



THE POWER OF WOMEN WORKING TOGETHER  
LA PUISSANCE AU FÉMININ: ENSEMBLE POUR RÉUSSIR.

**Brief Submitted to the House of Commons Standing Committee on Justice and Human Rights**

**National Consultation on Human Trafficking in Canada**

**Submitted by the Canadian Federation of University Women**

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## **A GLOBAL PHENOMENON DRIVEN BY RACISM, POVERTY & GENDER INEQUALITY**

Human trafficking is modern-day slavery. It is the world's fastest growing crime, generating profits of \$150 billion a year, of which commercial sexual exploitation of women, girls, boys and young men contributes \$99 billion.<sup>i</sup> In 2017, an estimated 40.3 million victims were trapped in modern-day slavery globally.<sup>ii</sup> Trafficking is a pervasive transnational and domestic phenomenon that is happening right now, in urban and rural communities across Canada.

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, of which Canada is a signatory, defines human trafficking as “*the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation*”. Trafficking is a grave violation of human rights punishable by international law.

### **1. Human Trafficking in Canada**

The U.S. Department of State reports that “Canada is a source, transit, and destination country for men, women, and children subjected to sex trafficking, and a destination country for men and women subjected to forced labour.”<sup>iii</sup> Traffickers include individuals, family-based operations, and local street gangs, in addition to transnational criminal organizations.<sup>iv</sup>

In Canada, sex trafficking is the most prevalent form of human trafficking. Women between the ages of 18-24 represent the highest percentage of victims, with new immigrants, LGBTQ2S+ youth, Indigenous girls and homeless youth, the most vulnerable.<sup>v</sup> Despite Canada being a source country for tourists who travel abroad to engage in sex acts with children,<sup>vi</sup> our own child sex tourism laws are insufficiently understood and therefore underused.<sup>vii</sup>

### **2. An Issue Rooted in Socio-Economic Inequalities and Violence against Women and Girls**

Vulnerability to trafficking is deeply rooted in socio-economic inequalities, including poverty and economic insecurity, gender inequality, and the impacts of colonialism. Trafficking is part of the continuum of gender-based violence affecting women, girls, and LGBTQ2S+ people. Despite this government's Strategy to Prevent and Address Gender-Based Violence, violence against women, including sexual violence, is commonplace.

Exploitation is defined in s. 279.04 of Canada's *Criminal Code* as causing someone to provide a service “by engaging in conduct that, in all the circumstances, could reasonably be expected to cause the other person to believe that their safety or the safety of a person

known to them would be threatened if they failed to provide, or offer to provide, the labour or service.” The law must go deeper and recognize that exploitation includes the abuse of a position of vulnerability as identified in the *Palermo Protocol*.<sup>viii</sup> This vulnerability can stem from economic, emotional, social, and legal inequality. The definition of human trafficking in the *Criminal Code* must be aligned with our international obligations to address the role of women’s inequality in sexual exploitation wherever it occurs.

Moreover, the fact that the poorest and most vulnerable women enter prostitution makes it clear that this decision is not made from a position of equal opportunity and freedom of choice. We must recognize that the idea of 'harm reduction' cannot be realized by decriminalizing those who exploit; harm **elimination** should be the ultimate objective. Any move to decriminalize the purchase of sexual services supports a culture of violence and the reality that violence against exploited women is tolerated. The violence and aggression in prostitution is inherent and embedded.

### **2.1. Indigenous Women and Girls**

The disproportionately high rates of violence experienced by Indigenous women and girls constitute a national human rights crisis. Although Indigenous women and girls comprise only 4% of Canada’s population, they represent 50% of trafficking victims.<sup>ix</sup> The high rates of abuse of young Indigenous girls, the lack of economic and educational opportunities, the precarious housing, the lack of support and the apprehension into the child welfare system make them particularly vulnerable to sexual exploitation.<sup>x</sup>

### **2.2. At-Risk Children and Youth**

In Canada, only six provinces and territories offer protection to youth in care up to 18 or 19 years of age. The remaining seven provinces and territories can cut off supports at age 16, placing girls in these provinces aged 16 to 18 at a disproportionately high risk of exploitation.<sup>xi</sup>

## **3. Barriers to Accessing Services and Justice**

The significant barriers to access justice and services for victims of trafficking is of particular concern. The social stigmas experienced by vulnerable youth and Indigenous girls and women are contributing factors. Racialized views of Indigenous women, and their over-representation in the visible sex trade as a product of colonization, residential school trauma, and overarching community breakdown adds to apathy from the criminal justice system and result in a lack of suitable support services.<sup>xii</sup>

### **3.1. Identification of Victims by the Justice System**

The justice system’s interpretation of the terms “control” and “exploitation” in the context of trafficking offences does not reflect the types of coercion and exploitation that Indigenous women or girls in street-based prostitution experience. A more comprehensive definition of “exploitation,” integrating gendered, socio-economic, and historical inequalities is required.

It is assumed that individuals who do not conform to the current definition of trafficking by displaying self-sufficiency, agency, and ingenuity cannot be “true” victims. To be identified as victims of trafficking, individuals are expected to show signs of “victimhood,” and not all trafficking victims fall into this category. Too often, the assumption is that if she speaks the language, has freedom to move around, or is “paid,” she is not a victim, regardless of her circumstances.<sup>xiii</sup>

Reframing the exploitative acts that are perpetrated against Indigenous women and vulnerable youth as “trafficking” would serve to break down the stereotypes that are too often attached to women and girls that are being sexually exploited. Thus, law enforcement, non-governmental organizations, and prosecutors in various regions across Canada must discuss and clarify the elements required to classify an act as “trafficking,” and further identify the specific types of trafficking involving Indigenous women and youth in their areas. Law enforcement and prosecutors must also acknowledge the inclusion of psychological harm within the concept of “safety” in section 279.01 of the *Criminal Code*. The term “safety” in this context must explicitly include the potential withdrawal of the necessities of life by a person upon whom a victim is dependent.

### **3.2. Choice and Consent**

Prostitution is not a "choice" (a) if the individual is trafficked, (b) if the individual is underage and cannot legally consent, or (c) if the activity is part of survival on the streets. That is, the majority, up to as much as 97% of girls and women, would leave if they could.<sup>xiv</sup> Consent must be considered in the context of the victim’s impoverished and vulnerable circumstances, which are rooted in inequality, lack of choice and freedom, or disguised coercion. Too often, the argument of consent is a cover for exploitation of vulnerability.

In the wake of the #MeToo movement, rape culture on campuses and other social ills, the public and legal understanding of consent must be discussed and modernized in light of our greater understanding of the subtleties and nuances of inequality. Definitions of consent are vital when dealing with trafficking, but even underage girls in Canada are failed by the legal system because of the confusion surrounding consent. The average age of entry into prostitution is 14 years. At 18 or 19 years of age, a woman in prostitution is not suddenly empowered by choice and freedom. More likely, she is groomed, embedded and trapped in a cycle of poverty, prostitution and drug dependency, with no realistic options to escape.<sup>xv</sup>

### **3.3 Self-identification**

The failures by the justice system and support services to address the social stigmas associated with victims of trafficking deters them from self-identifying. Victims may also choose not to come forward due to fear for their lives or the safety of loved ones, mistrust of the law and government authorities, fear of detention and/or deportation, not speaking the language, being unaware of, or having been lied to about, their rights in Canada. They may not see themselves as victims or they may blame themselves for their circumstances.

Because most trafficked persons are never identified as such, they are unable to access protection or assistance.<sup>xvi</sup>

A recent study reported that 61% of the prostitutes in its sample suffered from traumatic brain injury as a result of violence during prostitution.<sup>xvii</sup> Another study reported that 72% of prostitutes met the DSM-IV criteria for PTSD.<sup>xviii</sup> Trafficked persons are betrayed, used and discarded in unimaginable ways. To survive, they disassociate, justify, and defend. They often lose their sense of smell, taste and pain in order to tolerate the daily abuse. They learn to withhold their emotions and present a 'flat-affect'. It is not unusual for them to exhibit symptoms of Stockholm syndrome, because they are forced to relate to their exploiters in order to survive. Individually, each of these circumstances would make them poor witnesses in their own defence. Most victims experience multiple effects. Trafficking laws and the training of justice personnel at all levels must address these issues.<sup>xix</sup>

### **3.4. Limited funding for services**

The 2012 four-year National Action Plan to Combat Human Trafficking promised \$25 million to prevent human trafficking, prosecute the perpetrators, and aid the victims. However, 90% of the funds were spent on law enforcement and efforts to address international human trafficking, with a mere \$500,000 a year spent on victim support services.<sup>xx</sup> To combat human trafficking, the 2018 Budget allocated \$14.51 million over five years, with \$2.89 million per year ongoing, to establish a National Human Trafficking Hotline, including an online portal and a referral mechanism to social services and law enforcement.

Putting this into perspective, it is estimated that it costs \$600,000 per victim for support & treatment needed to rehabilitate. Between 2009 & 2014 there were 396 victims of police reported human trafficking in Canada. The total cost of support would be \$237,600,000 or \$47,520,000 per year over 5 years.<sup>xxi</sup>

To end human trafficking, the government needs to ensure that along with a referral mechanism, vulnerable individuals and victims have ready access to fully resourced services such as health and mental health resources, reproductive health resources, legal resources, safe and affordable housing, in addition to other support services including access to employment and education.

## **4. Trafficking and Prostitution**

### **4.1 Demand fuels trafficking**

In any marketplace, supply follows demand. Trafficking laws must place greater emphasis on the buyer and include clear and effective enforcement mechanisms. The Palermo Protocol, to which Canada is a signatory, states that, "States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the

demand that fosters all forms of exploitation of persons, especially women and children that leads to trafficking.”<sup>xxii</sup>

#### **4.2 Alignment of Trafficking & Prostitution Laws**

Coordination between the various laws is paramount. We are deeply concerned that the repeal of the Protection of Communities and Exploited Persons Act (POCEPA) and the decriminalization of the sex trade will generate an increase in sexual exploitation and trafficking. In Germany, where legalized prostitution exists and where prostitution has been declared work, the increase in trafficking and prostitution has skyrocketed as have the incidents of violence and murders of prostitutes. In 1999, Sweden criminalized the buying of sexual services and decriminalized the selling of sexual services. A Swedish government publication of the law's first ten years shows that street prostitution has been cut in half; that there is no evidence that there is an increase of indoor prostitution; and that the ban has had an effect on traffickers who find Sweden an unattractive market in which to sell children and women.<sup>xxiii</sup> Strengthening our trafficking laws while ignoring the buyer will render the anti-trafficking laws virtually impossible to enforce and thus ineffective. All laws dealing with prostitution-trafficking-sexual exploitation must be in alignment so that one section of the Criminal Code does not undermine another.

#### **5. Technology and Trafficking**

The use of online technology to promote prostitution and trafficking is a recent development. Online advertising is the traffickers' mainstay for recruiting buyers. Statistics show that more than 75% of global sex trafficking is conducted online. The United States and France have legislation in place to ensure that online platforms monitor their sites for sex trafficking and prostitution of minors. Canadian legislation must address the use of online tools by traffickers and allocate the appropriate resources to effectively combat it, and support and empower law enforcement to proactively monitor online activity. Proposed legislation must address this concern by including strong deterrents to online service providers.<sup>xxiv</sup>

#### **6. Lack of data**

There is a significant lack of data on victims of trafficking, which makes it difficult to effectively prevent, protect and guarantee justice and redress for the victims<sup>xxv</sup>. More specifically there is a lack of desegregated data on the distinct Indigenous groups, First Nations, Metis and Inuit, as well as LGBTQ2S+.

As well, human trafficking is often misidentified or prosecuted as other crimes, which results in an underrepresentation of trafficking cases.

#### **7. Need for a comprehensive National Action Plan on VAW**

Human trafficking is an issue of national concern that requires a holistic and coordinated approach across jurisdictions. Particularly, the lack of a harmonized approach to data collection, or clear standards to identify victims of trafficking, limits proactive responses

to the issue. Initiatives to address trafficking need to be framed within the broader context of Gender-based violence and need to include comprehensive policy responses in various sectors. This points to the need for a National Action Plan on Violence against Women.

## **RECOMMENDATIONS**

A multi-faceted approach is necessary to combat Sex Trafficking in Canada. CFUW calls on the government to adopt and fund multi-year government strategies at all governmental levels to:

### **Public Awareness and Prevention**

- Develop and fund human trafficking information and awareness campaigns, including school base prevention programs, as well as guidelines and protocols for private sectors (hospitality, trucking, ISPs, etc.)

### **Victim Support**

- Increase funding to culturally sensitive, community-based and victim-centered support service and comprehensive exit-strategies for women and girls, especially at-risk individuals, in partnership with civil society, through dedicated funds from federal and provincial governments.
- Services should include:
  - Stable, safe, and affordable housing,
  - Access to counselling services, including addiction, mental health and trauma counselling,
  - Access to sexual and reproductive health services,
  - Access to employment and education programs,
  - Survivor peer support and mentorship.
  - Mentorship and frequent check-in from consistent workers are critical to ensure that victims do not relapse
- Provide youth with opportunities to meaningfully participate and be heard as credible witnesses in judicial processes, and their “reasonable apprehension of fear” should be contextualized in their personal, familial, and cultural histories.

### **Children and Youth at Risk**

- CFUW encourages the government to continue to develop and strengthen existing child protection laws in line with the Convention on the Rights of the Child.
- Support the RCMP Youth Strategy, to explore various outreach initiatives among young people.
- Develop and fund programs for communities at risk.
- Increase the age for protective care to 19 in all provinces and territories in Canada.

- Adopt provincial legislation on sexual exploitation.
- Increase accountability of child welfare agencies.
- Improve risk assessment.
- Extend supports to help youth aging out of care transition into adulthood including free tuition to post-secondary education as BC has instituted.

## **Research and data collection**

- Increase research and cross jurisdictional disaggregated (according to gender, age, First Nations, Metis, Inuit and LGBTQ2S+) data collection on trafficking. Improve coordination and communication among federal, provincial, and territorial actors and strengthen provincial interagency efforts;

## **Training**

- Training for law enforcement, prosecutors, and members of the judiciary on understanding the root causes of violence against women and exploitation, as well as the impact of colonialism and socio-economic inequalities on the vulnerability of women and girls to trafficking, including sensitivity training in supporting victims.
- Publicly funded awareness training, guidelines and protocols for private sectors (hospitality, trucking, ISPs, etc.)
- School based prevention programs for all children and youth.

## **Prosecution**

- Enforce our existing laws on human trafficking and sexual exploitation in order to align them with the Palermo Protocol and our international human rights obligations.
- Create a system of ongoing review, including regular reports to Parliament and the public, of the operation and efficacy of federal and provincial prosecution of offences involving sexual exploitation under federal legislation dealing with human trafficking and criminal organizations, by a federal officer exercising powers analogous to those of the federal Auditor General and operating at arm's length from the office of the Attorney General of Canada.
- Ensure that all laws are in alignment so that one section of the criminal code does not undermine another, and necessary legislative reforms or policy changes can be made in a timely way by Parliament or the appropriate authority.

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## **CFUW**

The Canadian Federation of University Women (CFUW) is a non-partisan, voluntary, self-funded Canadian organization with over 100 CFUW Clubs, located in every province across Canada. Since its founding in 1919, CFUW has been working to improve the status



of women and to promote human rights, public education, social justice, and peace. CFUW Clubs are involved in community outreach on such initiatives as working to prevent violence against women, child poverty, early learning and child care. CFUW holds special consultative status with the United Nations (ECOSOC) and belongs to the Education Committee of the Canadian Commission for UNESCO. CFUW regularly sends a delegation to the United Nations Commission on the Status of Women.

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