

The True North Strong and *Free*?

**A detailed look into human trafficking for the purposes of
sexual exploitation in Canada**

Major Research Paper

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January 2013

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ABSTRACT

In Canada, human trafficking for the purpose of sexual exploitation has existed for many years. Thousands of women and girls are trafficked into and within Canadian borders each year and the numbers are growing. Prior to 2005, national and provincial commitment to address this problem was lacking. However, recently there has been a strong awakening of the Canadian government to the human rights violations involved in this multi-billion dollar industry. Canadian legislation has been initiated and with the implementation of the 2012 National Action Plan to Combat Human Trafficking, there is increasing hope for Canada to take a leadership position in fighting sex trafficking. Is Canada still “the true North strong and *free*?” This paper provides a detailed look into progress in Canadian policy and law in addition to the successful Swedish Model. It seeks to answer if Canada has made significant progress towards eliminating human trafficking for the purposes of sexual exploitation and argues that if the Canadian government seeks to successfully reduce sex trafficking, then it must adopt the Swedish model and criminalize the purchasing of sex within the country.

“Human trafficking has been variously referred to as ‘*the dark side of globalization*’, a threat to ‘*the human rights and the fundamental values of democratic societies*’, and nothing less than ‘*modern day slavery*.’”

- Maggy Lee

I. Introduction

The sex trafficking of women and girls is the second-largest organized crime in the world. Its significance is evident by the sheer volume of men, women and children, who are affected daily by this multibillion-dollar commercial industry. While considerable progress has been made in recent years as legislators and civil society in Canada become increasingly aware of the drastic changes that are needed to combat this crime, further advancements can be made. Benjamin Perrin, a Professor of Law at the University of British Columbia and one of the most influential people in Canada's response to human trafficking, states that Canada's reaction to the issue of human trafficking has been "comparatively lethargic" (Perrin 2010). In Perrin's view, the lack of awareness and political will in Canada to address the problem makes it an ideal destination, transit and source country for human sex trafficking (Perrin, 2010). This has prompted action on the part of Canadian lawmakers in recent years, yet it is too early to state whether legal changes have had a direct effect on reducing human trafficking for sexual exploitation in Canada.

Although there are victims who are trafficked for "domestic, agricultural and factory work," this paper focuses specifically on trafficking in persons for the purpose of sexual exploitation since "92% of victims are trafficked for that purpose" (Standing Committee on the Status of Women, 2007: 1). Furthermore, this paper will exclusively refer to sex trafficking in women and girls, despite the fact that young boys are also greatly affected by this crime. The issue of sex trafficking of boys falls outside the purview of this paper.

This paper explores the progress in Canadian policy and law in recent years, and examines whether those efforts have been sufficient or whether different approaches ought to be considered. It begins by providing background information on sex trafficking, including definitions of trafficking and terminologies that pertain to domestic and international sex trafficking. The first portion of the paper then explains the current situation in Canada by examining recent changes to the *Criminal Code* and providing a detailed look into Canada's National Action Plan to Combat Human Trafficking. This portion of the paper also discusses the major factors that are perpetuating sex trafficking in Canada, specifically in Aboriginal and First Nations women and girls, who tend to be the most vulnerable victims. It also discusses the ongoing challenges for Canada.

The second portion of this paper provides a comprehensive account of the Swedish model to combat human trafficking, which addresses the demand side of the trafficking equation by criminalizing the purchasing of sex. This portion also describes the successes that Sweden has experienced due, in large part, to the government's commitment to ending human trafficking. Furthermore, it presents relevant information from surrounding Nordic countries and how they have dealt with trafficking in recent years.

The final section of this paper discusses what Canada can learn from the Swedish model, as well as some best practices that Canada could benefit from. The reasoning for selecting Sweden, as a model for this paper is due to the widely acclaimed success that the Swedish government and organizations claim the country has had regarding the elimination of trafficking over time. This paper agrees with Perrin's argument (2010), "Given that the protection of individual liberty is one of the classical justifications of

government, ending human trafficking must be a priority for modern governments.” It provides an in-depth look at the legal framework in Canada that deals with sex trafficking, and argues that if the Canadian government seeks to successfully reduce sex trafficking, then it must take a more aggressive approach and criminalize the purchasing of sex within the country.

This paper seeks to answer the following research questions: *Has Canada made significant progress towards eliminating human trafficking for the purposes of sexual exploitation? Should Canada adopt the Swedish model and criminalize the purchasing of sex?* Though significant changes have been made to Canada’s *Criminal Code* in recent years, it is too early to tell whether changing the laws is enough to achieve *meaningful* change. As such, there are certain limitations to the analysis in this paper.

Laws regarding trafficking for the purposes of sexual exploitation are intrinsically linked to those surrounding prostitution. Therefore, this paper argues that until the Canadian government enacts more effective laws to eliminate prostitution, sex trafficking will continue in Canada. At the moment, the legislation in Canada only deals with the surface of the problem, whereas the Swedish model has successfully addressed the root causes of prostitution. The Swedish government enacted harsh penalties on those who purchased sex and also effectively managed to change the way their society viewed violence against women. Contrasting examples such as the Netherlands, have experienced an increase in child prostitution and sex trafficking following the legalization of prostitution in the country. This differs vastly from the Swedish approach which has experienced a decrease in trafficking within the country. By adopting the Swedish Model, Canada would also experience a shift in not only policy and but also perspective.

II. Methodology

The methodology includes a comprehensive overview of the literature on sex trafficking in Canada. Through the collective use of books, academic journal articles, documentaries, government reports, as well as material from non-governmental organizations and not-for-profit organizations working to eliminate human trafficking within Canada, this research provides a detailed look into the issue of sex trafficking of women and girls in Canada. The use of the terms “trafficking for the purposes of sexual exploitation” and “sex trafficking” are used interchangeably to convey the same meaning throughout this paper.

It is important to note the difficulty in reporting, and possible inaccuracies in the numbers of trafficking victims, as these are often under-reported. “The extent of human trafficking, either in Canada and internationally, is difficult to assess due to the hidden nature of the crime, the reluctance of victims and witnesses to come forward to law enforcement and the difficulty of identifying victims” (Public Safety Canada 2012). The International Organization for Migration (IOM) and the Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, emphasize the “scarcity of data on trafficking” (Beyond Borders Fact Sheet on Trafficking of Children for Sexual Purposes, February: 2009). While this paper uses primarily government data and statistics, which are the most accurate in discussing human trafficking, readers should note that these numbers could be much higher.

III. Background

Trafficking of women and girls is one of the paramount human rights problems of this century. Across the globe millions of women and young girls, some as young as three years old, are being bought and sold in the modern day sex trade. In a recent article titled *The Slave Trade is Back: Confronting Human Trafficking in Canada and Beyond*, Benjamin Perrin wrote, “the need to confront human trafficking begins with a discussion of the philosophy of liberty” (Perrin, 2010). In this article, he discusses *The Theory of Moral Sentiments*, in which Adam Smith compares the act of human trafficking to that of auctioning cattle in the market.

This horrific crime pervades the vast majority of countries and societies around the world. Kristof and WuDunn estimate that there are “3 million women and girls worldwide who can be fairly termed enslaved in the sex trade” (Kristof & WuDunn 2010: 10). According to the International Labour Organization, “161 countries are reported to be affected by human trafficking by being a source, transit or destination country and people are reported to be trafficked from 127 countries to be exploited in 137 countries, affecting every continent and every type of economy. Kristof and WuDunn cite that these abuses tend to occur in the poor nations, but the Western countries are not immune. It is vital to look at human trafficking from a global perspective based on the large number of countries affected and the integrated nature of the problem.

Kristof and WuDunn state three reasons for the continued growth in trafficking for sexual exploitation: 1) the collapse of communism in Eastern Europe and Indochina, 2) globalization, and 3) the spread of HIV/AIDS. With the collapse of communism, the “immediate result was economic distress wherein criminal gangs arose and filled the

power vacuum” (Kristof & WuDunn 2010: 11). This allowed for and facilitated markets for commercial sex in all parts of the world.

The spread of HIV/AIDS is worsening the situation for young girls, as their risk of contracting HIV/AIDS increases over time with high numbers of clients they are required to service. As such, the prevalence of HIV/AIDS is propelling the trafficking of *younger* girls as customers seek girls who are less likely to be infected. Adding to this problem is misinformation, such as the legend in Asia and Africa that sex with a virgin can cure AIDS – legends that have “nurtured demand for young girls kidnapped from their villages” (Kristof & WuDunn 2010: 12).

Of these three reasons, this paper argues that globalization is most responsible for the rise of human trafficking for sexual exploitation. Globalization and the accompanying advances of technology have aided in the ease and concealment of trafficking, as ideas and information spread more rapidly than ever before.

“Technological advances allowed individuals or criminal networks involved in human trafficking for sexual exploitation to recruit and advertise victims, particularly underage girls, remotely via the Internet” (RCMP 2010: 3). While there are many positive aspects to globalization, such as increased awareness of trafficking as a problem, there are also negative outcomes. With the free movement of people, capital, and goods and services especially between member countries in the European Union, trafficking networks have flourished. Antonio Maria Costa, Executive Director of the United Nations Office on Drugs and Crime (UNODC) stated, “the surge in human trafficking coincides with a revolution in affordable transport and instant communication around the world and all of

this has facilitated things like trade and services, yet it has also facilitated the trafficking of human beings.”

As a result of globalization, regional economies, societies, and cultures continue to become more and more integrated through vast and complex networks. Through advanced communications, globalization links countries and eliminates national boundaries creating transcontinental and transnational movements of people from regions with weak concentrations of capital to regions with stronger concentrations. Furthermore, the “industrialization of the sex trade has involved the mass production of sexual goods and services structured around a regional and international division of labour. These "goods" are human beings who sell sexual services” (Poulin 2003: 2).

Defining Trafficking

According to Article 3 of the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons*, of which Canada is a signatory, human trafficking is defined as the following:

“The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs.”

According to the Canadian House of Commons’ Standing Committee on the Status of Women, this definition is weak due to its “lack of clarity with respect to what constitutes sexual exploitation.” Therefore, in November 2005, Canada’s *Criminal Code* was

amended to create specific offences relating to trafficking in persons. The new amendments established that “the recruitment, transporting, transferring, receipt, holding, concealment or harbouring of a person, or the exercise of control, direction or influence over the movements of a person for the purpose of exploiting them or facilitating their exploitation, is an indictable offence.” Furthermore, the *Criminal Code* states that a person is considered to be exploiting another person if they:

(a) cause them to provide, or offer to provide, labour or a service by engaging in conduct that, in all the circumstances, could reasonably be expected to cause the other person to believe that their safety or the safety of a person known to them would be threatened if they failed to provide, or offer to provide, the labour or service; or

(b) cause them, by means of deception or the use or threat of force or of any other form of coercion, to have an organ or tissue removed (Section 279.04).

The Canadian *Immigration and Refugee Protection Act* (IRPA) defines trafficking in persons as “knowingly organizing the coming into Canada of one or more persons by means of abduction, fraud, deception or use or threat of force or coercion.” On June 22, 2012, Bill C-310 was successfully passed, which further enhanced the definition of trafficking.

Trafficking Terminology

The business of human trafficking is an “economic equation of supply and demand” (Brock, Hope for the Sold, 2012). The demand side of the equation consists of men who are purchasing sex and supporting the world of pornography and strip clubs. The supply side of the equation, however, consists of women and children who, due to various circumstances (mainly poverty), seek to fulfill this demand for monetary

incentives. The government of Sweden seeks to combat human trafficking by reducing this demand and criminalizing the purchasing of sex and the “johns” who propel this industry.

Human Trafficking vs. Human Smuggling

Often, the use of the terms “human trafficking” and “human smuggling” are used interchangeably, and it is important to note the distinction. British Columbia’s Ministry of Justice website states that human smuggling occurs when “people pay to be transported illegally to a new country and are free from their smugglers upon arrival.” Furthermore, as stated in the United Nations *Protocol against the Smuggling of Migrants (2000)*, human smuggling occurs when “crossing borders without complying with the necessary requirements for legal entry into the receiving state.” Human trafficking occurs when “persons are enslaved and exploited by their traffickers.” Perrin states that “human *trafficking* is primarily about the exploitation of the individual; human *smuggling* refers to the illegal movement of migrants across borders in order to gain a financial benefit from the illegal entry itself” (Perrin 2010). “Human trafficking does not require an international border to be crossed, nor does it necessarily involve movement or transfer of the victim. Human trafficking in Canada involves the sexual exploitation and forced labour of a diverse array of victims: Canadian citizens and newcomers, adults and children, women and men” (Perrin 2010: 8).

Domestic vs. International Trafficking

Another important distinction to make is between *domestic* trafficking within Canadian borders and *international* trafficking into Canada. According to the British Columbia Ministry of Justice website on human trafficking, “domestic trafficking occurs

when the entirety of the crime takes place within Canada.” In domestic trafficking, the international border is not crossed. Mainly facilitated by organized criminal groups, the movement of the victim occurs inter- and intra-provincially (Perrin, 2011). International trafficking occurs when a person is brought into Canada from a different country for the purposes of exploitation. More specifically, “almost three-quarters of all suspected cases of foreign trafficking [for the purposes of sexual exploitation] to Canada stem from just four countries- the Philippines, Moldova, China and Romania” (Perrin 2010: 33).

Source, Transit, Destination Country

According to the 2011 US State Department Trafficking In Person’s report, “Canada is a source, transit, and destination country for men, women, and children subjected to sex trafficking and forced labor.” Source or origin countries are those in which the majority of the victims originate. They are often characterized as being weakened by war, corruption or natural disasters. In a source or origin country the most common causes are “poverty, unemployment, and lack of opportunities. These factors motivate potential victims of trafficking to look to other countries for opportunities they do not have at home. They become, then, easy prey for traffickers making false promises about job offers in foreign countries” (International Organization for Migration).

Transit countries act as “temporary stops on the victims’ journey to the country where they most likely be exploited. Transit countries are frequently proximate by way of land, sea and air to countries that are attractive destinations for traffickers to exploit victims” (Perrin 2010: 13). These countries may have weak legislation or lax restrictions into movement across their borders. Perrin also states, “for almost a decade Canada has been identified as a transit country for women from South Korea who travel visa free to

Canada, only to be moved to the US illegally where they face sexual exploitation” (Perrin 2010: 14).

Finally, destination countries fuel the demand for inexpensive labour. “The demand for foreign women to work in the sex industry in countries of destination readily invites the satisfaction of that demand by making women and minors into commodities to be coerced, transported, and forced to work abroad” (International Organization for Migration). Destination countries usually consist of the wealthier countries as they purchase the majority of the trafficked women and girls for sexual purposes.

Common Features of Human Trafficking

Violence/Control

One of the main commonalities across all countries is that of violence and control imposed on women and girls by their owners. “An essential part of the brothel business model is to break the spirit of girls, through humiliation, rape, threats, and violence” (Kristof & WuDunn 2010: 10). Many accounts detail the plight of girls who are promised jobs such as housekeepers or nannies and are blindsided when they end up in a dingy room with dirty mattresses, bars on the windows and doors that lock from the outside. At first, the girls try to resist their fate by fighting back and even trying to escape, but they are immediately beaten, drugged, threatened and branded by their pimps. For the majority of young girls, they never receive their pay and are never allowed out of the brothel wherein a typical day includes servicing anywhere from ten to forty men, seven days a week.

Research conducted by University of Ottawa criminology professor Patrice Corriveau and Laval University social work professor Michel Dorais confirmed what

earlier studies have found: “The majority of underage girls sold for sex ‘were under the control of a pimp at one time or another’ and the relationship was ‘generally typified by emotional dependency, intimidation, exploitation, violence, and restricted movement’” (Perrin 2011: 82). In addition to severe beatings, traffickers and pimps use a variety of tactics to maintain control over their victims in order to keep them compliant and dependent, such as drug use, food deprivation, emotional tactics and financial methods. Owners will often confiscate the victim’s birth certificate and passport and many will even kill girls who are uncooperative. Furthermore, young girls become not only completely reliant on their pimps, but cannot adequately function on their own. As the pimps control every aspect of their daily life, girls who are freed from their traffickers feel helpless and may even turn to a life in prostitution.

Perrin points out the large economic costs stemming from this modern day slavery. He argues that because the crime is underreported and untaxed, it makes it extremely profitable within societies. He also states that there are “enormous losses to governments and communities in terms of human and social capital” (Perrin, 2010). Victims of human trafficking undergo serious physical and mental trauma, which makes it difficult for them to recover and begin contributing effectively to society. Survivors are also “more likely to need government support in terms of ongoing physical and psychological help, as well as economic assistance” (Perrin, 2010).

Minors

According to the Criminal Intelligence Service of Canada’s strategic intelligence brief entitled *Organized Crime and Domestic Trafficking in Persons in Canada*, “underage Canadian girls as young as 12 years old are being subjected to sexual

exploitation by traffickers across the country” (Perrin, 2010). The story is no different for young Canadian girls than it is for girls in other nations. The most vulnerable come from low to middle income families, manipulated by organized criminal groups or violent gangs. In India for example, the average age for entering prostitution is between 9-13 and the Human Rights Council estimates those numbers are coming down. In the extreme poverty-stricken districts such as Svay Pak and Toul Kork in Cambodia, there are seven- and eight-year-old girls for sale in brothels and even some as young as three are bought for sex. New York Times reporter Nicholas Kristof stated in his 2012 documentary *Half the Sky* that “the business model for traffickers depends upon young, illiterate, uneducated village girls.” In many societies, specifically the low-caste tribe called the “Nutt” in India, mothers raise their daughters to sell their bodies for sex. Furthermore, the cultural mindset of parents living in poor rural villages in places such as India, Thailand, Cambodia, and Vietnam is that if they became particularly desperate, they can sell their daughter to a brothel owner for a profit.

Corruption

As is common in many countries, corruption is cited as a major factor limiting progress in the fight against human trafficking. It is not uncommon for government officials and those involved in the fight against this phenomenon to be the ones directly involved in protecting the trafficking networks. Trafficking relies on pay-offs to police, judges and ministers at all levels in order to function. Bribes are often made between the local law enforcement officials and the trafficking rings, therefore brothel owners are protected and never charged. Within this business of organized crime, brothel owners, traffickers and “the johns” are free from the scrutiny of law enforcement. “Police seemed

unlikely saviors to girls in the brothels because police officers regularly visited the brothels and were serviced free” (Kristof & WuDunn 2010: 7). Even countries that are considered to have a control over corruption are involved. “For example, high-level staff members at the Belgian and French embassies in Bulgaria were found to be issuing numerous visas, often to prostitutes and organized crime networks, in return for payment” (Transparency International, 2011).

Prevalence in Canada

Sex trafficking has existed in Canada for many years, but has recently garnered significant attention not only from the Canadian government but also from the Royal Canadian Mounted Police (RCMP), policymakers and citizens. Since the 1990’s, women and girls have been trafficked through what came to be known as the triangle consisting of Ottawa, Montreal and Toronto. Over the past decade, sex trafficking has spread from the east to west coast of Canada, and is no longer confined to large cities.

The prevalence of human trafficking for the purposes of sexual exploitation is astonishing, not only on the international scale, but also for a developed country such as Canada, which is considered advanced in the areas of basic human rights and freedoms. Currently, an estimated 1.2 million children are trafficked globally each year (UNICEF, 2011). Furthermore, 79% of all global trafficking is for sexual exploitation (ECPAT International, 2009). Roughly 80% of trafficked victims are women and over 50% are children and Canadian NGOs estimate between 12,000-15,000 people are trafficked to and through Canada each year (MP Joy Smith website, 2012). The Canadian organization, *Free-Them* is working to raise awareness and funds to end human trafficking and holds annual freedom walks in Toronto. *Free-Them’s* founder, Shae

Invidiata, says “70% of all human trafficking cases before the Canadian courts come from southwestern Ontario, from within the Golden Horseshoe region that includes Niagara, Peel, Toronto, and other cities.”

“In 2004, the RCMP Criminal Intelligence Directorate estimated that 800 foreign nationals are brought to Canada every year to become human trafficking victims, 600 of whom are subject to sexual exploitation” (Barrett, 2010: 9) A further 1,500 to 2,200 persons are believed to be transported through Canada annually into the United States (Barnett, 2011). Authorities, however, have only identified a small fraction of these estimated victims. Today, the RCMP no longer relies on these outdated estimates. Instead, the national police force has recently completed a “threat assessment” on human trafficking, which provided more concrete estimates for Canada.

Human trafficking is not only a form of slavery and a criminal act, but it is a business and a network. “Human trafficking is a \$32 billion industry, greater than the profits of Nike, Google, and Starbucks combined” (*Free-Them*, 2012). The world’s second largest, fastest growing criminal industry is due to the fact that trafficking victims are viewed as commodities that can be bought and sold over and over again, whereas commodities such as weapons and drugs are usually only sold once. ECPAT International states, “exploitation is driven by poverty, uneven development, official corruption, gender discrimination, harmful traditional and cultural practices, civil unrest, natural disasters and lack of political will to end it.” The Canadian Security Intelligence Service (CSIS) estimates domestic sex traffickers earn an average of \$280,000 annually from every victim under their control (Perrin, 2011).

Despite the positive changes taking place in Canada on the issue of sex

trafficking, it was not always considered a priority. In a presentation at the University of Ottawa on September 18, 2012, Canadian Member of Parliament Joy Smith stated that the previous lack of Canadian response towards this problem stemmed from sheer ignorance on the issue. While this may hold some truth, lack of Canadian response was also due to an inadequate legal definition surrounding trafficking coupled with the fact that trafficking was not a criminal offence until 2005. From April 2007 to April 2009, roughly 30 people were charged with human trafficking in Canada and their sentences amount to “a joke” (Perrin, 2011). In a 2010 C2C Investigative Report titled *Canada’s Sex Traffickers*, Tamara Cherry wrote, “a handful of police officers across the country are dripping with passion to stop sex trafficking, but many refer to the problem as being in its infancy stages.” In 2007, British Columbia established the Office to Combat Trafficking in Persons and currently is the only province to do so.

A 2007 Standing Committee on the Status of Women Report, recognized that Canada can “do more to prevent the victimization of innocent women and children” and as one witness told the Committee, “when a woman or girl is reduced to a commodity to be bought and sold, raped, beaten, and psychologically devastated, her fundamental rights and dignity are repeatedly violated” (Report of the Standing Committee on the Status of Women, *Turning Outrage Into Action 2007:1*). The following section discusses the current changes to Canadian legislation that have helped create significant momentum on this issue.

IV. The Canadian Approach

Despite being a world leader on human rights issues, Canada has had difficulty combating human trafficking. Three major challenges Canada has had to acknowledge within the past few years are that of border control, agency coordination and victim protection. Trafficking across the Canadian and United States border, specifically that of the U.S.-British Columbia crossing “recalls efforts to repair a leaky dike in which plugging one location merely directs the water to another where it flows more easily” (Perrin 2010: 50). Border control is a complex problem as most traffickers are highly skilled in creating false identification such as passports or work permits.

Another major issue within the Canadian context is a lack of coordination between government units, specifically the Royal Canadian Mounted Police and the federal and provincial government officials. “Recent cases have revealed major gaps in the ability of various federal and provincial agencies to coordinate their efforts with police & NGOs” (Perrin 2010: 106). Governments at the federal and the provincial levels continue to struggle with how to cohesively piece together the vast amounts of information in order to provide a comprehensive overview of the situation in Canada.

“The particular issue of victim’s rights is often sidelined within the larger struggle against organized crime - next to the immediate scourge of the traffickers themselves, victim protection is often seen as a secondary concern” (Barnett 2008: 10). Furthermore, victims of sex trafficking in Canada are often treated as illegal immigrants or face criminal charges, and are often deported” (Barnett 2008: 12). “Immigration detention and remand centres are not suitable and amount to imprisonment for these victims” (Perrin 2010: 103). The women and girls are often cast simultaneously as

“victims” of organized crime as well as “criminals” in violation of immigration and prostitution laws, and as potential “pawns” of the criminal justice system (Lepp 2002: 3). Although some are universally recognized as victims – for example, children who are exploited through the sex trade – others are often perceived as illegal migrants or criminals. Women trafficked into the sex trade are sometimes seen as simply violating immigration or criminal laws relating to prostitution. “Because of these perceptions, and because of threats from traffickers, many victims are reluctant to turn to the police for protection” (Barnett 2008: 6).

There are also cases of trafficking for forced labour, often occurring through the Temporary Worker Program or the Live-in Care Giver Program with the prevalence of these cases occurring mainly in Ontario, Alberta, and British Columbia. (Smith 2010: 7). “Labor trafficking victims include foreign workers from Eastern Europe, Asia, Latin America and Africa who enter Canada legally, but then are subsequently subjected to forced labor in agriculture, construction, sweatshops and processing plants, the hospitality sector, or as domestic servants” (2012 U.S. Trafficking in Persons Report)

Abuse of Aboriginal females

Currently within Canada the trafficking of aboriginal women and girls from reserves to urban centres is of particular and persistent concern (West Coast Legal Education and Action Fund). Yet, many in Canada are unaware of the domestic trafficking that occurs amongst the nation’s Aboriginal females and it has not received adequate attention, due in large part to the fact that Aboriginal women and girls do not fit the “picture” of the trafficked victim constructed by mainstream media (Sikka 2009: 1). A 2001 study found that between 14 and 60 percent of Aboriginal youth in British

Columbia have been sexually abused (Perrin 2010: 95). There are also disproportionately high numbers of Aboriginal women involved in prostitution, particularly in the Prairie provinces. “For example, studies have indicated that between 70 percent of sexually exploited youth and 50 percent of adult sex workers in Winnipeg are of Aboriginal descent. These estimates are staggering, given that Aboriginal peoples only make up approximately 10 percent of the Winnipeg population” (Sikka 2009: 10). Furthermore, “52 percent of 100 female prostitutes in Vancouver’s Downtown Eastside in 2002 were Aboriginal, compared to 1.7-7% of Vancouver’s population” (International Centre for Criminal Law Reform and Criminal Justice Policy 2010: 43).

Perrin also draws attention to a 2007 study, which found that the “high incidence of sexual exploitation of Aboriginal girls in Canada is due to economic, geographic and historical causes. For example, the legacy of colonization and residential schools, domestic violence and crime, poverty, substance abuse, lack of awareness and acknowledgement of the problem, isolation of Aboriginal youth, racism, and inadequate services and laws to combat the problem” (Perrin 2010: 96). Additional factors such as “physical and sexual abuse, homelessness, over-representation in the judicial system, and low self-esteem” also contribute to the overrepresentation and marginalization of Aboriginal women and girls in the sex trade (Sikka 2009: 11). “Left with few employment options and a history of abuse and neglect, Aboriginal women and girls more frequently turn to drugs and prostitution as a means of survival, both physical and emotional” (Sikka 2009: 9). The abuse of Aboriginal girls, coupled with the factors cited above, leaves them extremely vulnerable and therefore places them at a high risk for being trafficked.

Familial-based sex trafficking is also very common within the Aboriginal community as it is merely a way of generating more income for the family. It is estimated that around “25% of Aboriginal women in prostitution were from families involved in prostitution” (International Centre for Criminal Law Reform and Criminal Justice Policy 2010: 43). “Family members were reported to have facilitated girls’ entry into prostitution through receiving benefits from other people in exchange for allowing them to have sex with the girls. Older siblings have also been implicated in this form of facilitation” (Sikka 2009: 12). Gangs in the Prairie Provinces are also contributing to trafficking between the major cities of Saskatoon to Regina to Winnipeg and between Edmonton and Calgary. In many of the First Nation communities, the girls who become the victims are related to their exploiters, and “the ways in which gang members recruit or transport young girls in the Prairie Provinces are more complicated and intertwined with familial ties and “boyfriend” relationships” (Sikka 2009:16). It is also a common tactic for Aboriginal gang members to threaten the girls’ family members.

Experts on Aboriginal gangs have suggested that the best way to prevent trafficking of Aboriginal women and girls is to prevent child sexual abuse and implement broad education programs to confront misogyny, sexism, and the early sexualization of girls and to provide quality programs for abusers that are comprehensively implemented (International Centre for Criminal Law Reform and Criminal Justice Policy 2010: 43). “Consequently, the Aboriginal Women’s Action Network (AWAN) opposes the legalization of prostitution for fear that it would push even younger Aboriginal girls into forced prostitution and further entrench those already in the industry” (International Centre for Criminal Law Reform and Criminal Justice Policy 2010: 43).

Progress in Canadian Policy & Law

According to the Parliament of Canada website, “Canada has been dealing directly with the problem of smuggling and trafficking in persons since approximately 600 Chinese migrants were dropped off the British Columbia coast in 1999.” In May 2002, Canada ratified the UN *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*. The Trafficking Protocol addresses the issue of trafficking in persons and states its purpose as: to prevent and combat trafficking in persons, paying particular attention to women and children; to protect and assist the victims of such trafficking, with full respect for their human rights; and, to promote cooperation among State Parties in order to meet those objectives (UN Office on Drugs and Crime, Articles 1-11). “As signatory to the Trafficking Protocol, Canada has committed itself not only to international participation in combating trafficking, but also, crucially, to providing support to victims” (Qadeer 2003: 2).

Both the *Criminal Code* and the Immigration and Refugee Protection Act (IRPA) have served as key legislation in Canada to combat the crime of human trafficking. In November 2005, Bill C-49 amended the *Criminal Code* to specifically prohibit trafficking in persons in Canada. Prior to this amendment, the *Criminal Code* “contained no provisions to specifically prohibit trafficking in persons, although a number of offences – including kidnapping, uttering threats, and extortion – played a role in targeting this crime” (Barnett 2006: 1). Bill C-49 contains three prohibitions: “the first is a global prohibition on trafficking in persons, defined as the recruitment, transport, transfer, receipt, concealment or harbouring of a person, or the exercise of control, direction or influence over the movements of a person, for the purpose of exploitation;

the second prohibits a person from benefiting economically from trafficking; and the third prohibits the withholding or destroying of identity, immigration, or travel documents to facilitate trafficking in persons” (Barnett 2006: 1). Through Bill C-49, the *Criminal Code* now offers an “expanded ability to seek restitution for trafficked persons who are subjected to bodily or psychological harm and in conjunction with Bill C-2, also provides for enhanced witness protection” (Barnett 2006: 1).

The issue of domestic and international human trafficking has gained national attention by many Members of Parliament as well as Canadian Prime Minister Stephen Harper. In May 2006, the Temporary Resident Permits for victims of human trafficking was established. This allowed victims of human trafficking to receive temporary residence permits for up to 120 days and provided victims with medical support and access to counseling services. Then, in 2007, the Immigration and Refugee Protection Act was updated to include two new measures. The first extends the temporary resident permit from 120 days to 180 days (now allowing victims to apply for a work permit) and the second allows victims of human trafficking to apply for resident and work permits and waives the usual fees of \$200 and \$150 respectively (MP Smith website). “Victims of trafficking may also pursue other avenues, for example, they may apply for permanent residence from within Canada through the refugee determination process, on humanitarian and compassionate grounds or, over time, as members of the permit holder class” (Citizenship and Immigration Canada, 2007). Furthering the need for victim assistance in Canada, the Minister of Finance announced \$6 million dollars in March of 2007 for law enforcement to assist in protecting children from online sexual exploitation and trafficking (Smith 2010: 10).

The House of Commons passed a significant piece of legislation, Motion M-153 on Human Trafficking, in 2007, which called on Parliament to condemn the trafficking of women and children across international borders for the purposes of sexual exploitation and to immediately adopt a comprehensive strategy to combat the trafficking of persons worldwide (Parliament of Canada). The first, Bill C-268, *An Act to amend the Criminal Code (minimum sentence for offences involving trafficking of persons under the age of eighteen years)*, was introduced in 2009. This bill successfully amended Section 279.01 of Canada's Criminal Code in 2010 to create a new offence for child trafficking with a five-year mandatory penalty.

The second, Bill C-310, *An Act to Amend the Criminal Code (trafficking in persons)* adds the current trafficking in persons offences [s.279.01, s.279.011, s.279.02 & s.279.03] to the list of offences which, if committed outside Canada by a Canadian or permanent resident, could be prosecuted in Canada and the second amendment enhances the current definition of exploitation in the trafficking in persons offence [s.279.04 of the Criminal Code] and was passed in June 2012. MP Smith stated, "this allows the long arm of the Canadian law into other countries by allowing Canadian police to go abroad, slap handcuffs on a Canadian citizen or permanent resident suspected of trafficking people, and bring the suspect back to Canada for trial" (Toronto Sun).

Finally in 2012, the Government of Canada launched the first National Action Plan to Combat Trafficking, which provides real practical support and reintegration techniques for victims. This new National Action Plan states that the Government of Canada will provide training to help those in law enforcement and social services to identify and respond to trafficking and take steps to protect vulnerable communities such

as aboriginal youth. “It leverages and builds on Canada’s international and domestic experience to date and provides aggressive new initiatives in order to address human trafficking in all its forms, including the creation of a new dedicated integrated enforcement team to be led by the RCMP” (Public Safety, Human Trafficking website, 2012). The National Action Plan will focus on four core areas: the *prevention* of human trafficking, the *protection* of victims, the *prosecution* of offenders, and working in *partnership* with others both domestically and internationally (National Action Plan to Combat Human Trafficking 2012: 9).

As a part of the National Action Plan, the federal Interdepartmental Working Group on Trafficking in Persons was established. Co-chaired by Public Safety Canada and the Department of Justice Canada, this working group “coordinates the efforts of 17 federal departments and agencies which consist of reviewing existing laws, policies and programs that may have an impact on trafficking, with a view to identifying best practices and areas for improvement” (Barnett 2011: 11). Working group partners such as the Status of Women Canada and the RCMP have produced various academic publications regarding the trafficking in persons in Canada. “In September 2005, the RCMP established a Human Trafficking National Coordination Centre which provides training and assistance to field investigators, develops protocols for victim protection, collects data and works on education and awareness campaigns” (Barnett 2011: 11).

Although these recent changes to human trafficking laws in Canada are a step in the right direction, the immediate effects and benefits are not yet seen. The National Action Plan sets out protection and assistance for victims of human trafficking, such as “enabling immigration officers to issue short-term temporary resident permits to foreign

national victims of human trafficking and providing interim federal health care for such victims” (National Action Plan, 2012). In future years, Canadian women and girls trafficked within Canada as well as those who are trafficked into Canada from other countries will benefit from these enhanced protections and services. With improved access to services such as medical treatment and safe houses, trafficked girls will be able to rehabilitate themselves into Canadian society again. Victims of sex trafficking will benefit from the improved legislation and measures as set out in the National Action Plan.

Ongoing Challenges for Canada

Canada received a “Tier 1” rating according to the 2011 U.S. Trafficking In Persons Report. Tier 1 countries are those that fully comply with the minimum standards for the elimination of trafficking. Although the Canadian government has made significant advancements in combating human trafficking, “some judges and prosecutors were reportedly hesitant to pursue trafficking charges and criticisms of the Canadian approach to trafficking in persons still exist. Data collection also remains difficult at the official levels” (Barnett 2011: 12). From April 2007 to April 2009, “only about 30 people were charged with human trafficking in Canada; just five have been convicted to date” (Sher, 2010). The 2012 U.S. Trafficking In Persons Report stated that the Government of Canada has increased law enforcement actions against trafficking offenders over the last year. With regards to human trafficking, the report finds that there were at least “57 ongoing human trafficking prosecutions as of February 2012: these cases involved at least 94 accused trafficking offenders and 158 victims” (2012 U.S. Trafficking In Persons Report). Furthermore, the Canadian government reported “three

sex trafficking convictions under trafficking-specific laws that occurred during the reporting period, in contrast to two convictions under trafficking-specific laws obtained during the preceding reporting period” (2012 U.S. Trafficking In Persons Report). This emphasizes the need for stronger law enforcement and demonstrates how few convictions have been made under existing legislation.

Until the existence of the National Action Plan, major gaps existed in Canadian policy such as the “lack of law enforcement, gaps in the victim protection scheme, the lack of national coordination and the overly broad nature of the definition of trafficking in persons.” Additionally, it is important to note, “very few prosecutions have been undertaken, and the specific *Criminal Code* provisions on trafficking are just beginning to be tested in the courts” (Barnett 2011: 12).

The 2010 Canadian Centre for Justice Statistics report identified the following major areas as lacking: ongoing data collection, basic information to inform Trafficking in Persons (TIP), victim information, criminal justice response to TIP, demand side of TIP, lack of information sharing and improve communication, and creation and maintenance of a national database (Ogrodnik 2010: 15). There is still a major gap in the service provisions for Aboriginal women and girls in First Nation communities that must receive greater attention from the Canadian government. Various suggestions have been raised to target vulnerabilities that are correlated with trafficking in Aboriginal communities, such as reducing school drop out rates, creating community watch groups, providing economic opportunities and providing culturally relevant victim services to Aboriginal victims of trafficking (International Centre for Criminal Law Reform and Criminal Justice Policy 2010: 45).

While the Canadian government has implemented the legal infrastructure to deal with the crime of human trafficking, it must further ensure that the RCMP and the Canadian Border Services Agency have the resources, information and tools they need in order to effectively reduce the amount of human trafficking in Canada. Although the National Action Plan is a monumental step in Canadian policy, it is too early to truly measure its success in ending human trafficking in Canada. Despite changes in legislation, it is unclear whether or not they have made a significant contribution in the fight against human trafficking within and across Canadian borders. As government agencies at the federal and provincial levels begin to implement these changes and facilitate enhanced coordination it is likely that Canada will experience real change in the near future.

Yet, Canada must look to other countries as helpful examples of how to combat sex trafficking and prostitution successfully. Prostitution is the major pull factor in the sex trafficking industry. Therefore, sex trafficking into and within Canada will continue to flourish, unless prostitution laws are addressed and changed on a deeper and more concrete level. The discussion surrounding sex trafficking and prostitution cannot be separated. For that reason, Canada should look to Sweden, as it provides a comprehensive model in combating sex trafficking of women and girls and how their government and society handles prostitution. Despite the recent changes in legislation, Canada would advance in the fight against sex trafficking if laws similar to Sweden were adopted.

V. The Swedish Model

Governments across the globe have debated whether criminalization and prohibition, legalization, or decriminalization is the proper policy path to pursue in response to trafficking women and girls for the purposes of sexual exploitation. Frequently in the literature and media reports, trafficking, prostitution and labour exploitation are used synonymously. Yet this fails to question “whether the women concerned wanted to migrate to work as sex workers, whether they knew the conditions under which they would be working and whether they are able to extricate themselves” (Cameron and Newman 2008: 33). It is also often assumed that since the woman agreed to migrate to work as a prostitute, that she cannot be labeled a “victim of trafficking.” This assumption is false if “she is deceived about the conditions of work and then coerced or forced to work in exploitative conditions” (Cameron and Newman 2008: 33). “Trafficking is distinctive because traffickers control both the movement and the labour exploitation” (Cameron 2008: 81).

The critical aspects of the Swedish model include: a comprehensive gender equality program; increased and sustained resources for gender equality programs; policies that focus on demand reduction (focus on buyers’ actions rather than the sellers’); and laws that decriminalize selling sex and criminalize buying sex. Sweden’s approach to sex trafficking reduction is informed, in part, by its approach to prostitution, which is different than many other countries because it clearly focuses on the *user*, or the “demand” to purchase people for sex acts. This differs from most anti-sex trafficking programs, which attempt to control the supply side of prostitution, i.e. the prostitutes. The Swedish model attempts to address the market for sexual services by targeting those

who purchase sex services. “Since its policy shift to focusing on the demand side, the Swedish government has found that the demand to purchase sex acts and, as a result the demand for sex trafficking has declined” (International Centre for Criminal Law Reform and Criminal Justice Policy 2010: 25).

“In Sweden, prostitution and trafficking in human beings for sexual purposes are seen as issues that cannot, and should not, be separated; both are harmful practices and intrinsically linked” (Ekberg 2004: 1189). In order to understand how the legal framework is structured in Sweden it is important to note the perspective in the Swedish society surrounding the meaning and norms of prostitution. Stemming from the Swedish women’s movement and various activities from feminist groups, the collective concept of prostitution was that it was simply another “patriarchal tool of oppression that has deleterious effects on the women and girls who are induced and kept in prostitution, as well as an extreme form of male violence used to control female human beings as a class” (Ekberg 2004: 1189).

Throughout the 1980s and 1990s, Swedish society came to accept that “men who buy prostituted women should be criminalized and that the women and girls in prostitution should be seen as victims of male violence who have a right of assistance to escape prostitution” (Ekberg 2004: 1191). “According to this view, the prostitute always needs the help of the State, since she or he shows deep psychological distress or suffers from economic hardships and adopts self destructive behaviours” (Danna 2011: 83). “International studies show that between 65% and 90% of prostituted women were sexually abused by male relatives or acquaintances as girls” and therefore the Swedish law emphasizes that “prostitution is a serious form of male violence against women, one

that targets the economically, racially, or ethnically marginalized and that it is a serious barrier to gender equality; the law considers prostitution as both harmful to victims and to society at large” (Ekberg & Wahlberg 2011). This policy, a new way of prohibiting prostitution with a gender-equality rationale, has been proposed in many other countries, and it is seriously debated in the UK, the Netherlands, Denmark, France and Ireland (Danna 2011: 80).

In order to combat trafficking for sexual exploitation as well as the extreme levels of prostitution within Stockholm’s red-light district, the government of Sweden determined to change the legal framework surrounding the purchasing of sex. In his book, *The Johns: Sex for sale and the men who buy it*, Victor Malarek discusses two competing visions that emerged in Sweden when confronting the growing issue of trafficking and prostitution. The first side of the argument supported the legalization of prostitution, the notion that it is “inevitable, inescapable, and necessary” which assumes that we can “reduce the harm through tolerance zones, safe-sex programs, and safer streets” (Malarek 2009: 239). The second competing vision was one of “a complete rejection of the notion that some women and children should be used as commodities that can be bought and sold” (Malarek 2009: 239). Sweden’s government decided the second vision was the one to pursue and “concluded that the majority of people caught up in the flesh trade are victims who are economically, racially, or ethnically marginalized and oppressed” (Malarek 2009: 238). The Swedish government opted in favour of the view that the “legalization of prostitution will inevitably normalize an extreme form of sexual discrimination and violence and strengthen male domination of all female human beings” (Ekberg 2004: 1189).

Until 1999, the purchasing and selling of sexual services was legal in Sweden. Malmskillnadsgatan Street in Stockholm, once infamous for being the city's main area for street prostitution is now quite dead. The government took a drastic turn and implemented what is known in Sweden as *Sexköpslagen* or Sweden's Sex Purchase Law which entered into force in January 1999 and makes it unlawful to obtain, or attempt to obtain, casual sexual services for compensation. "Compensation" does not necessarily need to be monetary, but might include alcohol, drugs, meals or gifts that have been agreed upon in advance (Dodillet and Östergren 2011: 4). The law was updated in 2002 to include a trafficking specific portion which states that, "any person, who by means of coercion or other improper means takes part in the cross-border process of recruitment, transportation, transfer, harboring or reception of a person for the purpose of sexual exploitation, may be sentenced to between two to ten years of imprisonment" (Dodillet and Östergren 2011: 5).

In order to ensure that women would no longer face arrest and prosecution for prostitution and to hold the "johns" criminally responsible for the sexual exploitation of women, the government of Sweden decriminalized the selling of sex (Malarek 2009: 238). Jonas Trolle, an inspector with the Stockholm police unit explained, "the goal is to criminalize the demand side of the equation, the johns, rather than put emotionally and physically imperiled women behind bars" (Malarek 2009: 238). Furthermore, "Swedish laws are extraterritorial, meaning that all Swedish citizens can be charged, prosecuted, and convicted under Swedish laws when having committed a crime in another country, if that country has legislation similar to Swedish legislation" (Ekberg 2004: 1196). "According to the Swedish Penal Code, the sanction for such a crime may not exceed the maximum penalty prescribed for that crime under the law of the country where the crime

was committed” (ECPAT).

Swedish legislation was amended again in 2005 to extend to cases where payment had been promised or made by someone else in order to capture third parties (International Centre for Criminal Law Reform and Criminal Justice Policy 2010: 27). The Swedish government also developed various programs to address underlying causes for human trafficking such as gender inequality and violence against women. “The reform package, referred to as “Kvinnofrid,” or “Women’s Peace,” has three policy goals: to promote women’s equality, to protect women from men’s violence, and to build public support for the view that prostitution is violence against women” (International Centre for Criminal Law Reform and Criminal Justice Policy 2010: 25). Furthermore, in its “Violence Against Women Act the Swedish government and the Parliament define prostitution as a serious form of male violence against women and children that constitutes a significant social problem, harmful not only to the prostituted person, but also to society” (International Centre for Criminal Law Reform and Criminal Justice Policy 2010: 25).

The government of Sweden in collaboration with the Division for Gender Equality has also given extensive attention and funds to enhance police enforcement of the law in addition to training and educational programs for local and regional police forces. “When the Law came into force, SEK\$7 million (approximately US\$1 million) was set aside by the government for police enforcement. The money was allotted to four police districts, including the three largest cities. Then, in 2003, the Swedish government granted another SEK\$30 million (approximately US\$4.1 million) for 3 years to the National Board of Police, specifically earmarked for measures to combat prostitution and

trafficking in human beings” (Ekberg 2004: 1193). “One year after the program began in 2003, there was a 300% increase in arrests, believed to be the result of the investigating officers’ better understanding of the reasons behind the legislation, their deeper comprehension of the conditions that make women vulnerable to becoming victims of prostitution and trafficking, and the development of better investigation methods” (Ekberg 2004: 1196).

Positive Effects of Swedish Law

The government of Sweden indicates that this law has had a direct effect in decreasing sex trafficking of women in the country over the past decade. There are less johns buying sex due to the harsh consequences and the fear of getting caught. “The government estimates that around 3,000 women were involved in the sex trade before the law. Within four years that number more than halved” (Malarek 2009: 241). Meanwhile, in neighbouring Denmark and Norway, the number of women in the sex trade is roughly three times higher than that of Sweden’s. “In Norway, Denmark and Finland, which each have half the population of Sweden, it is estimated that the number of trafficking victims are 5,000, 7,000 and 12,000 a year, respectively” (Malarek 2009: 241). Additionally, in 2006, police in Sweden received 163 reports of the purchase of sexual service. Of them, 108 led to a conviction (Holmström & Skilbrei 2008: 20).

Ekberg and Wahlberg note in their 2011 article, *The Swedish Approach: A European Union Country Fights Sex Trafficking*, two major impacts that the new law in Sweden has had on the behaviour of men who buy sexual services. Men in Sweden are not only deterred from buying sexual services, but “demand has decreased considerably since the prohibition came into force. According to a 2008 study, the number of Swedish

men who have bought someone for the purpose of prostitution has decreased from 13.6 percent in 1996 to only 7.8 percent in 2008” (Ekberg & Walberg 2011). Additionally, “the number of men who have been apprehended since the Swedish law came into force in 1999 is steadily increasing due to training of police officers and prosecutors. Between January 1999 and December 2010, 3,440 men were apprehended; many more have been dissuaded from purchasing someone by the direct or indirect intervention of the police” (Ekberg & Wahlberg 2011). The key approach Sweden used was holding workshops to educate cops, prosecutors, and judges about prostitution, the victims, the rationale, behind the legalization and how to implement the law. Within a year, there was a 300 percent increase in arrests” (Malarek 2009: 242).

The change in Swedish law has brought immensely positive changes for women who are trafficked in to the country. “The Swedish National Criminal Investigation Department (NCID), which is Sweden’s National Rapporteur for trafficking in human beings, says that there are clear indications that the law has had direct and positive effects on trafficking in women for prostitution purposes to Sweden” (International Centre for Criminal Law Reform and Criminal Justice Policy 2010: 27). Gunilla Ekberg, special advisor on prostitution and trafficking for the government of Sweden stated, “The law is a concrete and tangible expression of the belief that in Sweden women and children are not for sale” (Malarek, 2009: 237). Swedish women claim that the law has “provided an incentive for women wanting to escape prostitution to seek the assistance that they need” (Ekberg 2004: 1204).

By making it illegal to purchase sex, Sweden is no longer an attractive market for traffickers. “Without a legal market, pimps and traffickers face increased risk factors to

running their business” (International Centre for Criminal Law Reform and Criminal Justice Policy 2010: 27). “The NCID has received signals from Europol and national police forces in other European countries that Sweden no longer is an attractive market for traffickers and a 2004 NCID report concluded that the law that prohibits the purchase of sexual services “continues to function as a barrier against the establishment of traffickers in Sweden” (Ekberg 2004: 1201).

Ekberg cites that the pimps and traffickers in Sweden are frustrated with the current environment in Sweden and expressed the following difficulties: “Prostituted women must be escorted to the buyers, therefore giving less time to fewer buyers, and gaining less revenue for pimps than if women had been in street prostitution; Swedish men who want to buy women for prostitution purposes express serious fear of being arrested and prosecuted under the Law and hence demand absolute discretion from the pimps/traffickers; to minimize the possibility of exposure/detection, the pimps/traffickers are forced to operate apartment brothels in more than one location and to change locations regularly. Thus the mode of operation is expensive and requires that the pimp have local contacts” (Ekberg 2004: 1201). Therefore, traffickers are choosing other destination countries where their business is more profitable.

The example led by Sweden has gained international attention as a “viable and effective tool to prevent prostitution and trafficking of human beings” (Ekberg & Wahlberg 2011). Public support in Sweden for the Sexkopslagen is overwhelming. “Three polls conducted between 1999 and 2002 found that approximately 80 percent of the population supports the law and the principles behind it” (Malarek 2009: 245). “In 2008, it was found that 71% of the respondents were in favour of maintaining the law,

and the same percentage wanted to criminalize the seller of sexual services” (Danna 2011: 82). Prior to the law’s existence in 1996, 13.6% of Swedish men over 18 had bought somebody once or more for prostitution purposes and in 2008, a study showed that the number of male buyers was down to 8% (Dodillet and Östergren 2011: 16).

Despite the support for the Sex Purchase Law, not all Swedes are in favor of the law. It has sparked some controversy in the country with regards to the profession of prostitution. A strong opponent, Swedish writer Petra Östergren describes a sort of ‘choice ideology’ wherein some women actually do *choose* to work in prostitution. She writes that the “most common and perhaps most serious complaint regarding sex workers themselves is that they experienced an increased stigmatization after the introduction of the Sex Purchase Act due to the fact that they were not consulted in the making of the law and therefore do not feel fairly or respectfully treated” (Dodillet and Östergren 2011: 20). Östergren also states it was not considered whether or not the law violates their right to self-determination and that some women also state that “the ban is a violation of their human rights, and many say that they are not regarded as fully worthy members of society” (Dodillet and Östergren 2011: 21).

Östergren and her supporters find the law “paradoxical, illogical and discriminatory” and that it “further obstructs their work and exposes them to danger” (Malarek 2009: 244). Some argue that the sex trade has been forced underground and become even more dangerous for the prostituted women, whereas in a society that openly allows prostitution, health standards are regulated and women are more protected. However, “evidence-based studies in other countries have found that there is little difference in the level of violence experienced by prostitutes whether they solicit clients

publicly or behind closed doors” (International Centre for Criminal Law Reform and Criminal Justice Policy 2010: 28).

It is unclear to critics whether the law has actually reduced prostitution in Sweden, as they argue that blatant selling of sex in the streets may have disappeared, it may have moved to more secret venues such as the Internet. “A 2003 Goeteborg-based study found that the Internet was becoming the favourite way to advertise and buy sexual services in Sweden” (Cameron 2008: 98). Ekberg states that the buyers may think that by doing things on the Internet, they are invisible, when the exact opposite is true. It is now easier than ever to track down the buyers’ attempts to contact the pimps as the Swedish National Police have a specific department designated to monitoring prostitution, trafficking and pornography via the Internet. Additionally, Sweden has implemented a court decision, which allows email correspondence between buyer and pimp as evidence in Swedish courts.

Legalization of prostitution in Nordic Countries

The growing number of foreign women working in prostitution has placed the question of trafficking for sexual exploitation high on the political agenda. “Each of the Nordic countries has signed the 2003 UN Protocol on human trafficking as well as signed the 2008 Council of Europe Convention on Action against Trafficking in human beings” (Holmström & Skilbrei 2008: 9). Surrounding Nordic countries are also changing their laws in order to combat trafficking through eliminating the demand. Countries such as Norway, Finland and Iceland have initiated similar laws (International Centre for Criminal Law Reform and Criminal Justice Policy). As of January 2009, the government of Norway criminalized the purchase of sexual services making it the second

country in the world to follow the Swedish Model. Norway has also adopted a victim-centered approach to victim protection, offering generous and diverse victim services through specialized NGOs and local governments (UNHCR 2012 Trafficking In Persons Report-Norway).

Contrastingly, the Netherlands has a vastly different opinion and framework in dealing with prostitution and trafficking wherein prostitution has been legal since 1988 and therefore “working hours, health and safety regulations, paid leave entitlement, tax law and social security regulations are all regulated by the government” (Cameron and Newman 2008: 36). Germany and Denmark have also decriminalized prostitution, making it legal in both countries. The red light districts in Copenhagen and Amsterdam are alive with women selling sex openly on the streets. Since Denmark has decriminalized prostitution, the number of women prostitutes has only grown in recent years. Furthermore, it is apparent that trafficking is occurring in the country as according to Danish National Police, the women used to be mainly Danish, whereas now they are mostly from Africa or eastern Europe. The \$1 billion a year industry accounts for five percent of the Dutch economy. According to the TIP Report, women and children from Nigeria, China, Bulgaria, Romania, and Poland are sexually exploited within the Netherlands each year (Carrigg 2008: 7).

In October 2000, the Netherlands government lifted its ban on brothels and local authorities are now able to implement policies and issue licenses to brothels in order to regulate safety and hygiene standards (Cameron 2008: 99). “The lifting of the brothel ban created a new economic sector, allowing anyone to establish a brothel, escort service, or massage parlour by simply applying for a license from the municipality. The

municipality cannot refuse such requests, and in fact many brothels are even found in farm houses.” This also banned workers from outside the European Union from applying for sex labor permits within the Netherlands. Additionally, the Dutch “only offer licenses (and thus formal protections) for sex work to citizens of the European Union. This policy is problematic for the estimated 15,000 prostitutes in the Netherlands who are not from EU member states. These prostitutes are unprotected by any regulation schemes, and are vulnerable to abuse, occupational health hazards, and trafficking” (Carrigg 2008: 9).

This new Dutch law may have resulted in reduced trafficking in the Netherlands, but it has had a direct effect on illegal foreign sex workers. In today’s globalized world, migrant women now make up a significant portion of the sex industry and the policies currently in place in the Netherlands do not apply to migrant women. “Migrant sex workers without residence permits were forced to leave brothels. As a result many now work in illegal brothels or travel around various cities in the Netherlands and abroad” (Cameron 2008: 102). “Migrant sex workers often bear the brunt of protectionist policies and the shifting production and consumption of sex tourism within the city. To the extent that Dutch laws and policies have been designed to facilitate sex tourism while simultaneously keeping migrant women out of sex work, they serve to institutionalize ‘a two-tiered hierarchy of sex work’ that leads to ‘even greater impoverishment and risk’ for migrant sex workers” (Lee 2011: 52). Foreign sex workers who are found working illegally (without a valid residence permit) are deported.

With regards to trafficking in countries where prostitution is legal, it is difficult to identify accurate figures about how many of these women have been trafficked. “The Dutch national rapporteur on human trafficking quoted various sources identifying up to

371 registrations of trafficking victims in 2002, including some who had been domestically trafficked” (Cameron and Newman 2008: 36). “The Dutch government admits that it is difficult to estimate the number of victims trafficked into and out of the Netherlands each year. This lack of credible information makes it difficult to know whether or not the legalization of prostitution has expanded the commercial sex industry and increased the proliferation of human trafficking” (Carrigg 2008: 10). However, some indicators show the legalization of prostitution facilitates trafficking. “Of the 80 percent of foreign-born prostitutes that are believed to be working in the Netherlands, 70 percent are undocumented and unlicensed.” Carrigg states that these figures demonstrate unwillingness on the part of Dutch women to *voluntarily* work in prostitution, legalized or not. These figures demonstrate an active market for forced prostitution; the available supply cannot meet current demand; hence, women from both within Netherlands and abroad are being brought into the sex industry by coercive means” (Carrigg 2008: 10).

Both Sweden and the Netherlands adopted opposing views on the issue of legalizing prostitution or criminalizing the purchasing of sexual services. “The key issue for human trafficking when comparing Swedish and Dutch policies is the assumed effect each has on demand for services in the commercial sex industry” (Carrigg 2008: 12). The approaches may never completely eradicate the trafficking of women and girls for the purposes of sexual exploitation but with the evidence available, it is easy to conclude that the Swedish model may be able to change the norm and culture surrounding how women are treated and therefore continues to diminish the demand for women as commodities. “The case of the Netherlands has shown that permitting even legal prostitution creates harm situations where systematic abuses are common and where

trafficking is likely to thrive. While the Swedish regime is far from perfect, it is a movement towards a standard that, if adopted internationally, could be very powerful in ending transnational and internal trafficking in human beings” (Carrigg 2008: 12).

Overall, in looking at the support for the Swedish Sex Purchase Law, it is apparent that citizens of Sweden support it and through the government’s campaigns and greater awareness tools regarding the buying and selling of women, it is likely that the number of trafficked women in Sweden will continue to come down. It is evident that legalization further exacerbates the problem of trafficking into and within a country as the demand for sex increases and it become more “socially acceptable”. The numbers of women and girls trafficked for the purposes of sexual exploitation are continuing to grow in countries such as the Netherlands and Denmark, which have legalized prostitution. “A report done for the Budapest Group found that 80% of the women in the brothels in the Netherlands are from other countries — most of them recruited and trafficked to Holland. Claims that legalizing and regulating prostitution lessens violence against women in prostitution and improves the health of women in the sex industry are unproven and need to be scrupulously examined” (Guide to the new UN Trafficking Protocol 2001: 8).

With the legitimization of buying and selling women in a society, women become further marginalized and instead of actively participating as free members of a society, exploitation and sex trafficking will become the norm. “When you legalize prostitution, you enable organized criminal groups to establish corporations with rights to sue the government over lost profit” (Hope for the Sold, 2012). Anna Hedh, a Swedish Member of the European Parliament stated, “If we achieve a society free from prostitution and sexual exploitation of women and girls, we will also get rid of a large share of human

trafficking in the EU” (McKenzie, 2012).

The Swedish Model in Canada?

In order to determine if the Swedish Model could be applied to Canada, it is important to understand the “middle ground” that Canada currently is on regarding prostitution laws. “According to the law, prostitution itself was legal but *everything surrounding it* was illegal. Prior to September 2010, it was illegal to: 1) communicate for the purposes of prostitution (i.e. soliciting on the street), 2) live off the avails of prostitution (i.e. “pimps” living off the money they receive from exploiting women and children, or someone in the trade paying for their child’s education with money from prostitution), and 3) keep a bawdy house (i.e. operating or working out of a brothel, which could include residences used by groups of women)” (Brock, Hope for the Sold, 2012).

In the case of *Bedford v. Canada*, Canada’s anti-prostitution laws were challenged as Bedford and Scott fought to have prostitution decriminalized. “On September 28, 2010, the Ontario Superior Court ruled in favour of their proposal by striking down the three anti-prostitution laws. This meant it was no longer illegal to keep a bawdy house (brothel), communicate for the purposes of prostitution, or live off the avails of selling sex. The federal government appealed the Ontario Superior Court’s decision, in effect reversing it until it was looked at again by the Ontario Court of Appeal” (Brock, Hope for the Sold, 2012).

Then on March 26, 2012, “five judges found that banning bawdy houses and living off the avails of prostitution were unconstitutional, but agreed with the Crown that the open solicitation of prostitution should be illegal. Therefore sex trade workers can

now legally run or work in Ontario brothels, as well as hire drivers, bodyguards and support staff. From a legal standpoint, it makes prostitution just like any other taxable profession” (Brock, *Hope for the Sold*). The case will go before the Supreme Court of Canada in the near future.

The Canadian government should carefully examine the effects that legalizing prostitution has had in the Netherlands, wherein legalization of the prostitution industry has only increased the demand for paid sex and trafficked women to the region. Sweden’s approach to reducing trafficking through a broad-based and comprehensive women’s equality scheme is consistent with Canada’s constitutional guarantees of women’s equality rights in the Canadian Charter of Rights and Freedoms as well as anti-discrimination protections in the Canadian Human Rights Act and provincial and territorial human rights regimes (International Centre for Criminal Law Reform and Criminal Justice Policy 2010: 29). Canada would be wise to look to the Swedish Model as this approach has reduced incentives for “johns” and traffickers to do business there. Currently in Canada, there is a need for the provision of services such as housing, counseling and addiction programs, and interview/job training for women who wish to leave the sex trade and adopting the Swedish model could provide a solution to this.

Though it may be complicated and difficult to enact real policy changes regarding criminalizing the purchasing of sex in Canada, limited knowledge coupled with the low numbers of prosecutions should prompt lawmakers to act. The demand for commercial sex with women and children is the root cause for prostitution and trafficking for sexual purposes. Furthermore, child prostitution and violence towards women have increased in countries where prostitution has been legalized. To address these facts, there is currently

a petition urging Canadian Members of Parliament to amend the Criminal Code to decriminalize the selling of sexual services and criminalize the purchasing of sexual services and provide support to those who desire to leave prostitution, essentially for Canada to adopt the Swedish model. The Swedish model could be applied to Canadian policy, but laws have to change in order to change how “the true North strong and free” responds to the basic human right of not being sold for sex.

VI. Conclusion

In conclusion, this paper has sought to provide clarity surrounding the complex issue of human trafficking for the purposes of sexual exploitation of women and girls from a global context, a Canadian context and a Swedish context. As sex trafficking continues to rise, countries must confront this lucrative crime and look to countries that are successfully combating it. The example of Canadian legal reform over the past few years has been an incredible step in the right direction, but there is more to be done. Provincial and local governments must continue to support anti-trafficking initiatives conducted by civil society and NGOs. This paper agrees that, “Both the federal and provincial governments must devote financial resources to develop a comprehensive system to help protect trafficked individuals. At present, governmental victim support is administered at the provincial level, leading to an inconsistent provision of services across the country. While British Columbia, has established an agency for trafficked individuals to assist them to access social services, others provinces such as Ontario and Quebec have yet to do so” (West Coast LEAF, 2009). Overall, “the global community should eliminate economic policies that create conditions ripe for an illicit sex trade” in order to combat human trafficking (O’Brien, 2008).

Sweden has also made large strides in the fight against trafficking as its laws continue to change to help vulnerable women and girls. “In a world where nation after nation is contemplating legalization as a quick fix for the myriad ills that plague prostitution, Sweden was the first country to have had the courage and resolve to turn against the tide” (Malarek 2009: 238). Countries that have a lax legal framework regarding human trafficking across their borders and within their borders should look to countries like Canada and Sweden for guidance in amending and enhancing their laws to “prohibit the purchase of a sexual services, with the objective of discouraging demand, and introduce legal and policy measures that render the establishment, operation, and expansion of the prostitution industry illegal” (West Coast LEAF, 2009).

Canada must continue to address the root cause of the exploitation of women through prostitution (the demand), without which the global industry of trafficking and prostitution would collapse (Ekberg 2004: 1189). Currently in Canada there is movement from Members of Parliament to amend Section 213 of the *Criminal Code* to only criminalize the purchasers of sexual services and adopt the Nordic Model. With its ongoing challenges and the impact of new framework yet to be seen, the Government of Canada should implement future legislation that would criminalize the purchase of sex as an effective step toward the goal of all countries experiencing a “political, legal, social, and economic rights of women and girls are respected, advanced, and upheld” (West Coast LEAF, 2009).

Additionally, information sharing between the U.S. and Canada is vital and further information sharing between Canada and international partners is also necessary. With effective communication and coordination not only among federal and provincial

governments in Canada, but also at the national level between countries' governments, real change can be enacted in ending this industry. Through the implementation of Canada's new National Action Plan, Canadian citizens will learn of the avails of sex trafficking and how it affects Canada as a whole. Canada must also educate its most vulnerable population and provide programs similar to Sweden wherein women and girls have a hope for their future.

In addition to enhanced education and information sharing on this issue, the U.S. Department of State has listed some policy recommendations for Canada in the 2012 Trafficking in Persons Report. Some of these recommendations include: "intensify efforts to investigate, prosecute, convict and sentence trafficking offenders using anti-trafficking laws; enhance specialized care services available to trafficking victims; increase efforts to educate police, prosecutors, and judges about trafficking; continue efforts to improve trafficking data collection; and strengthen coordination among national and provincial governments on law enforcement and victim services" (U.S. Trafficking In Persons Report 2012).

Finally, it is very difficult to break out of the cycle of oppression if one is not given the opportunity. Therefore, when women and girls are encouraged to participate in their economies, the economies will grow in a healthy way. Economic empowerment is key for these women to break out of the cycle of sex work. "The Canadian government must make decisions that enable real opportunities for young women" (Hope for the Sold, 2012). Canada must also learn from countries that are providing better incentives for women to further their education and receive real economic gain in the workplace. By offering these women and girls a means for self-sufficiency as well as an economic

alternative to further exploitation, Canada can truly become a world leader in the fight against sex trafficking.

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