In our opinion, trafficking for the purposes of sexual exploitation and forced labour is a troubling phenomenon that affects Canada both internationally and nationally. In that context, we support the addition of the domestic dimension of the problem, which is often forgotten. Certainly, Canada is a destination and a transit country for victims of trafficking from other countries, but there are also human trafficking situations between Canadian provinces and between rural and urban areas. That is particularly true in the trafficking of aboriginal women.

Nevertheless, we would like to express some concerns.

Sentences to be served consecutively [art. 212.1 and 279.05]

The bill seeks to provide a deterrent to the crime of human trafficking. We are in favour of the desire to deter the traffickers. But our fear is that this may adversely affect some victims, because the provisions may well not take into account a criminal's degree of responsibility. Human trafficking is a complex problem, as is the path of the victims. Sometimes, victims become traffickers themselves in order to avoid exploitation or to make it stop. The desire to put such a deterrent in place leads to a real risk of penalizing some victims. How do we make sure that victims do not become targets of the bill?

Presumption [art. 279.01]

We are in favour of the principle of the culpability of those who harbour trafficking victims or who are found with them. That presumption of guilt will make the role of police and prosecutors easier, no doubt. But it seems to us that this section should be applied prudently. In fact, we feel that it must not be applied at the cost of those in vulnerable situations who may simply be living with those being exploited. Access to justice in this country is not equal for all. Unfortunately, it is often the case that the most vulnerable are the most affected. This includes victims of trafficking. They may not be in a position to be able to prove their innocence because they do not have the means to do so.

Exploitation [art. 279.04 al 1.1]

The bill proposes a definition of sexual exploitation that draws its inspiration in large part from article 3 of the Palermo Protocol. The definition makes it possible to identify two distinct aspects of human trafficking: forced labour and sexual exploitation. Trafficking for the purposes of prostitution is the more widespread in Canada, and this article allows us to clearly include sexual services in the broader context of trafficking for the purposes of sexual exploitation. This addition must not allow us to forget the importance of the

fight against forced labour, of which a victim of sexual exploitation may well be a victim as well. Recent international reports attest to a significant increase in this neglected reality of human trafficking.

Confiscation of assets [par. 462.37 (2.02) : c]

The inclusion of procuring and human trafficking in the list of crimes that can lead to the confiscation of assets provides a way for exploited persons to be supported. This also corresponds to the recommendations made by the United Nations Office on Drugs and Crime about the use of the United Nations Convention against Transnational Organized Crime, as the first paragraph of article 12 of the Convention states.

However, we must not lose sight of the second paragraph of article 14 of the same convention that suggests that signatories “give priority consideration to returning the confiscated proceeds of crime or property to the requesting State Party so that it can give compensation to the victims of the crime”.

We have one final concern. Once more, it asks that attention be paid to the path taken by the accused, who are generally women, and to the circumstances that led them to become involved in trafficking.

Conclusion

In 2012, the federal government announced the National Action Plan to Combat Human Trafficking. It brought together all Canadian initiatives that were part of the fight against human trafficking. Among its strong points was the consolidation and bringing together of government action into the same department: Public Safety Canada. It also had the merit of focusing on the traffickers’ main targets, women and children. Those affected by human trafficking are generally the most vulnerable: migrant workers, undocumented immigrants, youth in distress, and aboriginal women and girls.

Although prosecuting criminals is an important element of the fight against human trafficking, Canada has done little following its international commitment to victim protection. Among the effective measures established for the protection of victims, one is to focus on a global and coordinated approach on several fronts: prevention, gathering reliable information, intersectoral coordination, victim identification and supporting community initiatives.

In protecting victims and protecting victims' rights, we recommend that Canada be more proactive in addressing the causes of human trafficking, poverty, discrimination, racism, and supply and demand. Among the paths to a solution that will counter trafficking for sexual exploitation, the Swedish approach is often held up as a model because it attacks the demand by penalizing those who purchase sexual services. Penalizing the johns goes hand in hand with public advertising campaigns aimed at men, awareness programs aimed both at youth and at those who are the normal targets of criminals, and assistance programs aimed at women who wish to get out of prostitution.

Part of our approach should be to assist women to get out of violent situations, such as prostitution and to provide them with various services: shelters, legal and social advice, education, and professional training.

We should also mention that one of the concerns about human trafficking often overlook one major element. That is forced labour. We remind you that Canada should ratify the international conventions on migrant workers and review the temporary foreign worker programs, particularly those that target so-called unskilled workers.

Thank you.

Traduction: Justice and Human Rights Committee