

# CANADIAN COUNCIL FOR REFUGEES



## National Forum and Workshop on Trafficking in Persons

### Forum and Workshop Report

Kitchener-Waterloo, 27 and 29 November 2013

**Report published April 2014**

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Report on National Forum and Workshop on Trafficking in Persons

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## I. INTRODUCTION

On November 27, 2013, the Canadian Council for Refugees (CCR) hosted a *National Forum on Trafficking* in conjunction with the CCR Fall 2013 Consultation in Kitchener-Waterloo. 68 participants represented non-governmental and inter-governmental organizations, service providers, academics, as well as representatives of different levels of government and law enforcement involved in work on trafficking, primarily from British Columbia, Manitoba, Ontario and Quebec.

The objectives of the Forum were:

- To broaden and strengthen the anti-trafficking network across the country;
- To share experiences, responses and effective strategies around awareness-raising on trafficking and providing services to trafficked persons;
- To identify emerging needs, policy concerns and priorities to better protect the rights of trafficked persons in Canada;
- To discuss strategies to address and ultimately overcome barriers.

The Forum provided an opportunity for participants working on trafficking issues to network, to share ideas in assisting trafficked persons in Canada and to examine priorities in the areas of policy development, service provision and awareness-raising. It was divided into four overarching sessions dedicated to (a) sharing challenges, experiences, responses and strategies to better assist trafficked persons and to work collectively with other organizations and sectors more effectively; (b) exploring the intersections between situations of forced labour and trafficking in persons, as well as sharing strategies to raise awareness; (c) analyzing existing policy gaps and barriers to protection for trafficked persons; and (d) identifying common priorities and discuss plans for moving forward together.

Participants at the Forum identified a number of priorities relevant to meeting the needs of trafficked persons. These can offer guidance to the ongoing work of NGOs, service providers, law enforcement, immigration agencies, policy makers, and other groups involved in anti-trafficking initiatives across Canada. Overall, the discussion at the Forum also stressed on the importance of employing both a gender and race analysis and a “do no harm” approach across all anti-trafficking efforts.

A workshop entitled *Protecting trafficked persons: the challenges of definitions*, was held on November 29 as part of the CCR Fall Consultation in order to look at the challenges behind existing trafficking in persons definitions in Canada and internationally and to explore the operational consequences of such definitions.

Forum and workshop presentations are temporarily available at: <http://ccrweb.ca/en/trafficking-nov2013-presentations>.

The CCR benefited from the generous financial support of the Canadian Women’s Foundation (CWF) and its partners and from the in-kind support of the International Migration Research Centre (IMRC) for this Forum.

## **II. INFORMATION EXCHANGE**

This session first offered a brief introduction and review of the CCR's latest work on trafficking, including priorities that resulted from the 2012 Trafficking Forum recommendations and the needs expressed by NGOs working on trafficking issues across Canada. Three presentations followed from representatives of the Committee of action against trafficking in humans, internal and international (CATHII, Quebec), the FCJ Refugee Centre (Toronto) and the Canadian Women's Foundation (National). The floor was then opened for a discussion of the challenges, experiences, responses and major concerns faced by organizations across sectors in the field.

### **Samanta García-Fialdini, CCR Trafficking Project Coordinator**

#### *Background on CCR's Work on Trafficking*

The CCR has been continuously leading work on trafficking in persons since 2000, and currently works to support and coordinate anti-trafficking efforts across the country aimed at broadening and strengthening the network of NGOs working to protect trafficked persons through awareness-raising and service provision. The CCR is concerned about trafficking for the purpose of labour, sexual and other forms of exploitation. The CCR's work on trafficking prioritizes two main goals: increasing public awareness on trafficking in Canada, and working for the protection of trafficked persons. The expertise of the CCR is with newcomers and as such the emphasis of its work is on the trafficking of non-citizens in Canada.

This work is primarily guided by the CCR Anti-Trafficking Committee, consisting of representatives of local anti-trafficking networks in 8 different cities across the country, in British Columbia, Alberta, Manitoba, Ontario and Quebec. Members support the exchange of information locally and nationally and communicate local and regional concerns and priorities to the Committee. In turn, members also provide a national voice and analysis to local and regional concerns. Members therefore greatly support networking on trafficking issues across regions and provide pan-Canadian leadership to the work of the CCR in the area of trafficking.

#### *CCR Project on Trafficking: Some current initiatives*

The CCR's current project on trafficking is working to continue to support and strengthen the pan-Canadian network of organizations that are either working to raise awareness about trafficking in Canada, or to provide services to trafficked persons. The project seeks to do so by offering easier access to tools that are most useful to organizations, and by creating opportunities to share information and to strategize.

The CCR's annual Forum on Trafficking is part of this effort to share experiences and information on local and national priorities, concerns, initiatives, and resources. Organizations have highlighted the importance of having such a space be available in order to make it easier to learn from one another, to avoid duplicating work, and to find ways of making the best use of limited resources together so as to effectively address trafficking in Canada. The results and gaps that are identified at CCR workshops and meetings on trafficking largely work to inform the

CCR's future work on trafficking. The CCR has hosted a number of regional meetings<sup>1</sup> and five national meetings on trafficking, namely in Winnipeg (November 2003), Windsor (December 2009),<sup>2</sup> Montreal (November 2011),<sup>3</sup> Toronto (November 2012),<sup>4</sup> and in Kitchener-Waterloo (November 2013).

The exchange and policy analysis carried out at the CCR Fall 2012 Trafficking Forum resulted in a set of recommendations that became an important tool for advocacy and for engaging groups across different sectors in addressing key priorities across Canada. In follow-up to the needs identified, some of the initiatives the CCR has focused on include:

**1) Temporary Resident Permits:**

- A report was produced to examine the limits to statutory protection for trafficked non-citizens through Temporary Resident Permits (TRPs).<sup>5</sup>
- CCR met with Citizenship and Immigration Canada (CIC) in July 2013 to discuss the concerns highlighted in the report.

**2) Recent changes to immigration and refugee policies:** analyzing the overall impacts that recent legislative changes have had on trafficked persons' access to status and protection ([see Appendix A](#) for background information).

**3) Trafficking and labour exploitation of migrant workers:** highlighting the systemic gaps that make migrant workers vulnerable to abuse, exploitation and human trafficking.

**4) Awareness-raising:** making use of webinars as a tool for both capacity building and information sharing on trafficking-related issues.<sup>6</sup>

**5) Services:** continuing to explore the effects of cuts to the Interim Federal Health Program (IFH) on trafficked non-citizens without a TRP ([see Appendix A](#) for background).

**6) Starter Toolkit for Awareness-Raising on Trafficking:** developed to assist groups wishing to start or enhance outreach and awareness-raising activities on trafficking in persons in their own communities, organizations and sectors. The toolkit is available online in English and French.<sup>7</sup>

**7) Electronic bulletin on trafficking:** published on a bi-monthly basis to support networking across regions and to connect a broader range of NGOs through resources and updates on policy developments on trafficking. The number of subscribers has increased from approximately 235 to 395 in a year from September 2012 to 2013.<sup>8</sup>

The CCR's upcoming work on trafficking will continue to support networking and information sharing across regions, particularly through an online discussion venue that will be made accessible on the CCR website. This venue will serve to connect organizations and to offer a

<sup>1</sup> The report of these meetings is available at: <http://ccrweb.ca/files/ccrtrafficking.pdf>.

<sup>2</sup> Windsor 2009 report: <http://ccrweb.ca/en/report-national-forum-trafficking-2009>.

<sup>3</sup> Montreal 2011 report: <http://ccrweb.ca/en/trafficking-meeting-report2011>.

<sup>4</sup> Toronto 2012 report: <http://ccrweb.ca/en/trafficking-forum-report-2012>.

<sup>5</sup> "Temporary Resident Permits: Limits to Protection for Trafficked Persons": <http://ccrweb.ca/en/trafficking/temporary-resident-permit-report>.

<sup>6</sup> CCR Webinars: <http://ccrweb.ca/webinars>

<sup>7</sup> Starter Toolkit is available in English, at <http://ccrweb.ca/en/trafficking-starter-kit>, and in French, at <http://ccrweb.ca/fr/traite-trousse-demarrage>.

<sup>8</sup> Past Trafficking Bulletin issues are available in English, at <http://ccrweb.ca/en/traffickingbulletin>, and in French, at <http://ccrweb.ca/fr/bulletintraite>.

practical space whereby NGOs may exchange issues of concern, experiences, possible solutions and strategies in their ongoing work on trafficking.

The CCR will also support the needs highlighted throughout this Forum by developing tools that address the priorities raised. Organizations are encouraged to think about the role that the CCR can play in further meeting the needs of trafficked persons as well as their own needs, especially on an operational level, and to join and become more involved with the anti-trafficking network of NGOs across Canada.<sup>9</sup>

**Committee of action against trafficking in humans, internal and international (CATHII) Conference Results and the Quebec Coalition against Trafficking in Persons, presentation by Louise Dionne<sup>10</sup>**

Louise Dionne shared the results of CATHII's April 2013 conference, where stakeholders working with trafficked persons from across sectors and from different parts of Canada gathered to exchange experiences, best practices and response strategies. The conference identified practices that have favoured both the consultative process and coordination response in Quebec, and launched the Quebec Coalition against Trafficking in Persons. This coalition gathers representatives of organizations from the province who have developed an expertise in working directly with trafficked persons.

The conference highlights included discussions on issues concerning the definition and different forms of trafficking and issues regarding the creation of a concerted response to trafficking. Recommendations focused on a need to:

- Elaborate and adopt a provincial action plan against trafficking in persons in Quebec, targeting both trafficking for the purpose of sexual exploitation and forced labour.
- Support existing resources and services that have developed the skills and expertise to adequately respond to the needs of trafficked persons.
- Conduct an awareness campaign at a provincial level aimed at educating the general public on the issue of trafficking in persons.
- Support existing cooperation and partnership initiatives, such as the Quebec Coalition against Trafficking in Persons.
- Ensure a continuous and coordinated response to the management and care of victims and survivors.

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<sup>9</sup> To become more involved and make ongoing contributions via the CCR's Anti-Trafficking Committee, please email [sgarcia@ccrweb.ca](mailto:sgarcia@ccrweb.ca).

<sup>10</sup> « Intervenir face à la traite : vers une action concertée » (French only) : <https://ccrweb.ca/files/cathii-ccr-presentation-nov2013.pdf>.

## **Raising Awareness and Building Collaboration on Trafficking in Persons in the City of Toronto, Varka Kalaydzhieva, FCJ Refugee Centre<sup>11</sup>**

Varka Kalaydzhieva shared highlights from FCJ's Forum on human trafficking for forced labour, as well as information on the Toronto Counter Human Trafficking Network and recent anti-trafficking initiatives in the City of Toronto. The latter included the city's motion to address human trafficking, and both highlights and results from the initial series of roundtables organized to build collaboration and response models that are specific to the needs of the Toronto area.

FCJ's Forum's focus was on internationally trafficked persons for the purpose of forced labour, on the different programs that increase people's vulnerabilities to trafficking, and on the existing barriers to services and protection for trafficked persons in Canada. Awareness was raised among the service providers present, and policy recommendations were also put forward.<sup>12</sup>

The first roundtable on "Building Collaboration to Combat Human Trafficking in the City of Toronto" also developed a set of recommendations for a Toronto-specific response model. These include:

- **Partnership:**
  - A multidimensional action plan that includes a wide range of stakeholders, including hospitality businesses, taxi drivers, among others;
  - More coordinated efforts between all agencies involved;
  - Expanding the network of partners across the province and country.
- **Protection:**
  - Establish more safe houses for trafficked persons;
  - Offer protection based on individual needs.
- **Prosecution:**
  - Build capacity through training and by establishing restorative justice;
  - Promote research on best practices for prosecution.
- **Prevention:**
  - Create long-term programming, including increased peer programming within schools;
  - Create systemic, long-term awareness-raising campaigns in collaboration with the City of Toronto;
  - Develop a centric vocabulary on human trafficking based on a human rights framework.

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<sup>11</sup> "FCJ Refugee Centre: Raising Awareness and Building Collaboration": <https://ccrweb.ca/files/fcj-ccr-trafficking-forum-nov2013.pdf>.

<sup>12</sup> FCJ Refugee Centre's report and policy recommendations are available at: <http://www.fcjrefugeecentre.org/wp-content/uploads/2013/03/Report-on-HTForum.pdf> and <http://www.fcjrefugeecentre.org/wp-content/uploads/2013/03/Request-for-Action.pdf>.

### **Barbara Gosse, Canadian Women's Foundation (CWF)<sup>13</sup>**

Barbara Gosse shared some of the work carried out by the Canadian Women's Foundation (CWF) and the CWF National Task Force on Trafficking of Women and Girls. The Task Force's guiding principles in their work on trafficking include viewing human trafficking as a deeply gendered practice, as based on gender inequality and as a form of violence against women that exists throughout Canada. Recommendations will be developed by the Task Force in spring 2014 and a final report will be published in the summer/fall 2014.

Some of the issues learned and challenges faced by the Task Force included:

- The issues of sex trafficking and sexual exploitation are very complex;
- Sex trafficking is intricately linked to prostitution;
- Legislative responses to prostitution are fraught with contested perspectives in continual fluctuation;
- Country (and city) contexts vary enormously;
- Direct 'policy transfer' is not necessarily easy;
- Trafficking is fluid and adaptable in reaction to legislation and enforcement;
- Best business practices to ensure not providing opportunities for traffickers;
- Both trafficking and sexual exploitation are very difficult to track, and data collection is generally limited;
- Evaluation of the impacts of legislative changes on trafficking for sexual exploitation is quite limited;
- Ease and confidentiality of internet driving growth in trafficking.

The important role of experiential women was strongly stressed, particularly in voicing women's experiences, existing needs and gaps, as well as the different processes that exist behind the trafficking of women and girls in Canada for the purpose of sexual exploitation.

### **NGO Challenges, Emerging Trends and Effective Strategies**

Participants and partner organizations working on trafficking across Canada were consulted both before and during the Forum regarding the challenges they are facing, emerging trends they have observed, and strategies that have proved useful to them in both dealing with cases or raising awareness of trafficking. This session worked to share these and additional experiences, which also framed the discussion on common issues and priorities later in the day.

#### **A. Challenges**

The main challenges discussed touched on 5 common areas:

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<sup>13</sup> "Task Force on Trafficking Women and Girls in Canada, Canadian Women's Foundation": <https://ccrweb.ca/files/cwf-ccr-trafficking-forum-nov2013.pdf>.

**1. Financial and human resources:** a cross-cutting challenge for most sectors. Limited resources include those necessary to provide victim support and build immediate response models, for overall front-line victim services, and for both awareness-raising and training.

**2. Services:**

- Housing/shelter:
  - Finding adequate shelters that are sensitive to the different needs of trafficked persons. While shelters for victims of domestic violence can be an option at times, they do not necessarily address the specific needs of trafficked persons. There is also a lack of services for trans people, especially shelters.
  - Women’s shelters have different ways of operating and their circumstances fluctuate from day to day. Some shelters face the challenge of offering and securing a safe space for trafficked persons since shelter is offered on a voluntary basis. Daily fluctuating conditions also mean that shelters cannot always offer space to trafficked women who are referred to them by partner organizations.
- Case management:
  - There is no standard for providing comprehensive support to and referrals for survivors of trafficking, making the process lengthier than necessary for both trafficked persons and service providers.
  - Case management challenges range from identifying a lead that will be responsible for a case, to identifying a trafficked person, providing referrals to the right agencies, procuring legal support, even throughout the court process, and addressing survivors’ medical and housing needs, among others.
- Legal assistance and representation: Access to affordable legal assistance and representation is particularly difficult for trafficked persons, and especially for trafficked non-citizens looking to obtain a Temporary Residence Permit (TRP).
- Limited access to services for trafficked persons without status: lack of status makes it harder for trafficked persons to access services and for service providers to reach out to them.
- Access to local and regional Citizenship and Immigration offices: The closing of many local and regional CIC offices has restricted access to their services and has had a negative impact on both organizations working to assist trafficked persons and on survivors of trafficking.

**3. Policies and protection**

- Long-term solutions for trafficked non-citizens, beyond the temporary measures of TRPs.
- Changes to refugee and immigration policies: The new refugee determination system does not give trafficked persons enough time to prepare for their refugee hearing and to find legal representation. This is especially challenging for people without documentation.
- Providing protection overseas: Providing options and finding avenues for trafficked persons who are overseas and are looking for protection in Canada from abroad.

**4. Awareness-raising and outreach**

Participants and other partners found that there continues to be a significant and challenging knowledge gap across sectors, including among service providers, law enforcement agencies, settlement workers, workers at grassroots level, and shelters. Some of the following gaps were identified:

- Among service providers there is a lack of knowledge on the issue of trafficking in persons, on identifying a trafficked person, and on working effectively with survivors and providing necessary support.
- Among settlement workers there is a lack of knowledge on the issue and more training is required.
- Shelter/housing networks have found that the services they offer are not well known among the network of anti-trafficking partners. This is especially the case for external services, such as accompaniment and other support services that are offered by some shelters, which reach beyond accommodation needs. This means many victims are not aware of the services that are available to them.

Awareness-raising challenges also involve:

- Creating an understanding of the depth and breadth of the issue and the different forms of trafficking in Canada, including the importance of focusing on labour trafficking;
- Creating a unified understanding of the needs surrounding trafficking. A unified training that is factual, rather than opinion based, is necessary for front-line service providers and law enforcement. Such training should operate with a human rights framework that is client-centred.

## **5. Definition of trafficking in persons**

A cross-cutting issue affecting every domain is the lack of a common definition and understanding of trafficking in persons across sectors. This was particularly seen as creating important operational challenges and tensions. Some of the specific issues brought up include:

- Complexity is not addressed: The complexity of cases does not correspond to the legal definitions available;
- Identification and data collection are complicated: There are conflicting understandings of trafficking and the forms it takes across sectors and among service providers. This complicates the identification of victims, particularly in complex cases where other issues may be mixed in (i.e. domestic violence), and in collecting usable data to determine the scope of the issue locally, provincially and nationally.
- Tensions in placing trafficking in the broader context: Tensions arise when trafficking is discussed more broadly. Sexual and labour exploitation are often looked at separately, without focusing on their intersections. It is difficult to move away from a framework that focuses only on one form of trafficking.

## **B. Emerging trends**

Participants identified the following changes in cases of trafficking:

### **1. Increased awareness of trafficking and case referrals**

- An increase in awareness is accompanied by an increase in referrals of cases
- In Alberta, they experienced a 520% increase in victim referrals between 2011 and 2012.

**2. Long-standing mental effects of trafficking**

- An increasing number of cases presenting of individuals who were trafficked many years ago, but who continue to suffer from trauma from their trafficking situation.

**3. Different forms of trafficking are arising**

- Forced marriages are a new trend. A great number of these cases are happening in Ontario. Many trafficked persons who were forced to marry continue to be in hiding.<sup>14</sup>
- Older women are being solicited via the Internet, particularly in the Newfoundland and Labrador regions.
- An increase in referrals has also come with a greater variety in the details of trafficking cases.

**4. Trafficking happening overseas is having an impact in Canada**

- Cases of people from Eritrea who are kidnapped and whose relatives are asked for ransom are having an impact in Canada. There is a general lack of knowledge about this in Canada.

**C. Responses and useful strategies in raising awareness and dealing with cases of trafficking**

The strategies distinguished as most effective by participants and other partner organizations touched on 4 areas:

**1. Networking: sharing information and resources with those involved in similar work**

- Knowing who to call, what resources are available, and assistance in providing information.
- Networking with others who work with victims and survivors locally, including police, hospitals, victims' services, etc., and meeting once a month to discuss strategies about how to work together.
- Tapping into other resources, including people who have more information.

**2. Collaboration between groups and agencies**

- Collaboration with local service providing agencies and law enforcement facilitates referrals and assistance provision.
- Forging and maintaining healthy, open, and collaborative relationships is the most essential strategy. Ongoing communication is vital for coordinated responses to human trafficking.
- In communities where trafficking is less prevalent but increasing, working towards collaborating with relevant community sectors involved with services to victims or who may have the potential to do so (NL promising practice).
- Integrated approach, working with victim support services, relying on community partners and working together as a team.

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<sup>14</sup> As a response to a number of incidents of forced marriages amounting to trafficking in persons, the South Asian Legal Clinic of Ontario (SALCO) has called for the Immigration and Refugee Protection Act (IRPA) to be amended in order to expand the definition of trafficking in persons to include forced marriages.

- Law enforcement: working with different local and regional police agencies and the RCMP to share information and target traffickers; setting up units to look specifically at trafficking (Waterloo promising practice).

### **3. Awareness strategies**

- Social media friendly awareness-raising, such as short videos that people can share on Facebook and Twitter.
- Organizing a strategic planning training day that led to a campaign on education and awareness for the city of St. John's, NL. A Proclamation Day was held with the Mayor at City Hall and supported by the Chief of Police. This was followed by a week of media interviews, Public Service Announcements, and display tables containing information on trafficking throughout different areas of the city.
- Collaboration with professional marketing companies and media.

### **4. Services**

- Immediate assistance and support: having someone with the training and availability to meet survivors on their own grounds, to provide transportation, a helping hand, a cup of coffee, a listening ear, and useful resource.
- In Ontario free interpretation services are offered, a list of participating organizations is available here: <http://www.languageinterpreters.on.ca/site/SITE/index.html>.

### III. TRAFFICKING IN PERSONS AND THE LABOUR EXPLOITATION OF MIGRANT WORKERS

A joint session was held mid-day between participants from the Trafficking Forum and participants from the CCR Migrant Workers Strategy Meeting taking place at the same time. This session focused on the overlap between human trafficking and the labour exploitation of migrant workers through the Temporary Foreign Worker Program (TFWP). Two resource people, Bethanie Hastie and Jill Hanley, delivered introductory presentations on the conceptual issues and on the practical manifestations and challenges of intervening in cases of labour trafficking.

Presentations were followed by a question and discussion period that reflected on the challenges created by the narrow interpretation of trafficking in the Criminal Code, where a person's physical safety must be threatened to be considered trafficking, on the increasing dependency of Canada on Temporary Foreign Workers, and on the possibility of exploring alternative legislative options to prioritize labour trafficking in Canada.

**Bethany Hastie, Institute of Comparative Law, McGill University, *Understanding Human Trafficking for Forced Labour: Key Conceptual Elements and Challenges***

Bethany Hastie talked about the general and legal concepts surrounding labour trafficking. She specifically identified some of the challenges in understanding human trafficking for the purpose of labour exploitation, including that of shifting the focus from *what* work or service we are talking about, to *how* the work or service is procured.

In this context, Hastie clarified the importance of understanding the “means” elements of trafficking in order to distinguish it from other forms of forced labour and exploitation, including understanding the indirect means (e.g. deception, fraud) and direct means (e.g. coercion, force, abuse) involved. The primary “means” and indicators of trafficking for forced labour that were highlighted involve: economic penalties, threats of denunciation to authorities, isolation and control over movement and behaviour. Many of these are non-physical in nature (e.g. coercion, abuse of power, abuse of position of vulnerability) and target the underlying root causes and motivations of labour migration, namely socio-economic conditions.

For migrant workers in Canada, Hastie explained that employers have effective control over all of the following aspects of the relationship: wages (and sometimes expenses), administrative status, and daily conditions of work (and sometimes of living). In this way, the nature of this relationship alongside the policy framework particularly of the TFWP has placed migrant workers in a position of vulnerability and precarity.

**Jill Hanley, School of Social Work, McGill University and Immigrant Workers Centre, *Forced labour in Canada. Intervention Challenges (Le travail forcé au Canada. Défis d'intervention)***

Jill Hanley spoke about the conditions of forced labour that exist within the TFWP and the context that allows for this to happen in Canada, including: unfair labour practices, socio-

economic inequality, labour protection measures that are dependent on complaint mechanisms on behalf of the employee, and an explosion in the use of immigration programs that impart precarious immigration statuses.

Some of the intervention challenges faced by Hanley in dealing with cases of labour trafficking include:

- Exclusion from social protections (e.g. in Quebec from: labour standards, the Commission de la santé et de la sécurité du travail (CSST), and unemployment protections);
- A lack of funding for community groups to advocate for the rights of Temporary Foreign Workers (TFW);
- Weak immigration protection measures (e.g. temporary residence permit vs. detention and deportation, and people going through the refugee determination and humanitarian and compassionate route, for which many do not fit the criteria);
- Less sympathy for economic migrants, who are less likely to receive assistance;
- Emotional ambivalence from people who are intervening in and facing these cases.

Hanley indicated that many of these challenges are indicative of why a high proportion of the legal human trafficking cases are overwhelmingly domestic: because international cases are being deported and are not given the time for review. In order to better address situations of international trafficking, particularly for the purpose of labour exploitation, Hanley suggested:

- Immigration reform: open up to all labour categories; faster processing; eliminate sponsorship restrictions.
- TFWP reform: procure an open or sector-oriented work permit, *not* employer-specific; remove 4-year limit on the stay of TFWs; finance TFWs' access to information and their orientation; ban TFWP from being used to fill permanent labour needs.
- Labour protections reform: cover all workers, independently from their immigration status; secure inspections without having to wait for complaints to be filed.

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## IV. ANALYSIS OF POLICY CONCERNS AND PRIORITIES

This session supported an analysis of emerging policies and concerns about their impacts on trafficked persons in Canada. The goal of this session was to identify common concerns and priorities, as well as possible strategies to address these.

Participants were divided into discussion groups and were guided by three broad priority areas determined on the basis of organizations' previous input. These were: 1) Policy issues, 2) Services, and 3) Awareness-raising. Following the discussion, Cathy Kolar, member of the CCR Anti-Trafficking Steering Committee, delivered an analysis to advance further reflection on the current policy context and concerns. The results of the discussion groups and the analysis were reviewed during the final session.

### **Cathy Kolar, Legal Assistance of Windsor**

Cathy Kolar explored some of the recent shifts in immigration and refugee policy. Kolar's analysis reflected on the effects that Canada's expansion of temporary migration in the past ten years has had on newcomers' vulnerability to forced labour. The analysis also reflected on the impacts this has had on front-line workers' ability to identify victims of forced labour.

For an increasing number of migrants, remaining in Canada is dependent on "pleasing an individual"

Recent policies have increased situations of vulnerability for different groups of migrants through greater power imbalances and increasingly precarious immigration conditions:

### **Conditional Permanent Residency for Spousal Sponsorship**

The Conditional Permanent Residence policy for spousal sponsorship was initiated in October 2012. This policy seeks to prevent marriages of convenience by creating a period of conditional permanent residence of two years for sponsored spouses and partners who have been in a relationship of two years or less with their sponsors, and who have no children in common. If the sponsored spouse or partner does not remain in a conjugal relationship and cohabit with their sponsor during the conditional period, their permanent residence could be revoked, and they could be deported.<sup>15</sup>

This policy has created an additional situation of vulnerability for sponsored spouses and partners, who may be subject to threats of deportation and to manipulation by their spouse due to the resulting power imbalance. This has created grounds for different situations of abuse and trafficking in persons involving servile and forced marriages. Through this policy the power imbalance is automatically sided with the sponsor while the sponsored spouse or partner faces additional barriers involving language limitations, isolation, economic dependency and a lack of knowledge of Canadian laws and rights.

Emerging trends as a result of this policy have included an increased vulnerability of sponsored spouses, concerns about leaving before the abuse can be substantiated to Citizenship and

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<sup>15</sup> For more on the conditional permanent residence for sponsored spouses' policy, please visit: <https://ccrweb.ca/en/conditional-permanent-residence>.

Immigration Canada, and situations where sponsored spouses and partners are being financially exploited under threat of deportation.

### **Super Visa**

A 'Super Visa' was introduced in December 2011 to grant parents and grandparents long-term visitor visas. This was introduced after imposing a moratorium on sponsorship applications for parents and grandparents as of November 2011. The super visa is valid for up to 10 years, it allows an applicant to stay in Canada for 2 years at a time and requires applicants to obtain private Canadian health-care insurance. Applicants are ineligible to access settlement agencies and public health care. This policy raises concerns about the increased vulnerability created particularly for elders who may be subject to abuse, including financial abuse, and to forced housekeeping and childcare.

### **Temporary Foreign Worker Program**

The Temporary Foreign Worker Program (TFWP) also imposes significant barriers that create ample opportunities for the exploitation and abuse of migrant workers, increasing their vulnerability to trafficking. Specifically, TFWs lack legal and social protections in Canada because:

- They are tied to an employer for status;
- They may live with their employer;
- Their mobility rights are limited;
- They have limited access to social benefits;
- They do not have access to education, language training, or settlement services;
- Recruitment fees continue to be a civil issue rather than a criminal one;
- They can be easily removed and replaced.

### Similarities in vulnerabilities created by these policies

The policies above have all increased newcomers' vulnerability to labour exploitation through:

- Power imbalances that are structured into the programs;
- No access to settlement services or language support;
- A lack of knowledge, of information and social networks;
- A dependency on either an employer or family member to receive health care;
- Threat of removal that is more and more apparent;
- An obscuring of forced labour because of the relationship;
- Extreme pressure against breaking family or cultural codes.

### Differential rights and the normalization of "limited rights" for certain groups

There has been a move to place specific groups of migrants under increasingly precarious situations through differential rights, by barring their access to services, social assistance and other support mechanisms, as well as to citizenship status and human rights. This has been justified by a process of deskilling where people under "low-skilled" occupational programs such as the TFWP and the Live-in Caregiver Program have received limited rights. This has increased situations of vulnerability to forced labour by creating conditions in which people can be easily

exploited, and an increased difficulty in enforcing labour standards. Meanwhile workers are being criminalized, rather than their exploiters.

#### Changes in the refugee determination system

Recent changes to immigration policies and specifically to the refugee determination system have created severe restrictions on refugee claimants, including trafficked persons who have claimed refugee status. These changes have created barriers to access status and protection in Canada.

Fragmented categories have been established based on a person's country of origin and their form of entry, including a two tiered system for:

- People who come from 'designated countries of origin'; and
- People designated as "irregular arrivals".

Both of these categories are entitled to different rights and benefits. As a consequence, changes in legislation have specifically limited trafficked persons' access to:

- The refugee determination system particularly through pre-removal risk assessments (PRRA)
- Humanitarian and Compassionate (H&C) Applications
- Temporary Resident Permits (TRP)

The refugee determination system is often used by traffickers to threaten and control victims. Through these changes, the following barriers have been imposed on trafficked persons to access statutory protection:

- Survivors of trafficking from Designated Countries of Origin (DCOs) now face extremely short timelines to prepare for a refugee hearing and are not able to appeal a negative refugee decision. Persons from a DCO cannot apply for a PRRA for 36 months.
- A regular refugee claimant cannot apply for a PRRA for 12 months.
- Trafficked persons who may be "designated foreign nationals" will be barred from applying for a TRP for at least 5 years.
- People whose refugee claims have been rejected, withdrawn or abandoned are now barred from applying for a TRP for 12 months following the rejection of the claim or the determination that the claim was withdrawn or abandoned. This will include people who were forced to make a refugee claim and then withdraw or abandon it, or to make a claim that was destined to fail.
- Survivors of trafficking with failed refugee claims will now be barred from applying on H&C grounds for 12 months following the rejection, the withdrawal or abandonment of their claim.

The policies analyzed here have all created conditions that make migrants vulnerable to trafficking and different forms of exploitation. It is most important to note that these precarious immigration conditions are repeatedly being used as a mechanism of control.

## V. PRIORITIES IN MOVING FORWARD

Participants identified a number of priorities to move forward based on the challenges, trends and experiences discussed during the Forum. These concentrate on the areas of policy, service provision and awareness-raising and can offer guidance to the ongoing work of NGOs, service providers, law enforcement, immigration agencies, policy makers, and other groups involved in anti-trafficking initiatives across Canada.

### Policy

In regards to policy issues, there is a need to:

1. Assess conflicting definitions of trafficking in persons in Canada, analyze their operational impacts (e.g. on identification of trafficked persons, data collection, collaboration, prosecution) and identify ways to deepen the understanding of trafficking and its various forms.
2. Focus on protecting the human rights of trafficked persons and on addressing their immediate and long-term needs.
3. Modify policies that limit trafficked non-citizens' access to statutory protection and increase newcomers' vulnerability to trafficking, including:
  - Bars on access to Temporary Resident Permits (TRPs) for people whose refugee claims have been rejected, withdrawn or abandoned and for trafficked persons who are "designated foreign nationals";<sup>16</sup>
  - Conditional permanent residence for sponsored spouses;
4. Implement provincial monitoring systems for the Temporary Foreign Worker Program, following the model of Manitoba and Saskatchewan.

### Services

To address gaps in service provision for trafficked persons, there is a need to:

5. Improve service providers' access to reliable and sustainable funding, including specialized services.
6. Explore solutions to address the lack of adequate housing for trafficked persons with varied needs (women, children, men, newcomers, survivors of labour trafficking and survivors of sex trafficking).
7. Enhance and support access to legal services for trafficked non-citizens.
8. Support training for settlement workers on trafficking, including on identifying and working with trafficked persons.

### Awareness-raising

It is important for awareness-raising and outreach efforts to:

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<sup>16</sup> For more information on these and other limits to access to TRPs for trafficked persons, please see CCR report, *Temporary Resident Permits: Limits to Protection for Trafficked Persons*: <https://ccrweb.ca/en/trafficking/temporary-resident-permit-report>.

- 9.** Create a better understanding of different forms of trafficking in Canada and abroad, among organizations, law enforcement, immigration agencies, policy makers, prosecutors and the general public.
- 10.** Clarify the root causes of trafficking, both locally and globally, and include a focus on labour trafficking explaining the continuum between forced labour and trafficking in persons.
- 11.** Engage provincial and municipal governments to prioritize and recognize trafficking in persons locally, regionally and nationally.
- 12.** Increase targeted efforts among diverse groups (e.g. front-line and settlement workers, youth, aboriginal populations, the private and government service sectors, law enforcement).
- 13.** Work with the media on responsible messaging and outreach.
- 14.** Broaden efforts in order to reach beyond urban centres to include suburban centres.
- 15.** Share information on services available to trafficked persons in different communities.

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## VI. WORKSHOP: PROTECTING TRAFFICKED PERSONS: THE CHALLENGES OF DEFINITIONS

This workshop examined the challenges behind existing trafficking in persons definitions in Canada and internationally, in light of the diverse and complex realities faced by trafficked persons. Speakers explored recent cases in Canada and analyzed both Canada's anti-trafficking legislation as well as international protocols on trafficking, with a focus on some of the operational limitations imposed by conflicting definitions of human trafficking that focus primarily on crime rings or sex trafficking. Many of the participants who attended the Forum were also present at the workshop.

The workshop consisted of panel presentations by Idil Atak, Assistant Professor at Ryerson University, Rosalind Currie, Director of the British Columbia Office to Combat Trafficking in Persons, and Angela Contreras Chavez, Coordinator of the West Coast Domestic Workers' Association's Public Legal Education & Information Project for Live-in Caregivers in BC.<sup>17</sup> The floor was then opened for a discussion and question period with participants.

Reflections from the presentations and the following discussion included a focus on:

- The lack of political commitment and willingness to focus on the protection and human rights of trafficked persons, which is reflected in the terminology of international and Canadian legal instruments.
- A need for a human rights approach in efforts addressing trafficking in persons, both in Canada and internationally.
- Operational challenges arising from narrow interpretations and both a lack of understanding and of consensus on the definition of trafficking in persons in Canada. Five different working definitions that are currently implemented across sectors were highlighted, including those based on: 1) the United Nations Trafficking Protocol; 2) the Criminal Code; 3) the Immigration and Refugee Protection Act; 4) the Temporary Residence Permit guidelines; and 5) the general public's definition and perception of trafficking.
- The growing complexity of trafficking situations involving various forms of trafficking.
- The importance of extending training through legal literacy education to groups in vulnerable situations and of making information accessible to them on the ways in which they may be victimized, such as in cases involving Live-in Caregivers.
- The usefulness of thinking about changing the definition of trafficking. This question raised the possibility of amending legislation to include other forms of trafficking so as to provide further operational guidance and broaden the definition.

Overall, workshop participants and speakers felt that, while awareness has increased on the issue, there continues to be general denial or lack of knowledge about human trafficking in Canada. It was concluded that the role of NGOs is essential in providing information and services to trafficked persons and that strengthening collaboration across sectors also continues to be crucial in ongoing and future anti-trafficking efforts.

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<sup>17</sup> Workshop presentations are also temporarily available at <http://ccrweb.ca/en/trafficking-nov2013-presentations>.

## VII. CONCLUSIONS

Participants at the Forum and workshop had the opportunity to connect and share valuable information among fellow specialists working on trafficking issues from across sectors and from different provinces. Overall, participants reported that the networking and communication opportunity created was particularly valuable. They stressed the need to continue to build and strengthen connections through similar venues between organizations, law enforcement and diverse sectors, as well as with different levels of government (municipal, provincial and federal) so as to effectively and efficiently manage cases and address the needs of trafficked persons.

A number of pressing challenges and priorities resonated throughout the discussions. In particular, issues concerning the lack of a common definition and understanding of trafficking in persons and the complex range of trafficking situations traversed all priority areas. In view of the operational challenges and tensions this has created across sectors, participants particularly highlighted the need to identify ways of deepening the understanding of trafficking and its various forms, especially in the legal system. Specifically, labour trafficking was a concern in that it is less commonly understood and has received less sympathy overall in anti-trafficking efforts, having real and negative consequences in the identification and prosecution of cases.

Participants acknowledged that awareness of trafficking has improved; however they also highlighted a continued need for awareness-raising and outreach efforts among different groups and sectors, including a sustained effort to focus on labour trafficking in Canada. While participants acknowledged awareness-raising was crucial, it was also noted that it was important to focus additionally on priorities that fall within the realms of service provision, case management, and both on the short- and long-term protection needs of trafficked persons, which to date have received less attention.

It was suggested that further opportunities for networking and information sharing be consistently created in order to continue to learn from one another, to strengthen alliances and to share useful resources and strategies. Participants also indicated the need to create a space where an in-depth analysis of issues such as trafficking definitions, policy status and gaps can be carried out. It was also suggested that more information-exchange and networking opportunities be created between anti-trafficking and migrant workers groups to further discuss common concerns surrounding forced labour and trafficking. With regards to the CCR's upcoming work and focus, all participants reacted positively to and supported plans to develop an upcoming online discussion venue where organizations will be able to share experiences, struggles and strategies concerning their anti-trafficking work.

Finally, the need to implement a gender and race analysis as well as a "no harm" approach in all anti-trafficking work was also strongly stressed throughout the discussions. This includes all outreach efforts, service provision and policy development. In moving forward, participants emphasized that it will be particularly important to shift discourse, consciousness and anti-trafficking approaches from a predominant focus on prosecution towards one that prioritizes the needs and rights protection of trafficked persons in Canada.

## **APPENDIX A: BACKGROUNDER FOR NATIONAL FORUM ON TRAFFICKING**

### **Some Key Issues, November 2013**

#### **A. ACCESS TO PROTECTION FOR TRAFFICKED NON-CITIZENS**

Trafficked non-citizens may seek statutory protection in Canada through three main avenues. Existing measures to regularize the status of trafficked persons include:

- Temporary Resident Permits (TRPs)
- Refugee claims
- Applications for humanitarian and compassionate (H&C) consideration

##### **➤ Temporary Resident Permits**

TRPs offer a legal immigration status to some trafficked non-citizens, albeit temporary. TRPs are currently the main avenue to protection offered under Canada's immigration legislation.

##### Background:

In May 2006, the Canadian government issued guidelines for TRPs for trafficked non-citizens. This represented an important step towards recognition of the protection needs of trafficked persons.

TRPs are granted by Citizenship and Immigration Canada and offer:

- A "reflection period" of 180 days, during which they may remain in Canada;
- Access to health care through the Interim Federal Health (IFH) Program, including medical and social counselling during this time;
- The right to apply for a work permit.

Following the 180 day period, an immigration officer may extend the permit depending on the circumstances of the individual case.

The guidelines for issuing TRPs are incorporated into CIC's general *Operational Manual IPI for Temporary Resident Permits*: <http://www.cic.gc.ca/english/resources/manuals/ip/ip01-eng.pdf>.

##### **CCR comments on TRPs**

Despite their many positive features, experience has shown that there are continuing gaps in access to protection and rights for trafficked persons through TRPs. Some of the gaps identified by the CCR include:

- Access to TRPs is limited in practice, and now in law;
- When trafficked persons do receive TRPs, their rights are restricted;
- Options for receiving permanent protection are uncertain;
- Trafficked persons continue to be detained and deported.

The CCR has developed a detailed report on *Temporary Resident Permits: Limits to Protection for Trafficked Persons*, available online at: <http://ccrweb.ca/en/trafficking/temporary-resident-permit-report> (also available as [print copy](#)).

➤ **Refugee claims**

In some cases trafficked persons' situation corresponds to the refugee definition and they may be recognized as a refugee.

Shortcomings:

Some trafficked persons do not meet the refugee definition, which was not designed to address their situation. The refugee claim also in some regards offers less access to services than a TRP.

➤ **Applications for humanitarian and compassionate (H&C) consideration**

A trafficked person may also apply to remain in Canada on H&C grounds to allow for consideration of the hardship their trafficking situation in Canada has caused them.

Shortcomings:

- An H&C application takes a long time to be assessed;
- Fees will not be waived for an H&C; therefore the applicant will have to pay the \$550 fee.
- An H&C application will not stay a deportation, meaning that the person may be removed from Canada before the application is considered.
- While waiting for a decision, the applicant may not have access to basic rights, such as a work permit, health care or other benefits.

**CCR comments on access to protection for trafficked non-citizens**

Current laws relating to trafficking in persons criminalize trafficking by punishing traffickers, but do not protect the rights of trafficked persons specifically. Furthermore, existing measures to regularize the status of trafficked non-citizens do not provide adequate protection for all trafficked persons who need it. **There is a need for clearer statutory protection for trafficked non-citizens.**

**B. CHANGES TO IMMIGRATION AND REFUGEE POLICIES**

Important changes to the *Immigration and Refugee Protection Act* (IRPA) have recently come into effect, modifying in particular the refugee determination system. The CCR is concerned that these changes have created new barriers for trafficked persons to access status in Canada, leaving them more vulnerable.

Changes to the law may specifically limit trafficked persons' access to:

- Temporary Resident Permits (TRPs);
- Humanitarian and compassionate (H&C) applications;
- Refugee determination system:
  - Pre-removal risk assessments to consider their risk on the basis of new information revealed after they escaped their traffickers;

- Short timelines to prepare for a refugee hearing and to find legal representation.

These changes may facilitate the arrest and deportation of trafficked persons instead of providing pathways to status and protection.

In September 2013, at a meeting with the CCR, Citizenship and Immigration Canada acknowledged that the legislative changes have created unintended bars to access to TRPs for trafficked persons. They said that they are working on the issue.

### **C. HEALTH CARE COVERAGE FOR TRAFFICKED PERSONS AFTER CHANGES TO INTERIM FEDERAL HEALTH PROGRAM (IFH)**

Following revisions to IFH, which took effect on June 30, 2012, a trafficked person who has received a Temporary Residence Permit (TRP) is entitled to full health care coverage, including: hospital services; services of health care professionals licensed in Canada; and laboratory, diagnostic and ambulance services. They may also receive “supplemental health-care benefits,” including: prescribed medications; limited dental and vision care; prosthetics and mobility devices; home care and long-term care; counselling by a clinical psychologist and health assessments. By contrast, trafficked non citizens without a permit only have limited access to health care services.

#### **➤ Health care coverage for trafficked persons who are refugee claimants**

Benefits available to a trafficked person who is a refugee claimant will depend on whether their claim is successful and whether they are from a country listed by the Minister of Immigration as a “Designated Country of Origin” (DCOs are countries identified at the minister’s discretion as having democratic institutions and low acceptance of refugee claims).

Claimants who are not from DCOs would be entitled to health-care coverage of an “urgent or essential nature,” including: hospital services; services of doctors and nurses; laboratory, diagnostic and ambulance services; and medications and vaccines only if needed to prevent or treat a disease that is a risk to public health or to treat a condition of safety concern.

Claimants from DCOs and rejected refugee claimants will only be entitled to “Public Health or Public Safety Health-Care Coverage,” if needed to prevent or treat a disease posing a risk to public safety.

For more details, please see the Summary of Benefits at:

<http://www.cic.gc.ca/english/refugees/outside/summary-ifhp.asp>.

#### **CCR comments on access to health care for trafficked non-citizens**

The CCR is concerned that, since access to TRPs for trafficked persons is quite limited in practice, many survivors of trafficking are left without access to necessary medical services and counselling that will help them recuperate and regain control over their lives. In the absence of federal coverage, access to health services depends on individual provinces’ or territories’ conditions.

At each stage of the trafficking experience women, men and children may face psychological, physical and/or sexual abuse. The physical and mental health risks and impacts are often long-

standing and vary by the type of work carried out, whether involving sexual or labour exploitation. Health services are therefore crucial for trafficked persons regardless of their immigration status.

#### **D. MIGRANT WORKERS AND TRAFFICKING IN PERSONS**

Migrant workers are particularly vulnerable to exploitation and human trafficking, because they lack legal and social protections.

In Canada, the structure of the Temporary Foreign Worker Program (TFWP) has created opportunities for the exploitation and abuse of migrant workers, increasing their vulnerability to trafficking.

Specifically, temporary foreign workers in Canada have limited access to protection because:

- Work permits are tied to a single employer;
- Workers are isolated and lack access to information on their rights;
- The Canadian and most provincial governments do not ensure monitoring of temporary foreign workers' workplaces.

The CCR has developed a document, *Used and Abused: Migrant Workers in Canada*, exploring the risks, abuses and exploitation that occur in the TFWP, including trafficking of migrant workers for the purpose of labour exploitation. The document is available online, at: <http://ccrweb.ca/files/migrantworkers4pager.pdf>.

#### **E. CCR PROPOSAL FOR LEGISLATIVE AMENDMENT TO PROTECT TRAFFICKED PERSONS**

The CCR is calling for measures to adequately protect the rights of trafficked persons in Canada, in particular through legislative amendment. A *Proposal to amend the Immigration and Refugee Protection Act* has been developed to advocate for legislative changes that would ensure the unconditional protection of trafficked persons' rights, as well as the provision of temporary and permanent protection to trafficked persons. The CCR is calling on Parliamentarians to turn this proposal into law.

The CCR has identified the following principles to guide responses to trafficking:

- **Non-punitive:** Measures must not penalize trafficked persons
- **Human rights:** Measures and legal provisions must be guided by and be respectful of the human rights of trafficked persons
- **Economic rights:** Measures must be guided by and be respectful of the economic rights of trafficked persons
- **Supportive services:** There is a need for supportive services for trafficked persons
- **Gender and race analysis:** A gender and race analysis should be brought to any consideration of trafficking issues

- **Inclusive of trafficked persons:** Discussions about trafficked persons should include trafficked persons themselves

The full Proposal is available at: <http://ccrweb.ca/en/proposal-legislative-amendment-protect-trafficked-persons> (also available as [print copy](#)).

## **APPENDIX B: FICHE D'INFORMATION POUR LE FORUM PANCANADIEN SUR LA TRAITE DES PERSONNES**

### **Quelques enjeux principaux, Novembre 2013**

#### **A. L'ACCÈS DES NON-CITOYENS AYANT SUBI LA TRAITE À LA PROTECTION**

Il existe trois moyens principaux pour régulariser le statut des non-citoyens ayant subi la traite au Canada :

- Les permis de séjour temporaire (PST)
- Les demandes d'asile
- Les demandes en raison de considérations humanitaires (CH)

##### **➤ Les permis de séjour temporaire**

Les PST offrent parfois un statut d'immigrant légal, quoique temporaire, aux non-citoyens ayant subi la traite. C'est le principal instrument de protection offert par la législation canadienne sur l'immigration.

##### Contexte :

En mai 2006, le gouvernement canadien a émis des lignes directrices concernant les PST pour les non-citoyens ayant subi la traite. Il s'agissait d'une étape importante vers la reconnaissance du besoin de protection des personnes ayant subi la traite.

Émis par Citoyenneté et Immigration Canada (CIC), les PST leur offrent :

- Une « période de réflexion » de 180 jours, durant laquelle elles peuvent demeurer au Canada;
- L'accès, durant la période de réflexion, à des soins de santé via le Programme fédéral de santé intérimaire (PFSI), incluant des consultations médicales et psychologiques;
- Le droit de demander un permis de travail.

Suite à la période de 180 jours, un agent d'immigration peut prolonger le permis selon les circonstances particulières présentes dans chaque cas.

Les lignes directrices sont intégrées dans le *Manuel opérationnel IP 1 Permis de séjour temporaire*, de Citoyenneté et Immigration Canada. Vous les trouverez à l'adresse suivante : <http://www.cic.gc.ca/francais/ressources/guides/ip/ip01-fra.pdf>.

#### **Commentaires du CCR sur les PST**

Bien que ces permis offrent certains avantages, l'expérience a démontré que des lacunes dans l'accès à la protection et dans la reconnaissance des droits des personnes ayant subi la traite existent toujours. Voici quelques lacunes identifiées par le CCR :

- L'accès au PST est limité dans la pratique et, depuis les modifications récentes, dans la loi ;
- Lorsqu'une personne ayant subi la traite reçoit un PST, ses droits sont limités;

- Les options disponibles pour accéder à une protection permanente sont incertaines;
- Les personnes ayant subi la traite continuent d'être mises en détention et déportées.

Le CCR a élaboré un rapport détaillé concernant les *Permis de séjour temporaire : limites à la protection des personnes ayant subi la traite*, disponible en ligne à l'adresse suivante: <http://ccrweb.ca/fr/traite/rapport-permis-sejour-temporaire>.

#### ➤ **Les demandes d'asile**

Dans certains cas, la définition de réfugiés s'applique à la situation d'une personne ayant subi la traite. Elle peut donc être reconnue en tant que réfugié.

#### Limitations :

La situation de certaines personnes ne cadre pas avec la définition de réfugié, qui n'a pas été conçue pour ce type de problématique. De plus, une demande d'asile n'offre pas l'accès à autant de services que le fait un PST.

#### ➤ **Les demandes en raison de considérations humanitaires**

Une personne ayant subi la traite peut également demander de demeurer au Canada sous des considérations humanitaires (CH) afin que les difficultés occasionnées par la traite soient prises en compte.

#### Limitations :

- L'évaluation d'une demande CH est longue;
- Il n'y a pas de dispense de payer les frais de traitement pour une demande CH; par conséquent, le requérant devra acquitter les frais de 550 \$;
- Une demande de CH ne retardera pas un avis de déportation; c'est-à-dire que la personne peut être renvoyée du Canada avant que sa demande soit évaluée.
- Lors du traitement de la demande, le requérant n'a pas accès à un permis de travail, à la protection médicale du gouvernement fédéral ou à d'autre protection.

#### **Commentaires du CCR sur l'accès à la protection des non-citoyens ayant subi la traite**

Les lois en vigueur concernant la traite des personnes punissent la traite en poursuivant les trafiquants mais elles ne protègent pas spécifiquement les droits des personnes ayant subi la traite. Par ailleurs, les mesures existantes concernant la régularisation du statut d'un non-citoyen ayant subi la traite ne fournissent pas une protection adéquate pour l'ensemble des personnes ayant subi la traite. **Une protection législative plus claire est nécessaire pour les non-citoyens ayant subi de la traite.**

#### **B. MODIFICATIONS AUX POLITIQUES D'IMMIGRATION ET AU SYSTÈME DE PROTECTION DES RÉFUGIÉS**

D'importants changements à la *Loi sur l'immigration et la protection des réfugiés* (LIPR) sont récemment entrés en vigueur, modifiant notamment le système de protection des réfugiés. Le CCR est préoccupé que ces modifications ont créé de nouveaux obstacles pour les personnes ayant subi la traite quant à leur accessibilité à un statut légal au Canada, ce qui les rend encore plus vulnérables.

Les modifications aux lois peuvent limiter l'accès des personnes ayant subi la traite au :

- PST ;
- Demande pour considérations d'ordre humanitaires (CH) ;
- Système de détermination du statut de réfugié :
  - Examen des risques avant renvoi permettant d'évaluer leurs risques sur la base des informations révélées après avoir fui leurs trafiquants;
  - Courts délais pour se préparer à leur audience sur la demande de statut de réfugié et pour trouver un représentant juridique.

Ces modifications risquent de faciliter l'arrestation et la déportation des personnes ayant subi la traite au lieu de leur fournir l'accès à un statut et à la protection.

En septembre 2013, lors d'une rencontre avec le CCR, Citoyenneté et Immigration Canada a reconnu que les changements législatifs ont involontairement limité l'accès aux PST pour les personnes ayant subi la traite. Ils ont mentionné qu'ils tentaient de remédier à cette situation.

### **C. COUVERTURE MÉDICALE POUR LES PERSONNES AYANT SUBI LA TRAITE SUITE AUX CHANGEMENTS APPORTÉS AU PROGRAMME FÉDÉRAL DE SANTÉ INTÉRIMAIRE (PFSI)**

Suite aux changements apportés au Programme fédéral de santé intérimaire (PFSI), qui sont entrés en vigueur le 30 juin 2012, une victime de la traite détenant un permis de séjour temporaire (PST) est bénéficiaire d'une « couverture des soins de santé élargie » incluant : les services médicaux et hospitaliers, les services des professionnels de la santé habilités à pratiquer au Canada et les services de laboratoire, de diagnostic et d'ambulance. Elles peuvent également recevoir des prestations médicales complémentaires incluant : les médicaments d'ordonnance, les soins dentaires et de la vue limités, les prothèses et les appareils aidant à la mobilité, les soins à domicile et les soins de longue durée, les consultations fournies par un psychologue clinicien agréé et les évaluations de santé. Par contre, les non-citoyens ayant subi la traite sans PST ont uniquement accès aux services de santé limités.

➤ **Couverture offerte à une personne ayant subi la traite qui effectue une demande d'asile**  
La couverture offerte à une personne ayant subi la traite qui est également demandeur d'asile dépendra de la réponse qu'elle obtiendra à sa demande d'asile ou de si elle est ressortissante d'un pays identifié par le Ministre de l'immigration comme étant « un pays d'origine désigné » (POD – pays désignés à la discrétion du Ministre de l'immigration selon les institutions démocratiques du pays et selon le faible taux d'approbation des demandes d'asile de ressortissants de ce pays).

Les demandeurs qui ne sont pas des ressortissants d'un POD auront droit à une couverture médicale de « nature urgente ou essentielle » incluant : les services hospitaliers, les services d'un médecin ou d'une infirmière autorisée, les services de laboratoire, de diagnostic et d'ambulance; les médicaments et les vaccins uniquement pour prévenir ou traiter une maladie présentant un risque pour la santé publique ou les cas préoccupants pour la sécurité publique.

Les demandeurs d'asile provenant d'un POD et les demandeurs d'asile déboutés n'auront droit qu'à une « couverture des soins de santé pour la santé et la sécurité publiques », couvrant uniquement les services pour prévenir ou traiter une maladie présentant un risque pour la santé publique ou pour la sécurité publique.

Pour plus de détails, veuillez consulter le résumé des prestations offertes à l'adresse suivante : <http://www.cic.gc.ca/francais/refugies/exterieur/resume-pfsi.asp>.

### **Commentaires du CCR sur l'accès des non-citoyens ayant subi la traite aux services de santé**

Le CCR s'inquiète du fait que la délivrance d'un PST à une personne ayant subi la traite est, dans la pratique, très limitée. Ainsi, plusieurs survivants de la traite n'ont pas accès à des services médicaux et de counseling qui leur permettraient de se rétablir et de reprendre le contrôle de leur vie. Face à l'absence d'une couverture médicale offerte par le gouvernement fédéral, l'accès à des services de santé dépend des conditions propres aux provinces et territoires concernés.

À toutes les étapes du processus de la traite, les femmes, hommes et enfants peuvent vivre des abus psychologiques, physiques ou sexuels. Les risques sur la santé physique et mentale sont de longue durée et varient selon le travail exercé, tant dans le contexte de l'exploitation sexuelle que du travail forcé. Les services de santé sont donc cruciaux pour les personnes ayant subi la traite, quel que soit leur statut migratoire.

### **D. LES TRAVAILLEURS MIGRANTS ET LA TRAITE DES PERSONNES**

Les travailleurs migrants sont particulièrement vulnérables à l'exploitation et à la traite des personnes puisqu'ils manquent de protection juridique et sociale.

Au Canada, la structure du Programme des travailleurs étrangers temporaires (PTET) a créé des circonstances permettant l'exploitation et l'abus des travailleurs migrants, augmentant leur vulnérabilité à la traite des personnes.

Plus précisément, l'accès à la protection pour les travailleurs migrants au Canada est limité par :

- Le permis de travail rattaché à un seul employeur
- L'isolement et le manque d'accès à l'information à propos de leurs droits
- Le manque de supervision des lieux et des conditions de travail par le gouvernement fédéral et par la plupart des gouvernements provinciaux.

Le CCR a publié un document, *Travailleurs migrants au Canada : Main d'œuvre bon marché facilement abusé*, analysant les risques, les abus et l'exploitation qui existent dans le PTET, notamment la traite des travailleurs et travailleuses migrant(e)s à des fins d'exploitation de leur travail. Le document est disponible en ligne à l'adresse suivante:

<http://ccrweb.ca/files/travailleursmigrants4pages.pdf>.

## **E. PROPOSITIONS DU CCR POUR DES MODIFICATIONS LÉGISLATIVES VISANT À ASSURER LA PROTECTION DES PERSONNES AYANT SUBI LA TRAITE**

Le CCR demande des mesures qui assureront une protection adéquate des droits des personnes ayant subi la traite au Canada, notamment par le biais de modifications législatives. Une *Proposition d'amendement à la Loi sur l'immigration et la protection des réfugiés* a été élaborée afin de présenter des modifications législatives qui assureraient une protection inconditionnelle des droits des personnes ayant subi la traite et qui offriraient une protection temporaire et permanente à ces personnes. Le CCR demande aux parlementaires d'agir afin que la proposition devienne loi.

Le CCR a identifié les principes suivants pour répondre à la traite :

- **Pas de sanction** : les mesures ne doivent pas pénaliser les victimes.
- **Les droits humains** : les mesures doivent être prises dans le strict respect des droits des victimes de la traite.
- **Les droits économiques** : les mesures doivent être prises dans le strict respect des droits économiques des victimes de la traite.
- **Les services de soutien** : des services de soutien sont nécessaires pour les victimes de la traite.
- **La prise en considération du sexe et de la race** : une analyse du genre et de la race devrait être prise en considération dans les enjeux de la traite.
- **Inclusion des victimes de la traite** : les discussions relatives aux victimes de la traite devraient inclure ces dernières.

La proposition entière est disponible à l'adresse suivante:

<http://ccrweb.ca/fr/proposition-protection-la-traite>.

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## APPENDIX C: FORUM AND WORKSHOP SPEAKER BIOGRAPHIES

### Trafficking Forum Speakers

<b>Forum Co-chairs</b>
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#### **Sue Wilson, Director of the Office for Systemic Justice, Sisters of St. Joseph**

Sue Wilson is Director of the Office for Systemic Justice for the Sisters of St. Joseph in Canada. She is chair of CATI (London Coalition Assisting Trafficked Individuals) and a member of the CCR Anti-Trafficking Steering Committee. Sue also works on human trafficking issues at the UN, through the UN NGO of the Sisters of St. Joseph.

#### **Louise Dionne, Coordinator of the Committee of action against trafficking in humans, internal and international (CATHII)**

Louise Dionne has been the Coordinator of CATHII (Committee of action against trafficking in humans, internal and international) since the year 2010. In addition to pursuing her role as coordinator, she is also responsible of overseeing policy issues concerning different forms of trafficking in persons and of analyzing trafficked persons' needs, as well as the different governmental, community and civic actions required to respond to these.

<b>Presenters on NGO findings</b>
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#### **Louise Dionne, coordonnatrice du CATHII (Comité d'action contre la traite humaine interne et internationale) (*See biography above*)**

#### **Varka Kalaydzhieva, Anti-Human Trafficking Project Coordinator, FCJ Refugee Centre**

Varka arrived in Canada in 2007 from Bulgaria. She obtained a law degree in Bulgaria where she worked for a Bulgarian Helsinki Committee, a non-profit organization for protection and promotion of human rights. In Canada, Varka worked for the Canadian Council for Refugees for a year where she helped with the coordination of the first National Forum on Trafficking in Persons organized by CCR in 2009. Varka has been with the FCJ Refugee Centre for more than two years where she works as Anti-Human Trafficking Coordinator.

#### **Barbara A. Gosse, MScPl. Senior Director, Research, Policy and Innovation, Canadian Women's Foundation**

Barbara joined the Canadian Women's Foundation in December of 2012 as Senior Director Research, Policy and Innovation. Barbara sits as a staff member on the Foundation's National Task Force on Human Trafficking where she oversees the research agenda and evaluative strategy. She is also responsible for strategic research, policy and advocacy activities supporting the Foundation's systemic change work in the areas of economic development, violence prevention and anti-poverty. In this role, Barbara identifies and acts on research of significance and policy issues affecting women and girls in Canada. She is responsible for developing and implementing the Foundation's annual public policy agenda as well as building the internal

policy and research capacity of the Foundation's staff and grantee organizations. In addition, she is developing and implementing the Foundation's innovation strategy to assist to identify best practices and grow innovative, scalable ideas that positively improve the social and economic standing of vulnerable women and girls from coast to coast to coast.

**Resource persons for joint session with Migrant Workers Strategy Meeting**

**Bethany Hastie, Doctoral Candidate at the Institute of Comparative Law, McGill University**

Bethany Hastie is a doctoral candidate at the Institute of Comparative Law, McGill University. Her dissertation, supervised by Professor Francois Crepeau, examines how law contributes to and facilitates forced labour practices against temporary migrant workers in Canada, focusing particularly on the Low-Skills Pilot Project. Bethany researches and publishes in the areas of international migration and criminal law.

**Jill Hanley, Associate Professor at the McGill School of Social Work**

Jill Hanley is Associate Professor at the McGill School of Social Work where she teaches social policy and community organizing. Her research focuses on access to social rights for precarious status immigrants. She is co-founder of the Immigrant Workers Centre where she remains actively involved.

**Resource person for Analysis of policy concerns and priorities session**

**Cathy Kolar, Immigration Specialist, Legal Assistance of Windsor**

Cathy Kolar's current work with Legal Assistance of Windsor involves supporting survivors of human trafficking and labour exploitation throughout their immigration process. She has successfully represented more than thirty victims of human trafficking during their 'VTIP or temporary resident permit interviews' with Citizenship and Immigration Canada. As part of her professional responsibilities, she provides training to law students, legal and NGO workers in a bid to enhance their ability to support survivors of forced labour. She sits on the Windsor Essex Anti-Human Trafficking Action Group (WEFiGHT), a public education and community response initiative addressing the issue of human trafficking in Southern Ontario. She also works closely with the Diocese of London Ministry to Refugee Claimants and Justice for Migrant Workers. Cathy engages 'on the ground' - living amongst and struggling with this marginalized community.

**Workshop presenters: Protecting Trafficked Persons: the Challenges of Definitions**

**Idil Atak, Ryerson University, Toronto**

Idil Atak is an assistant professor at Ryerson University's Department of Criminology. She received her Ph.D. from the Université de Montréal's Faculty of Law. Idil is a research associate at Hans & Tamar Oppenheimer Chair in Public International Law (McGill University) and a

regular researcher at Chaire de recherche en immigration, ethnicité et citoyenneté (UQAM). She served as a legal expert for the Turkish Ministry of Foreign Affairs in Ankara, then as deputy to the Permanent Representative of Turkey to the Council of Europe in Strasbourg.

**Rosalind Currie, Office to Combat Trafficking in Persons (OCTIP), British Columbia**

Rosalind Currie is the Director of British Columbia's Office to Combat Trafficking in Persons. BC was the first province to establish a government-based office dedicated to the protection of trafficked persons and the prevention of human trafficking. Roz is a lawyer who worked for the former BC Human Rights Commission prior to joining OCTIP. Roz has also held positions on the Board of Directors of West Coast LEAF and the National Association of Women and the Law. Roz is based in Vancouver.

**Angela Contreras Chavez, West Coast Domestic Workers Association (WCDWA), British Columbia**

Angela Contreras Chavez is an independent management and evaluation consultant in both academic and non-profit sectors. Since 2002 she has coordinated various public legal education projects for migrant workers and migrant sex worker in BC for organizations such as MOSAIC, SWAN and currently WCDWA. She is co-founder and active member of Red Legal, a volunteer-driven network of adult educators, immigrant settlement service counsellors, and other front-line counsellors committed to develop culture and language appropriate, free PLEI resources and workshops on the legal and human rights of migrant workers. As member of the Canadian Council for Refugees (CCR) and the Public Legal Education Association of Canada (PLEAC), Angela is proactively involved at various initiatives advocating for public policy reforms and funding for public legal services for people living in poverty, including migrant workers, refugees, Aboriginal and First Nations peoples. She is currently completing a PhD in educational studies at the University of British Columbia.