



The Canadian Centre to End Human Trafficking

Submission to: The United Nations Committee on the Elimination of Discrimination Against Women (CEDAW)

65th Session (24 Oct-18 Nov. 2016)

Submission delivered to: cedaw@ohchr.org

State Party: Canada

3 October 2016

Contact Information:

Barbara A. Gosse, CEO

bgosse@CCTEHT.ca

+647-296-9267



1. Background:

The Canadian Centre to End Human Trafficking is a national not-for-profit organization, created to tackle the political and practical challenges when developing the best options to change laws, affect policy and create an environment where all women, girls, men and boys are/can live free of the risk of being a victim of trafficking in human beings.

Our mission is to end human trafficking for the purpose of sexual exploitation and forced labour in Canada by providing advice, strength and support to community and multi-sectoral stakeholders. We do this through collective action, by creating opportunities for collaboration, and by building capacity, on all levels, to end this crime in Canada. Our central focus remains on survivors of human trafficking.

Our work focuses on four priorities:

- knowledge transfer;
- public policy development and advocacy;
- research and data collection; and
- public education and awareness.

Discrimination against women and girls is fundamentally about racism, sexism and classism. Sex trafficking for the purpose of prostitution and sexual exploitation, are core violations against the human rights of women and girls, a barrier to gender equality and the participation of women and girls in society. This crime cannot be prevented unless we address the root causes of racism, sexism and classism.

This submission aims to present a gender equality analysis of the core issues in relation to the trafficking of women and girls in Canada, in particular indigenous women and girls, and give recommendations to the CEDAW Committee for consideration and inclusion in its report to Canada as a member State working to eliminate all forms of discrimination, including its root causes, against women and girls.

2. Legislative Measures

- a. The *Protection of Communities and Exploited Persons Act* (2014), (“PCEPA”) reflects an understanding of prostitution as incompatible with human dignity, and as a form of violence that disproportionately and negatively impacts on women and children, especially aboriginal women

and girls in Canada, an understanding which is in line with Canada's obligations under the Committee on the Elimination of Discrimination Against Women (CEDAW).

b. To date in Canada, few judicial interpretations of the specific trafficking in persons provisions of this Act, given their relatively recent enactment. However, law enforcement has been able to use this legislation as a means of creating more in-depth relationships with those who are involved in the sex industry and who are being trafficked, or those who are in danger of becoming trafficked. Front-line agencies, working with victims are corroborating this practice and assisting to exit more women and girls from the sex industry.

c. It is impossible, to discuss sex trafficking outside of the context of prostitution as all sex trafficking occurs within the commercial sex market and forced prostitution involving fear is, by definition, human trafficking in Canada. Traffickers embed girls and women in prostitution, promote their sale in places where prostitution is advertised, and threaten victims with retaliation if they reveal their traffickers. These practices lead to significant challenges in distinguishing between those voluntarily, independently and legally in prostitution with those who are lured, groomed, coerced and forced into selling sex by others. This Act provides stronger measures for prosecution especially when children are being exploited.

d. Further, consumer demand to purchase sex fuels the market for both sex trafficking and prostitution, an increasing demand for younger and younger girls is being evidenced. Earlier this year York Regional Police (ON) who confirmed a trafficked victim of 11 years of age and Peel Regional Police (ON) who confirmed a trafficked victim of 12 years of age. This signifies the need for a strong legislative mechanism that can address these human rights abuses. This legislation includes provisions to assist to end the demand of women and girls and men and boys and these will require further reinforcement in order to end the purchase of human beings in Canada.

Recommendation: that The *Protection of Communities and Exploited Persons Act* (2014), be reinforced by the Federal Department of Justice and by the Provincial and Territorial Governments within Canada.

3. National Action Plan:

a. The Government of Canada's Human Trafficking Taskforce, the body responsible for implementing Canada's National Action Plan commitments, coordinates the federal anti-human trafficking response and reports annually on progress to the public. Three annual reports on progress on the Action Plan have been released and a horizontal evaluation of the Plan is scheduled for 2016-2017. However, **Canada's National Action Plan expired on June 30th 2016.** **Canada currently has no National Action Plan on Human Trafficking** and no federal government Minister/department has identified the implementation of a new plan related to human trafficking.

Recommendation: That the Government of Canada immediately recognize the continuing incidents of human trafficking occurring within Canada's borders and identify plans to implement

a new National Action Plan that includes a coordinated and integrated framework for ending this human rights abuse in Canada.

4. Data Collection on the Incidents of Human Trafficking:

a. The RCMP's Human Trafficking National Coordination Centre (HTNCC) monitors and/or coordinates anti-trafficking law enforcement efforts in relation to prevention, as well as ongoing human trafficking investigations and prosecutions. The HTNCC regularly gathers intelligence from Canadian law enforcement in an effort to maintain an ongoing threat assessment on human trafficking.

b. As of July 2016, HTNCC's research has identified 360 cases since 2005 where human trafficking-specific charges¹ were laid. Of the total, 341 are domestic human trafficking cases and 19 are international human trafficking² cases. The majority of the domestic human trafficking cases are for sexual exploitation, whereas the international human trafficking cases are primarily related to forced labour.

c. It is largely recognized, by law enforcement including the RCMP, as well as front line service providers serving victims of human trafficking, that these statistics **do not** reflect the true numbers of trafficking cases processed by the Canadian criminal justice system. Indeed, there is **no mandatory reporting for any police service to report incidents to the HTNCC**.

d. While trafficking in persons (TIP) has become a worldwide concern, current data collection activities in Canada reveal many shortcomings: data are limited in scope, incomparable and insufficient to ascertain the true extent of the problem. Compounding this is the need to inform evidence based policy development and since conviction rates are low and there is a dearth of comparable statistics, policy makers are left indicating that their hands are tied when supporting significant efforts to combat this crime. Until evidence is presented that warrants provincial and national investment in multi-faceted strategies to combat Human trafficking at the municipal, provincial and federal levels, traffickers will continue to operate this high profit, low risk, human rights abuse with impunity.

e. Canada needs coordinated, efficient and effective in-take processes that various law enforcement jurisdictions and NGO's undertake when incidents of human trafficking occur and/or when victims are located. If we are to understand the national scope of human trafficking then we need to align the intake processes of, not only law enforcement but also agencies like the Canadian Centre for Child Protection and their cyber-tip line, as well as tip lines operated by Crime Stoppers and crisis intervention lines like the Chrysalis Network and health services, who all accept calls from the public and/or trafficked victims. These agencies utilize different intake systems thus rendering comparable statistics impossible. Canada needs a

¹ Human trafficking specific charges include the following: *Criminal Code of Canada* (s. 279.01-s. 279.03, s. 465 (conspiracy to commit human trafficking), and s. 467.11 (participation in a criminal organization to facilitate or commit human trafficking)) and *Immigration and Refugee Protection Act* (s. 118).

² All stages of the crime occur in Canada, there are no international cross-border movements.

uniform system of reporting in order to highlight the realistic numbers of human trafficking incidents across Canada and thus improve policy making in order to end this crime.

Recommendations: that the mandatory reporting of human trafficking incidents from police services to the HTNCC be enforced and that research be undertaken to determine suitable intake methods that could be implemented across law enforcement services in Canada in order to recognize, more accurately, the incidents of human trafficking and related human rights abuses.

5. National Hotline:

a. Today in Canada there is no national data collection mechanism recording statistics on incidences of human trafficking. A national hotline would not only provide support to victims of all types of human trafficking (sexual exploitation, labour, forced marriage) as well as for the public to report incidence of human trafficking, but it would provide a mechanism for data collection in the Canadian context. Support for a national hotline has been voiced by NGO's who are working with victims of human trafficking, by law enforcement – on all levels – both local police services and the Federal RCMP, as well as researchers and policy makers who would benefit from the data produced through a hotline/textline.

b. Law enforcement have reported that jurisdictional debates about which law enforcement agency “owns” a human trafficking case³ occur frequently. Given the frequent tactic of traffickers to move victims between jurisdictions, some agencies have debated whether they should proceed with prosecution within their jurisdiction when many of the acts comprising the crime occurred in other jurisdictions. Some law enforcement agencies mistakenly assume, however, that human trafficking is a Federal RCMP concern as victims can be moved from province to province. It is important to note, however, that the crime can occur solely within one province or municipality. Where a victim is moved between provinces, an increased focus on collecting corroborating evidence of the crime early in the investigative stages, can help convince an agency that they have the required “jurisdictional contacts” to proceed with prosecution. A national hotline and related data could possibly assist in these situations.

c. Polaris, a non-profit, non-governmental organization working exclusively on the issue of human trafficking, operates the NHTRC. They provide a service for reporting of all forms of human trafficking tips, resources for connecting with anti-trafficking services in areas throughout the United States and they answer requests for training and technical assistance, general information or specific anti-trafficking resources. In fact, from December 2007 to June 2016, the NHTRC recorded 660 calls from Canada, reflecting 113 human trafficking cases in Canada with 89 Canadian trafficked victims identified. Recent discussions with Polaris, revealed that the system used by the NHTRC could easily be transferred and used in Canada.

³ See e.g., Gallagher, *supra* note 17; Jenny Marra, Human Trafficking (Scotland) Bill (Consultation) (Edinburgh: Scottish Parliament, 2013), online: Jenny Marra MSP <<http://www.jennymarra.com>>.

d. A hotline/textline would be invaluable for Canada. This service would provide a national, toll-free hotline/textline, available to answer calls from anywhere in the country, 24 hours a day, 7 days a week, every day of the year in more than 200 languages. The hotline would connect professionals, victims, and community members to necessary information and services. Data would be tracked from calls received and statistics published. In addition, this would assist with establishing baseline knowledge of human trafficking and victim service needs through rigorous research and reporting to support the development of effective responses to the needs of human trafficking victims.

e. To build support within the community and to encourage the development of trust with survivors of human trafficking, it is critical that the hotline be independent of both government and law enforcement but have extensive buy-in, support, and partnership. The current intention is not to have embedded law enforcement agents at a Call Centre but to have robust partnerships with law enforcement across the country to respond effectively to cases.

Recommendation: That the Canadian government work with the Canadian Centre to End Human Trafficking to develop and implement a national human trafficking hotline that will provide support for victims of human trafficking, allow for the reporting of incidents of this crime and for the collection and analysis of important data on this human rights abuse.

6. National Inquiry into Missing and Murdered Indigenous Women and Girls

a. The Government of Canada has launched an independent inquiry into missing and murdered Indigenous women and girls. The Government of Canada ensured that the voices of survivors, families and loved ones were heard first – about how the inquiry could best be designed to meet their needs – we commend this approach. The national pre-inquiry design process took place across Canada from December 2015 to February 2016. Over this time the Federal Ministers of Justice, Minister of Indigenous and Northern Affairs and the Minister of the Status of Women held consultations in 15 cities across the country. Priorities and key issues brought forward during these pre-inquiry consultations included:

- The need to address sexual exploitation, human trafficking, impacts of abuse, including sexual abuse and prostitution related matters;
- The circumstances tied to the sex trade and to human trafficking with particular attention to what happens in ships in Lake Superior;
- The specific circumstances tied to the sex trade and to human trafficking;
- The need for various levels of governments and various jurisdictions to work together
- Enhancing support mechanisms after a violent event;
- Collaboration between different organizations and the various levels, down to the community level;
- Need for better communication between various police services (on-reserve and off-reserve);
- Address the gaps in services and support for families on and off-reserve;
- Identification of risks and needs of those working in the sex trade;

- Providing safety to those who are most vulnerable;
- Coordination of Laws and policing practices (municipal, provincial, federal and band police); and
- Ways to prevent violence and abuse.

b. While the Missing and Murdered Women’s Inquiry is in the early stages, input from the national pre-inquiry design process provides significant insight into the issues that are important to Indigenous peoples, to the Canadian Government and indeed to Canadians in general. The potential for solutions to these issues could be gained, in part, by a national hotline that would provide a service to trafficked, Indigenous peoples, both on and off reserve, and provide support to law enforcement, policy makers and law makers etc.

Recommendation: that the human trafficking hotline/textline be designed and implemented in order to ensure that access to it services be inclusive for **all** residents of Canada. This will reflect particular service provision inherent in the operation of the hotline/textline for indigenous peoples and newcomers across this country.

7. Judicial Education:

a. The National Judicial Institute (NJI) is the principal, national body dedicated to continuing education for federally and provincially appointed judges throughout Canada. Although the NJI does not have any training specifically dedicated to the Convention and its optional protocol, it does incorporate programming on human rights, diversity and gender issues in many of its offerings.

b. There is however, no specific education package at the NJI that aims to increase education, awareness and training for the judiciary on the issues of human trafficking. Education and awareness is key to protecting human rights and prosecuting perpetrators of this horrific crime. A properly educated judiciary will encourage more Survivors of sex and labour trafficking to come forward. This is critical. Change will not come about without every member of the legal system having a greater understanding of the victim impacts from the abhorrent crimes of human trafficking.

Recommendation: That an educational package on human trafficking be developed and housed at the National Judicial Institute for use by the judiciary. This package should include *A Handbook for Criminal Justice Practitioners on Trafficking in Persons*, Prepared by the Federal/Provincial/Territorial Working Group on Trafficking in Persons, Department of Justice Canada, Feb. 2015.

8. Training on Human Trafficking:

a. Training consortiums are necessary to bring together government, agencies and experiential women to develop strategies and materials to equip specific sectors in every

province and territory to identify and respond to this abhorrent crime. Priority audiences should include law enforcement and justice system representatives, provincially funded public and private agency staff and professionals, including medical professionals, teachers and public safety officials, By-law enforcement officers working to regulate adult sexual services, those working with victim service agencies, service providers specializing in women and youth, child and family service agencies, the Canadian Council of Provincial Child and Youth Advocates and the various Youth in Care Networks, Indigenous communities, Migrant communities, businesses in the hospitality and travel industry, truck stops and convenience stores, tax companies, adult entertainment, escort services and strip clubs.

b. Increased training and consistent building of awareness on the applicable legislative measures by which to protect potential victims and to prosecute perpetrators is required. Ongoing, specialized training and education related to trafficking in persons and prostitution offences should be made available to prosecutors, all police and victim services staff.

Recommendation: That a coordinated and integrated system of training be provided through training consortiums funded through the Federal Department of Public Safety.

9. Office of Gender Equality:

a. The Canadian Federal Government's actions to eliminate discrimination against women and girls needs to be supported by a national policy framework on gender equality. By creating a Federal Office of Women's Equality, or by appointing a Gender Equality Ombudsman, the Federal government will signal its seriousness in creating an equal, socio-economic environment for all women and girls including Canada's Indigenous populations.

b. This office should promote gender equality and reduce systemic discrimination, provide advice and support women's issues with a Minister responsible. This Department should coordinate across government departments, implement actions and initiatives in the areas of women's personal, economic and social security. In addition, this office should collect data and be enabled to make informed decisions on where and how to targeted funding and supports should be allocated. For example, information on the nature of violence against women and girls and the availability of core services can be used to support services within the relevant response sector(s), such as health or legal systems. Perpetrator data and information on the times and locations of incidents of violence can inform prevention efforts and enable more specific advocacy for policy change. Tracking data over time and monitoring trends can also support those designing and implementing programmes to more effectively evaluate the impact of their programmes. Among other uses, that data can then inform agencies' requests for additional funding.

c. Policies used in jurisdictions (i.e. Nordic Countries) where gender equality is embraced include mandatory equality in schools at all levels, paternal leave in combination with maternity leave, generous, state-mandated parental leave benefits provided by a combination of social insurance funds, tax incentives and post-maternity re-entry programmes. These economies have

made it possible for children experience equality within their school system from Kindergarten age, parents to combine work and family, resulting in more women in the workplace, more shared participation in childcare, more equitable distribution of labour at home and better work-life balance for both women and men.

Recommendation: That the Canadian Federal Government create a Federal Office of Women's Equality, or appoint a Gender Equality Ombudsman, to signal its seriousness in creating an equal, socio-economic environment for all women and girls including Canada's Indigenous populations in Canada.

Summary of Recommendations:

1. **Recommendation:** that The *Protection of Communities and Exploited Persons Act (2014)*, be reinforced by the Federal Department of Justice and by the Provincial and Territorial Governments within Canada.
2. **Recommendation:** That the Government of Canada immediately recognize the continuing incidents of human trafficking occurring within Canada's borders and identify plans to implement a new National Action Plan that includes a coordinated and integrated framework for ending this human rights abuse in Canada.
3. **Recommendations:** that the mandatory reporting of human trafficking incidents from police services to the HTNCC be enforced and that research be undertaken to determine a suitable intake method that could be implemented across law enforcement services in Canada in order to recognize, more accurately, the incidents of human trafficking and related human rights abuses in Canada
4. **Recommendation:** That the Canadian government work with the Canadian Centre to End Human Trafficking to develop and implement a national human trafficking hotline that will provide support for victims of human trafficking, allow for the reporting of incidents of this crime and for the collection and analysis of important data on this human rights abuse.
5. **Recommendation:** that the human trafficking hotline/textline be designed and implemented in order to ensure that access to its services be inclusive for all residents of Canada. This will reflect particular service provision inherent in the operation of the hotline/textline for indigenous peoples and newcomers across this country.
6. **Recommendation:** That an educational package on Human Trafficking be developed and housed at the National Judicial Institute for use by the judiciary. This package should include *A Handbook for Criminal Justice Practitioners on Trafficking in Persons*, Prepared by the Federal/Provincial/Territorial Working Group on Trafficking in Persons, Department of Justice Canada, Feb. 2015.

7. **Recommendation:** That a coordinated and integrated system of training be provided through training consortiums funded through the Federal Department of Public Safety.
8. **Recommendation:** That the Canadian Federal Government create a Federal Office of Women's Equality, or appoint a Gender Equality Ombudsman, to signal its seriousness in creating an equal, socio-economic environment for all women and girls including Canada's Indigenous populations.