

**The Sexual Exploitation  
of Children in Canada:  
the Need for National Action**

**Standing Senate Committee  
on Human Rights**

The Honourable Mobina S.B. Jaffer  
*Chair*

The Honourable Patrick Brazeau  
*Deputy Chair*

**November 2011**

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41<sup>st</sup> Parliament – 1<sup>st</sup> Session

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# MEMBERS - 41TH PARLIAMENT, 1ST SESSION

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The Honourable Mobina S. B. Jaffer, Chair

The Honourable Patrick Brazeau, Deputy Chair

*The Honourable Senators:*

Raynell Andreychuk

Salma Ataullahjan

George Baker, P.C.

Elizabeth Hubley

Nancy Ruth

Vim Kochhar

Rod A. A. Zimmer

*Ex-officio members of the committee:*

The Honourable Marjory LeBreton, P.C., (or Claude Carignan) and James Cowan (or Claudette Tardif).

Parliamentary Information and Research Service, Library of Parliament:  
Julian Walker and Laura Barnett, analysts.

Clerk of the Committee:  
Daniel Charbonneau

# MEMBERS - 40<sup>TH</sup> PARLIAMENT, 3<sup>RD</sup> SESSION

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The Honourable Mobina S. B. Jaffer, Deputy Chair

*The Honourable Senators:*

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Salma Ataullahjan

George Baker, P.C.

Patrick Brazeau

Elizabeth Hubley

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*Ex-officio members of the committee:*

The Honourable Marjory LeBreton, P.C., (or Gérald Comeau) and James Cowan (or Claudette Tardif).

*Other Senator who has participated from time to time in the study:*

The Honourable Senator Joyce Fairbairn, Elizabeth Marshall and Donald H. Oliver.

Parliamentary Information and Research Service, Library of Parliament:

Julia Nicol, Julian Walker, analysts and Tamera Burnett, intern.

Clerk of the Committee:

Adam Thompson

# MEMBERS - 40<sup>TH</sup> PARLIAMENT, 2<sup>ND</sup> SESSION

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The Honourable Raynell Andreychuk, Chair

The Honourable Mobina S. B. Jaffer, Deputy Chair

*The Honourable Senators:*

Patrick Brazeau  
Roméo Dallaire  
Jacques Demers  
Grant Mitchell  
Jim Munson  
Nancy Ruth  
Vivienne Poy

*Ex-officio members of the committee:*

The Honourable Marjory LeBreton, P.C., (or Gérald Comeau) and James Cowan (or Claudette Tardif).

*Other Senators who have participated from time to time in the study:*

The Honourable Senators Sharon Carstairs, P.C., Lorna Milne and Robert W. Peterson.

Parliamentary Information and Research Service, Library of Parliament:  
Julia Nicol, Julian Walker, analysts and Tamera Burnett, intern.

Clerk of the Committee:  
Adam Thompson

# ORDER OF REFERENCE

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Extract of the *Journals of the Senate*, Wednesday, June 22, 2011:

The Honourable Senator Jaffer moved, seconded by the Honourable Senator Cordy:

That the Standing Senate Committee on Human Rights be authorized to examine and report upon the issue of the sexual exploitation of children in Canada, with a particular emphasis on understanding the scope and prevalence of the problem of the sexual exploitation of children across the country and in particularly affected communities;

That the papers and evidence received and taken and work accomplished by the committee on this subject since the beginning of the Second session of the Fortieth Parliament be referred to the committee; and

That the committee submit its final report to the Senate no later than June 30, 2012, and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

The question being put on the motion, it was adopted.

Gary W. O'Brien  
*Clerk of the Senate*

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Extract of the *Journals of the Senate*, Tuesday, March 23, 2010:

The Honourable Senator Johnson moved, seconded by the Honourable Senator Eaton:

That the Standing Senate Committee on Human Rights be authorized to examine and report upon the issue of the sexual exploitation of children in Canada, with a particular emphasis on understanding the scope and prevalence of the problem of the sexual exploitation of children across the country and in particularly affected communities;

That the papers and evidence received and taken and work accomplished by the committee on this subject since the beginning of the Second session of the Fortieth Parliament be referred to the committee; and



That the committee submit its final report to the Senate no later than June 30, 2010, and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

The question being put on the motion, it was adopted.

Gary W. O'Brien  
*Clerk of the Senate*

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Extract of the *Journals of the Senate*, Tuesday, June 22, 2010:

The Honourable Senator Johnson moved, seconded by the Honourable Senator Di Nino:

That notwithstanding the order of the Senate adopted on March 23, 2010, the date for the presentation of the final report by the Standing Senate Committee on Human Rights on the issue of the sexual exploitation of children in Canada be extended from June 30, 2010, to March 31, 2011.

The question being put on the motion, it was adopted.

Gary W. O'Brien  
*Clerk of the Senate*

**N.B. A similar order of reference was adopted in the 2<sup>nd</sup> session of the 40th parliament.**

# FOREWORD

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The sexual exploitation of children is a deeply-rooted reality in too many Canadian homes, families and communities.

It is not at the margins of our society, it is at the centre.

It happens to children we know – by men and women we know.

It deserves greater public attention and action.

Most of these child victims have been sexually abused by those close to them: relatives, friends, and other familiar faces. Sexual exploitation happens to children we know. It happens to children on the streets of our communities who have been trafficked and sold for sex. It happens to children in front of home video cameras. The committee heard that in one year there were almost 9,000 reported sexual assaults against children in Canada. The overwhelming majority of sexual abuse goes unreported. Eighty per cent of child victims of sexual abuse are girls.

The committee was told that nowhere is the devastation of sexual exploitation more pervasive than among Aboriginal children and youth, who represent over 90% of those being exploited in certain cities. Programming and services for urban and off-reserve First Nations, Métis and Inuit are often much less robust than for those on-reserves. Poverty, drug usage, homelessness, family violence, and racism are all contributing factors and compound the urgency of finding real solutions.

We are failing these children. It is time to take action.

We must find ways to prevent this exploitation and to encourage these children to seek help. We must make the justice system more supportive so they feel safe and confident enough to testify against their abuser in court. We must provide them with information to help them make the right choices and with services that truly meet their needs. We must assist children to find their voice and then we must listen to them.

This is a national issue that requires a response at all levels. The first steps should be the creation of a national databank to assist those working in this field to share their knowledge, research and expertise and a national Children’s Commissioner to advocate on behalf of all Canadian children. Our recommendations highlight the key areas where the Government of Canada can take action and make a real impact in helping children escape from a life of sexual exploitation – or, better yet, to avoid one altogether.

# EXECUTIVE SUMMARY

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## **Chapter I: Introduction**

The exploitation of children through prostitution, child pornography, the luring of children over the Internet and any sexual abuse of a child are all forms of sexual exploitation. The common thread that runs through these crimes is that a child's inherent human dignity has been violated for the sexual gratification of adults. Whether these adults are referred to as sexual predators, sex offenders, or child abusers, they are taking advantage of Canada's most vulnerable members, its children, and abusing the trust that children place in adults to protect them and to help them identify what is in their best interest.

The Standing Senate Committee on Human Rights (the committee) began its study in 2009 of "the issue of the sexual exploitation of children in Canada, with a particular emphasis on understanding the scope and prevalence of the problem of the sexual exploitation of children across the country and in particularly affected communities." It had previously drawn attention to the pressing need for action by the Government of Canada in response to the commercial sexual exploitation of children in its 2007 report, *Children: The Silenced Citizens, Effective Implementation of Canada's International Obligations with Respect to the Rights of Children*.

Over the course of the present study, the committee learned from witnesses that the sexual exploitation of children is all too prevalent and that much more needs to be done to provide appropriate help to children who find themselves in these situations. The committee heard from many Canadians who are working to reduce the incidence of sexual exploitation in Canada and to assist those children who have been sexually exploited. These witnesses have a wealth of experience, creative initiative and commitment to contribute and we applaud their dedication. It became clear from their testimony, however, that many organisations across Canada do not have the funding, resources and support necessary to allow them to share experiences among themselves and to build upon each others' strengths.

Witnesses also emphasized that there is currently a limited understanding of the scope and extent of sexual exploitation in Canada, of the challenges facing children in this regard, of the root causes that make some children more vulnerable to abuse, and of the various methods being

used to lure children into exploitive situations. This lack of knowledge only serves to help the perpetrators who sexually exploit children.

In this report, the committee provides its recommendations for how the federal government can develop well-informed policies, programs and services to help children avoid, escape or heal from the harms of sexual exploitation. Immediate action is also needed to ensure that an adequate and consistent level of services is available across the country to all Canadian children. By supporting the work of government agencies and non-government organisations through the national gathering of appropriate data and research, performing the appropriate analyses, and thereby leading the way to the development of better programs, the Government of Canada can lay the foundation for rebuilding children's trust that Canada can truly help them.

## **Chapter II: The Sexual Exploitation of Children in Canada: An Overview**

In this chapter, the committee provides background information on the main types of sexual exploitation, including sexual abuse, children exploited through prostitution, trafficking in children for the purposes of sexual exploitation, sex tourism, and child pornography. We examine the context in which sexual exploitation occurs, explore the key root causes that can make children more likely to be sexually exploited, and draw attention to the role played by the Internet. We also review key statistics pertaining to sexual exploitation, noting in particular that most sexual abuse is not reported to police authorities and most abusers are known to the victim and are likely close to the family or within the family.

## **Chapter III: Gender Awareness Concerns**

The role played by gender is key to understanding the challenges presented by child sexual exploitation and to developing workable solutions. The majority of sexually exploited children are girls, and most perpetrators are men. Though young girls have always faced challenges particular to their gender, the current generation are faced with new dangers on the Internet, social media, and other technological advances that are not well-understood by many adults.

Many witnesses emphasized that boys and girls experience sexual exploitation differently, can become vulnerable to exploitation for different reasons, and require services that address different needs. For instance, one witness noted how girls tend to be more interested in using the

Internet for chatting and using social networks like MySpace or Facebook; in this way, they may encounter sexual predators seeking to lure them. Educational tools must be developed using language and media that young girls can understand and that instructs them about the risks of sharing personal information through such networks. At the same time, boys also need programs that respond to their particular experiences and interests. Sexual minority children and youth likewise require assistance tailored to their own unique circumstances.

The committee sees the development of gender-based analysis as being necessary across the range of the Government of Canada's programs and policies, in particular those concerning children and sexual exploitation. To inform this analysis, we recommend that the federal government conduct and support research to better assess the needs of boys and girls and the roles played by sexual orientation and gender with respect to sexual exploitation.

#### **Chapter IV: Aboriginal Communities in Need of Particular Attention**

Compared to their non-Aboriginal counterparts, many Aboriginal communities experience lower levels of education, higher levels of poverty, overcrowded and poor housing, and a lack of access to social supports and basic services. These conditions have made many Aboriginal children vulnerable to being exploited. The committee heard much testimony from representatives of Aboriginal peoples' organisations stressing that too many Aboriginal children in Canada are not receiving the assistance they need to grow up free from the pressures that can lead to sexual exploitation. In certain parts of Canada, particularly in western provinces, the majority of children involved in the sex trade are Aboriginal.

In this chapter, the committee reviews the historical background and social factors that have led to the current challenges within many Aboriginal communities, including the legacy of the Indian residential schools system and the effects of intergenerational cycles of abuse. The effects of racism and of the remoteness of many Aboriginal communities are also discussed as presenting particular hurdles for the delivery of appropriate services.

The committee notes that though there are many programs that have been put in place by federal, provincial and territorial governments to help Aboriginal children across the country, the available statistics indicate that these efforts have not proven to be sufficient. The message that

many witnesses had for the committee was that First Nations, Inuit and Métis communities firstly require investment in their capacity to research the problems affecting their communities in order that they may then implement the appropriate solutions. They further require local solutions and local people with the resources and training to address the problems with appropriate solutions. The Government of Canada must support these community initiatives with well-researched programs and policies that are culturally appropriate.

## **Chapter V: Developing a National Approach**

The committee believes that the federal government can continue to play an important role in addressing the challenges of the sexual exploitation of children in this country. In this chapter, the committee reviews some of the collaborative efforts the federal government already has in place and examines calls made by many witnesses for greater federal action in this area. After considering what it heard in this regard, the committee recommends that a national databank of research, analysis and statistics for public use be developed with relevant stakeholders, including: key government departments; non-government organisations; women's groups; Aboriginal peoples' organisations; experts; the appropriate provincial and territorial government departments; and especially children themselves. This databank could be used to foster greater cooperation and ongoing collaboration among stakeholders who can benefit from the sharing of resources, best practices and expertise.

## **Chapter VI: The Need for a National Children's Commissioner**

This chapter explores a key element of a national approach to the issue of child sexual exploitation, which is for Canada to have an independent, national Children's Commissioner. As the committee previously recommended in *Children: the Silenced Citizens*, such an office would serve a vital role in ensuring that the best interests of children are taken into account in all federal activity.

As an advocate for children's rights, the Commissioner could seek to ensure that appropriate supports and services exist for sexually exploited children in both the public health system and the criminal justice system. The Commissioner's office may also serve as a resource for children seeking information pertaining to their rights or to sexual exploitation issues. The Commissioner

should also be mandated to focus in particular on the challenges facing Aboriginal children who are, or are at risk of being, sexually exploited.

## **Chapter VII: The Enforcement of Sexual Exploitation Offences**

The committee heard from witnesses about Canada's criminal justice system and the enforcement of sexual exploitation offences. Some witnesses stressed that greater efforts are necessary to address the low reporting rates by victims and the low conviction rates of sex offenders when compared to the actual number of incidents involving sexual exploitation. Children can be very reluctant to tell of their abuse, and even more reluctant to participate in the prosecution of their abuser. Chapter Seven reviews how the criminal justice system may better accommodate the needs of children and be more respectful of their rights.

The committee also took particular note of the Child Advocacy Centres (CACs) in Canada that several witnesses commended for providing a variety of helpful services to child victims of crime. The committee believes that CACs should be accessible by every child and is encouraged to see that the Government of Canada has recently announced funding for the creation of new centres and the enhancement of existing ones.

The committee heard testimony regarding whether current sentencing provisions in the *Criminal Code* are appropriate and is encouraged to learn that the Government of Canada is very much engaged in reviewing the applicable provisions. In this chapter, the committee also notes the importance of the Government of Canada keeping up with technological advances that may be used by criminals to facilitate the sexual exploitation of children.

## **Chapter VIII: Raising Social Awareness and Developing Social Programs**

In Chapter Eight, the committee examines many of the programs provided by the Government of Canada and by local organisations and concludes that while there are excellent programs being offered, too many Canadian children are still unable to access the services they require – perhaps because these services are not available where they live or because the service providers do not have sufficient resources to meet their needs. The committee believes that the Government of Canada should take a leadership role in working to ensure that preventative



programs and appropriate services are available and accessible for all Canadian children who are confronting sexual exploitation issues in their lives.

From an educational perspective, Canadian children and their families need to have access to the educational material and information that will help them know how to avoid sexual exploitation and what to do if it occurs. The Government of Canada can help to ensure well-researched and appropriate materials are made available.

The committee also examines the role that the corporate sector can play in assisting with efforts to combat sexual exploitation, whether through providing the tools and expertise to assist law enforcement or through using their capacity to reach the public with educational and awareness-raising campaigns. Lastly, the committee concludes that progress can be made when the much-needed research and data is collected and analysed and then ultimately used to better inform Canadians about the challenges children are facing with regards to sexual exploitation and the solutions that will help them.

# RECOMMENDATIONS

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## **Recommendation #1 - Gender-Based Analysis**

The committee recommends that the Government of Canada:

- Conduct and support research into the particular needs of boys and girls and the roles played by sexual orientation and gender with respect to sexual exploitation issues that will be beneficial to the development of government programs and policies;
- Ensure that gender-based analysis is incorporated in research as well as in the development and implementation of all government programs and policies, in particular those concerning children and sexual exploitation issues;
- Make the results of any gender-based analysis of research, programs and policies related to child sexual exploitation publicly available; and
- Instruct all Cabinet Ministers, parliamentarians, and appropriate Government of Canada personnel on gender-based analysis.

## **Recommendation #2 – Support for Aboriginal Communities**

The committee recommends that the Government of Canada:

- Conduct and support research into the particular needs of Aboriginal communities with respect to child sexual exploitation issues for the development of effective services for children;
- Develop policies that are culturally sensitive to the needs of Aboriginal peoples and designed to reduce the incidents and harms of sexual exploitation in Aboriginal communities both on- and off-reserve; and
- Support local initiatives for rural and urban Aboriginal children who are being, or are at risk of being, sexually exploited.

## **Recommendation #3 – National Research**

The committee recommends that the Government of Canada undertake to create a national databank of research and statistical information on the sexual exploitation of children in Canada that:

- Will be developed with relevant stakeholders (key government departments; non-government organisations; women’s groups; Aboriginal peoples’ service organisations; experts; and children) and with the appropriate provincial and territorial government departments;
- Will be conducted in a manner that is respectful of the cultural and gender-related concerns of children;
- Will be made publicly available and promoted; and

- Will be of assistance to law enforcement agencies, social service agencies, and other relevant stakeholders in combating the sexual exploitation of children, in helping child victims, and, in furthering the prevention of sexual exploitation in this country.

#### **Recommendation #4 – A National Children’s Commissioner**

The committee once again recommends that the Government of Canada introduce legislation to establish an independent Children’s Commissioner as an officer of Parliament who is appropriately resourced to monitor the implementation of Canada’s obligations under the United Nations *Convention on the Rights of the Child* and to promote and protect the rights of children in Canada, with particular attention to be given to the issue of sexual exploitation. The Children’s Commissioner should report annually to Parliament.

#### **Recommendation #5 – Child Victims and the Criminal Justice System**

The committee recommends that the Government of Canada improve the criminal justice system so that it better recognizes and accommodates the needs of child victims of sexual exploitation before, during, and after court proceedings.

#### **Recommendation #6 - Services for All Canadian Children**

The committee recommends that the Government of Canada make it one of its top priorities to ensure that an adequate and consistent level of services for all children dealing with sexual exploitation issues is available across the country.

#### **Recommendation #7 – Private Sector Cooperation**

The committee recommends that the Government of Canada actively work with businesses and private sector organizations to support and promote initiatives directed towards combating the sexual exploitation of children.

#### **Recommendation #8 – Education and Prevention**

The committee recommends that the Government of Canada dedicate appropriate resources and funding to promoting a preventative approach to the sexual exploitation of children, including providing assistance to the provinces and territories as well as to non-governmental organizations who are actively involved in delivering educational programs for children pertaining to healthy sexuality and the prevention of sexual exploitation.

## CHAPTER I: INTRODUCTION

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*“My job consists of walking in the most at-risk areas of the streets, meeting the girls and women, and giving them resources and harm reduction tools to keep themselves safer... This is not an easy job for me to do. I leave every night to go home and my heart hurts for the young girls who are being taken advantage of, and I feel a lot of anger towards those who are out there strolling with no fear. I have been off the streets for many years now. With great sadness, I am still seeing former johns and exploiters out there preying upon our children.*

*... These kids that are out there do not want to be, but because they are not heard – or because they have to testify in court that they are being victimized, they will not do so. When a child is being recruited into the sex trade, the perpetrator is part of the recruiting phase; they will get to know everything there is to know about that young person and will use that as a tactic to keep them entrenched.*

*I consider myself a lucky one. Many times, my life could have been taken from me, but I survived it. Lately, though, this sense of survival is not a reality for our young children and our kids out there. Too many are going missing or have been found murdered. These are our children, and it is our job to protect them and do whatever it takes to ensure their safety.*

*... I became pregnant with my daughter, who is now 12 years old. I just wanted a better life for her. I was terrified of her ever becoming involved in any sort of thing like that. What was a huge eye-opener was when my daughter was a year and a half and one of my regulars asked how much for her. Even though it was a horrible and negative thing, a positive came out of it because it opened my eyes more – that if I did not stop what I was doing, no matter what I did and how much I protected her, she would become involved in that lifestyle in some way.*

*We all want more for our children than what we had as children ourselves. I get my strength from my daughter every day. She is the best thing.*

*Also, resources that were just perfect for me helped me get out... It takes a woman and a child at least 10 attempts to get out before they actually succeed. We always have our little slips. We have a lot of stuff going on in our heads and we already have a lot of negative things going on up there. And, all we need is more to bring us down to the level where we will go use drugs again, or drink again or harm ourselves in some way.*

*We wear this huge label that all we are is only sex trade workers, when we are so much more than that.”*

Debbie Cumby, Ma Mawi Wi Chi Itata Centre<sup>1</sup>

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<sup>1</sup> All quotations from witnesses contained in this report are taken from oral testimonies during committee meetings, unless otherwise stated. A full list of witnesses and the meetings they attended is included in Appendix A.

Sexual exploitation violates the rights and human dignity of this country's youngest and most vulnerable members. It is an abuse of the trust that children place in adults to protect them and to help them identify what is in their best interest. Whether the exploitation of a child is through prostitution, the production and dissemination of child pornography, the luring of a child over the Internet, or the sexual abuse of a child: these are shameful crimes that must not be allowed to happen.

On 22 June 2009, the Standing Senate Committee on Human Rights was mandated to study: "the issue of the sexual exploitation of children in Canada, with a particular emphasis on understanding the scope and prevalence of the problem of the sexual exploitation of children across the country and in particularly affected communities."<sup>2</sup> The mandate was renewed by the Senate of Canada on 23 March 2010 at the start of the third session of the 40<sup>th</sup> Parliament.<sup>3</sup>

Over the course of this study, the committee met with more than forty witnesses who discussed, from varying perspectives, the issue of the sexual exploitation of children in Canada and what can be done to address this problem. The committee had originally intended a broader study that would have included a cross-country tour to see the work of local organisations and what was being done by the provinces first hand. We shortened our study when it became apparent that the most efficient use of resources was to report on what we had heard to date and to draw attention to the work already being done in this field by Canadians. Furthermore, the

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<sup>2</sup> As set out on page ii of this report, and available at: Senate Standing Committee on Human Rights, Orders of Reference, Senate of Canada, [http://www.parl.gc.ca/common/Committee\\_SenOrders.asp?Language=E&parl=40&Ses=3&comm\\_id=77](http://www.parl.gc.ca/common/Committee_SenOrders.asp?Language=E&parl=40&Ses=3&comm_id=77).

<sup>3</sup> The committee has previously examined the sexual exploitation of children as part of its study of Canada's international obligations in regard to the rights and freedoms of children, which resulted in the tabling of two reports in the Senate: *Who's in Charge Here? Effective Implementation of Canada's International Obligations with Respect to the Rights of Children*, November 2005, available at [www.parl.gc.ca/38/1/parlbus/commbus/senate/com-e/huma-e/rep-e/rep19nov05-e.htm](http://www.parl.gc.ca/38/1/parlbus/commbus/senate/com-e/huma-e/rep-e/rep19nov05-e.htm), and *Children: The Silenced Citizens, Effective Implementation of Canada's International Obligations with Respect to the Rights of Children*, April 2007, available at <http://www.parl.gc.ca/39/1/parlbus/commbus/senate/com-e/huma-e/rep-e/rep10apr07-e.htm>). In these reports, the committee called upon the Government of Canada to comply with its legal obligations under the United Nations *Convention on the Rights of the Child* and improve the institutions, public policies, and laws that affect children. It also called on the federal government to develop and implement a strategy in accordance with its international obligations to address: the predators who create the demand for the commercial sexual exploitation of children; businesses and networks based on the commercial sexual exploitation of children; new technologies and their impact on child pornography and the commercial sexual exploitation of children; and problem areas in terms of the involvement of children in the fashion industry, in marketing, in the media, and in the travel and tourism industry.

testimony we heard from witnesses allowed us to identify certain key recommendations that need to be made at the federal level and that are included in this report.

During the committee's hearings, we heard stories of adults who preyed on the vulnerability of children – in some cases, their own, of the despair that victims can feel after being sexually abused, and of youths trying to escape situations of exploitation.<sup>4</sup> The committee also heard moving testimony about adults who are devoting their lives to getting sexually exploited children the help they need and about courageous survivors overcoming past traumatic experiences.

The committee heard compelling evidence that the sexual exploitation of children is all too prevalent and occurs at alarming rates across the country. And yet, despite its presence across all regions and demographic groups, there remains much that still needs to be understood about this problem and how to address it. Witnesses emphasized the need for better, more reliable and more available research and statistical information. While there are many dedicated Canadians working to help children and protect them from sexual exploitation, the full potential of their wealth of knowledge and ideas can only be realized if they are able to share their wisdom, experiences and best practices together.

A national appreciation of and approach to the problem of the sexual exploitation of children is clearly needed in this country. Canadian children who are being sexually exploited, or are at risk of being sexually exploited, do not all have sufficient access to the services that could help them. Those currently working to help these children could benefit from coordinated efforts and shared expertise. The Government of Canada could show leadership in this area by facilitating the sharing of experiences and best practises amongst various stakeholders. To borrow the words of one witness, Tanya Smith from the Hospital for Sick Children's Suspected Child Abuse and Neglect program, "a collaborative effort among all systems, including law enforcement, child protection, medical and mental health, is vital to better understand all elements of this issue."

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<sup>4</sup> As the *Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents* notes, "the sexual exploitation of children is a gross violation of their right to respect of their human dignity and physical and mental integrity", available from ECPAT International at: [http://www.ecpat.net/WorldCongressIII/PDF/Outcome/WCIII\\_Outcome\\_Document\\_Final.pdf](http://www.ecpat.net/WorldCongressIII/PDF/Outcome/WCIII_Outcome_Document_Final.pdf).

Furthermore, a lack of sufficient data and information on the causes and effects of the sexual exploitation of children and on the many forms that sexual abuse can take not only makes it hard to fully appreciate the scope and prevalence of the problem, but it also hinders the development of effective programs to combat it.

We believe the federal government can play a leadership role by ensuring that a national databank of up-to-date and reliable information pertaining to sexual exploitation is maintained and made publicly available. Practitioners, researchers, and other workers in this field should not simply be consulted in its preparation, but also involved in the gathering, sharing and interpretation of this information on an ongoing basis, thereby creating a collaborative community.

With better information, Canadians working in this area will be able to produce better analyses that lead to targeted solutions. The need for such analysis was very apparent with regards to the role gender plays in sexual exploitation. Research suggests that the majority of children who are victims of sexual exploitation are female and the majority of their abusers are male. The social realities that drive the hyper-sexualisation of girls in modern culture and that allow aggressive male sexuality to develop unchecked continue to demand closer attention. Girls and boys do not experience their developing sexualities in the same way and are often sexually exploited for differing reasons. For instance, girls and boys tend to use modern technology and social media in different ways, which can make them vulnerable to different types of dangers on the Internet. By engaging in gender-based analyses of all government programs, particularly those that target sexual exploitation, the Government of Canada can create programs and services that recognize the unique challenges faced by young girls and boys and find appropriate solutions that directly appeal to their needs.

The committee also believes that greater attention must be given to the plight of many Aboriginal children in Canada, and Aboriginal girls in particular. Among many of the social inequalities facing these children, Aboriginal girls are highly overrepresented as victims of sexual exploitation. A better understanding of the range of issues faced by the diverse Aboriginal communities across Canada is needed to find stronger solutions. Canada is presently failing to get many Aboriginal children the help they need. The Government of Canada must rise to this

challenge by first and foremost, finding ways to improve the lives of Aboriginal children so as to reduce their particular vulnerability to sexual exploitation.

One of the committee's primary proposals in its report *Children: The Silenced Citizens, Effective Implementation of Canada's International Obligations with Respect to the Rights of Children* (April 2007)<sup>5</sup> was the establishment of a Children's Commissioner at the federal level in Canada: someone who could speak on behalf of Canada's children. The present study has underscored that the need for such an office continues. In addition to serving as a child's advocate, a Children's Commissioner could also provide oversight of the development and implementation of the government's programs and policies in response to the sexual exploitation of children and hold it accountable for its progress.

Finally, this report sets out our recommendations for how the federal government can address the above-noted issues by ensuring the development of well-informed policies, programs and services to better protect children from sexual exploitation and to hopefully lay the foundation for rebuilding their trust in the system.

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<sup>5</sup> *Children: The Silenced Citizens*, *supra* note 3.



## CHAPTER II: THE SEXUAL EXPLOITATION OF CHILDREN IN CANADA: AN OVERVIEW

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### **Defining Sexual Exploitation**

The committee has examined a broad range of issues under the umbrella term “sexual exploitation” with an understanding that the common thread that runs through them all is a child whose inherent human dignity has been violated for the sexual gratification of adults. The specific types of sexual exploitation that the committee examined during its study included: domestic sexual abuse; children exploited through prostitution; trafficking in children for the purposes of sexual exploitation; sex tourism; luring over the Internet, and child pornography (which are discussed further in this chapter).

Canada’s *Criminal Code*<sup>6</sup> defines several offences related to the sexual exploitation of children. Some provisions deal directly with such offences as prostitution or child pornography, whereas others may be additional offences to a sexual exploitation charge, such as kidnapping or fraud.<sup>7</sup> A general offence of “sexual exploitation” is found in section 153, which establishes that a crime is committed when a person “who is in a position of trust or authority towards a young person, who is a person with whom the young person is in a relationship of dependency or who is in a relationship with a young person that is exploitative of the young person” then proceeds to touch, or have another person touch, any part of the young person’s body “for a sexual purpose.”

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<sup>6</sup> R.S.C., 1985, c. C-46.

<sup>7</sup> Selected *Criminal Code* offences that may be related to sexual exploitation of children and youth include: s. 7 (4.1, 4.3) Offence in relation to sexual offences against children committed outside Canada deemed to have been committed in Canada; s. 151 Sexual Interference; s. 152 Invitation to Sexual Touching; s. 153 Sexual Exploitation; s. 153.1 Sexual Exploitation of Person with Disability; s. 155 Incest; s. 163 Corrupting morals; ss. 163.1 – 164.2 Child Pornography; s. 170 Parent or guardian procuring sexual activity; s. 171. Householder permitting sexual activity; s. 172 Corrupting children; s. 172.1 Luring a child; s. 210 (1)f) & (g) Transporting a person to a bawdy-house; s. 212 Controlling or living off the avails of prostitution of another person; s.212 (1)(i) Administering any drug or matter to a person for the purpose of illicit sex; ss.212 (2) & (2.1) Living off the avails of prostitution of a person under 18 years of age; s. 212 (4) Obtaining or attempting to obtain the sexual services of a person under 18 years of age; s. 213 Offence in relation to prostitution; s.264.1 Uttering threats; ss. 265- 268 Assault; ss. 271 – 273 Sexual assault; ss.279 (1) & (1.1) Kidnapping; s. 279 (2) Forcible confinement; ss. 279.01 – 279.04; Trafficking in persons; ss. 280 & 281 Child abduction (non-parental); s. 346 (1) Extortion; ss.366 – 368; Forgery and uttering forged documents; s. 380 Fraud; s. 422 Criminal breach of contract; ss. 423 Intimidation; ss. 462 Laundering proceeds of crime; s. 465 Conspiracy; s. 467.11 Participation in criminal organization activities; and s. 467.12 Commission of offence for criminal organization.

Sexual exploitation is a broad term that can mean different things in different contexts. Many witnesses offered the committee assistance in its efforts to understand the problem of child sexual exploitation. Lisa Wolff, from UNICEF Canada, offered the following explanation:

The sexual exploitation of children under 18 years occurs along a continuum from sexual abuse to commercial forms of sexual exploitation. It is easy to see them as vertical silos but they are really parts of a common problem. ...Both abuse and exploitation are facilitated by the sexualization of children in the media and the persistence of social and political environments that fail to adequately protect children. In all of its manifestations, the sexual exploitation of children is a human rights violation that requires rights-based responses.<sup>8</sup>

As Kathy Vandergrift, Chair of the Canadian Coalition for the Rights of Children, noted: “it is useful to consider the sexual exploitation of children as a spectrum of activities that extend from using sexual poses of children for the purposes of advertising to violent sexual assault — that is a wide range.”

The language used to describe sexual exploitation can affect how the public perceives the people involved and what they do. While we have generally used labels that reflect common terminology in this report, where appropriate, we have drawn attention to terms that should replace traditional word choices to better reflect contemporary views. For example, “children exploited through prostitution” is used in place of “child prostitution” to emphasize the point that sex with children is sexual abuse and is always a crime. Many international instruments, however, still use the terms “child prostitute” and “child prostitution”, including the *Optional Protocol to the United Nations Convention on the Rights of the Child on the Sale of Children*.<sup>9</sup>

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<sup>8</sup> All quotations from witnesses contained in this report are taken from oral testimonies during committee meetings, unless otherwise stated. A full list of witnesses and the meetings they attended is included in Appendix A.

<sup>9</sup> United Nations, *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, A/RES/54/263, 25 May 2000, <http://www2.ohchr.org/english/law/crc-sale.htm>.

Witnesses like Jackie Anderson, from the Ma Mawi Wi Chi Itata Centre, raised other examples. She said that using the words “hookers” or “prostitutes” normalizes the behaviour for perpetrators:

They will not see this child as a child. They will not see what they are doing when they are preying on children as child abuse. They do not see the face of a child who has been hurt in so many ways. Instead, all they see is what they are doing is contributing financially to their needs.

Jane Runner from the Canadian National Coalition of Experiential Women also emphasized that we need to change the language being used: “We need to stop calling the offenders ‘johns’ when we are talking about children. They are child abusers; they are predators; they are offenders.”

This report uses the term “child” in accordance with article 1 of the United Nations *Convention on the Rights of the Child*,<sup>10</sup> which defines a child as a human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier (which in Canada is eighteen or nineteen depending on provincial legislation). While this definition is appropriate in legal contexts, the experiences of children of various ages are naturally quite different, and “youth” or “adolescents” may be used where it is necessary to distinguish younger from older children.

### **Causes of Sexual Exploitation**

Although other factors can contribute to a child being sexually exploited and abused, perhaps the most obvious cause is, as explained by Lianna McDonald from the Canadian Centre for Child Protection: “When we look at the continuum of child abuse and sexual exploitation, there exists a common denominator. It is the fact that too many adults have a sexual interest in children. ”

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<sup>10</sup> United Nations, *Convention on the Rights of the Child*, A/RES/44/25, 20 November 1989, <http://www2.ohchr.org/english/law/crc.htm>.

Not only are there too many adults with a sexual interest in children, but these perpetrators are able to access and exploit children. They are predominantly men and are most likely to be known to the child, such as a family friend, neighbour or business associate, or to be a family member, such as a sibling, uncle, or parent. As summarized by Glori Meldrum, Founder and Chair of the Board of Directors at Little Warriors: “Our children are being sexually abused by people that they know and trust.”

Although it is less common, exploitation by a stranger is more likely to be reported than abuse by someone known to the child, and therefore, it is the unreported sexual abuse by persons known to children that is a more prevalent problem across Canada. Several witnesses emphasized the importance of encouraging children to report their abuse and eliminating the barriers that are currently inhibiting them from doing so (as discussed further in Chapter Seven).<sup>11</sup> Through this study, the committee became aware that the high rate of underreporting of sexual exploitation and abuse in Canada perpetuates the silence that surrounds these issues that in turn allows sexual abusers to feel confident in knowing there is little chance that they will face prosecution.

Carole Morency from the Criminal Law Policy section of the Department of Justice Canada discussed the ongoing challenges of understanding the motives and methods of sexual exploiters:

We have talked collectively about our efforts to understand better how offenders offend today or will offend tomorrow. That understanding is always a challenge. It remains something that will affect our work for as long as we continue in this area. We draw on lessons learned over past years, and much work has been done. A lot of research has been undertaken. However, offenders in this area are creative. They make use of new technologies. We need to stay vigilant.

The committee also heard evidence about the conditions that can make a child more at risk of being sexually exploited. The most vulnerable, according to Peter Dinsdale, from the National Association of Friendship Centres, are Aboriginal children who have “run away from home and

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<sup>11</sup> See for example the testimony of Lianna MacDonald.

[are] living on the street.” Children may be more vulnerable because they have been in the care of the child welfare system, are runaways,<sup>12</sup> lack education and proper housing,<sup>13</sup> are poor,<sup>14</sup> are “without strong, stable supports at home or in their community”,<sup>15</sup> are addicted to drugs,<sup>16</sup> or have inherited “a legacy of social inequities and poor health”.<sup>17</sup> Professor Benjamin Perrin noted that children are targeted by sex offenders specifically because: “They are vulnerable. They are targeted because they are children. They will not be able to stand up and speak for themselves.” According to Lianna MacDonald, those perpetrators who exploit children for profit are often sophisticated criminals who know how to manipulate children.

As further explained by Professor Richard Estes from the University of Pennsylvania, child victims of the commercial sexual exploitation of children “are also victims of extraordinarily high levels of physical and emotional violence.” Where the cycle of abuse, neglect and interpersonal violence is perpetuated in a community, sexual exploitation can proliferate until that cycle is broken. Though it is not always so, many sexual perpetrators are victims of past sexual abuse themselves. Poverty and homelessness are key factors that can make it difficult for children to escape this cycle.

As Michael Maidment from the Salvation Army noted, “A national poverty-reduction strategy would not only help millions of Canadians who live in poverty, it would have a direct impact on the reduction of the sexual exploitation of children.” He added that “the majority of sexually exploited youth said their communities needed more education, more job training and work-experience programs. Education is also an integral part of reducing poverty ... that could

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<sup>12</sup> See the testimony of Jane Runner, Canadian National Coalition of Experiential Women, Jackie Anderson, Ma Mawi Wi Chi Itata Centre, and Sarah Hunt.

<sup>13</sup> Kathleen McHugh, Chair, Women's Council, Assembly of First Nations, made reference to gaps in funding for education, housing and child welfare making First Nations children vulnerable to exploitation and abuse.

<sup>14</sup> The Honourable Landon Pearson, Landon Pearson Resource Centre for the Study of Childhood and Children's Rights.

<sup>15</sup> Shelley Cardinal, Aboriginal Advisor, Violence and Abuse Prevention Program, Canadian Red Cross.

<sup>16</sup> Sarah Hunt.

<sup>17</sup> Bernice Cyr, Chief Executive Officer of the Métis National Council, explained how this legacy affects members of the Métis community.

also be part of the sexual exploitation solution.” Many children run away from home to try to escape these problems, though this will make them more at risk of being exploited.<sup>18</sup> The committee agrees with witnesses who stressed that appropriate education and social assistance can help to break this cycle. However, as Professor Richard Estes added, the commercial sexual exploitation of children “occurs across all social and economic classes. It is not restricted to one social class or to a particular population group.” A wide range of solutions for the diverse causes of sexual exploitation is therefore necessary.

### **The Role of the Internet**

Another factor that is important to consider is the role played by the Internet in sexual exploitation. Tanya Smith, from the Hospital for Sick Children, Suspected Child Abuse and Neglect Program, emphasized the significance of the “impact of Internet sexual exploitation”:

Victimization not only includes the sexual abuse trauma that may exist but, more significantly, the emotional trauma that victims experience, either face to face or online with the offenders. Those children and youth who have had images or videos taken of the sexual abuse face the trauma of the abuse as well as the recurrent victimization, as we all know the images will remain on the Internet forever.

The Internet has not only facilitated the purchase and sale of sex and pornography, it has created a new context for human sexual interaction. The Internet has become a place for children to explore their developing sexuality. Evidence on what children can be exposed to over the Internet underscored for the committee the importance of proper guidance for children, whether from parents or educators. In *Children: the Silenced Citizens*, the committee recommended that the Government of Canada develop and implement a strategy to address new technologies and their impact on child pornography and the commercial sexual exploitation of children.<sup>19</sup>

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<sup>18</sup> The testimony of Richard J. Estes was particular helpful in understanding how homelessness makes children more vulnerable to exploitation.

<sup>19</sup> *Children: The Silenced Citizens*, *supra* note 3, at p. 82.

The Internet has also broadened the scope of the sexual exploitation of children by facilitating direct, anonymous contact whereby children can be enticed by adults to sexual activity. Adult predators first establish a relationship of trust with the child online before persuading or conning the child into performing sexual acts by webcam or suggesting a meeting where the adult may then abuse the child.<sup>20</sup> The Internet is also being used to recruit young girls into prostitution.<sup>21</sup>

Section 172.1 of the *Criminal Code* specifically prohibits the luring of children over the Internet, making it an offence to use a “computer system” to facilitate the commission of an offence with a person who is, or who the accused believes is, under the age of eighteen years.

Statistics Canada’s report, *Child Luring through the Internet*, demonstrates that reported child luring incidents have increased every year since section 172.1 was introduced in 2002, and indicates that 464 incidents occurred in 2006-2007. This report also highlighted how children are exposed to unwanted sexual material and unwanted sexual solicitations over the Internet.<sup>22</sup>

## **Types of Sexual Exploitation**

### **Sexual Abuse**

As noted above, the majority of cases of sexual exploitation in Canada are unreported incidents of sexual abuse committed against girls by persons known to and trusted by the child, most often family members and friends. Carol Morency provided some statistics to illustrate this depiction of the sexual abuse of children in Canada:

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<sup>20</sup> United Nations Special Rapporteur on the sale of children, child prostitution and child pornography, *Report submitted by Mr. Juan Miguel Petit, Special Rapporteur on the sale of children, child prostitution and child pornography*, E/CN.4/2005/78, 23 December 2004, <http://www.unhcr.org/refworld/category,REFERENCE,UNCHR,,,42d66e480,0.html>, at para. 12.

<sup>21</sup> See for example: City of Burnaby, “Exploitation of Youth”, <http://www.city.burnaby.bc.ca/residents/safety/expltt.html>; Kevin Poulsen, “Pimps Go Online to Lure Kids into Prostitution”, *Wired*, 25February 2009 <http://www.wired.com/threatlevel/2009/02/pimping>.

<sup>22</sup> Jennifer Loughlin and Andrea Taylor-Butts, Statistics Canada, *Child Luring on the Internet*, March 2009, <http://www.statcan.gc.ca/pub/85-002-x/2009001/article/10783-eng.htm>, at p. 7.

61 per cent of all victims of sexual assault are children. According to police-reported data for the same year, this percentage amounts to approximately 9,000 children and youth victims. The vast majority of these victims are female, 80 per cent; and overall, a significant proportion of sexual assaults are perpetrated by an individual known to the victim, 86 per cent. This individual is not necessarily a family member, but someone close who is known to that person, as opposed to a stranger. The younger the age, the more likely it is that the person is a family member. I highlight that strangers were implicated in only 5 per cent of the cases reported to police. These statistics give you a sense of the magnitude, but only for those cases reported to police. References were made in the previous panel as well that this crime is grossly underreported, not only for children but for adults as well, for myriad reasons.

Gordon Phaneuf, the Director of Strategic Initiatives at the Child Welfare League of Canada, described these children as the “invisible victims of abuse whom we are failing to protect and who are not receiving the appropriate response, intervention and treatment.”

According to Steve Sullivan, former Federal Ombudsman for Victims of Crime, child pornography is also being made by those who are already close to the child victims:

Most of the individuals involved in posting images on the Internet and involved in the sexual abuse of children are, you will not be surprised to learn, people who are known to the children – members of the families, step-parents, boyfriends, people close to the family, et cetera. Often finding the offender means finding a child.

Statistics Canada provided much information to the committee about the nature of sex offences against children in Canada. Though child victims can be any age, these statistics demonstrated that female victims are most often between the ages of 12 and 17, while male victims tend primarily to be between the ages of 4 and 12. They showed that the rate of incidents of sex offences against children in the three Canadian territories is many times higher than the rest of Canada.



The statistics also revealed that 13.3% of boys aged 6 to 11 and 16.9% of girls who were victims of sex offences were victimized by a parent; 32.4% of boys and 37.8% of girls by other family members; 6.8% of boys and 7.3% of girls by an authority figure (teacher, babysitter, coach, etc.); 40.9% of boys and 31.6% of girls by an acquaintance (friends, neighbours, etc); and 6.6% of boys and 6.4% of girls by a stranger. The statistics were fairly similar for children aged 0 to 5, though parents tend to be more often the perpetrator of such young children. For children aged 12 to 17 the most dramatic change is that acquaintances are more likely to be the perpetrator in 46.5% of cases for boys and 53% for girls and that strangers are more likely to be the perpetrator in 14.2% of cases for boys and 15.4% for girls. Within this age group, a large number of perpetrators are still parents (9.4% for boys and 11% for girls) or other family members (17.4% for boys and 16.6% for girls). The statistics also revealed that in 45.1% of cases involving at least one sexual offence, the most serious offence was sexual interference (s. 151 of the Code) and in 14% of cases it was sexual assault (s. 271 of the Code).

### **Children Exploited through Prostitution**

Prostitution is a loaded term. The *Criminal Code* does not include a general prohibition against prostitution, but many of the activities associated with prostitution are criminal offences. For example, section 213 of the Code makes it an offence to, among other things, stop or attempt to stop any person or in any manner communicate or attempt to communicate with any person “for the purpose of engaging in prostitution or of obtaining the sexual services of a prostitute” in a public place. More importantly for this study, it is illegal to buy sex or communicate about buying sex from a person that is under the age of eighteen.<sup>23</sup> Also, the *Criminal Code* states that children under the age of 16 are too young to give informed consent to sex if there is more than five years difference between them and the age of their partner. Those under the age of 18 cannot consent to sex in exploitive relationships.<sup>24</sup>

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<sup>23</sup> See the *Criminal Code* provisions regarding “Procuring”: ss. 170, 171, 212(2), 212(2.1) and 212(4).

<sup>24</sup> Department of Justice, “Age of Consent to Sexual Activity: Frequently Asked Questions”, 17 February 2010, <http://www.justice.gc.ca/eng/dept-min/clp/faq.html>.

While the provinces do not have the jurisdiction to pass criminal laws, some have added provisions to their existing child welfare legislation in order to combat the exploitation of children through prostitution. For example, some provinces, such as British Columbia, Alberta, Saskatchewan, and Prince Edward Island, have child protection legislation that grants welfare authorities the power to remove children at risk of prostitution and place them into the child welfare system. Other provincial laws may allow for court orders to keep an alleged offender from attempting to contact a child victim.<sup>25</sup>

Several studies indicate that many sex workers had their first experiences in prostitution between the ages of 14 and 18.<sup>26</sup> One study notes that 10 to 15% of individuals engaged in street-level prostitution are youth,<sup>27</sup> and in some Canadian cities, 90% of the street-involved sexually exploited youth are Aboriginal, usually female and between the ages of 15-18.<sup>28</sup> Many children are also involved in prostitution through indoor venues, such as escort services and massage parlours.<sup>29</sup>

Sue McIntyre, founder of the Hindsight Group, noted from her research that 82 per cent of the youth involved in one study “had a background of sexual abuse prior to the street. These were young people who had already been victimized within their own surroundings and who

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<sup>25</sup> Laura Barnett, *Prostitution in Canada: International Obligations, Federal Law, and Provision and Municipal Jurisdiction*, PRB 03-30E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, February 2008, <http://www2.parl.gc.ca/content/lop/researchpublications/prb0330-e.pdf>, at p. 18.

<sup>26</sup> Subcommittee on Solicitation Laws, *The Challenge of Change: A Study of Canada's Criminal Prostitution Laws, Report of the Subcommittee on Solicitation Laws*, December 2006, <http://www2.parl.gc.ca/content/hoc/Committee/391/JUST/Reports/RP2599932/justrp06/sslrp06-e.pdf>; Federal/Provincial/Territorial Working Group on Prostitution, *Report and Recommendations in Respect of Legislation, Policy and Practices Concerning Prostitution-Related Activities*, December 1998, as cited in James Robertson, *Prostitution*, Library of Parliament, 82-2E, 29 September 2003, <http://dsp-psd.pwgsc.gc.ca/Collection-R/LoPBdP/CIR/822-e.htm> [Report and Recommendations]; Steven Bittle, *Youth Involvement in Prostitution: A Literature Review and Annotated Bibliography*, Department of Justice Canada, April 2002, [http://canada.justice.gc.ca/eng/pi/rs/rep-rap/2001/rr01\\_13/toc-tdm.html](http://canada.justice.gc.ca/eng/pi/rs/rep-rap/2001/rr01_13/toc-tdm.html), at p. 1; Conseil permanent de la jeunesse, *Vu de la rue : Les jeunes adultes prostitue(e)s – Rapport de recherche*, April 2004, <http://www.cpi.gouv.qc.ca/publications/avis-memoires-recherches-propos/documents/problemes-sociaux-et-de-%20sante/prostitution.pdf>.

<sup>27</sup> Federal/Provincial/Territorial Working Group on Prostitution, *Report and Recommendations*, supra note 26.

<sup>28</sup> See in particular the testimonies of the Native Women's Association of Canada and the Métis National Council.

<sup>29</sup> Federal/Provincial/Territorial Working Group on Prostitution, *Report and Recommendations*, supra note 26.

now were being victimized further in the street.”<sup>30</sup> Sarah Hunt, who appeared before the committee as an individual, described how “common forms of exploitation include youth trading sexual acts for transportation, for alcohol and drugs, or for clothing and shelter.” Mary Quinn from the Social Policy & Programs Branch, Indian and Northern Affairs Canada summarized the social determinants that may increase the risk of child exploitation: “the lack of education, unemployment, poverty and family violence.” As she further remarked, “Unfortunately, many of these issues disproportionately affect Aboriginal communities and their children.”

Jacques Moïse, the coordinator of a project to help children exploited through prostitution called the *Projet d'intervention auprès des mineur(e)s prostitué(e)s*, noted the declining incidence of street prostitution for children and youth, as more and more children are being prostituted over the Internet:

The kids no longer have to go and freeze on a street corner when they have a cellular phone. The technology is so advanced that teenagers no longer need to go and find clients on the street.

Witnesses also explained how adult criminals can be very cunning and manipulative in how they lure children into prostitution. Regrettably, these adult criminals may have been the only ones to extend a helping hand to these children and the only ones to have been able to earn their trust. As noted by Debbie Cumby of the Ma Mawi Wi Chi Itata Centre: “When a child is being recruited into the sex trade, the perpetrator ... will get to know everything there is to know about that young person and will use that as a tactic to keep them entrenched.”

Policing the prostitution of children can be very difficult, because as noted by Jackie Anderson: “Perpetrators going after women can be charged due to undercover police officers witnessing a transaction, but nothing is or can be done when the police pull an underage child out of a john's car unless the child is willing to give testimony.” Some witnesses indicated also that police are reluctant to enforce the laws prohibiting child prostitution and that prosecutors and

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<sup>30</sup> Dr.Sue McIntyre, *Under the Radar: The Sexual Exploitation of Young Men*, March 2005, <http://www.child.alberta.ca/home/documents/childintervention/undertheradar.pdf>.

judges are reluctant to seek or impose the maximum penalties.<sup>31</sup> Despite the shift towards recognizing children involved in prostitution as victims, the Subcommittee on Solicitation Laws noted that children are still being charged with prostitution offences.<sup>32</sup>

### **Trafficking in Children for the Purposes of Sexual Exploitation**

Trafficking in children refers to situations where children are sold or traded from one person or group to another. This may be done domestically or across international borders. Children may be trafficked for various reasons, such as for work as slaves or the exploitation of their labour in a home, on a farm or in a factory, as well as for the purposes of sexual exploitation. The trafficking of children in Canada is being performed by organized criminal groups that operate large-scale transnational networks with international political and economic contacts and by small-scale operations that traffic only one or two people at a time.<sup>33</sup>

The *Criminal Code* describes the offence of trafficking as being the recruitment, transportation, transfer, receipt, holding, concealment or harbouring of a person, or exercise of “control, direction or influence over the movements of a person, for the purpose of exploiting them or facilitating their exploitation.”<sup>34</sup> As exploitation is inherent in the offence of trafficking, the *Code* precludes a victim’s consent to trafficking from being a valid defence.

The factors that often push children and youth into the world of trafficking are similar to those leading children to be exploited through prostitution. Statistics pertaining to the number of children who are trafficked into or out of Canada are very hard to come by. Though various organisations have previously made estimates about global trafficking and forced labour for the

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<sup>31</sup> See for example, the testimonies of Kathleen McHugh and Erin Wolski regarding concerns over police indifference and the testimony of Benjamin Perrin concerning sentencing.

<sup>32</sup> Subcommittee on Solicitation Laws, *The Challenge of Change*, supra note 26, at p. 55, citing Roy Jones, Director, Canadian Centre for Justice Statistics, testimony before the Subcommittee, 16 May 2005; Department of Justice, *Statistics Related to Prostitution Offences (s. 212 & s. 213 CCC)*, at p. 2.

<sup>33</sup> Royal Canadian Mounted Police, *Human Trafficking in Canada: A Threat Assessment*, 13 September 2010, <http://www.rcmp-grc.gc.ca/pubs/ht-tp/htta-tpem-eng.htm>, at pp. 1-2.

<sup>34</sup> S. 279.01.

purposes of sexual exploitation, a recent UN report<sup>35</sup> notes that any estimates made to date have been controversial due to the difficulty in determining “with any precision how many victims of human trafficking there are, where they come from or where they are going.” The RCMP has also noted that estimates of the scope of trafficking in Canada are “vastly diverging” and “largely unreliable”.<sup>36</sup> As Superintendent John Bilinski of the Canadian Police Centre for Missing and Exploited Children testified:

[The] question of whether the situation is becoming worse is difficult to answer. We have noticed that the age of the children being abused is becoming lower. Without knowing how many victims there are, or how many people are out there perpetrating the crime, it is difficult to speculate whether the situation is becoming worse. Our statistics are increasing every year.

There are, nevertheless, some statistics and educated estimates about the number of people being trafficked in Canada and elsewhere. Women and girls represent 66 and 13% of victims respectively, while men and boys represent 12 and 9%. In 2002, the UN provided the estimate that 700,000 people are trafficked annually across the globe<sup>37</sup> and in 2005 the International Labour Office estimated that 2.4 million people were in forced labour globally as a result of human trafficking.<sup>38</sup> The UN has estimated that 79% of trafficked children are being abused for the purposes of sexual exploitation or for other reasons.<sup>39</sup> The RCMP has provided estimates that approximately 600 women and children are trafficked into Canada each year for sexual purposes, and that between 1,500 and 2,000 individuals are engaged in trafficking individuals from Canada

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<sup>35</sup> United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons*, February 2009, [http://www.unodc.org/documents/Global\\_Report\\_on\\_TIP.pdf](http://www.unodc.org/documents/Global_Report_on_TIP.pdf), at p. 69.

<sup>36</sup> Royal Canadian Mounted Police, *Human Trafficking in Canada*, *supra* note 33.

<sup>37</sup> United Nations Office for Drugs and Crime, as cited in United Nations, Division for the Advancement of Women, Department of Economic and Social Affairs (DESA), *The United Nations response to trafficking in women and girls*, EGM/TRAF/2002/WP.2, 8 November 2002, <http://www.un.org/womenwatch/daw/egm/trafficking2002/reports/WP-DAW.PDF>.

<sup>38</sup> International Labour Office, *A Global Alliance against Forced Labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work* (Geneva, International Labour Office, 2005), <http://www.ilo.org/public/english/standards/relm/ilc/ilc93/pdf/rep-i-b.pdf>, at pp. 11-14, .

<sup>39</sup> United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons*, February 2009, [http://www.unodc.org/documents/Global\\_Report\\_on\\_TIP.pdf](http://www.unodc.org/documents/Global_Report_on_TIP.pdf), at p.6.

into the United States for a variety of purposes.<sup>40</sup> The UN has estimated that trafficking in persons generates annual global revenues approaching US\$10 billion<sup>41</sup>, while the ILO has estimated the global profits to be closer to around US\$31.6 billion annually (which translates to \$13,000 per victim).<sup>42</sup> Professor Benjamin Perrin from the University of British Columbia discussed the high profits that can be made by sex traffickers, citing examples of how \$280,000 to \$360,000 could be made annually per victim.

In 2008, the Criminal Intelligence Service of Canada released *Organized Crime and Domestic Trafficking in Persons*, which reported that the majority of girls who are forced into prostitution in Canada are “between the ages of 15 and 17, including cases of females as young as eleven.”<sup>43</sup> Professor Perrin called this report “a 911 call to law enforcement agencies across the country.” Recently, the RCMP conducted a threat assessment of human trafficking in Canada and concluded that most convictions “involved victims who are citizens and/or permanent residents of Canada trafficked for the purpose of sexual exploitation.”<sup>44</sup>

Barry MacKillop, from Law Enforcement and Border Strategies, Public Safety Canada, explained that: “Domestic trafficking is another question that we are struggling with and trying to gather information on.” He did however conclude that while “data is hard to come across... Canada tends to be more of a transit country rather than an importing country [of international trafficking].” Erin Wolski from the Native Women's Association of Canada confirmed that she has also heard at “many meetings with different government departments” that Canada is not a

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<sup>40</sup> Jacqueline Oxman-Martinez, Marie Lacroix & Jill Hanley, “Victims of Trafficking in Persons: Perspectives from the Canadian Community Sector”, Department of Justice Canada, August 2005, [http://www.canada.justice.gc.ca/eng/pi/rs/rep-rap/2006/rr06\\_3/toc-tdm.html](http://www.canada.justice.gc.ca/eng/pi/rs/rep-rap/2006/rr06_3/toc-tdm.html), at pp. 1-2.

<sup>41</sup> Ibid.; United Nations General Assembly, *People smuggling, trafficking generate nearly \$10 billion annually as core businesses of international criminal networks, third committee told*, Press Release, GA/SHC/3742, 13 October 2003, <http://www.un.org/News/Press/docs/2003/gashc3742.doc.htm>; Canada, Department of Justice, “Trafficking in Persons: A Brief Description,” 25 November 2005, [http://canada.justice.gc.ca/eng/news-nouv/nr-cp/2005/doc\\_31486.html](http://canada.justice.gc.ca/eng/news-nouv/nr-cp/2005/doc_31486.html).

<sup>42</sup> International Labour office, *A Global Alliance against Forced Labour*, *supra* note 38, at p.10.

<sup>43</sup> Canadian Intelligence Services, Canada, *Strategic Intelligence Brief - Organized Crime and Domestic Trafficking in Persons in Canada*, August 2008, [http://www.cisc.gc.ca/products\\_services/domestic\\_trafficking\\_persons/document/sib\\_web\\_en.pdf](http://www.cisc.gc.ca/products_services/domestic_trafficking_persons/document/sib_web_en.pdf).

<sup>44</sup> Royal Canadian Mounted Police, *Human Trafficking in Canada*, *supra* note 33.

source country for human trafficking, but rather a “transit and destination country”. However, she raised the issue that Canada should be examining the issue “from an Aboriginal women's perspective” given that “Aboriginal women are being targeted in this country for sexual exploitation”.

## **Sex Tourism**

Sex tourism can refer to any type of travel where a primary purpose for the tourist is a commercial sexual relationship. Sex tourists are thought to target children in countries with fewer policing resources, and where their strong tourist dollars give them greater power to avoid criminal prosecution. Awareness of the problem of sex tourism has grown in recent years due to media stories involving a number of Canadians living and travelling in Southeast Asia.<sup>45</sup> Central America and Southeast Asia are currently recognized as prime sex tourism destinations.<sup>46</sup>

Before 1997, there was little the Canadian justice system could do about sex-related offences committed outside Canada. Section 7(4.1) of Canada's *Criminal Code* now specifically provides for the prosecution of those involved in child sex tourism. This provision extends the territorial reach of Canadian criminal law for 11 existing sex-related criminal offences against minors, including obtaining the sexual services of a minor.<sup>47</sup>

For section 7(4.1) to be applicable, the offence must have been committed outside Canada by a Canadian citizen or permanent resident, and the act or omission must be one that would be

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<sup>45</sup> *Infra* note 50. In particular, see the cases of Donald Bakker (Cambodia), Christopher Neil and Orville Mader (Thailand). See also: Marcus Gee, “For today's pedophiles, it's all too easy”, *The Globe and Mail*, 3 April 2009, <http://www.theglobeandmail.com/news/world/for-todays-pedophiles-its-all-too-easy/article796473/>; Terri Theodore, “Canada not prosecuting child-sex tourists: Lawyer”, *The Toronto Star*, 18 December 2007, <http://www.thestar.com/News/article/286791>.

<sup>46</sup> Inter-Parliamentary Union, *Child Protection: A handbook for parliamentarians*, 2004, [http://www.ipu.org/PDF/publications/childprotection\\_en.pdf](http://www.ipu.org/PDF/publications/childprotection_en.pdf), at p. 66.

<sup>47</sup> See for example: section 170 (parent or guardian of a minor to procure the minor for the purpose of engaging in a proscribed sexual activity with a person other than the parent or guardian) and section 212(4) (in the prostitution context – obtaining the sexual services of a minor).

considered an offence under the specified sections if committed in Canada. The consent of the Attorney General of Canada is required for prosecution under this section.<sup>48</sup>

Preparing a case against a defendant whose crimes are alleged to have been committed outside Canadian jurisdiction can be very difficult. International cooperation would most certainly be required to make progress with this law. To date, only two people have been convicted under section 7(4.1).<sup>49</sup> As Professor Mark Erik Hecht, the co-founder of Beyond Borders and visiting professor at the University of Ottawa, stated in reference to these two cases, it was quite “by chance that we found out about them”; in other words, the laws are very hard to enforce when crimes are committed outside Canada.

### **Child Pornography**

Child pornography refers generally to images of children engaging in sexually explicit conduct, though the legal definitions involved with child pornography offences are complex. Sections 163.1 to 164.2 of the *Criminal Code* of Canada include offences for those showing or depicting a minor, or a person appearing to be a minor, engaged in sexually explicit activity or showing or depicting their sexual organs or anal regions for a sexual purpose. These sections cover written and recorded materials as well as the production, dissemination and possession of child pornography. A defence is included however for materials that have a legitimate purpose related “to the administration of justice or to science, medicine, education or art” or that “does not pose an undue risk of harm to persons under the age of eighteen years.”

What constitutes child pornography, like what constitutes art, can be a highly subjective matter. Photographs of children involved in sexual activities are more easily described as pornography, whereas sexualised images of clothed children or artists’ depictions of children in

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<sup>48</sup> S. 7(4.1): Notwithstanding anything in this Act or any other Act, everyone who, outside Canada, commits an act or omission that if committed in Canada would be an offence against section 151, 152, 153, 155 or 159, subsection 160(2) or (3), section 163.1, 170, 171 or 173 or subsection 212(4) shall be deemed to commit that act or omission in Canada if the person who commits the act or omission is a Canadian citizen or a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*. (4.3) Proceedings with respect to an act or omission deemed to have been committed in Canada under subsection (4.1) may only be instituted with the consent of the Attorney General.

<sup>49</sup> *R. v. Bakker*, [2005] B.C.J. No. 1577 (B.C. Provincial Court); *R. v. Klassen*, [2008] B.C.J. No. 2485 (B.C. Supreme Court).



the nude may or may not be seen by everyone as pornographic.<sup>50</sup> Some witnesses, including former Senator Landon Pearson from the Landon Pearson Resource Centre for the Study of Childhood and Children's Rights, discussed more broadly that the normalization of sexualized images of children in Canadian society, and in particular of young girls, is in itself a problem that may be contributing to those pre-conditions that lead to sexual exploitation.<sup>51</sup>

New communication technology has not only made the dissemination of child pornography quick, easy and anonymous, but has also fostered an entirely new culture of child pornography. It has become a profitable industry,<sup>52</sup> though as noted by Steve Sullivan, former Federal Ombudsperson for Victims of Crime, while there is a large commercial aspect to child pornography, “the greatest distribution of these images is not commercial and is between individuals.” Perhaps most alarmingly, it has allowed for increasing demand to emerge where producers of child pornography are going to greater lengths to supply newer and more original material for their demanding clientele. The result, according Steve Sullivan, is that the images are getting more violent and the children are getting younger.

According to Michael Eisen from Microsoft, “the extent of the problem is daunting. There are an estimated one million images of child abuse on the Internet involving an estimated 50,000 different victims from around the world. Interpol, the International Criminal Police Organization, reports that fewer than 1,000 of these victims have been identified and rescued.” The United Nations Special Rapporteur on the sale of children, child prostitution and child pornography noted in 2004 that: “In 2001, 105,000 abusive images were posted in 30 newsgroups in 16 days.

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<sup>50</sup> In *Ontario (Attorney General) v. Langer* (1995), 97 C.C.C. (3d) 290, 123 D.L.R. (4th) 289, leave to appeal to the Supreme Court of Canada was refused (100 C.C.C. (3d) vi, 126 D.L.R. (4th) vii, 42 C.R. (4th) 410n.) Though the Ontario Supreme Court held that the law was a reasonable restriction on freedom of expression to facilitate the protection of a vulnerable group, it also held that the defendant’s drawings and paintings of children in sexual situations held artistic merit and did not necessarily pose a realistic risk of harm to children. The Supreme Court of Canada commented in *R. v. Sharpe*, [2001] 1 S.C.R. 45, that the law on child pornography strikes a constitutional balance between freedom of expression and the prevention of harm to children.

<sup>51</sup> See also for example: Inter-Parliamentary Union, *Child Protection*, *supra* note 46; United Nations Special Rapporteur on the sale of children, child prostitution and child pornography, *Report submitted by Mr. Juan Miguel Petit*, *supra* note 20.

<sup>52</sup> Some estimates are that this is approximately a \$32 billion dollar industry annually. See for example: Bureau of Public Affairs, “Trafficking in Persons: Ten Years of Partnering to Combat Modern Slavery”, Fact Sheet, U.S. Department of State, 14 June 2010, <http://www.state.gov/r/pa/scp/fs/2010/143115.htm>; International Labour Office, “Forced Labour Statistics”, available at: UN Global Compact, [http://www.unglobalcompact.org/docs/issues\\_doc/labour/Forced\\_labour/Key\\_statistics\\_FL\\_FS.pdf](http://www.unglobalcompact.org/docs/issues_doc/labour/Forced_labour/Key_statistics_FL_FS.pdf).

One Canadian citizen had 1 million abusive images on his computer.”<sup>53</sup> According to the Canadian Centre for Child Protection, Canada hosts the third highest amount of child sexual abuse images in the world. Its annual report also noted that 85% of all confirmed reports of child sexual abuse images were of children under 12, most of which involve pictures of young girls.<sup>54</sup>

As with sexual abuse in general, the perpetrators creating child pornography tend to be people known to the child, such as members of the family, step-parents, or other people close to the family. As Steve Sullivan explained: “Often finding the offender means finding a child.”

A unique aspect of child pornography is that the images may continue to be accessed by offenders long after the initial sexual abuse took place. As noted by the Canadian Centre for Child Protection, once a pornographic image of a child is taken, “especially if it is uploaded to the Internet, [the image] becomes a permanent record of the child’s abuse, and can propagate indefinitely.” Steve Sullivan explained why more research is needed into the effect that having their pornographic images available online has on children:

We have little research on the impact of Internet facilitated child sexual abuse. ... we do not know how to help children live with the fact that their images will be out there forever and will be used by collectors to facilitate the abuse of other children.

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<sup>53</sup> United Nations Special Rapporteur on the sale of children, child prostitution and child pornography, *Report submitted by Mr. Juan Miguel Petit, supra note 20.*

<sup>54</sup> Canadian Centre for Child Protection, “Annual Report 2008/2009”, [http://www.protectchildren.ca/pdfs/annrep\\_0809\\_en.pdf](http://www.protectchildren.ca/pdfs/annrep_0809_en.pdf) at p.7. For more statistics on child pornography see: Federal Ombudsman for Victims of Crime, Government of Canada, “Every Image, Every Child Backgrounder: Fast Facts and Statistics”, <http://www.victimfirst.gc.ca/media/news-nouv/bq-di/20090507-2.html>.

## CHAPTER III: GENDER AWARENESS CONCERNS

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The importance of gender cannot be overstated when examining the sexual exploitation of children. For one, girls are overwhelmingly more often exploited than boys. This raises issues about the status of girls and women in our society and the extent to which their rights are respected and protected.

It is, however, important to bear in mind that many boys are also sexually exploited, and their experience and needs may be different. Furthermore, as this report indicates, in exploring their sexuality, young people may come into contact with the world of sexual exploitation – whether in person or on the Internet. Particularly for gay, lesbian, bisexual, or transgendered children, if a supportive environment does not exist to support their healthy sexual development, this can make them more vulnerable to sexual predators.

Much of the testimony from witnesses reflected the differences in the experiences of sexually exploited girls, boys and sexual minority children. For instance, girls and boys tend to use social media in different ways, which can expose them to different risks on the Internet. This testimony emphasized for the committee the importance of ensuring that services are tailored for children according to their specific needs. Programs and policies can only be effective if they are developed with an understanding of the different ways in which sexual exploitation affects girls and boys as well as the social, psychological and biological factors that may make girls and boys more or less vulnerable to sexual exploitation.

Gender-based analysis (GBA) is an analytical tool whose objective is to examine the differential impacts on both women and men of government policies, programs, and legislation. GBA can help in integrating social, economic, and other gender differences into policy analysis.

The committee believes that gender-based analyses of the challenges of sexual exploitation, the policies being developed, and the solutions being implemented is crucial for developing the appropriate assistance for children in this country. Gender-based analyses can replace invalid assumptions and presumptions with an understanding of why and how the gender dimensions of this issue need to be reflected in government policies. The Government of Canada can

demonstrate leadership in this area by developing programs through gender-based analysis and by sharing the results of their studies.

### **The Sexual Exploitation of Girls**

It is clear that the overwhelming majority of sexually exploited children are girls and the perpetrators are adult men. Approximately 80% of the victims of sexual offences are female, 61% are children, and 90% of the perpetrators are men.<sup>55</sup> The broader problem of sexual violence against women and the means by which it can be stopped are beyond the scope of this report. And yet, in order to combat sexual exploitation in Canada, it is necessary to develop an understanding of how girls are sexualized in our culture, how some men become perpetrators when they act in criminal ways on their sexual interest in girls, and how to equip girls with the knowledge they need to deal with the realities of sexual exploitation.

Young girls have always faced challenges particular to their gender; however, the current generation faces unique dangers on the Internet, and other forms of social media that are not well-understood by many adults. Tanya Smith, from the Hospital for Sick Children, Suspected Child Abuse and Neglect Program, explained the need for a better understanding of the impact of the Internet on children:

While many traditional forms of training and information around sexual abuse are still important ... there are unique aspects that are different and new for clinicians to better understand children who are at risk for Internet exploitation. A lot of that stems from the fact that our generation, who are mainly the clinicians, psychologists and social workers, really do not have a good understanding of the Internet, in general. We are finding we are not only educating around risky behaviours online that children may be experiencing, but just around the Internet and what it means and how much a part of the lives of youth the Internet is.<sup>56</sup>

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<sup>55</sup> See for example the testimony of Lynn Barr-Telford and Carole Morency.

<sup>56</sup> All quotations from witnesses contained in this report are taken from oral testimonies during committee meetings, unless otherwise stated. A full list of witnesses and the meetings they attended is included in Appendix A.

As suggested by Lianna McDonald, from the Canadian Centre for Child Protection, there is a need for discussions with “pediatricians and other people with expertise” to examine how education and services can “target young girls specifically and use appropriate language and tactics that they will respond to.” In discussing the sexualisation of much of the culture that is marketed at young girls, she noted that adults also “must be educated about the potential harms to children of such messages.” She added that companies should be encouraged “to increase their social responsibility standpoint so that they understand and play a role in how they market to young children.” These discussions must form an integral part of a national coordination strategy.

The committee was encouraged to hear about Videotron’s Vigilance on the Net program, which hosts a website offering resources for parents and teachers pertaining to the “main dangers of the Web” and how to “navigate safely.”<sup>57</sup> Ginette Yapety from Videotron explained how the program has been building upon its experience to determine what social factors might be addressed to make young girls less vulnerable. For example, she described how:

Girls are usually more attracted to activities, such as chatting and using social networks like MySpace or Facebook. The problem is that they do not see any danger in sharing personal information with complete strangers. They even send sexy pictures of themselves to people they know can become dangerous if the person does not like them anymore. Many cases of cyber bullying start this way.

As a result of this understanding, she explained how her organisation is able to give young girls tailored advice on how to deal with “the problems of sexual harassment and cyber bullying”.

Gender-based analysis makes it possible to explore the gender-specific way which girls and women, or men and boys, experience the world. This makes it possible to develop and implement gender-targeted solutions such as those identified above. These should be shared with organisations that are working with children. The Government of Canada should support this type of research and program development and ensure that it is made publicly available.

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<sup>57</sup> Vigilance on the Net, <http://www.vigilancesurlenet.com/en/home/index.php>.

## **The Sexual Exploitation of Boys**

The committee recognizes that sexually exploited boys represent a significant number of children who require help. Due to the fact that the majority of sexual offences are committed against girls, as noted by several witnesses, boys tend to receive insufficient attention with regards to research and the services available to them. Professor Cecilia Benoit, from the University of Victoria, noted that the discussion concerning sexual exploitation victims is “highly gendered and mainly concerned with female youth.” Although girls are more likely to be sexually abused, Professor Richard Estes from the University of Pennsylvania suggested that his research has indicated that “boys are nearly as numerous” in commercial sexual exploitation as girls.

The committee has heard testimony underscoring the point that since the experiences of boys and girls exploited through prostitution are often quite different, their challenges and needs are quite different.<sup>58</sup> For instance, Sue McIntyre suggests in her *Under the Radar: The Sexual Exploitation of Young Men* report that on average boys may become involved in prostitution at an earlier age and may stay in it for longer.<sup>59</sup> She explained to the committee that at the start of her study: “we knew nothing about young men in the sexual exploitation trade. We had looked at this through a female lens, and we had not really given justice to young men.” The report emphasized that boys and girls cope with sexual abuse in different ways, enter the sex trade for different reasons, and face different stigma. She concluded, among other things, that:

Young men in the trade feel like they get the leftovers, such as outreach programs for people on the street. Whatever is left over — whatever time is left over, whatever cookies are left over, whatever attention is left over — is the types of thing they receive.

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<sup>58</sup> See also: Inter-Parliamentary Union, *Child Protection*, *supra* note 46, at p. 64; Bittle, *Youth Involvement in Prostitution*, *supra* note 26, at pp. 21–22; Conseil permanent de la jeunesse, *Vu de la rue*, *supra* note 26; Cherry Kingsley and Melanie Mark, *Sacred Lives: Canadian Aboriginal Children & Youth Speak Out About Sexual Exploitation*, 2000, available at: <http://dsp-psd.pwgsc.gc.ca/Collection/RH34-12-2000E.pdf>; Dr. Susan McIntyre, *Under the Radar: The Sexual Exploitation of Young Men*, 2005, available at: <http://www.child.alberta.ca/home/documents/childintervention/undertheradar.pdf>; Department of Justice Canada, *Strolling Away*, August 2002, available at: [http://www.justice.gc.ca/eng/pi/rs/rep-rap/2002/rr02\\_4/rr02\\_4.pdf](http://www.justice.gc.ca/eng/pi/rs/rep-rap/2002/rr02_4/rr02_4.pdf).

<sup>59</sup> *Under the Radar*, *supra* note 58, at p. 16.

Her work also emphasizes that there is still much to learn about the many ways in which sexual exploitation affects diverse groups and individuals in Canadian society. As Kathleen McHugh from the Women's Council, Assembly of First Nations, noted: “Studies like McIntyre's demonstrate the need for a culturally relevant gender-balanced lens in analyzing data and program development.”

Sexual orientation is also an important factor in the lives of boys exploited through prostitution. While these boys may be heterosexual, bisexual or homosexual, their clients are primarily men. As noted by this committee in *Children: The Silenced Citizens*, “Sexual minority youth have a greater tendency to drop out of school or support groups, to run away from home, and to turn to drugs or alcohol abuse or even prostitution as coping mechanisms to deal with stigma, shame, bullying and victimization.”<sup>60</sup> The sources of violence in the lives of boys and girls are most often different as well. While girls are more vulnerable to violence on the street and are most likely to experience violence from clients, boys involved in prostitution are more likely to experience violence at the hands of homophobic onlookers. Boys involved in prostitution face many of the same domestic abuse factors as girls, but many also deal with the additional burden of confusion about sexual orientation or homophobia in their home or school.

### **Recommendation #1 - Gender-Based Analysis**

**The committee recommends that the Government of Canada:**

- **Conduct and support research into the particular needs of boys and girls and the roles played by sexual orientation and gender with respect to sexual exploitation issues that will be beneficial to the development of government programs and policies;**
- **Ensure that gender-based analysis is incorporated in research as well as in the development and implementation of all government programs and policies, in particular those concerning children and sexual exploitation issues;**
- **Make the results of any gender-based analysis of research, programs and policies related to child sexual exploitation publicly available; and**
- **Instruct all Cabinet Ministers, parliamentarians, and appropriate Government of Canada personnel on gender-based analysis.**

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<sup>60</sup> *Children: The Silenced Citizens*, *supra* note 3, at p. 167.

## CHAPTER IV: ABORIGINAL COMMUNITIES IN NEED OF PARTICULAR ATTENTION

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Many Aboriginal communities have been disproportionately affected by problems involving the sexual exploitation of children when compared to the rest of the population in Canada. Studies indicate that, in certain parts of the country and particularly Western Canada, the majority of children involved in the sex trade are Aboriginal.<sup>61</sup> According to the Native Women's Association of Canada (NWAC) 90% of street-involved sexually exploited youth in some Canadian cities are of Aboriginal ancestry.<sup>62</sup> Among this group Aboriginal girls between 15 and 18 years of age are overrepresented. Shelley Cardinal, from the Violence and Abuse Prevention Program at the Canadian Red Cross, and the Métis National Council<sup>63</sup> presented similar statistics for Manitoba (87% of street-involved sexually exploited youth are Aboriginal). Shelly Cardinal added that:

Aboriginal youth count for at least half of young people who are sexually exploited in Canada. This is a startling statistic when you realize that Aboriginal people make up 5 per cent of the population.

Witnesses also highlighted the research findings in Sue McIntyre's report *Under the Radar: The Sexual Exploitation of Younger Men*, which indicate that 61% of young men involved in prostitution in Western Canada were of Aboriginal descent.<sup>64</sup>

The historical roots of this incidence pattern are complex and well-documented. Past government policies of assimilation have contributed to many of the social disadvantages experienced by many Aboriginal Canadians today. Compared to their non-Aboriginal

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<sup>61</sup> See Chapter II, *Children Exploited through Prostitution*.

<sup>62</sup> All quotations from witnesses contained in this report are taken from oral testimonies during committee meetings, unless otherwise stated. A full list of witnesses and the meetings they attended is included in Appendix A.

<sup>63</sup> As per their written submissions.

<sup>64</sup> Dr. Sheila Macintyre, *Under the Radar*, *supra* note 58.



counterparts, many Aboriginal communities experience lower levels of education, higher levels of poverty, overcrowded and poor housing, and a lack of access to social supports and basic services.

Aspects of this troubling history are currently being explored by the Indian Residential Schools Truth and Reconciliation Commission.<sup>65</sup> Between the late 1800s and 1990s, the federal government administered a nationwide system of Indian Residential Schools. During this period over 150,000 First Nations, Inuit and Métis children were taken away from their homes to be “civilized”, educated, and converted to Christianity. Though the system formally ended in 1969, several government-run schools remained open until the late 1990s. The legacy of physical and sexual abuse of the Indian Residential Schools system has had lasting effects, including intergenerational impacts, on Aboriginal communities, many of whom continue to struggle with the effects of this unresolved trauma in meaningful terms. In 2008, the Government of Canada formally apologized to the former students of Indian Residential Schools, acknowledging that this system has “contributed to social problems that continue to exist in many communities today.”<sup>66</sup>

The personal accounts of Indian Residential School survivors frequently tell of their physical, sexual, and mental abuse, their separation from their families, and their loss of identity and of their languages (which they were often prevented from speaking). Sarah Hunt suggested that these experiences have contributed to a “cycle of abuse” that continues to affect many communities, where violence and exploitation have become “normalized” and unfortunately continue. Witnesses told us that some communities still need to take further steps to acknowledge that child sexual abuse exists within them before healing can take place.<sup>67</sup> Addressing this history will be an inseparable part of addressing the sexual exploitation of children in Aboriginal communities.

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<sup>65</sup> Julian Walker, *The Indian Residential Schools Truth and Reconciliation Commission*, Library of Parliament, PRB 08, 11 February 2009, <http://www2.parl.gc.ca/Content/LOP/ResearchPublications/prb0848-e.htm>.

<sup>66</sup> Office of the Prime Minister, “Prime Minister Harper offers full apology on behalf of Canadians for the Indian Residential Schools system,” News release, Ottawa, 11 June 2008, <http://pm.gc.ca/eng/media.asp?id=2149>.

<sup>67</sup> See for example the testimonies of Sarah Hunt, Deborah Tagornuk, and Shelley Cardinal.

NWAC stated that the main predictors of Aboriginal youth involvement in the sex trade today are low self-esteem, cultural and familial fragmentation, lack of life skills and education, substance abuse, poverty, physical, sexual and emotional abuse and racism.<sup>68</sup> Many children from rural areas who have experienced physical, sexual or emotional abuse move to urban centres. Having run away from unstable homes or state care institutions, they have few job opportunities and little access to social services.<sup>69</sup> Witnesses also discussed how criminal organisations are actively recruiting Aboriginal children in their communities in order to exploit them through prostitution.<sup>70</sup>

In a 2007 report, the Auditor General found that approximately 8,300 children from reserves are in the care of the child welfare system. This number represents “a little over 5 percent of all children aged from 0 to 18 living on reserves,” and is proportionally “almost eight times that of children in care living off reserves.”<sup>71</sup> This statistic underscores the ongoing difficulties that many Aboriginal families and communities on reserves continue to face.

There are particular challenges in gathering information about child sexual exploitation in small and remote Aboriginal communities. Sarah Hunt emphasized that research is not currently collected in these communities in “a consistent way.” Peter Dinsdale, from the National Association of Friendship Centres remarked that research is often conducted by individuals who “fly in and out from elsewhere” and are not rooted in the communities. Furthermore, they can “open wounds of previous victimization” without offering any healing services afterwards.

Witnesses advocating for urban or rural Aboriginal communities all stressed the lack of research and support services tailored to meet the needs of these communities in dealing with

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<sup>68</sup> Written submissions to the committee by the Métis National Council.

<sup>69</sup> Bittle, *Youth Involvement in Prostitution*, *supra* note 26, at p. 27; Federal/Provincial/Territorial Working Group on Prostitution, *Report and Recommendations*, *supra* note 26; Kingsley and Mark, *Sacred Lives*, *supra* note 58; Cindy Blackstock et al, *Keeping the Promise: The Convention on the Rights of the Child and the Lived Experiences of First Nations Children and Youth*, First Nations Child & Family Caring Society of Canada, April 2004, <http://www.fncfcs.com/sites/default/files/docs/KeepingThePromise.pdf>.

<sup>70</sup> See for example the testimonies of Sarah Hunt, John Bilinski and Jackie Anderson.

<sup>71</sup> Auditor General of Canada, *2008 May Report of the Auditor General of Canada*, [http://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_200805\\_04\\_e\\_30700.html](http://www.oag-bvg.gc.ca/internet/English/parl_oag_200805_04_e_30700.html), Chapter 4.

sexual exploitation.<sup>72</sup> As an example, Deborah Tagornuk from Pauktuutit Inuit Women of Canada explained how little is known about the situation of Inuit youth from isolated northern communities “where there is hardly any sexual exploitation” and who move to major urban centres where they may be more vulnerable to sexual exploitation.

Other witnesses emphasized that Aboriginal communities do not generally have the capacity to conduct the research themselves or to study the full extent of the problems associated with sexual exploitation. For instance, Bernice Cyr from the Métis National Council stated that “the lack of Métis focused research and research capacity prevents us from providing the committee with the precise statistics it is seeking on the scope and prevalence of sexual exploitation in particularly affected Métis communities.”

John Gordon from the Office of the Federal Interlocutor at Indian and Northern Affairs Canada (INAC) advised the committee that the Department has 141 projects targeted at “breaking the intergenerational family cycles of violence and sexual exploitation”, and that he indicated would “empower youth”. For example, some of these projects involve workshops for Aboriginal youth “on issues of how the legal justice system works and who they need to come forward to and what their rights are.”<sup>73</sup>

Mary Quinn, from the Social Policy & Programs Branch, Indian and Northern Affairs Canada, also reviewed INAC’s various programs being developed which focus on a preventative approach to ensure that more First Nations children and parents get the support they need to prevent the types of crises that lead to intervention and family breakdown. It is anticipated that programs based on a prevention-focused model will “ultimately enhance a sense of security among children and hopefully decrease the risk of sexual exploitation.” She adds that:

The aim is to ensure First Nation women and children have a safe place to turn to during situations of family violence, while supporting First Nation communities to address the root causes of family violence through a range of prevention activities.

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<sup>72</sup> See for example the testimonies of Peter Dinsdale, Bernice Cyr, and Sarah Hunt.

<sup>73</sup> Funding for these projects and programs comes from different sources: through the provincial governments, municipal governments, certain private foundations and organisations, INAC and other federal departments.

Five new First Nation shelters are currently under construction. Family violence programs for Aboriginal women and children off reserve are provided by provincial and territorial governments.

The available statistics demonstrate that many previous efforts to improve the living conditions for certain Aboriginal communities have not been successful. Cindy Blackstock from the First Nations Child and Family Caring Society of Canada, expressed the view that “because we have not invested equally in [Aboriginal] children, we are getting unequal results.” She further notes that: “First Nations children, by all evidence, would need more funding than other children receive because their needs are higher, and yet they are not even getting the same level.” Similarly, Kathleen McHugh of the Women's Council, Assembly of First Nations, told us that:

there is a need to take immediate steps to close funding gaps in education, housing and child welfare which make First Nations children vulnerable to exploitation and abuse. However, this will not address the full extent of the problem. There is a need to develop additional programs to specifically address sexual exploitation and abuse.

The message that this committee received from witnesses is that First Nation, Inuit and Métis communities require investments in their capacity to research the problems affecting their communities and to implement the solutions that they require. The committee recognizes that Aboriginal communities require local solutions to local problems. Such measures involve training local people to respond to situations of child sexual abuse and exploitation and improving the availability of services for children who have been sexually abused and exploited.<sup>74</sup>

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<sup>74</sup> Deborah Tagornuk expanded on this point by referring to the organisation Pauktuutit having established the Nuluaq Project in 2003 to developed a national Inuit strategy for abuse prevention based on research and the identification of root causes, gaps in services and best practices: Paaktuit, “The Nuluaq Project: National Inuit Strategy for Abuse Prevention”, <http://www.pauktuutit.ca/nuluaq/>.

## **Recommendation #2 – Support for Aboriginal Communities**

The committee recommends that the Government of Canada:

- **Conduct and support research into the particular needs of Aboriginal communities with respect to child sexual exploitation issues for the development of effective services for children;**
- **Develop policies that are culturally sensitive to the needs of Aboriginal peoples and designed to reduce the incidents and harms of sexual exploitation in Aboriginal communities both on- and off-reserve; and**
- **Support local initiatives for rural and urban Aboriginal children who are being, or are at risk of being, sexually exploited.**

## CHAPTER V: DEVELOPING A NATIONAL APPROACH

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Across Canada, social workers, civil servants, police, academics, volunteers and many others are working hard to help children who are victims of sexual exploitation; these efforts include children's help lines, police units specifically devoted to investigating child exploitation on the Internet,<sup>75</sup> or friendship, drop-in or child advocacy centres. Many of these initiatives are currently carried out in isolation or are able only to operate within particular areas of expertise or within their own jurisdictions. Witnesses noted that programs for children pertaining to sexual exploitation issues are inconsistently available across the country and often lack the means to coordinate efforts or exchange information and best practices. Reference was also made to the lack of sufficient statistics and data concerning the scope and prevalence of the sexual exploitation of children in Canada, which hinders the development of much-needed programs and services in this area.

This chapter explores the leadership role the Government of Canada must play in ensuring that thorough and appropriate research is conducted into the sexual exploitation of children in Canada. In the committee's view, the Government of Canada can facilitate national cooperation in the sharing of such research and information, of resources and talent, and of best practices. While dialogue must be particularly encouraged among the federal, provincial and territorial governments, research must be gathered and shared with non-governmental organisations and individuals working in this field as well. This process must be on-going and designed to promote further collaboration. Most importantly, it must involve the participation of children themselves.

### **Witnesses Calling for Action at a National Level**

In *Children: the Silenced Citizens*, this committee recommended that the Government of Canada develop and implement a strategy to specifically combat the commercial sexual

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<sup>75</sup> Internet Child Exploitation units have been created to address crimes of child pornography and the luring and sexual exploitation of children and are run as part of broader police initiatives. See for example, those run with the assistance of the Ontario Provincial Police Internet Child Exploitation Unit: <http://www.opp.ca/ecms/index.php?id=185>.

exploitation of children.<sup>76</sup> A substantial number of witnesses during this study also advocated for a new national action plan or for some form of national collaboration in Canada to broadly address the sexual exploitation of children. As Steve Sullivan, former Federal Ombudsman for Victims of Crime, remarked, a “number of great programs are being run across the country,” but there is “not a lot of dialogue between them” and no network for them to use.<sup>77</sup>

Gordon Phaneuf from the Child Welfare League of Canada explained that the “call for a national plan of action underscores the need for ongoing collaboration and cooperation across sectors and professions.” He further identified the need for Canadians to “work together on this to ensure we are not duplicating our efforts and that we are taking the best programs that exist and getting them to the children who need them.” Lisa Wolff explained that, in this regard, “UNICEF's experience in different countries demonstrates that a coordinated and resourced national protection system is far more effective than purely vertical programs developed in isolation for specific problems.” Lisa Wolff also pointed out that Canada does not currently have “a way of improving and standardizing child protection evaluation to truly understand what is working, what could be extended to underserved jurisdictions and remote areas, and what could be converted to sustainable programs instead of short-lived projects.”

Some witnesses offered specific examples of how a national strategy could be beneficial for their work. Lianna McDonald, from the Canadian Centre for Child Protection, argued that a national strategy could facilitate better public awareness campaigns and leverage partnerships with various stakeholders. Steve Sullivan felt that a national strategy would help identify victims who appear in images of sexual exploitation.

The call for national cooperation also reflects the reality that jurisdictional issues can serve to impede progress in this area. Provincial jurisdiction over many programs and services for child welfare requires that any national strategy involve the active engagement and participation of the provinces. As an example, Jackie Anderson, from the Ma Mawi Wi Chi Itata Centre,

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<sup>76</sup> *Children: the Silenced Citizens*, *supra* note 3, Recommendation #6.

<sup>77</sup> All quotations from witnesses contained in this report are taken from oral testimonies during committee meetings, unless otherwise stated. A full list of witnesses and the meetings they attended is included in Appendix A.

explained the difficulties children may face if they need to relocate to another province in order to escape threats of harm from abusive and exploitative situations:

We encountered the problem of jurisdiction between provinces when we opened our safe home in 2003. There will be situations where a child's safety is at risk in the extreme. There should be an ability to access resources in other provinces. We encountered barriers with that in 2003-04 where a child needed to go out of province to be safe.

Additionally, the committee notes that it is of particular importance to ensure that jurisdictional issues do not prevent Aboriginal peoples, both on- and off-reserve, from accessing the services from all levels of government that they are entitled to receive.

## **Consultation**

In addition to engaging with provincial governments, consultation with all relevant stakeholders is a requirement for the successful development and implementation of any federal policies, strategies or programs. It can help to ensure not only that the Government of Canada is meeting its international obligations, but also that information and best practices are exchanged and facilitated. “Consultation is part of an accountability mechanism,” Lisa Wolff argued, “as is a national plan that you can monitor and measure.” Nadja Pollaert, from the International Bureau for Children's Rights, emphasized that consultation is an “occasion of communicating information and sharing information.”

Several witnesses stressed that children must not be forgotten in the consultation process as they understand their needs and how they can best be met better than anyone. As summarized by Camille Karbassi, also from the International Bureau for Children's Rights: “There has been very little child participation or any form of consultation with children at risk. It is important to take into account the voice of the youth; otherwise, the voices of the affected persons are missing.” Professor Cecilia Benoit from the University of Victoria added that:

We need to find out from the youth themselves. We need to get their voices. We need to hear what difficulties they are facing, why they have become involved in



survival sex and what dangers they are experiencing, including selling drugs and other kinds of criminal acts in order to survive.

As the committee previously emphasized in *Children: the Silenced Citizens*, children's views and their best interests must always be given due consideration in the development of all policies, programs, laws or legal decisions that affect their rights.<sup>78</sup>

### **Existing National Collaboration**

During the current study, the committee also took particular note of law enforcement initiatives already in existence that coordinate expertise and programs in order to address the sexual victimization of children on a national level. These initiatives underscore the value and importance of taking a national approach to these issues.

Superintendent John Bilinski from the Canadian Police Centre for Missing and Exploited Children discussed programs led by or involving the RCMP. He explained how the Human Trafficking National Coordination Centre, established by the RCMP in 2005, “develops tools, coordinates national awareness training and anti-trafficking initiatives, develops partnerships and coordinates intelligence for dissemination amongst law enforcement in Canada” while working with “municipal, provincial, federal and international partners, government agencies and NGOs to uncover and target human trafficking activities.” He also explained how the Canadian Police Centre for Missing and Exploited Children has been formulating a national strategy through working with the provincial Integrated Child Exploitation units across Canada, and with municipal investigators and international partners. He emphasized the benefits of national coordination on these issues:

One of our most important roles as a national centre is in adding value to the intelligence received and forwarding it to the appropriate law [enforcement] jurisdiction.... A cornerstone of successful service delivery at the national centre is communication. Prior to the national strategy, much of the work of police was done in isolation. The majority of our investigations are multi-jurisdictional in nature.

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<sup>78</sup> *Children: the Silenced Citizens*, *supra* note 3 at p. 135.

Offender and/or the victim may not even live in the same community, town or country.

The committee was also encouraged to hear about the Government of Canada's National Strategy to Protect Children from Sexual Exploitation on the Internet,<sup>79</sup> which was established in 2004 to ensure a comprehensive, coordinated approach to protecting children on the Internet, to increase police capacity to combat sexual exploitation on the Internet, to provide for greater public education and reporting, and to enhance partnerships among governments, industry, and other organisations. The RCMP's National Child Exploitation Coordination Centre received funding under this strategy and works with local police in the development of national investigative standards, technological tools and specialized training, coordinates efforts with the provinces and regions, and promotes intelligence-gathering and sharing.<sup>80</sup>

These initiatives are important steps in improving law enforcement in Canada and underscore the value of taking a comprehensive, cross-jurisdictional and multi-organizational approach to the complex problems of the sexual exploitation of children.

### **National Data Collection and Research**

Many witnesses expressed their frustrations over the lack of data and statistics regarding the extent of the problem of sexual exploitation of children in Canada. This lack of knowledge only helps maintain the secrecy within which perpetrators may continue to abuse children. Moreover, the lack of a national data collection and research capacity means that it is hard to appreciate the scope and prevalence of the problem. Peter Dinsdale from the National Association of Friendship Centres reminded the committee of the need for better information on the extent and breadth of the problem in Canada:

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<sup>79</sup> Department of Public Safety Canada, *National Strategy to Protect Children from Sexual Exploitation on the Internet*, 19 December 2007, <http://www.publicsafety.gc.ca/media/bk/2005/bq20050124-eng.aspx>.

<sup>80</sup> National Child Exploitation Coordination Centre, <http://www.rcmp-grc.gc.ca/ncecc-cncee/>. Funds were also allocated to develop online educational resources and awareness strategies through Industry Canada's SchoolNet program and to Cybertip.ca, a non-profit organisation that operates a national tipline for reporting the sexual exploitation of children on the Internet.

I take a little bit of issue with testimony we have heard saying we know the extent of the issue. I think that the reality is that we do not. We spent a year trying to understand. I cannot tell you what percentage of the urban Aboriginal population across Canada is impacted by child sexual exploitation. If I am wrong and that study exists, we would appreciate having it because we have been trying to get this information for quite some time.

A national approach to data collection could serve to provide reliable information for those working in this field. Lisa Wolff explained that: “We rely on a patchwork of studies and indicators in Canada to inform our approaches.” Kathleen McHugh of the Women's Council, Assembly of First Nations, also emphasized the need for a national study: “We cannot hope to build truly effective and responsive programs without a full and accurate picture of the issue involved.” As an example, she noted that there is “a need for research to determine if First Nations children with disabilities or conditions like fetal alcohol spectrum disorder are more vulnerable to abuse or exploitation.”

Collecting data on the sexual exploitation of children presents many challenges. For example, when collecting data, organisations must be careful not to over-generalize children's experiences and overlook the many facets of children's lives that make their experiences unique. Language, geography, origin, culture, gender, sexual orientation, and physical or mental disabilities are all considerations that must be appropriately factored in to any methods of data collection and analysis. Bernice Cyr from the Métis National Council expressed concerns that current research does not provide the type of focussed information that their work requires: “In the research that does exist there is a lack of disaggregation data that differentiates between Aboriginal people and between Métis people and other Canadians.” Sarah Hunt explained why research needs to be consistent as well as community-based:

There are also many ways of going about doing research. As a community-based researcher, there are ways of doing research that helps to build capacity in communities. In B.C., there are many small Aboriginal communities all spread out that are not collecting information in a consistent way... In order to get a sense of the actual scope of the problem, to build capacity in those communities, for them to be

reporting consistently and to be capturing the same information, that kind of research is community-based and will be helpful for them to get a sense of how best to deliver programs to youth based on the numbers...

Kathleen McHugh also asserted that data collection and evaluation “should be informed by a culturally-relevant and gender-balanced lens.”

Another barrier to effective research in this area stems from the natural reluctance of victims, particularly children, to share their stories. Opening up past trauma can be as devastating for an abuse survivor as the original incident if it is not done in a supportive situation with built-in follow-up. As Kathleen McHugh explained, it is “critical that research is carefully planned to ensure it does not re-victimize.” Researchers must be aware of the external factors inhibiting children from reporting their abuse, such as the presence of abusers in their families or the community. Sarah Hunt also reported how offenders in the community can pressure victims into silence:

Offenders are often known in the community as abusers, but no one puts a stop to it. I have heard many stories of people in positions of power protecting offenders who are related to them or punishing those who try to speak out.

In some cases, raising awareness about the fact that sexual exploitation is illegal and must not be tolerated may need to precede research. Sarah Hunt further explained to the committee that sexual abuse can be “normalized because it happened to your auntie, or your mother or brother or sister, and perhaps it is the same offender or group of offenders in the community.” She added that she had interviewed youth who have said that they did not bother telling anybody about their abuse because “it is not a big deal – that is just what happens.”

The committee believes that to be reliable, research must be sensitive to the particular needs of a community, aware of gender-related concerns, and mindful of the need to consistently support the best interests of children.

The committee was encouraged to learn that a recent study was conducted by the Canadian Centre for Justice Statistics and funded by Public Safety and Emergency Preparedness Canada

(now Public Safety Canada) to examine the feasibility of developing a national data collection framework to measure trafficking in persons in Canada with the purpose of gaining a better understanding of the nature and scope of human trafficking in this country.<sup>81</sup> While the committee anticipates that this information will be extremely valuable for those working in this field, there is still a pressing need for a national databank pertaining to all forms of sexual exploitation.

While the collection of national data on the state of the problem in this country with respect to the sexual exploitation of children is of paramount importance to this committee, we do not wish to see other action delayed for this reason. Canadians do not need to wait for better data to respond to the problems at hand. As expressed by Lisa Wolff, the lack of a well-coordinated system of data collection should not “block our resolve to act.” Michael Maidment of the Salvation Army also added that “Canada needs to shift focus from understanding the issue to the implementation and prevention phase.” Thus, the committee urges the Government of Canada to improve data collection and research at a national level but not to use this as a basis for delaying taking action that is immediately required to help Canada’s children who are being or are vulnerable to being sexually exploited. The guiding principles and the key areas for action have been identified; it is time for the Government of Canada to proceed, armed with sufficient resources and a desire to achieve results. As we were urged by former Senator Landon Pearson, Landon Pearson Resource Centre for the Study of Childhood and Children's Rights:

Honourable senators, it is not the words or ideas that are lacking with respect to addressing the commercial sexual exploitation. It is action. I would urge you to focus your attention on actions that bring words to life and on how government could support those actions.

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<sup>81</sup> Statistics Canada, “Towards the Development of a National Data Collection Framework to Measure Trafficking in Persons”, 10 June 2010, <http://www.statcan.gc.ca/bsolc/olc-cel/olc-cel?lang=eng&catno=85-561-M2010021>.

### **Recommendation #3 – National Research**

The committee recommends that the Government of Canada undertake to create a national databank of research and statistical information on the sexual exploitation of children in Canada that:

- Will be developed with relevant stakeholders (key government departments; non-government organisations; women's groups; Aboriginal peoples' service organisations; experts; and children) and with the appropriate provincial and territorial government departments;
- Will be conducted in a manner that is respectful of the cultural and gender-related concerns of children;
- Will be made publicly available and promoted; and
- Will be of assistance to law enforcement agencies, social service agencies, and other relevant stakeholders in combating the sexual exploitation of children, in helping child victims, and, in furthering the prevention of sexual exploitation in this country.

## CHAPTER VI: THE NEED FOR A NATIONAL CHILDREN’S COMMISSIONER

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As mentioned above, one of the key recommendations this committee made in *Children: the Silenced Citizens* was for Parliament to enact legislation to establish an independent Children’s Commissioner to monitor the implementation of the *Convention on the Rights of the Child* and to advocate for the rights of children in Canada. Approximately six months after the release of that report, the Government of Canada provided its response.<sup>82</sup> Though it provided an overview of the relevant government programs, initiatives and funding that were in place for children, the response did not directly answer whether the Government of Canada was prepared to establish a federal Children’s Commissioner. Rather, it simply noted that the government “recognizes and values the important work performed by the Children’s Advocates and Ombudspersons in the provinces and territories on children’s issues.”

Children in Canada need to be secure in the knowledge that their voices are heard and their rights respected. The committee has heard overwhelming support from many witnesses throughout this study for a monitoring and facilitating body for children’s rights at the federal level. The need for such a commissioner was articulated by Kathy Vandergrift, from the Canadian Coalition for the Rights of Children: “there is no mechanism in Canada for hearing from and responding to young people or for public accountability to young people about how their rights are being respected.”<sup>83</sup> Sexually exploited children require, as articulated by former Senator Landon Pearson, from the Landon Pearson Resource Centre for the Study of Childhood and Children’s Rights, a “champion” to protect their rights and to ensure they get the help they need.

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<sup>82</sup> The government’s response is included in Appendix 5 of Canada’s Third and Fourth Reports on the *Convention on the Rights of the Child*, available at <http://www.pch.gc.ca/pgm/pdp-hrp/docs/pdf/canada3-4-crc-reports-nov2009-eng.pdf>.

<sup>83</sup> All quotations from witnesses contained in this report are taken from oral testimonies during committee meetings, unless otherwise stated. A full list of witnesses and the meetings they attended is included in Appendix A.

We note that the UN Committee on the Rights of the Child emphasized in 2002 that the establishment of national human rights institutions for advancing children's rights, such as a children's commissioner, is part of a State Party's obligations to ensure the implementation of the Convention.<sup>84</sup> It further expressed its regret in 2003 that "such an institution at the federal level has not been established in Canada."<sup>85</sup>

As previously set out in the *Children: the Silenced Citizens* report, we believe that a Children's Commissioner should be appointed as an Officer of Parliament, independent from government and mandated to report annually to Parliament on Canada's implementation of the *Convention on the Rights of the Child* in Canada. He or she should have the capacity to receive individual complaints, to conduct public education campaigns, and to act as a liaison with the Canadian Council of Provincial Child and Youth Advocates, as well as between various levels of government and non-governmental organisations. The committee also strongly suggested that the Children's Commissioner have a statutory obligation to listen to and involve children within its mandate, thereby ensuring that their voices are heard and their rights and needs respected.

We believe that the Commissioner would also be well placed to play an additional oversight role with respect to the Government of Canada's progress in the national collection of research and statistics regarding the sexual exploitation of children in Canada.

As an advocate for the rights of children, the Commissioner could work with various stakeholders to ensure that appropriate supports and services exist for sexually exploited children in both the public health system and the criminal justice system. For instance, the Commissioner could ensure that the rights of victimized children are respected and maintained throughout criminal proceedings with effective support programs (as discussed further in Chapter VII). The

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<sup>84</sup> Committee on the Rights of the Child, *General Comment No. 2: The Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child*, CRC/GC/2002/2, 15 November, 2002, [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CRC.GC.2002.2.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CRC.GC.2002.2.En?OpenDocument), para. 1 [*Concluding Observations: Canada*].

<sup>85</sup> Committee on the Rights of the Child, *Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: Canada*, CRC/C/15/Add.215, 27 October 2003, [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/995a15056ca61d16c1256df000310995/\\$FILE/G0344648.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/995a15056ca61d16c1256df000310995/$FILE/G0344648.pdf), at para. 14-15.



Commissioner may also serve as a resource for children seeking information pertaining to their rights or to sexual exploitation issues.

In particular, the Commissioner should be actively involved with Aboriginal communities to address issues specific to Aboriginal children who are, or are at risk of being, sexually exploited.

#### **Recommendation #4 – A National Children’s Commissioner**

**The committee once again recommends that the Government of Canada introduce legislation to establish an independent Children’s Commissioner as an officer of Parliament who is appropriately resourced to monitor the implementation of Canada’s obligations under the *Convention on the Rights of the Child* and to promote and protect the rights of children in Canada, with particular attention to be given to the issue of sexual exploitation. The Children’s Commissioner should report annually to Parliament.**

## CHAPTER VII: THE ENFORCEMENT OF SEXUAL EXPLOITATION OFFENCES

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The committee heard differing views about the ways in which Canada should address sexual exploitation crimes committed against children in Canada. Some witnesses expressed the need to get tougher on criminals with harsher sentencing,<sup>86</sup> while others stressed that the greatest need is to allocate funds and resources to preventative efforts, such as social assistance programs and education. These two options are not necessarily mutually exclusive and the committee urges the Government of Canada to review and revise, where necessary, the *Criminal Code* to ensure the appropriateness of sentences in this area and to devote sufficient resources to preventing these crimes before they happen.

### **Child Victims and the Criminal Justice System**

In order to effectively enforce the criminal prohibitions against the sexual exploitation of children, our judicial system relies on the involvement of child victims.<sup>87</sup> The system therefore must not only be respectful of the rights of children in this context, but should also facilitate the willing participation of child victims in this system.

After a child has been sexually exploited, he or she has a range of needs that require attention. The committee has learned that the challenge for people and institutions that may be able to help them is to earn the trust of child victims so that they will come forward and seek help. A key to increasing the conviction rate for sexual exploitation offences, as expressed by several witnesses, is to ensure that children feel more comfortable and safe participating in the prosecution process. Building trust in persons in positions of authority can encourage children to cooperate with police investigations and further criminal prosecutions.

The reality for many exploited children, however, is that police and other authority figures can seem to be their adversaries or appear to threaten their freedom. As Sarah Hunt explained,

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<sup>86</sup> See for example the testimonies of Benjamin Perrin, Lisa Wolff, and Glori Meldrum.

<sup>87</sup> See Chapter II, *Children Exploited through Prostitution*.

“...youth will not go running to the police when something happens. Even if they are really beaten and afraid they will die or whatever, it takes something very extreme for them to go to the police.”<sup>88</sup> She also explained that many children are frequently “themselves being criminalized from buying drugs or standing on the street corner.” Professor Cecilia Benoit explained how children “become involved in survival sex” and “selling drugs and other kinds of criminal acts in order to survive.” As noted in Chapter 2, many of the activities associated with prostitution are offences under the *Criminal Code*.<sup>89</sup> Whether to get money for purchasing drugs or for the person exploiting them, or simply because crime is a frequent part of their social environment, children exploited through prostitution can become entangled in the criminal world and susceptible to arrest by police.

Lisa Wolff, from UNICEF Canada, broadly argued that “children under 18 years of age should be treated as victims, never as criminals.” And yet, as added by Shelley Cardinal, from the Canadian Red Cross, “Children too often have no idea they have the right to be protected.” These witnesses helped the committee to understand that when sexually exploited children are treated as criminals, rather than as victims, this prevents the building of trust between them and the authorities who can help them.

As discussed above, many children are afraid to tell their stories of abuse and of the consequences of doing so; for many, it may seem easier to simply keep these dark episodes in their lives secret. Children need to feel assured that if they begin to tell the story of their abuse to someone, they will be supported and safe afterwards. As Glori Meldrum of Little Warriors explained, “Sometimes it takes kids visiting 10 different people and agencies to tell their story to get the services they deserve.” In other words, they will likely repeat their story to social workers, police officers, lawyers, judges, and doctors. She further explained that she has worked with survivors who expressed their reluctance to “go through the system and be re-victimized” when the “chance of conviction is slim to none” and that the odds are that if the perpetrator does

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<sup>88</sup> All quotations from witnesses contained in this report are taken from oral testimonies during committee meetings, unless otherwise stated. A full list of witnesses and the meetings they attended is included in Appendix A.

<sup>89</sup> Ss. 212-213.

get convicted that “they will be out in six months.” She concluded that: “There is a reason that most children statistically do not come forward and press charges and go through our system. It is because the system is a nightmare.”

Sarah Hunt also noted that in her experience under-reporting is a “huge issue”, so most cases do not even get to the justice system. For those cases that do, she added:

I can think of a lot of cases where people come forward ... they are intimidated out of testifying or they are intimidated out of continuing through the legal process. Charges are dropped for whatever reason, so things do not make it as far as getting a conviction. It does not matter what the minimum sentence is; it is not getting to that point.

Kathleen McHugh of the Women's Council, Assembly of First Nations, explained that children who overcome the intimidation of reporting their abuse can face further difficulties as a criminal case proceeds: “In some cases, when the case actually does go through the whole court process, which takes a long time, the community hears of this and often the victim is further victimized through humiliation by peers and people in the community. There are no resources to assist the victim through this process.”

Catherine Kane from the Criminal Law Policy Section of Justice Canada explained how new testimonial methods contained in amendments to the *Criminal Code* from 2006<sup>90</sup> now make it easier for children to testify against those who exploit them:

When I speak of testimonial aids and other measures to facilitate testimony, I refer to the following: discretion for the judge to exclude members of the courtroom when necessary for the proper administration of justice; allowing a victim or witness to testify outside of the courtroom or behind a screen or a device that would prevent a view of the accused; allowing the admission of videotaped testimony of a victim or witness who is under the age of 18; permitting a support person to accompany a

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<sup>90</sup> Bill C-2, An Act to amend the Criminal Code (protection of children and other vulnerable persons). Legislative Summary, LS-565E, 29 October 2007, <http://www2.parl.gc.ca/Content/LOP/LegislativeSummaries/39/2/c2-e.pdf>.

witness or victim made vulnerable by age or other factors; restricting the personal cross-examination of victims by a self-represented accused; and publication bans on the identity of victims and witnesses.

Ms. Kane added that the Department of Justice Canada and its Policy Centre for Victim Issues<sup>91</sup> have been following through on the 2006 amendments with research “to ensure that these reforms are being implemented in the intended spirit and to determine whether there are gaps to be addressed.” She added that the Policy Centre’s “mandate is to look at all law reform and other initiatives through a victim's lens to ensure that any reforms considered will not do greater harm to victims and will not inhibit the rights of the accused.”

Ms. Kane also mentioned some of the recent initiatives undertaken by the federal government, which include:

...law reform, research, public education, consultations with provinces and territories through the directors of victims services, and the funding of projects through the Victims Fund. The fund is a grants-and-contributions program that supports and tests new approaches to services for victims' awareness-raising and other assistance provided by the provinces and the territories and by non- governmental organizations by way of victims services.

The committee sees all of these efforts as heading in the right direction; despite this, witnesses emphasized how intimidating the criminal justice system remains for children. As pointed out by Steve Sullivan, former Federal Ombudsman for Victims of Crime, even with screens and closed-circuit televisions, “it is still an ugly place for a child to go into a courtroom, in a room full of strangers, and tell what dad or uncle Bill did.” In his estimation, “the levels of reporting are as low as they were 10, 15 or 20 years ago.” He also expressed concerns that: “it is a big challenge to find services for any victim after a court process.”

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<sup>91</sup> Department of Justice Canada, Policy Centre for Victim Issues, <http://www.justice.gc.ca/eng/pi/pcvi-cpcv/index.html>.

It is clear to the committee that the justice system needs to be better equipped to encourage, protect and support children in criminal proceedings so that offenders may be prosecuted. Children need to know they can trust those involved in this system and that their needs will be met before, during, and after any court proceedings. While recent amendments to the *Criminal Code* have allowed for improvements in the courtroom, adequate victim services are still needed to help children cope with their entire experience with the criminal prosecution process.

The committee envisions the federal Children’s Commissioner being involved in ensuring that children’s rights are best respected during the preparation and implementation of new initiatives for accommodating the needs of child victims in the criminal justice system.

### **Recommendation #5 – Child Victims and the Criminal Justice System**

**The committee recommends that the Government of Canada improve the criminal justice system so that it better recognizes and accommodates the needs of child victims of sexual exploitation before, during, and after court proceedings.**

#### **Child Advocacy Centres**

Several witnesses discussed the establishment of Child Advocacy Centres (CACs) in certain Canadian cities, such as the Zebra Child Protection Centre in Edmonton,<sup>92</sup> the Centre d’expertise Marie Vincent in Montreal,<sup>93</sup> and the Child Advocacy Centre Niagara.<sup>94</sup> These CACs seek to provide a variety of services to child victims of crime under one roof. A team of professionals are available in child-friendly settings to meet child victims’ needs and to help them through their dealings with the criminal justice system. In Steve Sullivan’s view: “Every child who takes that leap of faith and tells someone should have a CAC to go to.” Kathy Vandergrift, from the Canadian Coalition for the Rights of Children, discussed how these centres treat children who report an offence with respect and provide them with support.

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<sup>92</sup> Zebra Child Protection Centre, [www.zebracentre.ca](http://www.zebracentre.ca).

<sup>93</sup> Centre d’expertise Marie Vincent in Montreal, <http://www.marie-vincent.org/english/centre-d-expertise-en-agression-sexuelle/centre-d-expertise-marie-vincent.html>.

<sup>94</sup> Child Advocacy Centre Niagara, <http://www.cacniagara.org/>.

Glori Meldrum and Kathy Vandergrift told the committee that the rates of conviction of adult sexual offenders in the Edmonton region have gone up significantly thanks to the efforts of the Zebra centre in working with young people and prosecutors. Steve Sullivan confirmed that there has been an increase in charges laid thanks to the efforts of this centre and that “judges feel there is better quality evidence resulting in more guilty pleas and higher conviction rates with more appropriate sentences.” He told this committee that: “We believe the CACs can provide a huge benefit for those kids who come forward and save their lives in some ways, by changing their path.”

In its report on Internet-facilitated sexual abuse in Canada, *Every image, every child*, the Office of the Federal Ombudsman for Victims of Crime reviewed the role that CACs can play in assisting children and in helping with police work. It also considered examples from the United States, where there are many CACs.<sup>95</sup> The report indicates that CACs reduce the cost of police investigations, create higher rates of referrals for mental health services, satisfy parents and reduce children’s fears. The report ultimately recommended: “That the federal government, in conjunction with provincial and municipal governments, develop a national strategy to expand the network of Child Advocacy Centre models in communities across the country.”<sup>96</sup>

In October 2010, the Minister of Justice, Rob Nicholson, announced that \$5.25 million dollars would be spent over 5 years for provincial/territorial victim services, non-governmental organisations or existing Child Advocacy Centres

for the creation and enhancement of Child Advocacy Centres across Canada to help better serve young victims and witnesses of crime.... Provincial/territorial victim services, non-governmental organizations or existing child advocacy centres may

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<sup>95</sup> The National Children's Advocacy Center, <http://www.nationalcac.org/ncac/history.html>.

<sup>96</sup> Office of the Federal Ombudsman for Victims of Crime, *Every Image, Every Child, Internet-Facilitated Child Sexual Abuse in Canada*, 2 June 2009, [http://www.victimfirst.gc.ca/res/pub/childp-pjuvenile/cont\\_01.html](http://www.victimfirst.gc.ca/res/pub/childp-pjuvenile/cont_01.html) at p. 34.

apply for funding to establish a child advocacy centre in their jurisdiction or expand the services for an existing CAC.<sup>97</sup>

Given this announcement, the committee does not believe it is necessary at this time to make a recommendation with regard to expanding the network of CACs. We encourage the Government of Canada to continue to show leadership by ensuring that funds are available to support services for child victims across Canada.

### **Appropriate Sentences**

A number of witnesses who appeared before the committee expressed concern that the number of convictions in Canada for sexual exploitation-related crimes involving children is too low relative to their understanding of the actual number of crimes that take place.<sup>98</sup> Furthermore, several witnesses also expressed concern that sentences are not severe enough to suit the nature of these crimes. Where victims do not anticipate that perpetrators will serve appropriate sentences, they may be less inclined to report crimes.

The testimony from Lynn Barr-Telford, of the Canadian Centre for Justice Statistics, suggests that convicted perpetrators are not generally serving long sentences. The *Canadian Centre for Justice Statistics*' figures presented to the committee demonstrated that for those cases in 2006/2007 involving at least one child sexual offence, 54% of sentences were for custody, 16% for conditional sentences, and 18% for probation (the remaining percentages for fines or "other"). Of those sentenced to jail time, the length of custody was as follows: 13% for 1 month or less; 15% for 1 to 3 months; 18% for 3 to 6 months; 19% for 6 to 12 months; 16% for 1 to 2 years; and, 19% for 24 months or more.<sup>99</sup>

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<sup>97</sup> Department of Justice Canada, "Government of Canada Announces Funding for Child Advocacy Centres Across Canada", 7 October 2010, [http://www.justice.gc.ca/eng/news-nouv/nr-cp/2010/doc\\_32555.html](http://www.justice.gc.ca/eng/news-nouv/nr-cp/2010/doc_32555.html).

<sup>98</sup> See for example the testimony of Kathy Vandergrift.

<sup>99</sup> Government of Canada, *First Report of Canada, Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, CRC/C/OPSC/CAN/1 2007, <http://www2.ohchr.org/english/bodies/crc/future.htm>, at pp. 4-6.



Lisa Wolff expressed her view that: “Strong, well-communicated penalties send messages to victims such that they are encouraged to come forward; to law enforcement that the required heavy resources are worth it; and to society that children do not have a lesser legal status and should not be more exploitable than adults.” Professor Benjamin Perrin explained why he thought sexual exploitation crimes against children require tougher sentences:

These are not isolated crimes. Typically they are systematic. They are a lifestyle and will continue happening unless the offender is brought home to a place where they have serious time to think about what they have done and where their victims are protected. The criticism against tougher sentences when we talk about child exploiters is misplaced. I completely agree ... that we need more stringent sentences. Unfortunately, the courts do not seem to get this.

This study has permitted the committee to better understand how the offence provisions that exist have been used to effectively criminalize the various types of activities in which sexual offenders engage. However, the committee notes that the sentences being delivered for these crimes do not appear to be proportionate with the severity of the crimes, indicating that some review and possibly reform of the *Criminal Code* is required.

As an example of sentencing reform, some witnesses advocated for the use of mandatory minimum sentences and reference was made to Bill C-268: An Act to amend the Criminal Code (minimum sentence for offences involving trafficking of persons under the age of eighteen years), a private member’s bill that was first introduced in 2009 to implement mandatory minimum sentences for those convicted of trafficking children. This bill became law on 29 June 2010.<sup>100</sup>

The concept of creating differentiating sentences based on the age of victims was explained by Carole Morency from the Department of Justice Canada’s Criminal Law Policy Section:

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<sup>100</sup> Bill C-268, An Act to amend the Criminal Code (minimum sentence for offences involving trafficking of persons under the age of eighteen years), LEGISinfo, <http://www2.parl.gc.ca/Sites/LOP/LEGISINFO/index.asp?Language=E&query=6704&Session=23&List=toc>. See also the testimonies of Benjamin Perrin and Camille Karbassi in particular.

... the provisions in the *Criminal Code* now apply equally whether it is a child victim or an adult victim, and they depend on how the offence is charged because the case may be charged under a prostitution-related offence or sexual assault or kidnapping. It could be child-specific or general.

The committee believes there is merit to ensuring that the sentences for sexual exploitation crimes against children are appropriately differentiated from those involving adult victims in order that children are given the proper protection under the law that reflects their vulnerability.

The committee also notes that certain provisions of the *Criminal Code* pertaining to sex offences against children currently contain rather short mandatory minimum sentences. For instance, the offence of sexual exploitation (section 153) contains a minimum sentence of 14 or 45 days, depending on whether the charge proceeds as a summary conviction or as an indictable offence. When compared to the minimum sentences for such crimes as robbery with a firearm, which contains a minimum sentence of four years (section 344), the sentence for the sexual exploitation offence does not seem proportionate to the seriousness of the crime. Similarly, the maximum sentence for robbery is imprisonment for life, whereas for sexual exploitation the maximum sentence is 10 years. If maximum sentences are an indication of the seriousness of an offence, again, the sentence for the sexual exploitation offence does not appear to be proportionate.

The committee also notes that on 4 November 2010, the Government of Canada introduced Bill C-54, An Act to amend the Criminal Code (sexual offences against children).<sup>101</sup> The Department of Justice Canada announced that this bill “would help make our streets and communities safer by toughening laws protecting children from adult sexual predators.”<sup>102</sup> More specifically, it proposes to establish or increase mandatory minimum sentences in a number of existing *Criminal Code* provisions involving sexual offences and child victims. It also introduces two new offences with mandatory prison sentences that would make it illegal to provide sexually

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<sup>101</sup> Bill C-54, An Act to amend the Criminal Code (sexual offences against children), LEGISinfo, <http://lpintrabp.parl.gc.ca/apps/legisinfo/index-e.asp?Session=23&query=7138&List=toc>.

<sup>102</sup> Department of Justice Canada, “Government of Canada takes action to protect children from sexual predators”, Government of Canada, 4 November 2010, [http://www.justice.gc.ca/eng/news-nouv/nr-cp/2010/doc\\_32570.html](http://www.justice.gc.ca/eng/news-nouv/nr-cp/2010/doc_32570.html).

explicit material to a child for the purpose of facilitating the commission of sexual offences against that child (i.e., “grooming”) and to use telecommunications, including the Internet, to communicate with another person in order to commit a sexual offence against a child. The committee is supportive of the message the Government of Canada is sending with this bill concerning the urgent need to protect children from sexual predators.

The committee heard alternative views from some witnesses who cautioned against over-emphasis on reforming the criminal justice system and criminal sentences. As stated by Kathy Vandergrift, “Drafting tougher legislation may give the appearance of doing something, but it will not be effective if only a small percentage of cases are prosecuted followed by even fewer convictions.” Kim Pate from the Canadian Association of Elizabeth Fry Societies made the related argument that prisons are “sucking resources out of communities” when “resources that could be spent on preventative work – education, all of those things – is really being depleted because there is so much focus on criminalization and incarceration.”

Given the statistics that indicate that most sexual exploitation cases are never reported and involve perpetrators who are previously known to the child victims – and, as such, these cases are therefore never prosecuted – this does raise the question of whether stricter sentences will have an impact on such cases. If resources are to be prioritized and allocated to where the main problems exist, then it follows that any review of the criminal justice system should focus on methods of bringing these perpetrators to justice and of encouraging child victims to report their abuse to the police.

As Chapter VIII of this report will explore further, several witnesses advocated for the Government of Canada to invest in initiatives focussed on preventing sexual exploitation, such as social services and education. Lianna McDonald, from the Canadian Centre for Child Protection, discussed the merits of moving to a preventative approach:

There needs to be a shift from focusing exclusively on the criminal justice process and crime control efforts to a stronger emphasis on child protection policies. ... many offenders who commit crimes against children are never caught. Therefore, a concerted effort to educate the public about the problem is a better strategy and is likely to have a bigger impact on the protection of our children.

Given the limitations of this study, the committee does not believe it is in a position to make a formal recommendation pertaining to the reform of criminal sentences for sexual exploitation offences against children. This being said, the testimony we heard indicates that there is a need to review and assess the appropriateness of the existing sentencing provisions in the *Criminal Code*. While we encourage the Government of Canada to continue with its current efforts in this regard, we also advise it to be mindful of the testimony of witnesses who argued that criminal law reform should not take resources away from other preventative measures and services that might help reduce incidents of sexual exploitation. Furthermore, we note that the national databank we have recommended could serve to provide further information on sentencing patterns and practices that could be used as a basis for reform.

### **Legal Reform and New Technologies**

Another area of potential criminal law reform that was brought to the committee's attention was where technological advances are being used by perpetrators, but the laws have not kept pace and been updated accordingly. For instance, it can be very difficult to catch those who distribute child pornography using encryption technology or to catch those who access child pornography websites.

Steve Sullivan recommended that "it should be a criminal offence to deny law enforcement your password or encryption code after a warrant has been obtained from a judicial authority." He further recommended that Internet service providers (who are able to track sites visited by child pornography users) "be required to provide customer name and address information to law enforcement."

The committee notes that the Government of Canada has introduced a number of bills recently that would create new investigative powers for the police with regard to Internet activities and would establish a role for Internet service providers in providing assistance in criminal investigations.<sup>103</sup>

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<sup>103</sup> See the following bills on LEGISinfo: Bill C-22, An Act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet service, <http://www2.parl.gc.ca/Sites/LOP/LEGISINFO/index.asp?Language=E&Session=23&query=7008&List=toc>; Bill C-54, *supra* note 102; Bill C-50, An Act to amend the Criminal Code (interception of private communications and

The testimony heard by this committee makes it clear that policing the Internet involves many technological challenges that will continue to require innovative responses from law enforcement and from lawmakers. As noted earlier, this committee has previously recommended that the Government of Canada develop and implement a strategy to address new technologies and their impact on child pornography and the commercial sexual exploitation of children.<sup>104</sup> The committee urges the Government of Canada to remain vigilant in studying these issues, developing appropriate programs, and introducing effective legislation. To this end, we believe our proposed national information databank can serve to track patterns and trends of technological advances used to sexually exploit children.

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related warrants and orders), <http://pintrabp.parl.gc.ca/apps/legisinfo/index-e.asp?Session=23&query=7132&List=toc>;

Bill C-51, An Act to amend the Criminal Code, the Competition Act and the Mutual Legal Assistance in Criminal Matters Act , <http://pintrabp.parl.gc.ca/apps/legisinfo/index-e.asp?Session=23&query=7133&List=toc>; and, Bill C-52, An Act regulating telecommunications facilities to support investigations (*Investigating and Preventing Criminal Electronic Communications Act*), <http://pintrabp.parl.gc.ca/apps/legisinfo/index-e.asp?Session=23&query=7134&List=toc>.

<sup>104</sup> *Children: The Silenced Citizens*, *supra* note 3, at p. 82.

## CHAPTER VIII: RAISING SOCIAL AWARENESS AND DEVELOPING SOCIAL PROGRAMS

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This committee firmly believes that the Government of Canada should invest in services and programs that will assist children to escape a life of sexual exploitation, or better, to avoid one altogether. At a minimum, no child who is seeking such help should have difficulty in knowing where to find it.

Kathy Vandergrift, from the Canadian Coalition for the Rights of Children,<sup>105</sup> reminded the committee of a recommendation made by the United Nations Committee on the Rights of the Child that Canada should:

further increase the protection and assistance provided to victims of sexual exploitation and trafficking, including prevention measures, social reintegration, access to health care and psychological assistance, in a culturally appropriate and coordinated manner, including by enhancing cooperation with non-governmental organisations and countries of origin.<sup>106</sup>

This recommendation was echoed by many witnesses who told the committee about the need for better resources for kids who have been sexually abused and exploited and for their families. In particular, there was a call for more preventative programs that focus on educating children as well as adults about sexual exploitation. It is the view of this committee that the Government in Canada can take a leadership role in ensuring that preventative programs and appropriate services are available to all Canadian children, while a Children's Commissioner can provide meaningful oversight of progress made.

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<sup>105</sup> All quotations from witnesses contained in this report are taken from oral testimonies during committee meetings, unless otherwise stated. A full list of witnesses and the meetings they attended is included in Appendix A.

<sup>106</sup> Committee on the Rights of the Child, *Concluding Observations: Canada*, *supra* note 85, at p.12.

## **Providing Services**

Steve Sullivan explained how “one of the biggest challenges ... is making sure victims know what services exist when they need it.... If you make it hard for people to access services, they will give up.” Sue McIntyre described how children she spoke with were clear on what they needed: “someone to help them with education, employment, to support them, and to be there to assist them.” Another witness, Shelley Cardinal from the Violence and Abuse Prevention Program of the Canadian Red Cross, stated that as a result of one of their studies they had learned that: “the primary need of children and youth between the ages of 6 and 17 is to have a place to tell of their pain.” As Peter Dinsdale, from the National Association of Friendship Centres, explained: “the most important factor in dealing with youth at risk and child sexual exploitation was gaining trust and making those youth feel safe.”

The committee learned from witnesses that services need to be provided for the full range of victims’ experiences from the time they have been sexually exploited and abused to the time they feel they have healed enough to move on. Each sexually exploited and abused child will require different services. Some will primarily need counselling, while others may require a strong commitment from social services to help them find food and shelter. If a child who is being exploited through prostitution is trying to escape from that situation, then services must be available to help them do so.

As noted above, several witnesses explained the value of Child Advocacy Centres in bringing all services for children into one institution. Glori Meldrum, from Little Warriors, added that: “Kids should only have to go to one place to disclose and the resources should be there.” Furthermore, Catherine Kane from the Department of Justice Canada’s Criminal Law Policy Section articulated the importance of making sure that children have access to these services without delays, “Research has shown that the sooner victim assistance is provided after the incident, the better the experience is through the process, the more trust there is in the justice system, and outcomes are better for everyone.”

Witnesses also advocated that services be available for as long as is necessary for a child to leave an exploitative situation. Debbie Cumby, from the Ma Mawi Wi Chi Itata Centre, described how it could take someone numerous attempts before they can exit a life of drugs and

prostitution. The processes of leaving a life in the sex trade and of healing can take a long time, and programs must be designed to help someone for as long as it takes. As Professor Cecilia Benoit mentioned, “the difficulties of young people in our study, including those involved in survival sex, do not end at age 18. We need tailored services that could help these young people be successful in transitioning to adulthood.”

Professor Benjamin Perrin illustrated how support service providers and police authorities sometimes need to actually seek out their clients in order to be effective:

The focus should be on proactively seeking out victims of sexual exploitation and assisting them. In an example from the United States, the Dallas police have a group of officers who decided to proactively meet with everyone who had been a runaway either three or more times – chronic runaways. The officers took them out for coffee and said that they were not investigating a crime but simply were there to get to know where the runaways were at. The trust built into that allowed the officers to identify multiple individuals as human traffickers involved in exploiting youth in that city.

He noted that the Government of Manitoba is looking into setting up a similar program for its police officers.

Sarah Hunt explained how support service providers can sometimes put themselves in danger when trying to help children: “In a small community of 300, for example, where there is only one youth worker, that person might themselves be targeted.” Shelley Cardinal also underscored the importance of ensuring that these workers are themselves supported by others:

Professionals who work with children and youth are crucial supporters and role models. Canadian Red Cross believes that supporting these professionals through high quality resources and training on child and youth safety is one of the best ways to create a world fit for children and youth.



Tanya Smith from the Hospital for Sick Children in Toronto explained to the committee that resources in law enforcement for sexual exploitation cases, as well as for support services, are currently not sufficient:

In general, the resources are minimal. Hearing daily from my law enforcement colleagues, they obviously can only work on the cases that they physically can handle. However, there are so many more cases out there. I think the resources are not as good as they could be....

Based on the evidence we heard that demonstrates the difficulties many children face in accessing the services they need and the lack of resources and support for those who are trying to provide them, the committee sees an important role to be played by the Government of Canada in ensuring that all children have access to health and counselling services that are sufficiently resourced.

While we are aware that many of the excellent programs that currently provide services to children are run locally or at the provincial level, we believe that the Government of Canada can work with its provincial and territorial counterparts to facilitate greater awareness and coordination of existing programs. It is hoped that with the assistance of a national databank, services will also be better coordinated and made available across Canada to children in all regions of the country. Furthermore, as former Senator Landon Pearson, Landon Pearson Resource Centre for the Study of Childhood and Children's Rights, recommended, the Government of Canada can use "its capacity to do pilot projects or to lead through knowledge transfer to develop those types of programs."

### **Recommendation #6 – Services for All Canadian Children**

**The committee recommends that the Government of Canada make it one of its top priorities to ensure that an adequate and consistent level of services for all children dealing with sexual exploitation issues is available across the country and that such services are effectively promoted.**

### **Encouraging Corporate Social Responsibility**

While profits are being made directly by criminals involved in the sexual exploitation of children, there are also people and companies that profit indirectly, whether this might be the

tourist company that makes travel arrangements for Canadians to foreign destinations for “sex holidays” with children, or the Internet provider who – whether knowingly or not – provides access to child pornography websites to its clients. The committee heard testimony as to how such third parties can play an important role in stopping sexual exploitation by regulating their own activities to ensure that they are not facilitating the sexual exploitation of children. Furthermore, engaging the private sector in the efforts to address these issues can help raise social awareness.

Professor Mark Erik Hecht discussed his work with Beyond Borders and its report *Private Sector Accountability in Combating the Commercial Sexual Exploitation of Children* that provides “an overview of how the private sector has been implicated in the sexual exploitation of children.”<sup>107</sup> He discussed how they examined the roles corporations can play in preventing the sexual exploitation of children:

The ones we target in our study are specifically those around travel and tourism; that would be tour operators, hotel chains, airlines, et cetera. The media would be newspapers, advertising agencies, marketing agencies and film. The new technologies would be Internet service providers, mobile communication corporations and software producers, to name a few. The financial ones would be banks, credit card companies and new forms of payment such as e-gold and PayPal....There is a host of others that could have a role to play that are not directly implicated. For example, other corporations which are able to create programs for children at high risk which have nothing to do with those four sectors have a role to play. By bringing in positive programs they could be reducing the chances of these children being exploited in these four other subsectors of the private sector.

Witnesses discussed how private sector industries can adopt codes of conduct that encourage their self-regulation with regards to sexual exploitation. For example, the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism (“the Code”) is “an

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<sup>107</sup> Mark E. Hecht, *Private Sector Accountability in Combating the Commercial Sexual Exploitation of Children*, ECPAT International, [http://www.ecpat.net/worldcongressIII/PDF/Publications/CSR/Thematic\\_Paper\\_CSR\\_ENG.pdf](http://www.ecpat.net/worldcongressIII/PDF/Publications/CSR/Thematic_Paper_CSR_ENG.pdf).

industry driven responsible tourism initiative” supported by ECPAT International (End Child Prostitution Child Pornography and Trafficking of Children for Sexual Purposes), the World Tourism Organisation and the United Nations Children’s Fund (UNICEF).<sup>108</sup> The Code requires participating suppliers of tourism services to, among other things, establish ethical policies regarding commercial sexual exploitation, provide information to travellers on this topic, and to report annually to the Code’s Steering Committee and to the national ECPAT partners.

While some witnesses expressed support for this type of endeavor, Professor Hecht stated that with regards to corporate social responsibility and the commercial sexual exploitation of children: “There is more work that needs to be done.” Both he and former Senator Landon Pearson expressed their disappointment to the committee that while there are well over 100 corporations internationally that have signed on to the Code, some of whom have made special efforts to address the issue of sex tourism, only two from Canada had done so. Professor Hecht emphasized the importance that such codes of conduct set out “strong indicators” as to how an organisation may ensure it is in compliance and allow for review by “outside resources”. He concluded that:

The bottom line is that what the private sector suggests, and what they have been encouraging for many years, is self-regulation, specifically on the topic of corporate social responsibility. [Our report]<sup>109</sup> indicates that this does not work and that what should be done is more regulation, starting from the international human rights community, including the UN ... trickling all the way down to national governments and what national governments should be doing to ensure regulation of the private sector to avoid these kind of incidents.

The Government of Canada should encourage relevant industries to develop such codes of conduct, it should promote their benefits and devote the necessary resources to follow-up on any violations of the code by members.

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<sup>108</sup> *Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism*, <http://www.thecode.org/>; ECPAT International: <http://www.ecpat.net/EI/index.asp>.

<sup>109</sup> Mark E. Hecht, *Private Sector Accountability in Combating the Commercial Sexual Exploitation of Children*, *supra* note 107.

In addition to codes of conduct, some private enterprises have contributed to combating the sexual exploitation of children by assisting law enforcement and by providing useful tools and resources to children and parents. The committee was impressed by the Child Exploitation Tracking System (CETS),<sup>110</sup> which allows police across Canada to share investigational information in a secure environment. The system was designed and implemented through a corporate partnership with Microsoft Canada. According to Superintendent Bilinski, from Canadian Police Centre for Missing and Exploited Children, “countless hours of duplicate investigative efforts are now avoided due to the use of CETS,” which can assist with image analysis to identify victims.

The committee also heard from Ginette Yapety of Videotron about their Vigilance on the Net program that provides helpful information to children and adults about safe Internet use.<sup>111</sup> Barry MacKillop from Public Safety Canada said that his department is working with Internet providers on projects such as Cleanfeed Canada<sup>112</sup>, with the Canadian Coalition against Internet Child Exploitation<sup>113</sup>, and with the Virtual Global Taskforce in order to find ways to better combat sexual exploitation.<sup>114</sup> Superintendent Bilinski informed the committee that: “The number of private commercial enterprises that come on a regular basis offering assistance is surprising.”

These contributions by Canadian companies are putting Canada not only at the technological forefront, but also making us more socially responsible. As stated by Michael Eisen from Microsoft: “Canada should continue to lead this issue globally. We have the experience, the skills and, I would hope, the motivation.”

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<sup>110</sup> Royal Canadian Mounted Police, “Child Exploitation Tracking System”, <http://www.rcmp-grc.gc.ca/ncecc-cncee/cets-eng.htm>.

<sup>111</sup> Vigilance on the Net, *supra* note 57.

<sup>112</sup> Cybertip.ca, “Cleanfeed Canada”, [www.cybertip.ca/app/en/cleanfeed](http://www.cybertip.ca/app/en/cleanfeed).

<sup>113</sup> Cybertip.ca, “CCAICE”, [www.cybertip.ca/app/en/caice](http://www.cybertip.ca/app/en/caice).

<sup>114</sup> Royal Canadian Mounted Police, “Virtual Global Taskforce”, [www.rcmp-grc.gc.ca/ncecc-cncee/vgt-eng.htm](http://www.rcmp-grc.gc.ca/ncecc-cncee/vgt-eng.htm).

Corporate social responsibility does not need to stop at Canada's borders. Given the international reach of sexual exploitation and Canada's potential for leadership in this area, Canada should be sharing its abilities and information with other countries. For example, committee members heard how a delegation from a South African law enforcement agency received training on CETS in Canada from the Kids' Internet Safety Alliance.<sup>115</sup> The Government of Canada should actively support and encourage this kind of international assistance.

The committee urges the Government of Canada to take an active role and work closely with the private sector in order to eliminate corporate practices that may facilitate the sexual exploitation of children. Self-regulation of an industry should be encouraged, such as through codes of conduct. Where self-regulation is insufficient for ensuring that an industry is not facilitating the commission of sexual exploitation offences against children, then the committee recognises that regulation of that industry must be considered through domestic criminal or corporate laws or through international treaties.

### **Recommendation #7 – Private Sector Cooperation**

**The committee recommends that the Government of Canada actively work with businesses and private sector organizations to support and promote initiatives directed towards combating the sexual exploitation of children.**

### **Education as a Preventative Step**

Educating children about human sexuality can be a divisive issue in Canadian society. It is important to remember, however, that children in abusive families or children who have run away from their families may only be able to get positive information about sexual exploitation from social service agencies or through their schools.

From a children's rights perspective, children have the right to the knowledge that will protect them, and they should not be prevented from access to proper educational tools. Article 19 of the UN *Convention on the Rights of the Child* includes a requirement for states to:

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<sup>115</sup> Kids Internet Safety Alliance, [www.kinsa.net](http://www.kinsa.net).

take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.<sup>116</sup>

While this right exists in international law, Shelley Cardinal warned that: “Children too often have no idea they have the right to be protected.”<sup>117</sup> Some witnesses called for a “prevention-centred approach” to increase children’s awareness of these issues. By empowering kids with knowledge of their rights and how to access relevant services, sexual exploitation may be prevented. Shelley Cardinal and Sarah Hunt each explained how youth need to be given the language around sexual and physical violence so that they are able to talk about it with those whom they feel it is safe to do so. The committee notes that educational programs and services must be developed keeping in mind the challenges involved with encouraging children to feel secure in reporting abuse committed by someone that may be close to the family or even a family member.

The committee believes that the Government of Canada can help improve awareness across the country of the realities of the sexual exploitation of children, empower children to speak for themselves on these matters, and help adults to listen. Progress can be made when the much-needed research and data is collected and analysed in order to create better educational programs that can inform Canadians about the challenges children are facing and on the solutions that will help them. Adults, for their part, need to learn how to recognize signs that a child may be being abused or exploited and to facilitate these children in securing the help they need.

Witnesses discussed the topics of how Canadian children have become increasingly exposed to images containing explicit sexual content at younger ages and how many youth use the

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<sup>116</sup> *Supra* note 10.

<sup>117</sup> Kathy Vandergrift quoted statistics that said that, “70 per cent of children are not aware” of their rights. She explained that she was aware of a program in the United Kingdom that teaches children about their rights and have been tracking their impact: “they find the levels of violence are greatly reduced. They find the respect for teachers has increased.”

Internet to explore their developing sexualities. As former Senator Landon Pearson noted, “We need a counterbalancing force as a counterweight with healthy sexual education and healthy sexuality.” She also noted that “visible modeling by responsible adult males” is an important part of this promotion. The committee agrees that having male role-models, such as athletes or entertainers, promote awareness of the importance of healthy male sexuality is extremely important. Government of Canada awareness programs should bear this in mind. As Jacques Moïse, the coordinator of a project to help children exploited through prostitution called the *Projet d'intervention auprès des mineur(e)s prostitué(e)s*, asserted: “Society has to look at the whole concept of young people and sexuality. Laws will change nothing if society and attitudes do not change.”

Raising awareness will also help children respond to or avoid situations that could place them at risk of sexual exploitation. Superintendent Michel Aubin from the Immigration and Passport Program at the RCMP emphasized the importance of taking the issue out “from behind closed doors” and raising awareness: “We can educate our children to avoid behaviours or ways they could be lured into these criminalities or behaviours that will be negative.” Kathy Vandergrift observed that:

...children are most often lured into exploitive situations by persons who befriend them, offering affection, enticements on the street and in the neighbourhood. The best prevention is a high level of awareness among young people. They should be knowledgeable about the methods of exploiters, confident in their own self-worth and future options, know their rights and when they are being exploited and know where and how to get help if needed.

She added that an effective prevention strategy “would provide a better return for the dollars invested than would a narrow focus on increased criminal penalties for specific, isolated crimes in only one category of sexual exploitation.” In its written submissions to the committee, the Canadian Red Cross cited a statistic that child abuse costs Canadians \$15 billion per year, which the committee notes demonstrates the potential money that can be saved through preventative measures.

The committee was presented with testimony about efforts to increase awareness that have not only been undertaken by federal government departments, but also by NGOs that told us about their programs to educate children and adults about the realities of sexual exploitation. For example, the Canadian Red Cross presented its “RespectED: Violence & Abuse Prevention” program and the supporting materials associated with its workshops to prevent violence and abuse. Its *Ten Steps to Creating Safe Environments for Children and Youth* is replete with recommendations for any type of organisation seeking to create an environment for children that is “safe from violence, abuse and harassment.”<sup>118</sup> Clément Chartier presented to the committee how the Métis Child & Family Services Society<sup>119</sup> in Edmonton conducts human trafficking research and delivers family violence and street outreach programs for “about 15 youth at any given time”. He indicated that: “These practices are promising but need to be taking place on a much larger scale and in a consistent, community-led manner to really impact on the scope and prevalence of the problems.”

Some organisations are using social media and Internet technology to help raise awareness about this issue. The committee heard how these programs employ child-friendly networking sites to empower children and reduce their vulnerability to sexual predators. One such example is Little Warriors, a charitable organisation based in Edmonton that has developed child sexual abuse prevention education materials, and provides information about the prevalence of child sexual abuse and about healing and support resources.<sup>120</sup> Another is the “Kids in the Know” website, run by the Canadian Centre for Child Protection, which provides an interactive personal safety program for increasing the safety of children and reducing their risk of sexual exploitation. The Centre has also produced the “Teatree Tells” child abuse prevention kit that contains illustrated children’s stories.

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<sup>118</sup> Judi Fairholm, Gurvinder Singh and Sarah Smith, *Ten Steps to Creating Safe Environments for Children and Youth: A Risk Management Road Map to Prevent Violence & Abuse*, Canadian Red Cross, RespectED: Violence & Abuse Prevention, 2007.

<sup>119</sup> Métis Child & Family Services Society Edmonton, <http://www.metischild.com/>.

<sup>120</sup> Little Warriors, “Prevention Program”, [http://www.littlewarriors.ca/prevention\\_program/about.html](http://www.littlewarriors.ca/prevention_program/about.html).



Lianna McDonald, from the Canadian Centre for Child Protection, described how the national public awareness campaigns on the issue of child sexual exploitation conducted by the Canadian Centre for Child Protection are tracked and monitored to determine their impacts. She explained that they have seen increases of reporting of sexual abuse and exploitation to Cybertip.ca and of downloads of their educational materials as a direct result of these campaigns.<sup>121</sup> As she explained:

These results underscore the importance of providing the public with information and ways to take action. However, such outcomes obviously require ongoing, long-term investments in public awareness initiatives. There is no short-cutting this; we have to invest in the long run.

Provincial and local governments across Canada also have their own programs to promote awareness of sexual exploitation issues. A national research strategy can identify gaps in this educational framework to better ensure that the benefits of these programs reach children all across Canada. In addition to conducting its own programs and running pilot projects, as former Senator Landon Pearson suggested, the federal government could improve cross-country public awareness campaigns through increased funding and access to resources to the provinces and territories for preventative programs.

The committee also proposes that the Children's Commissioner be mandated to review and make recommendations on the federal government's awareness-raising programs for children thereby ensuring that such programs conform to the principles of promoting and respecting children's rights.

### **Recommendation #8 – Education and Prevention**

**The committee recommends that the Government of Canada dedicate appropriate resources and funding to promoting a preventative approach to the sexual exploitation of children, including providing assistance to the provinces and territories as well as to non-governmental organizations who are actively involved in delivering educational programs for children pertaining to healthy sexuality and the prevention of sexual exploitation.**

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<sup>121</sup> In one example, Lianna McDonald notes that the Centre saw, "a 103 per cent increase in reports to Cybertip.ca and a 55 per cent increase in educational downloads."

## CONCLUSION

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The sexual abuse and exploitation of children violates their trust and safety and denies them their right to develop into healthy adults. This is a complex societal problem that cuts across jurisdictional, gender, and cultural boundaries. As such, solutions and preventative measures must be comprehensive in nature and comprise multiple strategies, dedicated resources and an effective mechanism for continued monitoring and assessment.

To this end, we have recommended that the Government of Canada take immediate action to ensure that an adequate and consistent level of services is available to help children avoid, escape or heal from the harms of sexual exploitation. By further supporting those working in this field with relevant data and research to develop more efficient and effective programs and services, this will move Canadians closer to reaching this goal.

Finally, a critical component of any responsive action to child sexual exploitation is the voice of children themselves. Children must be active participants in the development of programs and policies aimed at their interests. Expressing their own concerns, being heard, contributing to solutions for themselves and other young Canadians: these opportunities will enhance children's and young people's faith in those charged with the responsibility of keeping them safe, improve the likelihood of preventing the sexual exploitation of children, and help those who have experienced it to heal. With the help of a federal Children's Commissioner to provide oversight and assessment of the federal government's leadership in this area, we can ensure that children in Canada are better protected from sexual exploitation and abuse and we can re-build their trust in us as a society.

## APPENDIX A: WITNESSES WHO APPEARED BEFORE THE COMMITTEE

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**Monday, September 28, 2009**<sup>122</sup>

*Child Welfare League of Canada:*

Gordon Phaneuf, Director of Strategic Initiatives.

*Department of Justice Canada:*

Catherine Kane, Acting Senior General Counsel, Criminal Law Policy Section;  
Carole Morency, Acting General Counsel, Criminal Law Policy Section.

*Hindsight Group:*

Sue McIntyre, Founder.

*International Bureau for Children's Rights:*

Nadja Pollaert, Director General;

Camille Karbassi, Program Manager, Child Trafficking.

*Public Safety Canada:*

Barry MacKillop, Director General, Law Enforcement and Border Strategies.

*Royal Canadian Mounted Police:*

Superintendent Michel Aubin, Director, Immigration and Passport Program;

Superintendent John Bilinski, Officer in Charge, Canadian Police Centre for Missing and Exploited Children.

*UNICEF Canada:*

Lisa Wolff, Director, Advocacy and Education.

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<sup>122</sup> Standing Senate Committee on Human Rights, Committee Proceedings, [http://www.parl.gc.ca/common/Committee\\_SenNotice.asp?Language=E&meeting\\_id=10273&Parl=40&Ses=2&com\\_m\\_id=77&backto=W](http://www.parl.gc.ca/common/Committee_SenNotice.asp?Language=E&meeting_id=10273&Parl=40&Ses=2&com_m_id=77&backto=W).

**Monday, October 5, 2009<sup>123</sup>**

*As an individual:*

Sarah Hunt.

*Assembly of First Nations:*

Kathleen McHugh, Chair, Women's Council.

*Canadian Coalition for the Rights of Children:*

Kathy Vandergrift, Chair.

*Indian and Northern Affairs Canada:*

Mary Quinn, Director General, Social Policy & Programs Branch;  
Line Paré, Director General, External Relations & Gender Issues Branch;  
John Gordon, Director, Urban Aboriginal Strategy, Office of the Federal Interlocutor.

*Native Women's Association of Canada:*

Erin Wolski, Health Director.

*Public Health Agency of Canada:*

Sylvain Segard, Director General, Health Promotion and Chronic Disease Branch;  
Kelly Stone, Director, Division of Childhood and Adolescence, Health Promotion and  
Chronic Disease Branch.

**Monday, October 19, 2009<sup>124</sup>**

*Canadian Association of Elizabeth Fry Societies:*

Kim Pate, Executive Director.

*Canadian National Coalition of Experiential Women:*

Jane Runner.

*Landon Pearson Resource Centre for the Study of Childhood and Children's Rights:*

The Honourable Landon Pearson.

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<sup>123</sup> Standing Senate Committee on Human Rights, Committee Proceedings,  
[http://www.parl.gc.ca/common/Committee\\_SenNotice.asp?Language=E&meeting\\_id=10329&Parl=40&Ses=2&com\\_m\\_id=77&backto=W](http://www.parl.gc.ca/common/Committee_SenNotice.asp?Language=E&meeting_id=10329&Parl=40&Ses=2&com_m_id=77&backto=W).

<sup>124</sup> Standing Senate Committee on Human Rights, Committee Proceedings,  
[http://www.parl.gc.ca/common/Committee\\_SenNotice.asp?Language=E&meeting\\_id=10368&Parl=40&Ses=2&com\\_m\\_id=77&backto=W](http://www.parl.gc.ca/common/Committee_SenNotice.asp?Language=E&meeting_id=10368&Parl=40&Ses=2&com_m_id=77&backto=W).

*Ma Mawi Wi Chi Itata Centre:*

Jackie Anderson;  
Debbie Cumby.

*National Association of Friendship Centres:*

Peter Dinsdale, Executive Director.

**Monday, October 26, 2009**<sup>125</sup>

*First Nations Child and Family Caring Society of Canada:*

Cindy Blackstock, Executive Director.

*Métis Child and Family Services:*

Bernice Cyr, Chief Executive Officer.

*Métis National Council:*

Clément Chartier, President.

*Pauktuutit Inuit Women of Canada:*

Deborah Tagornak, Manager, Abuse Issues.

*Statistics Canada:*

Lynn Barr-Telford, Director, Canadian Centre for Justice Statistics;  
Craig Grimes, Unit Head, Canadian Centre for Justice Statistics;  
Mia Dauvergne, Senior Analyst, Policing Services Program, Canadian Centre for Justice Statistics.

**Monday, November 2, 2009**<sup>126</sup>

*As an individual:*

Benjamin Perrin, Assistant Professor, Faculty of Law, University of British Columbia.

*Office of the Federal Ombudsman for Victims of Crime:*

Steve Sullivan, Federal Ombudsman for Victims of Crime;

Joanne Taché, Director.

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<sup>125</sup> Standing Senate Committee on Human Rights, Committee Proceedings, [http://www.parl.gc.ca/common/Committee\\_SenNotice.asp?Language=E&meeting\\_id=10421&Parl=40&Ses=2&com\\_m\\_id=77&backto=W](http://www.parl.gc.ca/common/Committee_SenNotice.asp?Language=E&meeting_id=10421&Parl=40&Ses=2&com_m_id=77&backto=W).

<sup>126</sup> Standing Senate Committee on Human Rights, Committee Proceedings, [http://www.parl.gc.ca/common/Committee\\_SenNotice.asp?Language=E&meeting\\_id=10458&Parl=40&Ses=2&com\\_m\\_id=77&backto=W](http://www.parl.gc.ca/common/Committee_SenNotice.asp?Language=E&meeting_id=10458&Parl=40&Ses=2&com_m_id=77&backto=W).

*Salvation Army:*

Michael Maidment, Area Director, Public Relations and Development, Federal Government Liaison Officer.

**Monday, November 23, 2009**<sup>127</sup>

*Canadian Centre for Child Protection:*

Lianna McDonald, Executive Director.

*Canadian Red Cross:*

Shelley Cardinal, Aboriginal Advisor, Violence and Abuse Prevention Program.

**Monday, November 30, 2009**<sup>128</sup>

*As an individual:*

Richard Estes, Professor and Chair, Social Economic Development, School of Social Policy and Practice, University of Pennsylvania;

Cecilia Benoit, Professor, Department of Sociology, University of Victoria.

*Beyond Borders:*

Mark Erik Hecht, Co-founder.

*Little Warriors:*

Glori Meldrum, Founder and Chair of the Board of Directors.

*Projet d'Intervention auprès des mineurs-res prostitués-ées:*

Jacques Moïse, Coordinator.

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<sup>127</sup> Standing Senate Committee on Human Rights, Committee Proceedings, [http://www.parl.gc.ca/common/Committee\\_SenNotice.asp?Language=E&meeting\\_id=10559&Parl=40&Ses=2&com\\_m\\_id=77&backto=W](http://www.parl.gc.ca/common/Committee_SenNotice.asp?Language=E&meeting_id=10559&Parl=40&Ses=2&com_m_id=77&backto=W).

<sup>128</sup> Standing Senate Committee on Human Rights, Committee Proceedings, [http://www.parl.gc.ca/common/Committee\\_SenNotice.asp?Language=E&meeting\\_id=10569&Parl=40&Ses=2&com\\_m\\_id=77&backto=W](http://www.parl.gc.ca/common/Committee_SenNotice.asp?Language=E&meeting_id=10569&Parl=40&Ses=2&com_m_id=77&backto=W).

**Monday, December 7, 2009<sup>129</sup>**

*Hospital for Sick Children-Suspected Child Abuse and Neglect (SCAN):*

Tanya Smith;  
Jennifer Coolbear, Psychologist;  
Jasmine Eliav, Psychologist.

*Microsoft:*

Michael Eisen, Chief Legal Officer.

*Vigilance on the net:*

Ginette Yapety.

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<sup>129</sup> Standing Senate Committee on Human Rights, Committee Proceedings,  
[http://www.parl.gc.ca/common/Committee\\_SenNotice.asp?Language=E&meeting\\_id=10619&Parl=40&Ses=2&com\\_m\\_id=77&backto=W](http://www.parl.gc.ca/common/Committee_SenNotice.asp?Language=E&meeting_id=10619&Parl=40&Ses=2&com_m_id=77&backto=W).

## APPENDIX B: PARLIAMENTARY AND GOVERNMENT STUDIES

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A number of important commission reports have helped to change our understanding of the sexual exploitation of children in Canada in recent decades. In 1981, the Committee on Sexual Offences Against Children and Youth (named the “Badgley Commission”, after its chair) was created by the Ministers of Justice and National Health and Welfare to inquire into the adequacy of the laws of Canada in providing protection to children from sexual offences and to make recommendations for improving that protection. It conducted a study and engaged in consultations regarding the sexual exploitation of children and youth and what role the law should play in attempting to stop that exploitation. In August 1984, the Badgley Report provided a portrait of child prostitution in Canada.<sup>130</sup> Among the Commission’s conclusions were recommendations for specific harsh legislation to target clients and the criminalization of children involved in prostitution to protect them from a further life in prostitution.

In tandem with the Badgley Commission, a Special Committee on Pornography and Prostitution was also formed by the Minister of Justice in June 1983. Led by Paul Fraser, this committee studied the problems arising from street prostitution more generally, as well as examining its social and economic determinants. The Fraser Committee released its report in early 1985.<sup>131</sup> It disagreed with the Badgley recommendation to criminalize children involved in prostitution and recommended new legislation to tackle those who attempt to exploit children for prostitution-related purposes – both clients and pimps. The Badgley and Fraser reports preceded the age of the Internet and they did not address child pornography or human trafficking.

Following the release of these two reports, the federal government implemented two important legislative changes. In December 1985, amendments to the *Criminal Code* were made

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<sup>130</sup> Committee on Sexual Offences Against Children and Youths, *Sexual Offences Against Children*, Minister of Supply and Services Canada, Ottawa, 1984.

<sup>131</sup> Special Committee on Pornography and Prostitution, *Pornography and Prostitution in Canada: Report of the Special Committee on Pornography and Prostitution*, Minister of Supply and Services Canada, Ottawa, 1985.



to confront street prostitution. In January 1988, a second bill, Bill C-15, was introduced to create specific offences targeted at child sexual abuse, including the sexual procurement of youth.<sup>132</sup>

Despite the recommendations of the Badgley Report, the Canadian criminal justice system afterwards shifted away from criminalizing “child prostitutes” to criminalizing those who exploit children through prostitution. Children involved in prostitution are generally now treated by Canadian authorities as victims of sexual exploitation, rather than as offenders themselves.<sup>133</sup>

In 1992, a Working Group on Prostitution was established by the Federal, Provincial and Territorial Deputy Ministers Responsible for Justice with a mandate to review legislation, policy and practices concerning prostitution-related activities. The committee’s recommendations<sup>134</sup> prompted a number of significant legislative reforms,<sup>135</sup> though many of their concerns pertaining to the serious concerns facing youth involved in prostitution and the harms associated with street prostitutions across Canada remain equally valid today.

Parliamentary committees have also studied topics related to sexual exploitation. For instance, in December 2006, the Subcommittee on Solicitation Laws of the Standing Committee on Justice and Human Rights examined prostitution in Canada and the relevant criminal laws in *The Challenge of Change: A Study of Canada’s Criminal Prostitution Laws*.<sup>136</sup> In February 2007, the Parliamentary Standing Committee on the Status of Women studied human trafficking, recommending that the Government of Canada “develop, in collaboration with the provinces, a comprehensive strategy to combat human trafficking in Canada”, among other still relevant

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<sup>132</sup> James, R. Robertson, *Sexual Offences Against Children: the Badgley Report, Current Issue Review*, Library of Parliament, 84-38E, 6 January 1988 <http://lopimages2/PRBpubsArchive/pdf/cir1000/8438-e.pdf>.

<sup>133</sup> Bittle, *Youth Involvement in Prostitution*, *supra* note 26, at pp. 12–13.

<sup>134</sup> See also: Federal/Provincial/Territorial Working Group on Prostitution, *Report and Recommendations*, *supra* note 26.

<sup>135</sup> See for example: Bill C-128, An Act to amend the Criminal Code and Customs Tariff (child pornography) (1993). For a more detailed discussion of the bill, see Library of Parliament Legislative Summary LS-178E.

<sup>136</sup> Standing Committee on Justice and Human Rights, *The Challenge of Change*, *supra* note 26.

recommendations that remain relevant in its report: *Turning Outrage into Action to Address Trafficking for the Purpose of Sexual Exploitation in Canada*.<sup>137</sup>

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<sup>137</sup> Standing Committee on the Status of Women, *A Comprehensive Strategy to Combat Human Trafficking in Canada*, Eleventh Report, 7 December 2006, <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=2545924&Language=E&Mode=1&Parl=39&Ses=1>; and, Standing Committee on the Status of Women, *Turning Outrage Into Action to Address Trafficking for the Purpose of Sexual Exploitation in Canada*, February 2007, <http://www2.parl.gc.ca/content/hoc/Committee/391/FEWO/Reports/RP2738918/feworp12/feworp12-e.pdf>.

## APPENDIX C: INTERNATIONAL INSTRUMENTS

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In Canada, the development of an understanding of how sexual exploitation affects children has taken place within a broader international context. Various international organisations have been responsible for developing a new understanding of what is needed to recognize the rights of children and to combat the sexual exploitation of children.

In 1989, the *United Nations Convention on the Rights of the Child*<sup>138</sup> became the primary instrument designed to protect the rights of children around the world. It has been ratified by 194 nations around the world (the United States and Somalia have not ratified it), with Canada ratifying it in December 1991.

Articles 19 and 34 of this Convention require State Parties to undertake measures to protect children from all forms of sexual exploitation and sexual abuse, in particular the exploitative use of children in prostitution or other unlawful sexual practices. The *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*<sup>139</sup> goes a step further by explicitly prohibiting child prostitution and describing specific state obligations in this respect. According to the Optional Protocol, States Parties must implement criminal prohibitions on offering, obtaining, procuring or providing a child for child prostitution. States must also take steps to strengthen international cooperation to improve prevention, detection, investigation, prosecution and punishment of those responsible for acts involving child prostitution, as well as take steps to address root causes contributing to the vulnerability of children to prostitution. Canada ratified this Optional Protocol in September 2005.<sup>140</sup>

In *Children: the Silenced Citizens*, this committee concluded that the *Convention on the Rights of the Child* is not yet “solidly embedded in Canadian law, in policy, or in the national

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<sup>138</sup> *Supra* note 10.

<sup>139</sup> *Supra* note 9.

<sup>140</sup> The protocol was adopted and opened for signature, ratification and accession by General Assembly resolution on 25 May 2000 and entered into force on 18 January 2002.

psyche.” We found that Canadians are too often unaware of the rights enshrined in the Convention, while governments and courts use it only as a strongly worded guiding principle with which they attempt to ensure that laws conform, rather than treating it as an instrument necessitating concrete enforcement. Nobody is in charge of ensuring that the Convention is effectively implemented in Canada, and the political will is lacking.<sup>141</sup>

We therefore recommended that the federal government immediately implement and comply with its obligations under the *Convention on the Rights of the Child*. This would mean ensuring that, at minimum, Canadian domestic laws are in full compliance with the Convention, but effective legal and administrative measures are also needed. For example, legislation directly incorporating the rights of the child as set out in the Convention would ensure that in all legal proceedings affecting children, the rights of the child will be given due consideration.

Another important instrument in this context is the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime. As the first international instrument to set out an agreed-upon definition of trafficking in persons (in Article 3), the Protocol is intended, according to the United Nations Office on Drugs and Crime, “to facilitate convergence in national approaches with regard to the establishment of domestic criminal offences that would support efficient international cooperation in investigating and prosecuting trafficking in persons cases.” The Protocol also sets out measures intended to “protect and assist the victims of trafficking in persons with full respect for their human rights.”<sup>142</sup>

There are many other important international reports and instruments from such organisations as the International Labour Organisation and the Council of Europe, and there have also been three international congresses against the commercial sexual exploitation of children. These congresses brought together government and parliamentary representatives, non-governmental organisations and various experts and child representatives to set out how the

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<sup>141</sup> *Children: the Silenced Citizens*, *supra* note 3, at p. 193.

<sup>142</sup> United Nations Office on Drugs and Crime, *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*, 2004, <http://www.unodc.org/unodc/en/treaties/CTOC/index.html>.

global community should be fighting these issues. The most recent congress, the World Congress Against Sexual Exploitation of Children and Adolescents III, produced the *Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents* (2008), which sets out an important list of resolutions to guide states on the steps they should be taking to combat the sexual exploitation of children.<sup>143</sup>

The United Nations General Assembly Special Session on Children was held in May 2002. The session produced a declaration and plan of action that was adopted by over 180 nations, titled *A World Fit for Children*.<sup>144</sup> It identified four priority areas for action: promoting healthy lives for children; providing quality education for children; protecting children against abuse, exploitation and violence; and combating HIV/AIDS among children. It espoused the principle of the best interests of the child and prompted commitments from all governments present at the special session to prepare national plans of action. In response, Canada developed a national plan of action in April 2004, entitled *A Canada Fit for Children*,<sup>145</sup> which calls for “strategies that are child-centred, multi-sectoral, forward-looking and collaborative.” It identifies ways to promote and protect children's rights, including: promoting education and learning; addressing poverty; special assistance for Aboriginal children and children with disabilities; and other social program initiatives.<sup>146</sup>

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<sup>143</sup> World Congress Against Sexual Exploitation of Children and Adolescents III, *The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents*, Rio de Janeiro, 25-28 November 2008, <http://www.ecpat.net/worldcongressIII/index.php>, and [http://www.ecpat.net/WorldCongressIII/PDF/Outcome/WCIII\\_Outcome\\_Document\\_Final.pdf](http://www.ecpat.net/WorldCongressIII/PDF/Outcome/WCIII_Outcome_Document_Final.pdf).

<sup>144</sup> United Nations Special Session on Children, “A World Fit for Children”, 10 May 2002, S-27/2, <http://www.unicef.org/specialsession/wffc/index.html>, and [http://www.unicef.org/specialsession/docs\\_new/documents/A-RES-S27-2E.pdf](http://www.unicef.org/specialsession/docs_new/documents/A-RES-S27-2E.pdf).

<sup>145</sup> Human Resources and Skills Development Canada, *A Canada Fit for Children*, April 2004, <http://www.hrsdc.gc.ca/eng/cs/sp/sdc/socpol/publications/2002-002483/page00.shtml>.