

## **CANADA'S FIRST REPORT ON IMPLEMENTATION OF THE OPTIONAL PROTOCOL ON SALE OF CHILDREN, CHILD PROSTITUTION, AND CHILD PORNOGRAPHY**

### **Civil Society Contribution: Summary**

#### **Introduction**

Below are summary points for consideration in a review of Canada's implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography (OPSC). For a detailed analysis, see the full research report.

#### **Articles 1 – 3, 8: Legal Protection and Enforcement**

Canada has specific laws at the federal and provincial levels to prohibit the range of activities covered in articles 1 – 3 of the OPSC. In recent years steps have been taken to expand the laws to include internet exploitation, to raise the age for consensual sexual activity to 16, and to increase the penalties for child pornography and trafficking of children.

One area for attention is enforcement of these laws. As outlined in the government report, there are few prosecutions, compared to estimates of the number of violations and complaints; and then, only an estimated 50% of prosecutions lead to convictions of a small number of persons. An essential element of effective enforcement is support for child victims who serve as witnesses in criminal prosecutions. As one example, good practices in a program in Edmonton have demonstrated an increase in conviction rates from 25% to 75%.

**Recommendation: Stronger and consistent enforcement of existing laws needs to be addressed in the context of a national strategy that includes prevention and protection of child victims and witnesses in criminal prosecutions.**

A second area for attention is stronger legal protection for all the rights of children under the Convention on the Rights of the Child, as a tool for preventing exploitation.

**Recommendation: The Convention on the Rights of the Child needs to be incorporated into domestic law to strengthen the legal framework for the prevention of child exploitation.**

#### **Articles 4, 5, and 6: Cross-border Exploitation and Trafficking**

Canada is a source, transit and destination country for the trafficking of children and cross-border sexual exploitation. Borders for this issue include provincial borders within Canada and national borders in transnational exploitation. Soon after adoption of the OPSC, Canada passed legislation to permit prosecution for extraterritorial offences. Enforcement has been weak, with only a few prosecutions, while there is evidence of significantly more cases where it could apply and concerns from other countries about the lack of cooperation by Canada in international investigations.

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The government's first report on its implementation of OPSC lists a number of specific initiatives and various intergovernmental and international working groups on very specific aspects of the OPSC. Canada lacks a national strategy that, focused on children, would link all the pieces, fill gaps, and ensure a robust approach to prevention, protection of victims, and prosecution of offenders. Without a comprehensive strategy, efforts in one geographic area shift the problem to another one, in what is known as the "pushdown - pop-up" pattern of sexual exploitation.

The Interdepartmental Working Group on Trafficking in Persons was mandated in 2004 to develop a national strategy but has yet to do so.<sup>1</sup> Current approaches to trafficking do not include specific attention to children.

**Recommendations: The federal government should lead in development and implementation of a comprehensive, national strategy that links prevention, protection of victims, and prosecution of offenders, across the country and internationally. This is needed to close the gaps between existing small-scale initiatives for effective implementation of OPSC. The development and implementation of a national strategy requires much stronger, on-going cooperation between government agencies at the federal and provincial levels, youth-led groups, and civil society groups who work with children.**

**Child protection, including prevention of sexual exploitation, should be included in corporate social responsibility laws and policies through joint initiatives between government, the private sector, and civil society groups. Special attention is needed in the following sectors: tourism, travel, communication, media, Internet services, advertising and entertainment, agriculture, and financial services.**

**Human resource policies at all levels, such as professional Codes of Conduct, and legislation governing professions and labour, should include explicit provisions to prevent and protect children from sexual exploitation.**

## **Article 9: Prevention and Protection of Vulnerable Children**

The estimated age of persons entering into commercial sexual exploitation in Canada is 14 to 18 years.<sup>2</sup> The age of eligibility for protective services under child welfare varies significantly across Canada, leaving some youth in that age range vulnerable for exploitation. Adolescents and service agencies report uneven access and range of services for that age group, leaving gaps that increase vulnerability. There is substantial evidence that child welfare services for aboriginal children are not funded equitably; the increased vulnerability of aboriginal children is reflected in the over-representation of aboriginal young people in child prostitution. Migrant children and unaccompanied minors do not qualify for services in all provinces.

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<sup>1</sup> Report of the Standing Committee on the Status of Women, Turning Outrage Into Action to Address Trafficking for the Purpose of Sexual Exploitation in Canada, February 2007, p.6.

<sup>2</sup> Subcommittee on Solicitation Laws of the House of Commons Standing Committee on Justice and Human Rights, The Challenge of Change: A Study of Canada's Criminal Prostitution Laws, December 2006, p. 10.

In addition, there is inadequate protection for young people who are sent out of Canada for the purposes of marriages to which they have not consented. Children living in or brought to closed religious communities, such as the polygamous community in Bountiful, B.C., have few avenues to protect their rights; forced marriages of young girls to older men are documented, along with the maltreatment of young males for sexual reasons.

**Recommendations:**

- 1. Federal and provincial governments need to ensure that all children under age 18 can access supportive services under child welfare, if needed, in keeping with the principle of the best interests of the child. More resources are needed for adolescent programs that demonstrate effectiveness in preventing sexual exploitation.**
- 2. Special assistance is required for young persons who are sent out of the country or brought into the country for the purposes of forced marriage or other forms of sexual exploitation.**
- 3. Aboriginal preventive programs for aboriginal children need adequate resources to reduce the vulnerability of aboriginal young people.**

**Article 10: International Cooperation**

At the time of ratification, the Canadian International Development Agency had a five-year Child Protection Strategy that included a focus on strengthening children's rights and preventing sexual exploitation, child labour, and use of children in armed conflict. That strategy had not been renewed. A new Children and Youth strategy has Health, Education and "Safety and Security" as its three pillars; safety in schools is one specific priority in the safety pillar, but it is not clear how much focus will be put on prevention of sexual exploitation.

**Recommendation: CIDA's Child and Youth Strategy needs to take into account Canada's commitments in Article 10 of the OPSC. Canada should submit a supplemental report as part of Canada's review to explain how the new strategy and other changes at CIDA contribute to implementation of the OPSC, given the substantive change in CIDA since the Third report was submitted.**

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