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STANDING COMMITTEE ON THE STATUS OF WOMEN

*Study on Human Trafficking*

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**BRIEF OF THE FUTURE GROUP:**

**Ensuring Effective Implementation of Measures to Protect Victims and  
Creation of a Canadian Counter-Human Trafficking Office**

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## **I. INTRODUCTION**

The Future Group is pleased to have been invited to provide information and recommendations to the Standing Committee as part of its study on human trafficking. Based on our six years of experience working to combat human trafficking overseas, we have developed a flexible model that includes three inter-related aspects to effectively combating human trafficking:

- Prevention of human trafficking by working with source countries to address root causes including deterring the demand side of the industry;
- Protection of trafficking victims including rescue, rehabilitation and, when appropriate, repatriation and reintegration; and,
- Prosecution of traffickers and commercial sex-users in criminal proceedings.

While The Future Group has international experience in all three areas, its activities in Canada have focused on policies to protect victims and, for that reason, this is the focus of this brief with appropriate linkages made to prevention and enforcement measures.

After providing a definition of human trafficking, this brief summarizes recent developments in victim protection, together with international best practices based on a recent study by The Future Group. Finally, recommendations for Canada to move forward are provided. A background on the organization and its representative to this body appears at the end of this brief.

## **II. DEFINITION OF HUMAN TRAFFICKING**

A comprehensive definition of the term “trafficking in persons” is given in the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (“Trafficking Protocol”)<sup>1</sup>, signed by Canada on December 14, 2000 and ratified on May 13, 2002:

3. (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[.]

### **III. PROTECTION OF VICTIMS**

Articles 6 to 8 of the Trafficking Protocol deal with the protection of victims, imposing various obligations on States which have signed and ratified the Protocol. The Future Group recently published a study in March 2006 entitled *Falling Short of the Mark: An International Study on the Treatment of Victims of Human Trafficking Victims*<sup>2</sup> which evaluated the progress made by various developed countries (including Australia, Germany, Italy, Norway, Sweden, the United Kingdom, and the United States) towards implementing these international commitments. While Canada was given a failing grade, The Future Group was able to shed light on what would constitute “best practices”.

#### **3.1 Canada’s Failing Grade (March 2006)**

With respect to Canada, the *Falling Short of the Mark* study made the following findings based on government documents and statements; inter-governmental, international, and non-governmental organization reports; judicial decisions and immigration cases; media accounts; interviews; and correspondence with government officials:

- With few exceptions, victims of human trafficking have been routinely detained as illegal immigrants and frequently deported from Canada. The avenues through which victims of trafficking may seek temporary residence in Canada are not adequately designed. Through the refugee determination process, trafficking victims are not eligible for refugee status simply based on their condition as a trafficking victim. Ministerial approval is required for a

trafficking victim to be permitted to remain in Canada on “humanitarian and compassionate grounds”. A review of recent jurisprudence of the Canadian Immigration and Refugee Board of Canada, and the Federal Court of Canada has demonstrated that trafficking victims have been unsuccessful in seeking to remain in Canada as refugees.

- Trafficking victims are not provided with any government funded medical, psychological or counseling support in Canada. The only possibility for trafficking victims to receive any such assistance is through private charities. The UN Committee on the Elimination of Discrimination against Women criticized this situation in 2003. The situation has gotten so bad that individual law enforcement officers have attempted to approach local hospitals to cobble together access to the most basic medical assistance for victims in major cities.
- Despite several years in existence, the Interdepartmental Working Group on Trafficking in Persons (IWGTIP) has failed to announce a national strategy to improve the treatment of victims of human trafficking. Its only public accomplishments to date in this area have been producing a pamphlet and posters, and hosting several conferences. Interviews with leading Canadian NGOs which assist abused women in major Canadian cities led to the conclusion that none of them were aware of the work of the IWGTIP and none had any information from any level of government on programs or policies to help victims of human trafficking.

One of the recent examples provided in the study evidencing the typical voluntary removal at the behest of authorities, or enforced deportation, of trafficking victims is reported in *Varga v. Canada (Minister of Citizenship and Immigration)*, [2005] F.C.J. No. 765, 2005 FC 617 (F.C.) affirming [2004] R.P.D.D. No. 523 (I.R.B.). The head-note of this case succinctly provides the facts and outcome against a *bona fide* victim of human trafficking, also demonstrating how trafficking victims are not able to claim status as refugees:

After she [Varga] came to Canada to join her girlfriend, her girlfriend’s family forced her to work in the sex trade. The family had since been deported to Hungary. Varga feared they would force her back into the sex trade if she was returned to Hungary. The Board rejected Varga’s claim on the basis that she had not provided clear and convincing proof

that she would be unable to obtain state protection if she were to return to Hungary. It considered Hungary's efforts to protect Roma, lesbians and women forced into prostitution. Varga's doctor indicated she was suffering from post-traumatic stress disorder and would suffer a complete psychological breakdown if she were returned to Hungary.

HELD: Application dismissed. The Board properly addressed the state protection issue. It considered not only the steps being taken by the Hungarian authorities to address the problems faced by Roma, lesbians and women forced into the sex trade but also examined the efficacy of those steps. The doctor's report was not relevant to the inquiry of whether Varga's fear of persecution was objectively well founded. (Emphasis added)

The final conclusion of The Future Group's March 2006 study was that "Canada has systematically failed to comply with its international obligations under the Trafficking Protocol related to the protection of victims of human trafficking. Canada's record of dealing with trafficking victims is an international embarrassment and contrary to best practices."

The release of the study attracted national and international media attention. It was also at the origins of public commitments from officials, including from the Hon. Monte Solberg, Minister of Citizenship and Immigration, who told Reuters: "We'll see what we can do to begin to fix the system so we're more responsive to these victims." The RCMP Trafficking Awareness Coordinator in Vancouver, Const. Norm Massie told 24 Hours (Vancouver) in response to the study: "We don't have a comprehensive system in place that is directed to victims."

### 3.2 International Best Practices

Based on the Trafficking Protocol and the practice of other countries, the *Falling Short of the Mark* study found that the following constituted best practices:

- An automatic minimum 30-45 day period immediately after trafficking victims are rescued during which they are legally entitled to remain in the country and receive basic support (i.e.

medical, psychological, social and legal) without any obligation whatsoever to assist law enforcement.

- The further possibility that victims of trafficking may obtain temporary residence either if they will be endangered on deportation *or* if they are willing to cooperate with the prosecution of their traffickers – either ground is sufficient on its own. Victims of trafficking should also be given a meaningful ability to choose to be repatriated to their country of origin.
- During this temporary residence period, lasting from 6 months to several years, victims should fully benefit from physical, psychological and social support measures, in particular: housing; counseling; information on their legal rights in a language they understand; medical, psychological and material assistance; employment, education and training.
- Investigations protecting the privacy and identity of victims, and providing them with information on relevant proceedings, enabling them to present their views/concerns in proceedings against their traffickers. Specialized training, guidelines and witness protection laws designed to address the unique concerns of trafficking victims are also important indicators of best practices.

The countries which rated best in the study were those which provided:

- (1) A clear legal framework to adopt these best practices;
- (2) Sufficient financial resources to implement them;
- (3) A high degree of cooperation between law enforcement, governmental agencies, non-governmental sectors (including faith-based and very small local groups);
- (4) A realization of the international scope of the problem, manifesting itself in coordination with foreign source countries; and, finally,
- (5) Successful implementation as evidenced by a steadily increasing number of trafficking victims protected and traffickers prosecuted.

It should be noted that the study found that countries which had legalized prostitution exacerbated the plight of victims of human trafficking. Similar concerns have been expressed by Daisy Kler, a crisis worker at the Vancouver Rape Relief and Women's Shelter.<sup>3</sup>

### 3.3 Recent Developments

In May 2006, Citizenship and Immigration Canada announced that the Minister had approved Interim Guidelines<sup>4</sup> that would provide victims of human trafficking with:

- Temporary residence permits (“TRP”) for up to 120 days, renewable based on the severe circumstances facing the victim *or* their willingness to assist law enforcement in prosecuting their traffickers;
- Exemption from the TRP process fee;
- Eligible for health-care benefits under the Interim Federal Health program, and access to emergency counseling;
- Recognition of a right to repatriation;
- Assessment by immigration officials of the treatment reserved to victims of trafficking. In accordance with guidelines and questions for interviewing victims, they should ensure these individuals are treated with respect and not re-traumatized; and,
- Cooperation and involvement of non-governmental organizations and police along with immigration officials.

The Future Group has engaged in a comprehensive review and analysis of the Interim Guidelines, and is satisfied that these are major steps forward in better protecting trafficking victims. For that reason, The Future Group joined the RCMP, Stop the Trafficking Coalition, the Canadian Council for Refugees, the Salvation Army and other groups in applauding the introduction of these new measures.

#### IV. RECOMMENDATIONS

With recent amendments to the *Criminal Code* and the CIC Interim Guidelines, a basic legal framework is now in place and will allow Canadian authorities to begin to address the challenge of human trafficking. These are crucial enabling instruments. However, words on paper are not enough to rescue victims from the modern-day slave trade. They require sound and determined implementation. There is yet to be an indication that this will necessarily take place.

Thus, the following steps are recommended:

1. Creation of a Canadian Counter-Human Trafficking Office (CCHT Office): The mandate and authority of the IWGTIP should be reviewed as it is questionable whether it can meet the current mandate. Given the disparate departments and multiple jurisdictions involved, it may be advisable to centralize the government's counter-human trafficking efforts in a single office that is properly funded and mandated to implement specific programs, monitor and report on progresses in various departments, and be the main interlocutor or contact point within the federal government for all human trafficking-related issues including with the provinces, NGOs, law enforcement, foreign source country governments, etc. Rather than a 17-member departmental working group trying to develop and implement a trafficking strategy, the Office could fulfill the role, coordinating relevant departments on a bilateral basis. The advantage of a single office compared to the IWGTIP is that accountability for results is concentrated, and funding can be directed at the Office and ensured it will go to human trafficking-related programs.
2. Implementation of Interim Guidelines: It is necessary to ensure the Interim Guidelines are actually implemented in a sustained and concerted way to ensure that trafficking victims will benefit from them. This will require systematic training and education among law enforcement officials, social workers and front-line health care workers. An excellent model for this important work is provided by the U.S. Department of Health & Human Services "Campaign to Rescue & Restore Victims of Human Trafficking"<sup>5</sup>, with detailed "Toolkits" for each of these sectors. This model was recently adapted and piloted by The Future Group

in its summer 2006 deployment to Cameroon, meeting the specific goals of reaching 100 doctors, nurses and social workers in hospitals. Training was conducted to help them identify and assist victims of child trafficking. From our experience, a sector-approach has proven to work better than a geographic-based approach.

3. Enforcing Canada's Extra-Territorial Sex Tourism Laws: Canadian pedophiles are operating internationally with impunity, in a virtual complete absence of enforcement of Canada's law against child sex tourism. The Future Group has provided detailed evidence to the R.C.M.P. of suspected child sex tourists operating abroad. Canada must ensure that its nationals are not fuelling the child sex trade, and human trafficking associated with it, in impoverished countries. Basic law enforcement resources and targeted prosecutorial activity is required to begin to address this international embarrassment.
4. Expansion of Victim Assistance: Working with the provinces (beginning with British Columbia which is furthest along) toward linking trafficking victim TRP status with eligibility for legal aid, and basic housing and social assistance.
5. Launching a National 1-800 Number: Many countries now have a toll-free, nationally accessible telephone number and/or website to report trafficking crimes and for victims to get help. Interpreters working in the languages of key source countries need to be available. Such a phone number could also be used to link local NGOs, health and social workers with relevant law enforcement agencies and immigration officials.
6. Engaging Source Countries: Identifying source countries is a vital aspect of any approach to preventing trafficking, and repatriating victims. Facilitating prevention and repatriation, such intelligence will allow for international aid (governmental and/or non-governmental) to be devoted to combating human trafficking in a more effective and focused manner.
7. Adopting a Strategy of Measurable Steps: Measurable and steady progress is preferable to waiting for a grand, national plan for human trafficking, which has proven to be infeasible. An approach that builds on each step is far more likely to succeed and gain traction, as the

CIC Interim Guidelines, and B.C. informal framework between NGOs, police, and government has shown. Pilot projects and *ad hoc* arrangements are a good start, and their permanence, sustainability and expansion should be ensured once they are successfully started.

8. Monitoring Progress: Measuring progress is key to adapting programs to ensure they are responsive to the victims' needs. An example of a very rigorous and comprehensive annual review is provided by the U.S. Department of Justice, "Assessment of U.S. Government Efforts to Combat Trafficking in Persons in Fiscal Year 2005"<sup>6</sup>. The proposed CCHT Office would be responsible for filing the report annually with the House of Commons.

We end with a challenge made by Thomas S. Axworthy, Chairman of the Centre for the Study of Democracy, Queen's University who wrote "Canada's mission should be to stop sexual slavery":

"With legislation now in place, what we need is a national commitment to end trafficking at home and to fight it abroad.

The 2006 State Department report stated, for example, that though the RCMP had a grandly titled Human Trafficking National Co-ordinating Centre, it consisted only of two officers and one analyst. An all-party task force of MPs should prepare a national plan.

Such a plan should make Canada a leader in granting support to domestic NGOs like Calgary-based Future Group or Stop the Trafficking Coalition in Canada, and international agencies like the International Migration Organization.

Canada should equally match the U.S. with a \$100 million allocation to fight human trafficking worldwide."<sup>7</sup>

### ABOUT THE FUTURE GROUP

**The Future Group** is a Canadian-based NGO and federally registered charitable organization founded in 2000, which is dedicated to alleviating the suffering of victims of human trafficking and the child sex trade, bringing offenders to justice, and raising the issue to national and international attention. For four years, the organization implemented projects in Cambodia assisting victims, deterring and investigating offenders, and educating at-risk children about the dangers of this crisis. Over the last two years, the organization has worked in Cameroon implementing human trafficking prevention projects. Research-based missions have also been undertaken in Myanmar (Burma), Romania, Moldova and Ecuador.

**Benjamin Perrin**, who will be appearing before the Standing Committee, served as the volunteer Executive Director of The Future Group from June 2000 to March 2006. He has worked overseas directly with victims of human trafficking from China, Vietnam, Cambodia, and Thailand who range in age from 8 to 21 years old. Mr. Perrin holds a law degree from the University of Toronto, Faculty of Law and an international business degree from the University of Calgary, Haskayne School of Business. He completed graduate research in law at the McGill University, Faculty of Law. He has made numerous presentations and lectures on human trafficking across Canada, and was the principal author of The Future Group's March 2006 study *Falling Short of the Mark: An International Study on the Treatment of Victims of Human Trafficking Victims*.

Submission approved by:



Shuvaloy Majumdar  
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November 8, 2006

## Endnotes

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<sup>1</sup> *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime*, U.N. G.A. Res. 55/25, Annex II at 31-39, arts. 6-8, U.N. Doc. A/55/25 (15 November 2000), entered into force 25 December 2003, online: United Nations <[http://www.unodc.org/pdf/crime/a\\_res\\_55/res5525e.pdf](http://www.unodc.org/pdf/crime/a_res_55/res5525e.pdf)>.

<sup>2</sup> The Future Group, *Falling Short of the Mark: An International Study on the Treatment of Victims of Human Trafficking* (Calgary, AB: The Future Group, 2006), online: The Future Group <<http://www.thefuturegroup.org>>.

<sup>3</sup> See Joan Delaney, “Canada Not Immune to Human Trafficking”, *The Epoch Times*, August 10, 2006, online: <<http://www.theepochtimes.com/news/6-8-10/44826.html>>.

<sup>4</sup> The Interim Guidelines appear in the CIC Temporary Resident Permits manual at pg. 23-29 <<http://www.cic.gc.ca/manuals-guides/english/ip/ip01e.pdf>>.

<sup>5</sup> U.S. Department of Health & Human Services “Campaign to Rescue & Restore Victims of Human Trafficking”, online: <<http://www.acf.hhs.gov/trafficking/>>.

<sup>6</sup> U.S. Department of Justice, “Assessment of U.S. Government Efforts to Combat Trafficking in Persons in Fiscal Year 2005”, available online at: <[http://www.usdoj.gov/ag/annualreports/tr2006/assessment\\_of\\_efforts\\_to\\_combat\\_tip.pdf](http://www.usdoj.gov/ag/annualreports/tr2006/assessment_of_efforts_to_combat_tip.pdf)>.

<sup>7</sup> Thomas S. Axworthy, “World Cup scoring big — for human trafficking Canada's mission should be to stop sexual slavery”, *Toronto Star*, July 2, 2006, online: *Toronto Star* <<http://www.thestar.com/>>.