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UNITED STATES-CANADA

Bi-National Assessment of Trafficking in Persons



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Table of Contents

Acknowledgements	ii
Introduction	1
Migrant Smuggling vs. Human Trafficking	1
Purpose.....	2
Worldwide Snapshot: Nature and Scope of TIP	3
Recruiting Trafficking Victims	3
Transporting Trafficking Victims.....	3
Harbouring Trafficking Victims	3
Root Causes	3
Trafficking Victims.....	4
Perpetrators of Human Trafficking.....	4
Trafficking Routes.....	5
Impact of TIP	5
Trafficking in Persons – What is Known	7
Extent of TIP in the United States and Canada	7
Root Causes	7
Gaining Entry	8
Involvement of Criminal Organizations	8
Flow of TIP	9
Nature of TIP	10
Combating Trafficking in Persons	11
Prosecution	12
Protection.....	13
Prevention	15
Bilateral Cooperation	19
Canada-U.S. Cross Border Crime Forum.....	19
Integrated Border Enforcement Teams.....	19
Integrated Border Intelligence Teams	19
Shared Border Accord.....	19
Smart Borders and the Security and Prosperity Partnership of North America.....	20
The North American Agreement on Labor Cooperation.....	20
Mutual Legal Assistant Treaty	20
Examples of Joint Operations	21
Recommendations	23
Acronyms	24

Chapter 1: Introduction



The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*¹ defines trafficking in persons (TIP) as the recruitment, transportation, transfer, harbouring or receipt of persons, by various means of coercion, force, fraud, or the abuse of power, for the purpose of exploitation. Exploitation typically includes sexual exploitation, forced labour, involuntary servitude, or slavery.² At its heart, the modern conception of TIP involves all of the activities associated with holding persons in compelled service. TIP may occur across or within borders, involve victims of any age and gender, and be committed by lone individuals or organized criminal networks. In any of its manifestations, TIP is a serious crime and violates the basic human rights of its victims.

The clandestine nature of TIP makes it difficult to ascertain its true magnitude. The United Nations has estimated that over 700,000 persons are trafficked annually and some non-governmental organizations (NGOs) put the number over 1 million each year. As of August 2005, the U.S. Government estimates that 600,000 to 800,000 persons are trafficked across international borders each year. Further, the International Labour Organization (ILO) estimates that a minimum of 2.45 million persons worldwide are in situations of forced labour at any given time as a result of TIP.³ The range in the estimated number of trafficking victims demonstrates the difficulty in obtaining accurate figures on this underground, illicit activity.

Migrant Smuggling vs. Human Trafficking

The vast majority of people who illegally enter Canada or the United States are smuggled rather than trafficked. However, it can be difficult to distinguish between migrant smuggling and TIP. Migrant smuggling involves the facilitation, transportation, or procurement of the illegal entry of a person or persons across an international border. Migrant smuggling occurs with the consent of the person(s) being smuggled, who often pay large sums of money to be smuggled. Once in the country of final destination, the smuggled person(s) will generally be left to their own devices.

The predominant difference between smuggling and TIP is that TIP involves the use of threats, force, coercion or fraud resulting in the conditions of servitude, slavery or commercial sexual exploitation. Also, while TIP victims can be trafficked across borders, they can also be trafficked within their own countries or communities. Not all victims are illegal migrants; they may be citizens, legal residents, or legitimate visitors.

Despite these differences, smuggled persons may become TIP victims at any point in the smuggling process. Potential victims may consent, for example, to crossing borders or being smuggled across a border, but find on arrival in the country of destination that

¹ [hereinafter *Trafficking Protocol*]. Both the United States and Canada have ratified the *Trafficking Protocol*.

² TIP may be defined differently under domestic law. For example, the definition of “exploitation” in the *Trafficking Protocol* includes removal of organs, which is not part of the U.S. TIP laws. Additionally, the U.S. law limits what is referred in this paper as “TIP sexual exploitation” to “commercial sex acts”, which is defined in the *Trafficking Victims Protection Act 2000* as “any sex act on account of which anything of value is given to or received by any person.”

³ International Labour Organization, “A global alliance against forced labour” International Labour Conference, 93rd Session 2005 (International Labour Office: Geneva, 2005) p.14. In this report, the term “forced labour” includes both economic and commercial sexual exploitation. These estimates reflect the minimum number of persons in forced labour at a given time as a result of human trafficking; they are not annual global estimates.

conditions of indentured servitude, debt bondage,⁴ or other forms of exploitation have been imposed. If this occurs, they become victims of TIP.

Purpose

At the 2004 U.S. – Canada Cross Border Crime Forum, U.S. and Canadian officials were directed to conduct a bi-national assessment of the impact of TIP on cross-border criminality. The completion of a U.S. - Canada assessment on TIP is also a deliverable of the Security and Prosperity Partnership Initiative,

announced by the United States, Canada and Mexico in March 2005. This assessment, which is being presented at the 2006 Cross Border Crime Forum, was prepared jointly by the U.S. Human Smuggling and Trafficking Center, Department of Justice and Department of Homeland Security and by Justice Canada, the Portfolio of Public Safety and Emergency Preparedness Canada and the Department of Foreign Affairs and International Trade. It is intended to promote increased coordination in responding to the problem and to provide the United States and Canada with essential information.

⁴ The *Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery* 1956 defines “debt bondage” as “the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited or defined” (Article 1(a)).

Chapter 2: Worldwide Snapshot: Nature and Scope of TIP



TIP is a process that involves the recruitment, transportation or harbouring of victims for exploitation. Each of these stages may be characterized by specific patterns of behaviour and other varying factors, such as deception or force, and may involve many perpetrators facilitating different stages in the process and sometimes operating in different parts of the world.

Recruiting Trafficking Victims

Traffickers may lure victims through false promises of “legitimate” employment as domestic workers, factory and farm workers, nannies or models only to ultimately coerce them into the commercial sex trade or forced labour. In some cases, trafficking victims may know what type of work they will perform but are deceived about the working conditions, or the degree of personal liberty or freedom of movement they will possess. Traffickers may also “buy” children from poor families, in some cases promising a better life, only to later exploit them. Traffickers also obtain victims through kidnapping or abduction.

Advertising in newspapers, magazines and on the internet can play an important role in recruiting victims. Potential victims are often promised a secure, prosperous future with great potential for themselves and their family. They may be deceived into believing that they are dealing with legitimate businesses, such as artistic agencies, domestic staff agencies, matrimonial agencies, language schools or vocational institutions.

Transporting Trafficking Victims

TIP is often an international crime that involves the crossing of borders, though trafficking victims can be exploited within their own countries and communities.

In international TIP cases, trafficking victims may enter a country legally or illegally. Potential victims may be smuggled into the destination country either directly or through transit countries. Traffickers may use deception and fraudulent documents to illegally take advantage of particular types of entry visas. In some cases, persons who enter countries as legitimate visitors are subsequently exploited by traffickers.

Identifying potential trafficking victims who are in transit can be difficult since exploitation may not yet have occurred, and these individuals may be unaware that they will be subsequently exploited. Potential victims may view traffickers as assisting, rather than exploiting them. At this stage, smuggling rather than trafficking may appear to be the arrangement.

Harbouring Trafficking Victims

Harbouring trafficking victims always involves some type of restriction on their freedom. Traffickers use a number of methods to control their victims, including the confiscation of their identification and/or travel documents, monitoring and surveillance of their movements, restraint, sexual assault, and violence or threats of violence to themselves or their family members. Victims may be exploited in the commercial sex trade, for example, by being forced into prostitution or the production of pornography, or they may be forced to work in specific industries, such as the agricultural, garment or construction industries.

Root Causes

TIP is driven by a set of interrelated “push and pull” factors. Push factors that can lead to TIP include extreme poverty, unemployment, lack of education and opportunity, lack of information, inadequate social

programs, gender-based inequality, war and conflict situations and political unrest in countries of origin.

Pull factors include a globalized, free market economy that has increased the demand for cheap labour, goods and services in countries of destination. Further, new communications technologies, including the internet, operate without national boundaries and can be difficult to regulate. These technologies allow for instantaneous and worldwide opportunities to facilitate TIP.

Trafficking Victims

While obtaining accurate information about trafficking victims has been difficult, increased focus on the problem worldwide has provided more information on who is at risk of being trafficked for different types of exploitation. Generally, international trafficking patterns suggest that trafficking victims are predominantly drawn from the most vulnerable populations. Women and children, who are disproportionately affected by the push factors associated with TIP, constitute the majority of trafficking victims.

In 2005, the ILO released global estimates on the number of people in forced labour situations generally and as a result of TIP, broken down by geographical region and by form of forced labour.⁵ Results provide important information on the victims of TIP:

- Of the 2.45 million persons in forced labour situations as a result of TIP, 43% have been trafficked for the purpose of commercial sexual exploitation, while 32% have been trafficked for economic exploitation (the remainder are trafficked for mixed or undetermined reasons);
- 98% of those trafficked for sexual exploitation are women and girls;
- Of those trafficked for economic exploitation, 56% are women and girls and 44% are men and boys;
- Trafficking for economic exploitation represents approximately 25% of all trafficking in industrialized countries, and 90% of all trafficking in the Middle East and North Africa;

- Approximately 40-50% of all victims of human trafficking are children.

Perpetrators of Human Trafficking

Available information indicates that traffickers tend to fall into three broad categories: members of larger criminal organizations, members of smaller crime groups or individual criminals.

Organized crime - The involvement of transnational organized crime groups in human trafficking is part of a growing global trend. TIP generates profits for criminal organizations⁶ and has been a low risk, high gain criminal activity. Proceeds from human trafficking may then be used by organized crime groups to finance other criminal operations.

Small criminal networks - Despite the widespread impression that traffickers usually operate through large organized crime groups, TIP also occurs through smaller, decentralized criminal networks. Small groups of criminals that specialize in particular stages of the trafficking process, such as recruitment, transportation, or operating as the ‘employer’ are known to be involved in TIP. Additionally, TIP can be perpetrated by small family criminal groups who often control the operation from start to finish – from recruiting to operating the exploitative enterprises, such as brothels, sweatshops, and farms.

Individual criminals – Opportunistic individuals working independently, including, in some cases, corrupt government officials, may also traffic persons for profit.

In the case of internationally trafficked persons, traffickers are tapping into a growing industry of fraudulent documents, including the purchase of forged or stolen documents. Traffickers may have their own workshops for falsifying/creating documents to facilitate entry, residence or employment in the destination country. They may produce official-looking

⁵ International Labour Organization, “A global alliance against forced labour”, *supra*. In this report, the term “forced labour” includes both economic and commercial sexual exploitation.

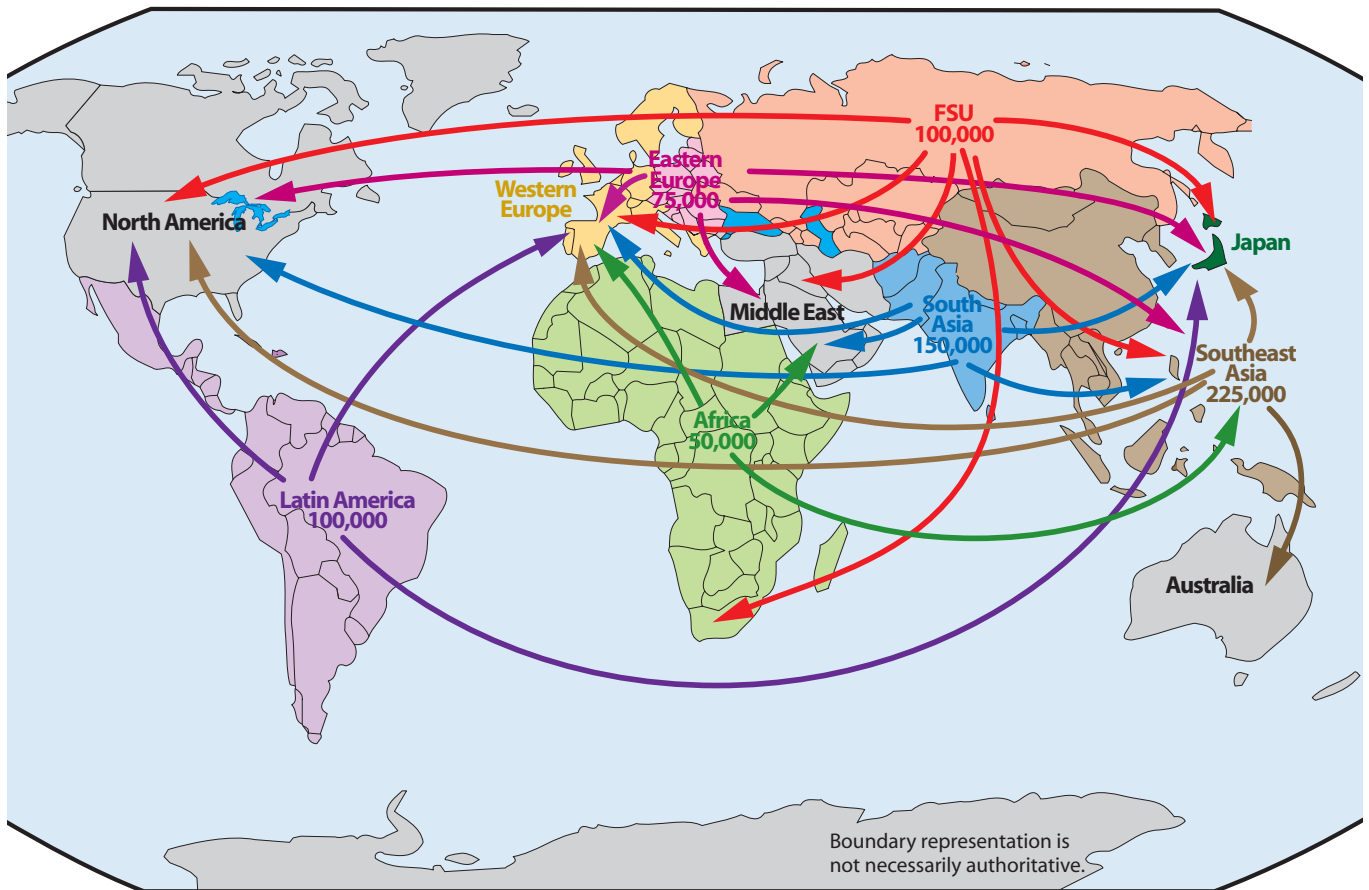
⁶ See International Labour Organization, “Forced Labour and Human Trafficking: Estimating the Profits”, Working Paper (International Labour Office: Geneva, 2005).

fraudulent documents, such as birth certificates, marriage certificates, passports, false letters of invitation and false work contracts.

Members of criminal organizations engaged in human trafficking, especially for sexual exploitation, are often

of the same nationality as the victims they control. Some case studies and research indicate that an increasing number of female traffickers — usually former victims — are active in the trafficking arena, perhaps in exchange for their own freedom.⁷

Global Trafficking in Women and Children: Major Source Regions and Destinations (c)



Source: *United States International Crime Threat Assessment*, December 2000. Figures represent estimates of individuals trafficked per year.

Trafficking Routes

International traffickers often orchestrate trafficking activity in several countries at one time, evading authorities in one country and re-establishing business in another, under a new identity. Routes used to move victims vary greatly, since traffickers regularly change their routes to avoid detection. New routes are

developed once established ones are uncovered and activities include establishing ‘safe houses’ and placing ‘receivers’ in various cities.

Routes used by human traffickers and organized crime groups are reportedly the same as routes used by migrant, drug, and weapon smugglers. Sometimes traveling together along these routes, groups will be

⁷ Europol, “General Situation Report 1996-97: Illegal Immigration”, The Hague, File No. 2562-52.

comprised of both trafficking victims and illegal migrants. Traffickers abuse regulatory controls and may use false or altered documents to transport victims.

Impact of TIP

TIP causes a number of direct and indirect harmful consequences to its victims, their communities and society as a whole. Trafficking victims may be physically and/or sexually assaulted, confined, restrained and/or subjected to psychological abuse. Fear for one's own personal safety, and the safety of loved ones can cause additional emotional trauma and stress. Trafficking victims may also experience shame, low self-esteem and a sense of powerlessness. The International Organization for Migration (IOM) reports that many trafficking victims suffer from post traumatic stress disorder as a result of mistreatment.

Trafficking victims may also face a number of health risks and diseases ranging from sexually transmitted infections such as HIV/AIDS to malnutrition. Unsanitary, crowded living conditions, poor nutrition, and lack of adequate medical care foster a host of adverse health conditions and a variety of communicable diseases.

Human trafficking also has wide-reaching societal impacts. For instance TIP:

- separates persons from their families and communities, including children from their parents;
- impedes education, development and future productivity;
- leads to loss of culture and language, especially for young children trafficked into foreign countries;
- stigmatizes and ostracizes its victims;
- reinforces the cycle of poverty and illiteracy that stunts national development.

Chapter 3: Trafficking in Persons – What is Known



TIP is an international phenomenon that poses significant international threats and challenges. The proximity of the United States and Canada, the extensiveness of our shared border, and the two-way movement of people and goods require both countries to continue to work closely together to deter human traffickers from exploiting our relationship and from using our countries as points of transit for TIP.

In both the United States and Canada, trafficking victims are forced to provide labour or services in exploitative conditions, often involving fraud, force, threats of force and other forms of coercion. Although the nature of TIP in both countries is similar, differences in trends and scope underline the importance of specifically targeted responses.

Extent of TIP in the United States and Canada

The best estimates available indicate that 14,500 to 17,500 victims are trafficked into the United States annually and greater than 80 percent of those victims are women and girls.⁸ It is also estimated that 600 to 800 people are trafficked into Canada each year, and 1,500 to 2,200 people are trafficked annually through Canada to the United States.⁹

It is generally understood that the number of victims reporting trafficking-related crimes significantly underrepresents the actual incidence of TIP. Victims are

reluctant to report the exploitative conduct to which they are subjected for many reasons. For example, victims are usually isolated and often unable to speak the language of the country in which they are exploited, and experiences in their country of origin may lead them to mistrust authorities. Also, traffickers may have threatened victims or their loved ones with violence and/or deportation, should they seek help.

The difficulty in distinguishing between TIP and migrant smuggling further complicates the development of reliable TIP estimates. Individuals may start out as willing participants in a smuggling operation, unaware of the exploitation to which traffickers intend to subject them. In such cases, smuggled migrants become trafficking victims once they are exploited at their destination point. However, when law enforcement intercepts an operation at a border, there is often no evidence of the intended exploitation; as such, a smuggling case is reported.

All of these factors make establishing reliable estimates on the incidence of TIP a challenge worldwide.

Root Causes

Growing demand for low cost labour and services in the United States and Canada, poverty, lack of education and employment opportunities and inequality in countries of origin are among the primary root causes of trafficking of persons into Canada and the United States. These push and pull factors can also

⁸ US DEP'T OF JUSTICE, ASSESSMENT OF U.S. GOVERNMENT ACTIVITIES TO COMBAT TRAFFICKING IN PERSONS 9-10 (June 2004), *available at* http://www.usdoj.gov/crt/crim/wetf/us_assessment_2004.pdf [hereinafter 2004 Assessment]

⁹ In 2004, the Royal Canadian Mounted Police (RCMP) released the first strategic intelligence assessment on TIP in Canada. This assessment was based on a review of incidents relevant to TIP and known to law enforcement in Canada from 1999 to 2003. This assessment provided an initial analysis of the nature and scope of trafficking in persons in Canada. The estimates were based on information existing during the relevant time period and gaps in intelligence were identified. Future analysis will strive to address intelligence gaps. Over time, the identification of cases and gathering of information will allow for an enhanced understanding of the extent of human trafficking in Canada.

incite individuals to participate in smuggling operations, only to find themselves exploited later on as trafficking victims.

The majority of trafficking victims come from the poorest countries and poorest strata of the national population; they tend to have little access to migration and labour-market related information, social networks abroad and other support structures, which makes them vulnerable to criminal groups or individuals who would exploit their poverty. Gender discrimination is also a major factor. For example, in very poor households young women and girls are often expected to improve their family's well-being by going abroad or by being sold directly to traffickers.¹⁰ These factors interplay with an increasing demand worldwide for cheap labour and services to create an environment which fosters TIP.

Gaining Entry

Trafficking victims enter Canada and the United States through both legal and illegal means. Some enter with genuine passports, entry documents, or work visas; instances of abuse of valid work visas have been reported in both countries. Others use falsified or altered entry documents, such as photo substitutions, or gain entry as imposters.

Fraudulent offers of employment are also being used to support applications to obtain visas and convince consular and border officials that the victim intends to return to their country of origin. Organized crime groups have been known to produce near genuine quality counterfeit travel, identity and employment documents for trafficking victims. Traffickers may also use escorts pretending to be the spouse, parent, family member or legitimate employer of the victim. The accompanying escort has been known to answer questions from immigration officials on victims' behalf at the port of entry. The trafficker often coaches potential victims on how to respond during their visa interview.

Traffickers may also secure entry for their victims by booking international flights on their behalf, which transit a Canadian or United States airport en route to another country. Once in the airport, the victim is met by an associate of the trafficking ring, who accompanies the victim out of the airport purposely missing their connecting flight.

Traffickers may also bring victims into and between the United States and Canada utilizing established smuggling routes and methods. These may include walking across the border, riding in car trunks or tractor trailers, stowing away in cargo containers or other methods of illegal transport.

Involvement of Criminal Organizations

Both globally and domestically, organized crime rings have become increasingly involved in facilitating TIP as a profitable enterprise in and of itself, or as a complement to other illicit activity such as drug/weapons running, migrant/alien smuggling, counterfeit document production, credit card fraud and/or identity theft. Since TIP requires a high level of sophistication involving various criminal actors playing different roles, criminal organizations' access to established criminal networks significantly facilitates their ability to perpetrate TIP.

Internationally connected organized crime groups are known to be involved in trafficking and smuggling individuals directly into the United States and Canada and through Canada into the United States. Chinese, Mexican, Central American, Russian and Eurasian gangs are among the foremost traffickers in the United States.¹¹ In Canada, Asian and Eastern European organized crime groups have been most involved in trafficking women from countries such as China, South Korea, Thailand, Cambodia, the Philippines, Russia and from the region of Latin America.¹² In both countries, traffickers are often of the same ethnicity as the victims they control.¹³ For example, Asian-based criminal

¹⁰ See International Labour Organization, "A global alliance against forced labour", supra pp.55-59.

¹¹ CRS Report for Congress: Trafficking in Women and Children: The US and International Response, Francis, T. Miko, updated March 26, 2004.

¹² Criminal Intelligence Service Canada, 2005 Annual Report.

¹³ Criminal Intelligence Service Canada, 2004 Annual Report, pp. 38-39 and 6-7. CISC uses proactive and integrated approach to providing leadership in the collection of criminal intelligence information on organized criminal activity in Canada.

organizations traffic Asians and Eastern European-based criminal organizations traffic Eastern Europeans. Predominantly, these groups are targeting women and children who are trafficked for the purpose of commercial sexual exploitation.

Criminal organizations use a number of different methods to gain control over victims. Some victims genuinely want to emigrate but are unable or unaware of how to do so legally; therefore, they may seek the services of criminal organizations to smuggle them into Canada or the United States. Once in the country, an inflated debt may be imposed (“smuggling fee”), and victims are then forced by brutality and restricted movement to pay off that debt in the form of sweatshop work, commercial sex or other criminal activity. Intelligence indicates that fees can be anywhere from \$800-\$6,000 (Cdn) to be smuggled from Canada into the United States or \$30,000-\$60,000 (Cdn) to be smuggled from Asia into Canada.¹⁴ Fees for individuals to be smuggled into the United States range from \$1,000 (US) to in excess of \$50,000 (US), depending on the nationality and/or distance the individuals are smuggled.¹⁵

Some traffickers actively seek out victims living in poor economic conditions and deceive or trick them into coming to Canada or the United States. These groups may advertise in the local papers of source countries for appealing jobs to attract specific victims or approach families with offers to assist their child or relative with a promising opportunity. In some reported cases, women responded to false advertisements for domestic services, child care, modeling, or waitressing. Upon arrival, victims are handed over to an established criminal group for exploitation and profit.

Flow of TIP

Generally, TIP flow worldwide is from less developed countries to industrialized nations, or toward neighboring countries with marginally higher standards of living, where there is greater demand for low cost labour and services.

Countries of Origin

In the United States, a large majority of trafficking victims are from Latin America.¹⁶ Victims also come from Asia,¹⁷ Africa,¹⁸ Eastern Europe, Indonesia, Jamaica and regions in India. Women and children who are trafficked from Central and South America, Eastern Europe, and Asia are generally destined for commercial sexual exploitation; however, the former Soviet Union may be the largest new source country for victims trafficked into the United States for commercial sexual exploitation.

In Canada, several source regions have been identified; Asia, in particular Thailand, Cambodia, Malaysia and Vietnam, and parts of Africa and Eastern Europe tend to be the primary source regions for persons being trafficked into or through Canada. Instances where either Canada or the United States is a source country for victims transported to other countries are few, and appear to represent the exception rather than the rule.

Trafficking victims can also be trafficked within the borders of Canada and the United States. Incidents of domestic TIP cases have been reported and prosecuted in both countries. Domestic cases in the United States tend to involve juvenile female victims who are trafficked inter-state for the purposes of sexual exploitation. In Canada, domestic trafficking victims are transported across provincial borders, or from northern communities to larger southern urban communities, and forced to work in the commercial sex trade.

Transit Countries

Traffickers may move persons into Canada and then across the Canada - United States border using a variety of entry points. Criminal organizations exploit designated land entry points, marine ports, airports and the vast, less monitored areas between ports of entry to move victims into the United States. The exploitation of designated entry points is facilitated by the large volume of commercial and traveler traffic between the

¹⁴ The 2004 RCMP Strategic Intelligence Assessment on TIP in Canada, *supra*.

¹⁵ *Characteristics of Chinese Human Smugglers*, US National Institute of Justice, 2004.

¹⁶ In particular, Mexico, El Salvador, Guatemala, Bolivia, Brazil, Peru, and Colombia

¹⁷ In particular, China, Korea, South Korea, Vietnam, Malaysia, Thailand and Cambodia.

¹⁸ In particular, Ethiopia, Nigeria, Kenya, Morocco, Ivory Coast, Ghana and South Africa.

two countries, and in some instances, aided by criminal elements influencing or operating at these ports.¹⁹

Transportation of trafficking victims from Canada to the United States is often contracted to individuals that are not necessarily directly connected to a larger criminal organization.²⁰ For example, there have been several cases of interceptions of small groups crossing into the United States from sites in B.C., Alberta, Quebec and Ontario. It is often difficult to establish whether these people are smuggled migrants or victims of trafficking.

Destinations

Foreign victims have been trafficked into urban, suburban and rural areas throughout the United States. United States law enforcement has documented cases of Eurasian girls trafficked into sexual slavery in New York, Baltimore, Chicago and Los Angeles; Thai, Korean, Malaysian and Vietnamese girls into Georgia; and Mexican girls into California, New Jersey and Florida. Foreign victims transiting Canada are often bound for final destinations in the United States.²¹ In particular, Asians brought illegally to Canada's west coast have moved on to New York, Los Angeles and other U.S. urban centers to work in illegal brothels, sweatshops or as part of a criminal network.

Persons trafficked into Canada are generally destined for larger Canadian urban areas, such as Toronto, Montreal, Vancouver and Winnipeg. Once in Canada, women trafficked for sexual exploitation, for example, may be moved via an internal circuit that includes several major urban centers.

Nature of TIP

In the United States, victims are often trafficked for commercial sexual exploitation. Victims are also forced to work as migrant farm laborers, on construction sites or in sweatshops. Domestic servitude and restaurant work are additional venues where trafficking victims can be found. Victims in these situations are generally deceived about the type of work and/ or the conditions

in which they will be working. For example, victims may be promised a position as a nanny or domestic servant, but on arrival their identity documents are confiscated and they are confined and forced to work long hours, or they may be forced into prostitution. In many cases, victims are held in conditions of debt bondage as well.

Most of the victims forced into the domestic servitude industry in the United States are hired by families and work under "contracts" that have been agreed upon on an individual basis with no third party reviewers. Although law enforcement seeks to do so, they have not identified specific agencies which either coordinate the services or engage in placement for fraudulent purposes. There is no identified pattern of particular agencies sponsoring domestic workers at this time.

In Canada, intelligence indicates that the majority of trafficking victims are forced to work in the sex trade. Investigations conducted by Canadian law enforcement support these findings; the majority of TIP cases encountered by Canadian law enforcement involve women and children who are trafficked for the purpose of sexual exploitation. To a lesser extent, individuals are also trafficked into Canada for forced labour. There have been a few reported incidents within the agriculture and garment industries, as well as within illicit activities such as drug trafficking. For example, intelligence indicates that criminal organizations have brought Honduran children, teenagers and adults into Canada to force them to work as drug couriers on the streets of Vancouver.²²

There have also been reports of individuals bringing migrants into Canada illegally to work in their restaurants or other businesses in conditions that may involve exploitation. In one incident, women brought to Canada to work in the garment industry were confined to their living quarters and their passports and identity papers were withheld by their employer. Incidents of home care workers brought to Canada who have had payments withheld and were threatened with deportation for noncompliance with unacceptable work conditions have also been reported.

¹⁹ Criminal Intelligence Service Canada, 2004 Annual Report, p.10.

²⁰ The 2004 RCMP Strategic Intelligence Assessment on TIP in Canada, *supra*, p.14.

²¹ The 2004 RCMP Strategic Intelligence Assessment on TIP in Canada, *supra* and U.S. Department of State (2005) Trafficking in Persons Report. <http://www.state.gov>.

²² The 2004 RCMP Strategic Intelligence Assessment on TIP in Canada, *supra*, p.9.

Chapter 4: Combating Trafficking in Persons



The international community agrees that TIP involves grave violations of human rights and is a matter of pressing international concern. Both the United States and Canada are committed to work domestically and internationally, through bi-lateral and multi-lateral forums, to combat TIP in all its forms. For example, both Canada and the United States work together with our international partners in the context of the Group of Eight (G-8), the United Nations, the Organization for Security and Cooperation in Europe (OSCE) and the Organization of American States (OAS) to address TIP. Both countries are party to the United Nations *Convention against Transnational Organized Crime* and its protocols (the *Trafficking Protocol* and the *Protocol against the Smuggling of Migrants by Land, Air and Sea*).

While each country addresses TIP uniquely, both focus on prosecution, protection and prevention efforts. This “3 P’s” approach flows from broad international consensus on how to address this issue, as demonstrated in the *Trafficking Protocol*, and recognizes that vigorous prevention and victim protective measures, as well as tough law enforcement, are necessary to successfully combat TIP.

Both the United States and Canada coordinate their respective prosecution, protection and prevention measures to promote a comprehensive and effective response to TIP. The centerpiece of U.S. Government efforts is the *Trafficking Victims Protection Act* of 2000 (“TVPA”). Congress also passed the *Trafficking Victims Protection Reauthorization Act* of 2003 (“TVPRA”), which restated and enhanced some of the original criminal penalties, and also added additional responsibilities to the U.S. Government’s anti-trafficking portfolio. Most recently, Congress passed the *Trafficking Victims Protection Reauthorization Act*

of 2005 (“2005 TVPRA”), which further augmented the United States’ anti-trafficking portfolio.

The TVPA and TVPRAs operate not only to refine criminal trafficking offenses and investigative abilities, but also to serve as the blueprint for benefits and services to be provided to victims of severe forms of trafficking. The TVPA established the Office to Monitor and Combat Trafficking (G/TIP) within the Department of State, which among other things, is responsible for measuring and evaluating the progress of the United States and other countries in the areas of trafficking prevention, prosecution, and assistance to victims. G/TIP is also obliged to engage in efforts to facilitate cooperation among countries of origin, transit and destination.

Canada’s ongoing anti-trafficking efforts, both domestically and internationally, are guided by a multi-pronged approach, with a focus on the “3 P’s”: the prevention of TIP, protection of victims and the prosecution of offenders. In Canada, the Interdepartmental Working Group on Trafficking in Persons (IWGTIP), co-chaired by the Department of Justice and the Department of Foreign Affairs and International Trade, coordinates all federal anti-TIP efforts. The IWGTIP is composed of 17 participating federal departments and agencies and it works together with its provincial and territorial partners, as well as civil society, to prevent TIP, protect its victims and hold perpetrators accountable.

The subsections below provide an overview of some of the more recent initiatives undertaken by the United States and Canada to further our respective prosecution, protection and prevention objectives. Due to the complex nature and many externalities of TIP, some of these initiatives may address more than one objective.

PROSECUTION

United States

The United States has a battery of statutes which are employed to prosecute human traffickers. The TVPA proscribes human trafficking and specifically defines certain terms of the offense, including “coercion,” “commercial sex act,” “debt bondage,” and “involuntary servitude.” In the case of sex trafficking, a term of up to life imprisonment is authorized where force, fraud, or coercion are used in the commission of the offense and/or the victim is under the age of 14 years. The Thirteenth Amendment to the United States Constitution prohibits slavery. A series of laws in the United States Code also criminalize peonage, involuntary servitude, and forced labor. Each of these offenses is punishable by up to twenty (20) years imprisonment, or in cases of kidnapping, rape, or where death results, up to a term of life. Additionally, the *Mann Act* prohibits transporting any individual in interstate or foreign commerce for the purpose of engaging in prostitution or other sexual activity for which any person can be charged with a criminal offense; the maximum penalty of up to 30 years if a minor is involved.

The *Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today* (PROTECT) Act offers other important provisions for prosecutors in their pursuit of human traffickers. The PROTECT Act is specifically designed to protect children from many forms of predation, including sex trafficking. It provides for extraterritorial jurisdiction and enables U.S. law enforcement to curtail United States citizens’ participation in “sex-tourism” that occurs abroad.

In a similar manner, the 2005 TVPRA authorizes extraterritorial jurisdiction for TIP offenses committed by persons employed by or accompanying the federal government outside the United States. The 2005 TVPRA also amends the United States Code to strengthen the use of money laundering, racketeering and civil and criminal forfeiture statutes against traffickers.

The Department of Justice is principally responsible for prosecuting trafficking crimes. Prosecutors from the Civil Rights and Criminal Divisions and United States Attorneys’ Offices around the country work with agents from Immigration and Customs Enforcement (ICE), the Federal Bureau of Investigation (FBI), the State Department’s Diplomatic Security Service (DS), the Department of Labor (DOL), as well as state and local law enforcement agencies to apprehend and prosecute both small and large-scale trafficking operations. Investigative efforts are enhanced by the Human Smuggling and Trafficking Center (HSTC), an intelligence and law enforcement fusion center created, in part, to unify intelligence collection and coordinate response efforts against TIP.²³ During fiscal year 2004, the Department of Justice initiated prosecutions against 59 traffickers²⁴. More than half of those defendants were charged with violations created by the TVPA, and nearly all involved sex trafficking.

In order to bolster the law enforcement agencies’ unilateral efforts to combat TIP, the Department of Justice created thirty-two anti-trafficking task forces in high-risk cities throughout the country. These task forces and working groups are comprised of investigators and prosecutors from the federal, state, and local level, along with professionals from NGOs.

Canada

Canada has a broad legal framework addressing TIP. Most recently, on November 25, 2005, three new *Criminal Code* offences were enacted to strengthen Canada’s existing criminal response to TIP. The main offence, “trafficking in persons,” prohibits anyone from engaging in specified acts for the purpose of exploiting or facilitating the exploitation of a person. It carries a maximum penalty of life imprisonment where it involves kidnapping, aggravated assault, aggravated sexual assault or death, or 14 years in all other cases. The second offence prohibits anyone from receiving a financial or other material benefit resulting from the commission of a trafficking offence. This offence is punishable by a maximum penalty of 10 years

²³ The HSTC’s mission is three-fold: to address the separate but related issues of alien smuggling, trafficking in persons, and smuggler support of clandestine terrorist travel.

²⁴ See *Report to Congress from Attorney General Alberto R. Gonzales on U.S. Government Efforts to Combat Trafficking in Persons in Fiscal Year 2004*, United States Department of Justice (July 2005).

imprisonment. The third offence prohibits withholding or destroying documents, such as identification or travel documents, for the purpose of committing or facilitating the commission of a trafficking offence. This offence carries a maximum penalty of 5 years imprisonment.

In addition to these three new offences, other pre-existing *Criminal Code* offences address trafficking-related conduct.²⁵ For example, the *Criminal Code* offence of living on the avails of child prostitution carries a maximum penalty of 14 years imprisonment and a minimum penalty of 5 years imprisonment where violence, intimidation or coercion is used. Further, the *Immigration and Refugee Protection Act* (IRPA) contains a specific trafficking in persons offence, which prohibits organizing the entry into Canada of one or more persons by means of abduction, fraud, deception or use or threat of force or coercion. This offence carries a maximum penalty of life imprisonment and/or a \$1 million (Cdn) fine. Canada's criminal law also addresses child sex tourism; it allows for the Canadian prosecution of Canadians and permanent residents of Canada who engage in prohibited sexual activity with children abroad.

The Royal Canadian Mounted Police (RCMP) is Canada's national police force, responsible for investigating most federal offences. Both RCMP and Canada Border Services Agency (CBSA) investigate *IRPA* offences. The RCMP also investigates *Criminal Code* offences in jurisdictions which have contracted their services. Provincial and municipal police forces are generally responsible for investigating *Criminal Code* offences.

The RCMP has established a specialized Human Trafficking National Coordination Centre within its Immigration and Passport Branch. This Centre's mandate is to strengthen the federal government's capacity to coordinate domestic and international investigations in partnership with affected countries. The RCMP provides law enforcement training on TIP to its officers and other officials involved in addressing TIP. General training is provided bi-annually on the RCMP

Immigration and Passport Investigators course to RCMP members and agencies outside of the RCMP, including CBSA, the Department of Homeland Security and international police forces. This week long training session includes a full day dedicated to TIP, involving in depth training and discussion on relevant sections of the *IRPA* and the *Criminal Code*. In addition, in May 2005, the RCMP held a TIP training seminar, at which a guidebook for law enforcement officials, entitled "*Human Trafficking Reference Guide for Canadian Law Enforcement*,"²⁶ was released. The RCMP is also developing a training video to assist law enforcement in identifying potential victims and traffickers.

Crown Prosecutors continue to successfully prosecute trafficking-related cases under various *Criminal Code* offences. For example, from spring 2004 to February 2006, there were at least 25 convictions under various *Criminal Code* offences for trafficking activity. As of February 2006, an additional 9 cases were identified and remained before the courts, including the first prosecution under s. 118 of *IRPA*, which prohibits the trafficking of persons into Canada from abroad.

PROTECTION

United States

Effective outreach is an essential step in identifying and assisting trafficking victims. The 2005 TVPRA embodies this sentiment and contains provisions to help reintegrate both American and foreign victims back to a normal life. The 2005 Act establishes a grants program through the Department of Health and Human Services (HHS) to assist American citizens and nationals who are victims of human trafficking. It also directs HHS to establish a program to create residential treatment facilities for juveniles subjected to trafficking, and seeks to promote access to information about federally funded services for victims. Long before the passage of the 2005 TVPRA, several government agencies established toll free hotlines, which provided information and assistance in the callers' native language. NGOs work closely with the

²⁵ The Canadian Constitution gives the federal government jurisdiction over the criminal law. However, provinces and territories have jurisdiction over the administration of justice (e.g. the prosecution of *Criminal Code* offences).

²⁶ Available at: http://www.icclr.law.ubc.ca/Site%20Map/Programs/Human_Trafficking.htm.

governmental agencies in obtaining immediate shelter and medical attention for victims, if needed.

The TVPA enumerates specific immigration and humanitarian benefits that are available to trafficking victims under certain circumstances. Once trafficking victims are identified by law enforcement, they may be protected from deportation and afforded important immigration benefits. Under certain circumstances and where requested by law enforcement, victims may be authorized “continued presence” to remain temporarily in the United States. In addition, victims may apply for and be awarded a special (“T”) non-immigrant status by the U.S. Citizenship and Immigration Services (USCIS). In either case, if granted, he or she will be granted worker authorization.²⁷ Once a victim of a severe form of trafficking has obtained either continued presence or has filed a bona fide application for a “T” non immigrant status and has been “certified” by HHS, he or she may become eligible to receive federal benefits. The benefits which may be available to victims include food, housing, medical services as well as job assistance and training.

Regardless of their eligibility under the TVPA, TIP victims are protected and eligible for services through the federal Victim/Witness Assistance. Programs are administered through the federal government and in every U.S. Attorney’s office, and seek to ensure that all victims of federal crime are treated with fairness and respect for the victim’s dignity and privacy. In addition to the TVPRA, which specifically allows a trafficking victim to bring a civil action in order to recover money damages from his or her trafficker, other federal laws affording crime victims rights include: the *Federal Victim and Witness Protection Act of 1982*, the *Crime Control Act of 1990*, the *Violent Crime Control and Law Enforcement Act of 1994*, *The Mandatory Victims Restitution Act of 1996*, *The Victim Rights Clarification Act of 1997* and the *Justice for All Act of 2004*. These victim/witness assistance protection laws apply to all victims and witnesses of federal crime who have suffered physical, financial, or emotional trauma. To the extent possible, victims are protected from the accused/ defendant and may also be provided with

varying levels of support including referrals to other agencies for shelter, counseling, compensation, and other types of assistance services when needed. Victims are also free to avail themselves of and apply for any immigration benefits or programs (such as asylum) that are available to all migrants.

In addition to its domestic programs, the United States also seeks to rescue and protect victims of human trafficking abroad. For example, with the funding from the Department of State, the International Organization for Migration (IOM) spearheads missions to rescue trafficking victims. The IOM has, for example, rescued more than 500 children from forced labor in fishing villages in Ghana. With a portion of the funding from the Department of State, IOM provides primary healthcare services for the many children who have already reintegrated into their communities.

Canada

In 2006, Canada introduced measures to strengthen Canada’s response to the unique needs of trafficking victims who are in Canada, but are foreign nationals. Working within the existing immigration law framework, these measures include guidelines which will assist immigration officers in issuing short-term temporary resident permits to trafficking victims for a period of reflection up to 120 days. This temporary resident permit can be renewed. These measures exempt victims from the processing fee for a temporary resident permit and give access to the Interim Federal Health Program to ensure that victims receive the medical attention they need. This includes essential and emergency health services for the treatment and prevention of serious medical conditions and the treatment of emergency dental conditions. In the case of trafficking victims, trauma counselling is also included. In addition, trafficking victims may avail themselves of a variety of other measures to remain in Canada temporarily or permanently including regular temporary resident permits, refugee claims in Canada, applications for humanitarian and compassionate consideration, pre-removal risk assessments and stays of removal, depending on the circumstances.

²⁷ The “T” conveys non-immigrant status and permits the victim to remain in the United States for three years. After that time period and subject to certain statutory criteria, victims may apply for lawful permanent residency in the United States.

Numerous other programs and services are available to victims of crime in Canada, including trafficking victims, ranging from health care to emergency housing and social and legal assistance. Legal aid programs are administered separately by each province and territory and eligibility is based primarily upon financial need. Similarly, social services such as emergency financial assistance, including food allowances, and housing are administered at the provincial and territorial levels and are available to those in need. Civil society organizations also provide related social services, for example, through food banks.

In Canada, the protection of victims of crime is a shared responsibility between the federal and provincial/territorial governments. Federal, Provincial and Territorial Attorneys General reaffirmed their support for the updated 2003 Canadian Statement of Basic Principles of Justice for Victims of Crime, which states that the safety and security of victims should be considered at all stages of the criminal justice process and appropriate measures should be taken when necessary to protect victims from intimidation and retaliation; and, information should be provided to victims about available victim assistance services, other programs and assistance available to them, and means of obtaining financial reparation.

The *Criminal Code* contains various provisions which facilitate the testimony of victims in criminal proceedings including through victim impact statements, testimonial aids, publication bans and the presence of support persons for certain witnesses. In addition, reforms which were passed by the Canadian Parliament in 2005 (former Bill C-2 (protection of children and other vulnerable persons)) further facilitate the receipt of testimony by child victims/witnesses and other vulnerable victims/witnesses, by making the use of existing testimonial aids more readily available for all vulnerable victims/ witnesses, including trafficking victims.

The *Criminal Code* also authorizes the automatic imposition of a victim surcharge on any offender convicted or discharged of an offence. This money is used to fund provincial and territorial victim services and programs. In addition, offenders sentenced for trafficking-related offences under the *Criminal Code*

may receive a restitution order as part of their sentence. A restitution order requires the offender to pay an amount directly to the victim of the offence to cover the victim's monetary losses or damage to property caused by the crime. Also, provinces and territories have enacted victim legislation, which outlines principles regarding the treatment of victims of crime in the criminal justice system including, in most cases, the right to seek compensation.

PREVENTION

United States

The United States engages in a broad spectrum of efforts to prevent TIP domestically and abroad. The 2005 TVPRA sets forth the United States' most recent prevention efforts. The Act specifies funding for programs geared toward reducing the demand for commercial sex in the United States and preventing "domestic" trafficking of U.S. citizens within the country. It establishes a \$50 million grants program for state and local law enforcement to investigate and prosecute acts of trafficking in persons and criminals that purchase a commercial sex act within the United States. On the international front, the Act requires U.S. assistance programs for post-conflict and humanitarian emergencies to include anti-trafficking measures. It also provides that the government has the option to terminate all government grants, contracts and cooperative agreements with contractors that engage in severe forms of trafficking or procure a commercial sex act during the period in which the grant, contract or cooperative agreement is in effect.

In an effort to assist victims in rebuilding their lives and to prevent further or more extensive victimization, HHS has initiated the Rescue & Restore Victims of Human Trafficking campaign to help identify and assist victims of human trafficking in the United States. The intent of the Rescue & Restore campaign is to increase the number of identified trafficking victims and to help those victims receive the benefits and services needed to live safely in the United States. The first phase of the campaign focuses on outreach to those individuals who most likely encounter victims on a daily basis, but may not recognize them as victims of human trafficking. By

educating health care providers, social service organizations and the law enforcement community about the issue of human trafficking, the United States government hopes to encourage intermediaries to look beneath the surface by recognizing clues and asking the right questions because they may be the only outsiders with the chance to reach out and help victims.

Various components of the government sponsor conferences and training to make the public and professionals aware of the problem of human trafficking and to alert them to the conditions which make victims vulnerable. In October 2006, for example, the Department of Justice sponsored a national conference on human trafficking. Officials from the highest levels of the United States government attended along with delegations from both Canada and Mexico. Trafficking response teams made up of federal, state and local law enforcement, as well as prosecutors and victim service providers from around the country also participated in the conference. Innumerable other conferences and training seminars are conducted regularly by both governmental entities and NGOs. Prevention through public outreach extends beyond the scope of organized conferences. The Civil Rights Division of the Department of Justice periodically publishes Anti-Trafficking News bulletins, which highlight current prosecution efforts as well as programs and services available to victims.

The U.S. Government provides a substantial amount of international assistance aimed at preventing TIP. Many different governmental agencies administer financial grants and offer programs to prevent human trafficking. In 2004, the U.S. Government supported approximately 251 international anti-trafficking programs totaling approximately \$96 million.

The Department of State awards grants to support outreach programs and prevent trafficking abroad. The G/TIP Office engages in discussions with governments to help strengthen cooperative efforts to eradicate trafficking. It releases an annual *Trafficking In Persons Report*. The report is a diplomatic tool for the U.S. Government in combating TIP. It also serves as an instrument for continued dialogue and a means to encourage increased prosecution, protection, and

prevention programs. The G/TIP Office makes millions of US dollars available in grants to organizations all over the world to implement programs in order to combat trafficking. Other components of the State Department also fund anti-trafficking efforts abroad.

USAID also sponsors many programs to prevent human trafficking. For example, the Pan-American Development Foundation received a \$200,000 grant to develop and implement a program to prevent trafficking of children for domestic servitude within Haiti and to the Dominican Republic through both national and local-level TIP awareness campaigns. The grant supports organizations that provide shelter, education, vocational training, and other services for rescued children and to form a Haitian/Dominican NGO network to protect children. The funds will also help the foundation train NGO staff and government officials to prevent internal and cross-border trafficking, enforce existing laws, and rescue and protect victims.

The Department of Justice's Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) and International Criminal Investigative Training and Assistance Program (ICITAP) are engaged in anti-trafficking outreach and training for foreign law enforcement officials. OPDAT and ICITAP have offered technical assistance and coordinated numerous anti-trafficking training programs in South and Central America, the Caribbean, Russia, former Soviet republics, South Asia, and Central and Eastern Europe.

Finally, the DOL awards millions of dollars in grants to combat human trafficking around the world. Monies have been specifically targeted at "source" countries, including Brazil, Cambodia, Moldova and Sierra Leone and seek to prevent both labor and sex trafficking. The grants fund projects that provide employment services to adults who have been trafficked into forced labor and to women at risk of being trafficked. Projects also support communities by improving schools and providing education, shelter and counseling to children who have been trafficked or who are at risk, and income-generating opportunities for their parents. DOL's grants are also used to work with national and local governments to improve law enforcement, map trafficking routes and implement public awareness campaigns.

Canada

Canada supports a broad range of initiatives that seek to reduce crime and victimization by addressing crime before it happens, including by supporting prevention efforts in source countries through NGOs and relevant multi-lateral organizations. For example, through its \$2 million annual contribution agreement with the UN Office on Drugs and Crime, in 2005/06, Canada supported a \$100,000 project to prevent and reduce human trafficking through targeted training and awareness campaigns in the Western Africa sub-region. The Department of Foreign Affairs and International Trade also funded numerous projects through the Public Safety Envelope of its Human Security Fund to combat TIP. Canada supported the IOM to organize a workshop for governmental and private media partners from Central America and Mexico with the objective of sensitizing the media to report the reality of the TIP situation. Also with the IOM, Canada supported an awareness raising project on the risks and consequences of human trafficking through the dissemination of a video, “Shattered Dreams”, in government school systems and local communities in vulnerable provinces in Thailand, Lao PDR, Vietnam and Cambodia.

In Central America, Canada cooperated with the International Centre for the Human Rights of Migrants (CIDEHUM) to build the capacity of NGOs in the region to prevent irregular migration and reduce the risk of smuggling of migrants and TIP. In Haiti, Canada funded the OAS to organize a workshop providing training to the Haitian police brigade to further counter-trafficking efforts, share investigative techniques, and assist victims. In recent years, Canada provided funding to the OSCE and an NGO to fund a public-private partnership project, intended to involve the private sector in TIP prevention efforts in Eastern Europe.

In the last decade the Canadian International Development Agency (CIDA) has supported a broad range of trafficking initiatives in Eastern Europe, Asia, Africa and the Americas. CIDA prioritizes a gender analysis of the impact of trafficking and the development of responses which recognize the different experiences of girls, boys, women and men.

Some recent examples of CIDA projects include: commitment of \$3 million to eliminate the trafficking of children into forced labour and support the rehabilitation of children who have been trafficked in West Africa; support for UNICEF and its partner organizations to gather information on the scope and nature of trafficking and current responses to the problem in Russia; and support for the Anti-Trafficking Program of the Office for Democratic Institutions and Human Rights (ODIHR) of the OSCE with a one million dollar grant.

Since 1996, the Canadian government has been a donor and is contributing to the ILO’s International Program for the Elimination of Child Labour (IPEC) which operates in over 75 countries. Through IPEC, Canada has supported child labour projects in Central and South America and the Caribbean, Africa, Asia and the Middle East. Many of these projects focus in particular on the worst forms of child labour which include slavery, the sale and trafficking of children, debt bondage and serfdom, forced or compulsory labour as well as child sexual exploitation.

Canada has also developed and supported several anti-trafficking training initiatives. For example, in March 2004, the Department of Justice and the IOM partnered to provide a training seminar for police, prosecutors, immigration, customs and consular officials on TIP. In May 2005, the RCMP, in partnership with a number of NGOs and the Government of British Columbia, hosted a similar training seminar for law enforcement, governmental officials and members of civil society. Training consists of a review and current analysis of a current human trafficking investigation including identification and protection of the victims, and an overview of the domestic and international strategies initiated by the RCMP. Further, Canada has, along with other North Atlantic Treaty Organisation (NATO) member countries, committed to implementing the *NATO Policy on Combating Trafficking in Human Beings*, adopted in June 2004, and endorsed by NATO Heads of State and Government. This policy requires that all personnel taking part in NATO-led operations receive appropriate training to raise awareness of TIP and educate on how TIP impacts on human rights, stability and security. To this end, the Canadian Forces is

currently developing a new policy entitled, “Policy on Combating Trafficking in Persons”. This policy will provide guidance to all levels of leadership of deployed Canadian Forces Task Forces on combating TIP.

Canada has also supported several awareness raising and information sharing initiatives, such as a March 2004 *Forum on Trafficking in Persons, Especially Youth, Children and Women*, hosted by the Canadian Ethnocultural Council, in partnership with the Department of Justice and Status of Women Canada, which brought together NGOs and academics from across the country to educate and increase public awareness about the situation of trafficking victims, especially youth, children and women, and explore strategies for community-driven initiatives to prevent and combat TIP. In addition, in November 2004, the Governments of British Columbia and Canada hosted a roundtable on TIP in Vancouver, British Columbia. The roundtable brought together a diverse range of participants from all levels of government, the Vancouver Police, the RCMP, academics and a cross-

section of local NGOs to discuss issues relating to TIP, including prevention and awareness and local issues. Also, in August 2005, the Minister of Justice hosted a roundtable with members of Canada’s NGO community to discuss current issues and practices relating to TIP.

Canada has also developed and distributed awareness raising products, such as an anti-trafficking poster entitled *People for Sale in Canada? The answer will shock you*, which is intended to raise public awareness that TIP exists in Canada and that it is a serious crime. This poster has been translated into 15 languages. An anti-trafficking pamphlet is also available in 14 languages. This pamphlet has been distributed to Canadian missions abroad and NGOs with access to potential trafficking victims in source states. Also, Justice Canada has developed a TIP website,²⁸ which provides information on the definition of TIP, domestic and international efforts to combat TIP and assist victims, as well as other resources and links to partner organizations that are involved in similar efforts.

²⁸ <http://canada.justice.gc.ca/en/fs/ht/>

Chapter 5: Bilateral Cooperation



The United States and Canada are working together to confront common challenges raised by transnational organized crime, including TIP. TIP is a cross-border issue that implicates a range of issues, including national security, organized crime and serious human rights violations. As such, TIP requires a collaborative, bi-national approach.

On July 6, 1999, Canada and the United States signed a statement of mutual understanding on information sharing as part of a coordinated approach to prevent the cross-border movement of members of criminal organizations. To further demonstrate the longstanding relationship between the United States and Canada on these issues, the subsections below focus on U.S.-Canada bilateral initiatives.

Canada-U.S. Cross-Border Crime Forum

The Cross-Border Crime Forum (CBCF) was established in 1997 to improve cooperation and information sharing between Canada and the United States. Co-led by the United States Attorney General, Public Safety and Emergency Preparedness Canada and Justice Canada, the CBCF brings together over 150 senior law enforcement and justice officials from Canada and the United States, representing nearly 50 departments and agencies. The CBCF meets annually to develop joint solutions to cross border crime issues such as organized crime, human trafficking and migrant smuggling, mass marketing fraud, money laundering, cyber crime and terrorism.

Integrated Border Enforcement Teams

Established in 1996, Integrated Border Enforcement Teams (IBETs) are joint Canada-U.S. multi-agency law enforcement teams. IBETs are designed to enhance border integrity and security along the shared Canadian-U.S. border by identifying, investigating and interdicting persons and organizations that pose a threat to national security, or are engaged in organized criminal activity, such as TIP, illegal migration, smuggling of drugs or other goods, and terrorism.²⁹

Integrated Border Intelligence Teams

The mission of the Integrated Border Intelligence Teams (IBITs) is to support IBETs and partner agencies by collecting, analyzing and disseminating tactical, investigative and strategic intelligence information pertaining to cross border crime between the United States and Canada. This intelligence information is shared with participating agencies to target international/national/criminal organizations, de-conflict international investigations and facilitate joint enforcement operations.³⁰

Shared Border Accord

In 1995, Canada and the United States announced the Canada/United States Accord on Our Shared Border (SBA). The Accord committed both governments to: promoting international trade; facilitating the legitimate movement of people and commercial goods; providing

²⁹ The key players involved in IBET operations include the U.S. Border Patrol, Immigration and Customs Enforcement (ICE), the U.S. Coast Guard, Canada Border Services Agency (CBSA), and the Royal Canadian Mounted Police (RCMP).

³⁰ IBITs are comprised of analysts and Intelligence Officers from the Royal Canadian Mounted Police (RCMP), Canada Border Services Agency (CBSA), Drug Enforcement Administration (DEA), and Customs and Border Protection (CBP). Other participating agencies include the Vancouver (British Columbia) Police Department (VPD) United States Coast Guard (USCG) and Citizenship and Immigration Canada (CIC).

enhanced protection against drugs, smuggling, and the illegal and irregular movement of people; and, reducing costs to both governments and the public. The SBA Coordinating Committee meets four times a year to address key border security and facilitation issues and review progress under the Accord.

<http://www.cbsa-asfc.gc.ca/general/border/menu-e.html>

<http://www.whitehouse.gov/news/releases/2002/12/20021206-1.html>

Smart Borders and the Security and Prosperity Partnership of North America

Canada and the United States signed the Smart Border Declaration in December 2001. In the aftermath of the events of September 11th, the Declaration emerged from well-established and ongoing Canada-U.S. cooperation on border issues and included a 32-point action plan focusing on the secure flow of people, the secure flow of goods, secure infrastructure, and coordination and information sharing in the enforcement of these objectives.

The Security and Prosperity Partnership (SPP) builds on Smart Border successes by broadening our cooperation to include Mexico and a ‘Prosperity’ agenda designed to improve North American competitiveness and quality of life. Announced in March 2005, the SPP explicitly calls for enhanced cooperation to combat human trafficking as part of the ‘Security’ agenda’s overall framework to address transnational threats.

There are numerous related initiatives within the Smart Borders and SPP that further enhance counter-TIP initiatives. For example, U.S. Immigration and Customs Enforcement Officers and Canada Border Service Agency Migration Integrity Officers work closely overseas to identify irregular migration trends, which contribute to pushing the borders out and dissuade the trafficking of persons.

<http://www.spp.gov/>

The North American Agreement on Labor Cooperation

The North American Agreement on Labor Cooperation (NAALC) is an agreement between the United States, Canada, and Mexico that supplements the North American Free Trade Agreement (NAFTA). The principal objective of the NAALC is to improve working conditions and living standards in the United States, Mexico, and Canada as the NAFTA promotes more trade and closer economic ties among the three countries. The NAALC emphasizes trilateral cooperation – exchanges of information, technical assistance, and consultations – on labor issues that merit particular concern by all three countries. The growing phenomenon of TIP has attracted increasing attention in the region, and is an issue for which cooperative action is called for and can prove effective.

As part of the ongoing cooperative activities program between the governments of Canada, Mexico and the United States under NAALC, a conference was held on December 6-7, 2004 on TIP. The event served as a fostering and impacting human trafficking in the North American region, exchange information on successful anti-trafficking approaches in the NAALC countries, learn about other international and regional anti-trafficking models, and discuss areas of potential cooperation among the NAALC countries to combat TIP.

Mutual Legal Assistance

The 1985 *Mutual Legal Assistance Treaty in Criminal Matters* (MLAT) between the United States and Canada has enhanced both countries’ ability to investigate, prosecute and suppress crime through cooperation and mutual assistance in law enforcement matters, such as cross-border TIP cases. For example, the MLAT covers the exchange of information; locating and identifying persons; taking of testimony or statements of witnesses; providing documents, records and evidence; the execution of requests for searches

cooperation and mutual assistance in law enforcement matters, such as cross-border TIP cases. For example, the MLAT covers the exchange of information; locating and identifying persons; taking of testimony or statements of witnesses; providing documents, records and evidence; the execution of requests for searches and seizures; and the serving of documents. The MLAT also provides for assistance in proceedings relating to the forfeiture of the proceeds of crime, restitution to the victims of crime, and the collection of fines imposed as a sentence in a criminal prosecution. Further, the *Treaty on Extradition*, which was signed in 1974 and amended as recently as 2001, establishes the framework for extradition of persons for the purposes of prosecution, imposing a sentence or enforcing a sentence.

Examples of Joint Operations

In February of 2001, an 11-year-old child was abducted from Portland, Oregon, and transported across the Canada-U.S border to Vancouver, British Columbia, where the child was forced into the sex-trade.

Vancouver Police officers spotted the child and worked quickly to communicate information through the Deter and Identify Sex Consumers (DISC) database, which links several Canadian and U.S. police forces, and initiated a joint investigation which resulted in the laying of charges in both Canada and the United States. The perpetrators are currently incarcerated in the United States.

In June of 2006, the RCMP Okanagan IBET, together with the U.S. Border Patrol, intercepted 10 Korean nationals (8 females and 2 males) attempting to walk across the Canada-U.S. border near the city of Osoyoos. During their preliminary interviews, many of the female migrants advised that they had not yet paid to be transported into the U.S., but knew that there would be a debt they would have to pay once in their final destination. Some of the women believed they were going to work in jobs such as waitressing; however, other evidence indicated that they would likely have been forced into providing sexual services at massage parlours in various major cities in the U.S.

Chapter 6: Recommendations



Over the past decade, TIP has become a global phenomenon. Canada and the United States, and the border we share, are not immune to this reality. Both countries recognize that the illegal movement of people, including TIP is a serious cross-border issue, which includes national security, human rights, and organized crime concerns for our respective governments. The clandestine and transnational nature of TIP has created common challenges for our countries.

While each country has developed different domestic approaches to addressing TIP, we ultimately share common objectives: to prevent TIP, to prosecute offenders, and to protect TIP victims. Canada and the

United States are committed to working together to address the common challenges posed by TIP and to accomplish our shared objectives. We present the following initiatives for future consideration in developing a collaborative and bi-national approach to addressing TIP across our shared border:

- Improve information sharing between both countries;
- Undertake additional joint targeting initiatives; and
- Continue working together to gain a better understanding of the cross-border problem.

Acronyms

CBCF	United States / Canada Cross-Border Crime Forum
CBSA	Canada Border Services Agency
CIDA	Canadian International Development Agency
CISC	Criminal Intelligence Service Canada
DFAIT	Department of Foreign Affairs and International Trade
DHS	United States Department of Homeland Security
DOJ	United States Department of Justice
DOL	United States Department of Labor
DS	Diplomatic Security Service
FBI	Federal Bureau of Investigation
G/TIP	Office to Monitor and Combat Trafficking
HHS	United States Department of Health and Human Services
HSTC	Human Smuggling and Trafficking Center
IBETs	Integrated Border Enforcement Teams
IBIT	Integrated Border Intelligence Teams
ICE	Immigration and Customs Enforcement
ICITAP	International Criminal Investigative Training and Assistance Program
ILO	International Labour Organization
IOM	International Organization for Migration
IPEC	International Program for the Elimination of Child Labour
IRPA	<i>Immigration and Refugee Protection Act</i>
IWGTIP	Interdepartmental Working Group on Trafficking in Persons
NAALC	North American Agreement on Labor Cooperation
NAFTA	North American Free Trade Agreement
OAS	Organization of American States
OCSE	Organization for Security and Cooperation in Europe
OPDAT	Office of Overseas Prosecutorial Development, Assistance and Training
PROTECT	<i>Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today</i>
RCMP	Royal Canadian Mounted Police
SBA	Canada/United States Accord on Our Shared Border
SPP	Security and Prosperity Partnership
TIP	Trafficking in Persons
TVPA	<i>Trafficking Victims Protection Act of 2000</i>
TVPRA	<i>Trafficking Victims Protection Reauthorization Act</i>
USCIS	United States Citizenship and Immigration Services