



ACTING AGAINST HUMAN TRAFFICKING

A Reflection - December 2010

A summary of three documents designed to encourage national action against human trafficking in Canada: “An Exploration of Promising Practices in Response to Human Trafficking in Canada,” “Connecting the Dots” and “Invisible Chains”.

Acting Against Human Trafficking propose a brief overlook of: “An Exploration of Promising Practices in Response to Human Trafficking in Canada,” “Connecting the Dots” and “Invisible Chains”.

Autumn 2010 was busy in terms of publications and the addressing of government issues on human trafficking in Canada. Would that be the sign of increased interest in the problem of a serious infringement of human rights? Or an indication that Canada could be on the brink of finding answers to human trafficking? One sure thing, it is important to analyse each of the strategies, policies or measures suggested in order to assure the protection and interests of the victims themselves. That should be our main concern.

The following three documents have been drawn to the attention of CATHII:

“An Exploration of Promising Practices in Response to Human Trafficking in Canada”: a report written by Nicole A. Barret for the International Center for Criminal Law Reform and Criminal Justice Policy, a federal-provincial-territorial Forum of Status of Women Senior Officials in June 2010, 96 pages.

<http://www.icclr.law.ubc.ca/files/2010/An%20Exploration%20of%20Promising%20Practices%20in%20Response%20to%20Human%20Trafficking%20in%20Canada.pdf>

“Connecting the Dots: A Proposal for a National Action Plan to Combat Human Trafficking” by Joy Smith, MP for Kildonan-St-Paul, September 2010, 36 pages.

<http://www.joysmith.ca/main.asp?fxoid=FXMenu,7&cat_ID=27&sub_ID=104&sub2_ID=26>

“Invisible Chains: Canada’s Underground World of Human Trafficking” by Benjamin Perrin, Viking Canada, 2010, 298 pages.

<www.endmodernslavery.ca>

These three proposals for a national action plan to combat human trafficking have some points in common. After a brief presentation of these documents, we will make a few comments on them.

Finally, you will find attached a review of the measures adopted by the Canadian government.

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Note: This document was previously written in French by Alexandra Ricard-Guay, doctoral student at McGill School of Social Work, Jean Bellefeuille, Researcher for Canadian Religious Conference and Louise Dionne, Coordinator for CATHII.

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“An Exploration of Promising Practices in Response to Human Trafficking in Canada”:

A report requested by the government of the province of Manitoba entitled “An Exploration of Promising Practices in Response to Human Trafficking in Canada” was published in June 2010. This report was prepared for the Federal-Provincial-Territorial Forum of Status of Women Senior Officials. This report examines five “promising” practices adopted by other countries that should be of interest to the different governments of Canada (federal, provincial or territorial). This report promotes a global and coordinated approach through action on many fronts: prevention, collection of safe and secure information, sector coordination, identification of victims and a better service offered to them.

Practice #1: A national structure to combat human trafficking.

The proposed first practice, already in effect in many European countries, would be to implement a national structure against human trafficking, including these three elements:

- 1) A national action plan (NAP) (permits a government to have a global and operational approach). In order that such a plan be worthwhile, one has to clearly establish institutional responsibility, foresee mechanisms of co-ordination and also assure adequate financing.
- 2) A national rapporteur on human trafficking that would be an independent organisation whose mandate would be to gather and document sure and secure information about human trafficking.
- 3) A national mechanism to orient victims toward adequate services in partnership with community organisms (following official agreement of collaboration between different parties). The community organisms would be integrated in a national mechanism as a central and sole actor.

Practice#2: To promote equality between men and women.

This second practice aims at a wider objective but is closely associated with exploitation: the promotion of equality between men and women. This proposition is based on a Swedish model that includes laws, policies and programs for decreasing violence towards women and ensuring better access to the work market. It also includes laws to abolish prostitution.

Practice#3: To increase supervision measures in certain working areas so as to prevent trafficking for slave work.

The report recommends the implementation of stricter mechanisms for employment agencies and employers of migrant employees in the field of farming and domestic services. The report recommends an increase in the number of inspections and more systematic inquiries.

Practice#4: The prevention of human trafficking among Aboriginal communities.

This practice counts primarily on close collaboration with the Aboriginal communities and includes a certain number of measures that have various objectives: i) to prevent school drop out; ii) to increase prevention with the help of watch groups in the community; iii) to recruit liaison officers of Aboriginal origin who have a formation on human trafficking, iv) finally, to establish shelters and transition programs based on local and cultural customs.

Practice#5: to sustain the non-governmental organisms who provide services to victims of human trafficking.

Last and not least, this practice seeks to support NGOs working with victims and providing services for them. This report examines the type of measures for helping victims that have had positive results. The first approach used by a NGO in the New York area is focused on the leadership of victims and on a tutorial system. The director and many employees of that organism are survivors of human trafficking. The second approach adopted by an Italian NGO favours offering a program of professional formation to victims so as to assure them new economic opportunities.

Conclusion:

This report constitutes a good reference document that enumerates the existing services across Canada and offers a review of the practices and policies used by other countries which would be suitable to our Canadian context. The best aspect of this report is that its recommendations give special attention to a global approach, devised and coordinated with different sectors, which gives a central role to community organisms. Many of the proposed practices enhance the importance of giving a primordial role to NGOs and to the civil society. Whereas the fight against criminality is often the focal point of government action, the main concern in this report is the victim and global action. The only negative aspect is that the report offers a limited and superficial analysis of what the establishment of such practices in Canada would mean practically.

Connecting the Dots: A National Action Plan

Last September, the MP for Kildonan-St-Paul, Manitoba, Joy Smith launched a project for a national action plan to combat human trafficking. She thereby denounced the status quo in Canada's policy concerning human trafficking. Her bill recommends measures that should be part of a national action plan to combat human trafficking. These recommendations derive from consultations over the last few years with representatives of law enforcement agencies, academics, members of NGOs and survivors of human trafficking in Canada.

Why a National Action Plan.

Since the approval of the Protocol of Palermo in 2002, the government of Canada implemented a quadruple perspective in the fight against human trafficking: prosecutions, protection, prevention, partnership; they did so, however, without a national strategy nor a national action plan in collaboration with the provinces, the territories and interested partners.

In 2004, an inter-ministerial workshop on human trafficking was charged with elaborating, promoting and implementing an exhaustive strategy to fight human trafficking but, by September 2010, the government had not yet announced the implementation of a national action plan. So the elaboration of a national strategy remains at the stage of a workshop mandate. All that remain are scattered measures.

A document entitled "Trafficking in Persons Report" (2010) by the State Department of the United States of America invites Canada to:

- intensify its efforts to enquire regarding infractions of human trafficking and to institute the necessary procedures and condemn the culprits here and abroad;
- strengthen coordination between the federal government and the provinces in the matter of carrying out the law and in services to the victims. Incoherence in the services offered to victims exists due to the multiple variety of models applied in each province and territory;
- improve its method of registering data.

In addition, many non-governmental organisations offer services to victims without the aid of any government. For this reason, Smith proposes that a national plan must include the expertise of many organisms and organisations in Canada that actually fight against human trafficking by taking measures of protection and prevention and by working in partnership.

Joy Smith makes 14 recommendations targeted to the needs of victims, including Aboriginal women and children. She recommends partnership with community organisms, adequate financing for the projects, legislative reforms concerning immigration laws, prostitution, sexual tourism, forced labour, the establishment of a public campaign and the creation of a special rapporteur.

Joy Smith's recommendations

I – Review and amend immigration regulations and policy to provide effective counter human trafficking point of entry services.

II – Develop and implement a tailored strategy within the National Action Plan to address trafficking of First Nations women and children.

III – Use diplomatic protocols to promote regional and international partnerships and policies to combat human trafficking and child sexual exploitation.

IV – Develop policies and regulations to combat forced labour and child labour abroad.

V – Limit and monitor the international travel of convicted Canadian child sex offenders.

VI – Creation and implementation of an extensive public awareness campaign.

VII – Provide adequate funding for NGOs to deliver care, counseling, shelter and assistance to victims.

VIII – Develop and implement federal policy to assist international victims of human trafficking to return to their country of origin.

IX – Develop a National Referral Mechanism to provide rapid connection to points of service.

X – Create an independent National Rapporteur for Human Trafficking

XI – Review and amend Canada’s solicitation legislation.

XII – Commit to additional resources for the training and education of judges, prosecutors and law enforcement on human trafficking legislation.

XIII – Review and implement legislation as necessary to ensure that all forms of human trafficking are denounced under Canadian law.

XIV – Facilitate the creation of regional human trafficking taskforces.

Invisible Chains

Invisible Chains by researcher and jurist Benjamin Perrin studies the mechanisms of human trafficking in Canada. The result of many years of research, this publication describes the mechanisms of human trafficking here and abroad from testimonies of welfare workers and, primarily, of victims.

The author discusses the different forms of human trafficking. He explains the whys and wherefores of sexual tourism and describes the tricks used by traffickers to recruit their victims, the sad condition of Aboriginal women, soliciting on the internet, forced labour, particularly of domestic workers, and the sex industry, primarily prostitution. Another subject dealt with in the book concerns the initiatives developed by organisms and by government agencies to combat trafficking and to help victims.

Benjamin Perrin seeks to reveal the tragic aspects of human trafficking in Canada because he wishes to stress the lack of interest of Canada in recognizing and combating it. Though evident, human trafficking is still for many an invisible phenomenon. Some countries have adopted a national strategy and intervene in helping victims and prosecuting operators. In *Invisible Chains*, different measures adopted by Belgium, Italy, United States of America and Sweden are also analysed. Perrin begs for a strategy that, in his opinion, would permit the co-ordination of efforts from all of those interested in combating human trafficking. This strategy includes the adoption of a national plan, the implementation of measures inspired by the Swedish model, change in legislation safeguarding the respect and the security of victims, above all in the case of across-the-border trafficking, and, finally, measures to make police work in investigating and prosecuting exploiters easier.

Thus, in the manner of the Swedish model, he suggests a global approach. The author also recommends that the provinces focus their attention, within the limits of their jurisdiction, on education, social services and health care. He suggests as well a number of specific actions concerning police forces, the business world, the communities, parents as well the individuals themselves. While many of the suggestions are not recent and a certain number of them are already established, Benjamin Perrin tries to unite them within a global and national strategy.

A Brief Description of the Four Steps in the Proposed National Strategy

Step 1: National plan

- The implementation of a national plan within a year. It would include a mechanism of consultation with the NGOs, proposals for legislative reforms, the creation of a fund, and priority given to the 3Ps (prosecution, protection and prevention).
- An annual report on the follow-up, noting the number of prosecutions, the number of temporary sojourn permits or permanent residency permits given to victims of human trafficking, priorities for the coming year, statistics on the victims, investigations and prosecutions, etc.

- A request that the federal ombudsman for the victims of criminal acts report with regard to the rights of victims of human trafficking.

Step 2: The Swedish model

- This includes the integration in the Criminal Code of a better definition of sexual exploitation and a ban on merchandising sexual services to make sure that the offence will be prosecuted, the penalty in the case of a repetition will be increased and a very harsh penalty in the case of offenders against children will be imposed.
- As in Sweden, he suggests acting on the demand aspect and installing mechanisms of prosecution of offenders, accumulating penalties and adopting harsher laws for offenders against children.

Step 3: Protection of victims

As in Sweden, he suggests that prostitutes not be criminalised and that they receive the same treatment offered to victims of criminal acts. Regarding immigration law, he suggests that temporary permits be issued with a broader definition of human trafficking:

- That immigration officers be more attentive to advice from police officers and from the NGOs;
- That the questioning be limited to the strict minimum;
- That there be no obligation to testify;
- That victims receive the necessary services and have access to the needed support (work permit, interpreter, etc.);
- That there be collaboration with the International Organisation for Migrants(OIM) to help victims return to their native country;
- That victims receive the same protection offered to witnesses: protection and detention, if necessary for their own safety, in a site appropriate to their need.

Step 4: Laws to help in the work of police forces (investigation and prosecution)

- A better collaboration between police forces;
- A better collaboration between the States in the USA to ensure a better control at the border;
- Ways to facilitate the identification of persons condemned for sexual offences against children.

Furthermore, there are also suggestions for the provinces. He suggests the creation of a coordinating committee to do follow up with victims. The provinces should better protect them and make sure that they have access to public services. Other suggestions include: that additional funds be allocated to the police forces to investigate; that there be campaigns to cover the needs; that programs offering alternatives to prostitution be financed.

A Brief Commentary

The goal of each document under consideration is not the same. The action plan created by Joy Smith has more to recommend it and corresponds to the conservative policy of the present government. The suggestions by Benjamin Perrin are also conservative. He promotes government controls and its judicial approach, that of the judiciary for the most part. Finally, the document “An Exploration of Promising Practices” published by the government of Manitoba is based on community experience. The publication insists on the importance of fostering equality between women and men as a mean to combat human trafficking.

The Urgency of a National Action Plan

Among the points of convergence, there is the urgency of implementing a national and government action plan and establishing a coordination center. There is a unanimous sense that members of the community need to be present. “An Exploration of Promising Practices” and Joy Smith’s project refer to the 4Ps (prosecution, protection, prevention and partnership). However, “An Exploration” goes further and seeks to make NGOs the focal point. The management of the action plan should be the responsibility of an independent rapporteur according to Joy Smith and the authors of “An Exploration”. Benjamin Perrin advises only the presentation of an annual report by the coordinating body.

The Swedish Model

There is unanimity concerning the Swedish model because it reverses the dynamic and seeks to act on the demand side and the repression of the client rather than on the prostituted women. “An Exploration” reminds us that this model rests on a number of policies, programs and resources aimed at the decrease of violence toward women and the promotion of equality between women and men. Benjamin Perrin and “An Exploration” recommend the enforcement of the Swedish model. Instead MP Smith proposes that its impact in Canada be evaluated. In the meantime, she has started a petition asking for its implementation.

First Nations Women and Children

The three documents highlight the over-representation of First Nations women and children among victims of human trafficking in Canada. Perrin wrote a chapter on the reality of the way of living of First Nations women but without making any suggestions. Smith favours an action plan adapted to their needs. Once more, “An Exploration” goes further and suggests the adoption of means based on a close collaboration with First Nations communities.

Immigration and Human Trafficking Across the Border

In Canada, victims of trafficking within our borders are much greater in number than those trafficked across the border. This does not stop Smith and Perrin from strongly advising changes in immigration laws. Their suggestion would give more power to immigration officers and border patrol and restrict the rights and liberties of migrants. Such measures risk harming migrants and promoting an underground movement of vulnerable persons. Bills C-49 and C-56 carry that risk and are strongly opposed by organisms favouring the rights of migrant persons. Another point related to immigration concerns their return to their native country in collaboration with the International Organisation for Migrants (OIM). This

organism works in partnership with different countries to ensure the return and the integration of the victims in their country of origin. Many NGOs have verified that often enough the OIM has been at the service of the countries rather than the migrants.

Forced Labour

Forced labour is one of the many forms of human trafficking here in Canada. Perrin and the Manitoba document have underlined the situation of domestic workers and farm workers. Perrin wrote a chapter on the actions of the government without making any concrete proposition. Smith requires that Canada be more attentive to the reality of the use of children in sweatshops abroad. “An Exploration” suggests tightening the measures of supervision within programs for alien workers, especially where there is a risk of exploitation as in the case of domestic and farm workers.

Conclusion

These few observations are not intended to be a re-examination of all the aspects of the three documents. However, the complexity of the problems created by human trafficking is highlighted. The suggestions made do not correspond with the vision of CATHII for which the needs of children and women who have experienced human trafficking remain our main concern. These documents do have the merit of sparking a debate and they do address this sorrowful reality and suggest ways of stopping this exploitation, especially by urging a national action plan.

Measures Adopted by Canada

International:

- The United Nations Convention against trans-national organised crime.
- The Protocol of Palermo
- The optional Protocol of the Convention related to the rights of children, the trade in children, child prostitution and child pornography.

National:

2001

- Law on immigration and the protection of refugees.

2005

- Articles 279.01 to 279.04 of the Criminal Code.

2006

- The RCMP national co-ordination center against human trafficking.
- A video to teach police officers how to trace victims and offenders.
- Law on a 120 days temporary residence permit.

2007

- A report of the permanent Parliamentary Committee on the Status of Women, including 33 recommendations.
- Motion M-153 recommending the adoption of a strategy of combat human trafficking.
- A 6 million dollars annual fund for the protection of children against exploitation.
- Modification of the *Law on Immigration and the Protection of Refugees* to correct the gaps that allowed vulnerable alien workers to come to Canada and be sexually exploited.
- The 120 days temporary residence permit extended to 180 days
- The possibility for alien victims to obtain a work permit without any fee.

2008

- Bill C-2 amending the age limit for protection from 14 to 16 years of age.

2009

- A partnership with the Canadian Association against Crime to open a national telephone line on human trafficking.

2010

- Bill C-268 on the minimal sentence imposed on child traffickers.
- Partnership with the RCMP and the Canadian Association against Crime to launch a campaign called “Blue Ribbon” to sensitize people about human trafficking.