

**Global Migration Group Symposium**  
**“Overcoming barriers: Building partnerships for migration and human development”**

**27-28 May 2010, Palais des Nations, Geneva**

**Presentation Outline:** Ruth McGuirl, Crown Counsel, Public Prosecution Service of Canada

**Session 2:** Partnerships for effective protection

**Parallel working group B:** Building partnerships for identifying, assisting and protecting vulnerable and stranded migrants

**1. a) What are the main challenges facing victims of trafficking in your country?**

There is a strong commitment by law enforcement, prosecutors and NGOs to protect victims of trafficking in Canada. However, there are challenges facing these victims and facing the criminal justice practitioners who are committed to providing the victims with protection and assistance.

Human trafficking can take place both domestically and internationally and there are laws in Canada criminalizing both types of trafficking. The challenges discussed will be in the context of international human trafficking, although they may also apply to domestic human trafficking. There are a wide variety of challenges that victims face and not all challenges will be applicable to every victim. These challenges include:

- Isolation- Victims can be isolated physically and socially.
  - Physical isolation: Victims are often physically isolated by being held at remote locations. They often do not have their own mode of transportation so they are unable to leave. This only increases their dependency and vulnerability to the traffickers. Because of this isolation, it may be months before the victims are able to seek help, or before they are identified by law enforcement.
  - Social isolation: Victims are often socially isolated. Once they have arrived in the destination country, they may have difficulty communicating with others due to language and cultural differences. As a result they may have few community ties and little community support.

- Level of sophistication – Victims may be recruited from rural villages and have not had the opportunity to receive formal education. In some cases victims have signed contracts, or paid large sums of money to the traffickers in exchange for the promise of employment in the destination country. These victims are often significantly misled by the traffickers about the terms of the contract and the conditions of employment.
- Economic disadvantages – Victims may be from a lower socio-economic class. In some instances victims have borrowed large sums of money to come to the destination country, but when they arrive and begin working, they receive only subsistence level of pay. As such, they do not have the financial means to obtain professional assistance to advocate on their behalf.
- Immigration status – When victims of trafficking would like to remain in the destination country there are often challenges in relation to their immigration status. For example, if the traffickers obtained the work permits for the victims based on false information, these permits may no longer be valid.
- Fear - The traffickers may exercise control over the victims through the use of threats, intimidation, coercion or assault.

### **1. b) What kinds of partnerships exist between government, judiciary, law enforcement and civil society to address their needs?**

There are a number of programs and partnerships that exist in Canada, between government, judiciary, law enforcement and civil society to address the needs of the victims. These include:

- Victim and Witness Assistance Program<sup>1</sup> – This program involves partnerships between law enforcement, the prosecution, the judiciary and civil society. This is a program initiated and funded by the government to provide assistance to victims of crime. Victims of human trafficking could be referred to this program by law enforcement officers and prosecutors. Victims will be provided with information, assistance and support to increase their understanding and participation in the criminal court process, including the provision of victim-impact statements. They may also receive crisis intervention, emotional support and referrals to community agencies.
- NGOs – These include charitable organizations and cultural community groups. Law enforcement officers partner with these organizations to facilitate

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<sup>1</sup> <http://www.attorneygeneral.jus.gov.on.ca/english/ovss/programs.asp#vwap>

the care and protection that is needed for victims of trafficking and for vulnerable migrants. Officers may refer victims to these groups for assistance with: shelters, translators, legal aid and immigration status.

- Government agencies – There are partnerships that exist between government agencies. Law enforcement officers may contact other government agencies such as Citizenship and Immigration Canada.<sup>2</sup> CIC could provide temporary resident permits for victims of trafficking under certain circumstances. Under this program victims will receive certain benefits and assistance, and be permitted to remain in the country for a period of time.

## **2. What are the main challenges facing international cooperation on identifying, assisting and protecting victims of human trafficking?**

There are a number of challenges facing international cooperation with respect to identifying, assisting and protecting victims of human trafficking. Some of these challenges include:

- International agreements – If there is not an agreement in place between states to facilitate international cooperation, this can be a significant challenge for investigators. Canada does have agreements with a number of countries in the form of MOUs, bilateral and multilateral treaties. If the investigation involves a country that is governed by one of these agreements then there are guidelines, and procedures set out in advance to facilitate this international cooperation to investigate human trafficking offences and to assist and protect victims. If these agreements do not exist then the request for foreign assistance and exchange of information may not occur on an expedited basis.
- Confidentiality - States may work together to investigate allegations of human trafficking, however, if there are issues of confidentiality or issues relating to ongoing investigations, these may need to be addressed before information can be shared.
- Time pressures – Often there are time pressures to provide victim witness assistance. The victim may want to return to the country of origin and put the difficult experience in the past. Authorities may not be able to secure the formal assistance of the country of origin before the victim returns home.
- Locating the victim – If the victim has already returned to the country of origin the authorities in that country may not be able to locate him or her.

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<sup>2</sup> Citizenship and Immigration Canada - <http://www.cic.gc.ca/english/index.asp>

### **3. How has the global economic crisis affected the use of unsafe migration routes and the occurrence of smuggling of migrants and trafficking in persons? How has it affected the provision of assistance and protection for vulnerable migrants and victims of trafficking?**

The use of migration routes, and the reasons for smuggling and trafficking are complex and multi-faceted. Thus, aside from identifying some trends, it would be difficult to provide conclusive evidence that would demonstrate the affect of the global economic crisis on the use of unsafe migration routes, and the occurrence of smuggling of migrants and trafficking in persons. However, in general terms, where the global economic crisis has affected some countries more than others, and some industries more than others, migrants may be forced to be smuggled further and under more difficult conditions in order to find employment. When the migrants arrive, they may be in greater need of assistance. This highlights the need for law enforcement officers to continue to be efficient with the resources that have been allocated for victim-witness protection and assistance, to make use of existing organizations and NGOs who provide victim assistance, and to be committed to effective international cooperation.

### **4. What kinds of capacities are needed in countries of origin and destination to ensure that victims of trafficking are identified as such, and receive assistance and protection? How can these be developed?**

There are a number of capacities that are needed, and methods that can be developed to ensure that victims of trafficking are identified and receive assistance and protection. These include:

- National and regional training to provide law enforcement officers with education and awareness about the treatment of victims of trafficking and vulnerable migrants.
- The development of helpful indicators to identify victims of trafficking and vulnerable migrants.
- The development of investigative plans that address victim identification, protection and assistance, including: the provision of medical attention, and psychological counseling to victims if required, and the assistance of social support workers when investigations will involve particularly vulnerable victims, women, children and those with disabilities.
- The development of good relationships with NGOs to assist with victim protection and to provide community support.
- Effective international cooperation through the development of MOUs, bilateral and multilateral treaties between law enforcement agencies.

