

**TRAFFICKING IN WOMEN
INCLUDING THAI MIGRANT SEX WORKERS
IN CANADA**

**Prepared for the Status of Women Canada
June 2000**

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ACKNOWLEDGEMENTS

The Toronto Network Against the Trafficking in Women (TNTW) gratefully acknowledges the generous financial assistance of the Status of Women Canada which allowed us to undertake this project.

We also wish to acknowledge the Thai women arrested under Project Orphan and Project Trade, who courageously agreed to participate in this study as interviewees and interviewers. With their involvement and input, this study is able to reflect the human dimensions of a disturbing trend. Avvy Go (Metro Toronto Chinese and Southeast Asian Legal Clinic) was instrumental in guiding this project. We are also grateful to Marjan Wijers (Foundation Against Trafficking in Women [STV]) for generously sharing with us international documents pertaining to the trafficking in women.

Finally, we would like to thank all those who gave of their time and thoughts to this project, many of whom also volunteered with the TNTW, in order to ensure the well-being of the women during and following Project Orphan.

The views expressed in this study are those of the researchers and are not necessarily shared by the sponsoring or participating organizations. While every effort was made to ensure accuracy, any omissions or errors are entirely ours.

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June 2000

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1. INTRODUCTION

Twenty-three Thai and Malaysian women were arrested on September 10, 1997, by Canadian law enforcement officers operating under the code name Project Orphan, on charges related to "trafficking and prostitution". Subsequent to those arrests, raids of several Asian massage parlours were conducted in the greater Toronto area. Again, in December 1998, a second mass raid of massage parlours took place, coded Project Trade. In this operation, sixty-eight people were arrested on charges related to prostitution. Early on, shortly after the 1997 raids, the Toronto Network Against Trafficking in Women (TNTW), an ad hoc community-based organization, began to work closely with several of the arrested women. The TNTW dealt extensively with police and government officials, the judiciary, legal counsel, social service agencies, advocacy groups, and the press. It liaised with women's organizations, in particular the Global Alliance Against Traffic in Women (GAATW), Canada as well as GAATW's international office in Bangkok. TNTW has been assisting over 25 women, all of whom are Thai nationals and over the age of 18.

Canadian law enforcement officials publicly announced that these Asian massage parlour raids were conducted to save Asian women from "traffickers". Despite this rescue mission, the women were left in jeopardy with no assistance from state authorities. They were treated as criminal offenders and illegal migrants. This inconsistency of the state has created a question in the minds of many women's rights advocates and service providers: if the women were victims of trafficking, why were their rights not protected and guaranteed?

Trafficking and Asian Migrant Sex Workers

It is difficult to estimate the extent to which women who migrated to Canada for the sex industry are trafficked victims. The evidence obtained during this research only indicates that the number of irregular migrant women for the sex industry in Canada has increased over the last three years, with noticeably more sex workers being recruited from Asia. The 1997 arrests heralded the transformation of Canada from a country of transit to a country of destination for Asian sex workers. At national and international levels, applicable criteria to recognize or identify trafficked victims are being discussed, but there is no universal agreement. The lack of consensus on what constitutes trafficking at the conceptual and operational levels, compounded with various views about sexual exploitation and prostitution, further complicate the task of identifying victims of trafficking. In addition, locating trafficked victims is not an easy task because there is no or little access to them. Often times, trafficked victims were immediately deported to their home countries.

Trafficking in women is complex, with many crossovers into local, regional, and global issues. Various groups and organizations prescribe different meaning to the term 'trafficking'. The Special Rapporteur on violence against women, Ms. Radhika Coomaraswamy, states in her report that:

'Trafficking' is used by different actors to describe a range of activities that range from voluntary, facilitated migration to the exploitation of prostitution, to the movement of persons through the threat or use of force, coercion, violence etc. for certain exploitative purposes.¹

Currently, there are two major approaches in conceptualizing migrant sex workers' situations. These two approaches reflect different positions and strategic choices in the anti-trafficking movement worldwide.

The first approach perceives migrant women in the sex industry as victims of the trafficking process by virtue of their lack of control over work conditions and the exploitative work conditions they have to endure. They are seen as being exploited and controlled by agents and business operators and their rights should be protected under international anti-trafficking protocols. Although force and/or coercion were not exercised on Thai women who were arrested in Project Orphan and Project Trade during the recruitment and transportation processes, the women are considered victims of their economic situation. It drove them into prostitution. Another justification is that prostitution is exploitative in itself and, ideally, no one should have to engage in prostitution. (See the United Nations and the European Union definitions contained in Appendix B, pp. 26-27.)

The second approach identifies women as operating through their own agency and not as victims of trafficking because there was no force, threat of violence or coercion during the recruitment and transportation process (See GAATW definition and the UN Special Rapporteur on Violence Against Women definition in Appendix B p.25-26). In addition, many problems faced by Thai sex workers are understood as the lack of labour protection for workers in the sex industry and the recognition of sexual labour as work worldwide. Some labour issues the women encountered are similar to those faced by women workers in informal, low status labour sectors. These exploitative/sub-standard working conditions the women faced, especially during the debt repayment period, should be dealt with from a migrant-labour rights perspective, and decriminalization of prostitution.²

¹ "Integration of the Human Rights of Women and the Gender Perspective", Report of the Special Rapporteur on Violence against Women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with the Commission on Human Rights, resolution 1997/44. E/CN.4/2000/68 January 2000.

² Noulmook Sutdhibhasilp, one of the research team members, takes the latter approach. See further, Jo Biderman, Anti-Slavery International, with the participation of Jo Doezema (1997): *Redefining Prostitution as Sex Work on the International Agenda*.

To date, there has been no research study done on the issue of trafficking in women into Canada nor systematic recording of the experiences of women who may have been trafficked.³ The lack of data precludes policy makers, service providers, women's organizations and/or stakeholders, from identifying the needs of these women and canvassing means of addressing the trafficking-related concerns.

Considering the complexity of the concept of trafficking, and the practical difficulties in identifying victims of trafficking, this study approaches the trafficking issue cautiously without offering definitive solutions. It does not seek to identify what constitutes "trafficking in women" nor does it categorically conclude that the Thai women who were arrested in Project Orphan and Project Trade are trafficked victims as the law enforcement officers claimed. Rather, it aims to familiarize the readers to such complex issues as trafficking, migration, and sex work and to encourage further discussion and analysis. The concept of trafficking in women in the Canadian context needs to be reformulated and reconceptualized.

Whether or not the Thai women's experiences will fit neatly into trafficking concepts or diverge from the definitions, the study found that the women's basic human rights--such as the right to due process, counsel, accurate information, and competent, non-biased interpreters--were violated by Canadian and Thai officials alike. The women's testimonies presented in this report clearly illustrate how their rights were violated and dishonored.

This study is therefore based on an assumption that migrant women who work in the sex industry, whether or not they are trafficked, are women in need of protection. They are highly stigmatized because of their occupation, and marginalized because of their racial and disadvantaged economic backgrounds. They have limited access to employment and services in destination countries. In addition, on a global scale, racist state policies, and regressive and repressive immigration and prostitution laws in countries of destination, account in part for the exploitation of migrant women. These policies serve to push the international sex trade further underground and increase women's reliance on potentially abusive individuals and organizations including those representing the state.

Women's Migration on a Global Scale

According to a report by the International Organisation for Migration (IOM), women now make up 47.5 percent of all international migrants. The majority of women migrate to other countries as principal wage earners rather

³ New forms of trafficking in which women are vulnerable to exploitation include: recruiting domestic labour from developing countries, and organizing marriages between women of developed countries and foreign nationals.

than as accompanying family members. This on-going phenomenon is complex and diverse, ranging from people seeking better economic opportunities to those fleeing persecution or violence.

The global restructuring of the economy and labour force has caused many poor rural people to migrate to big cities or overseas to look for jobs. It fosters the emergence of a work structure in which women find themselves occupying the low-status and low-paying jobs and hardly surviving. It is anticipated that the growing income disparity between people in the North and the South will continue to push women to migrate. When there is economic recession, there will be an outward flow of women to wealthier countries in the North, where they go to market their labour in the informal sector including the sex industry. The sex industry helps absorb many low waged and/or unemployed women and create substantial income for them.

Economic issues relating to Thailand, the country of origin for this study, in the context of the globalization of economics, underlie the development of a distinct gendered labour market (Appendix A, p. 11). From this have emerged national, intra-national and now international patterns of migration patterns of which trafficking in women has become an integral component.

Research Objectives

The main purpose of this study is to obtain primary materials on the trafficking of women into Canada for the sex industry through a case study of Project Orphan. The objectives are as follows:

- Σ To examine the trafficking of women to Canada as a country of destination;
- Σ To assess the availability of a social safety network (e.g. health and social services) to trafficked sex workers; and
- Σ To assess Canadian policy with respect to trafficking for the sex industry.

Research Methodology

This study draws on a number of individuals and organizations that were involved with Project Orphan. By carrying out the research through a case study, the researchers were able to collect qualitative data on such issues as the needs of the women who were arrested. This is not intended to be an exhaustive study, rather it is an attempt, based on first-hand accounts and secondary sources, to reconstruct the events leading up to and following Project Orphan. While every effort was made to engage all persons who were involved with Project Orphan, law enforcement officials did not participate in this

study. As a result, references to the involvement of police agencies are based on secondary sources (i.e. newspaper quotes, police news releases).

The primary focus of this study is the women who were arrested: how they were affected by Canadian public policy and how they responded to the events that unfolded following their arrest. The study was made possible because of the rapport and trust that developed over several months between the women concerned and those who assisted them, including members of the research team.

The study applied two main research inquiry techniques: semi-structured interviews and documentary research. The data collection process started from February until the end of September 1999.

Semi-structured interview format

The researchers used semi-structured interviews to document the experiences of:

1. the women who were arrested;
2. those who provided support to the women including individuals, healthcare and social service agencies etc.;
3. members of the legal system.

The interviews explored the women's personal experiences and interaction with the legal, medical, social services communities, and with the press. Interview questions were designed to examine their needs over several months beginning with the time of their arrest, their experiences during and following arrest, their responses to the situation, and where and how these needs were, or could have been, met.

The TNTW assisted thirteen Thai women arrested by Project Orphan. During this study, the women were still involved in the court process and the extent of their participation varied: three women moved to other provinces and arrangements were made for two to return to Thailand. Of the five who remained in Toronto, three agreed to assist with the research. Playing a pivotal role as research assistants, they also identified solutions and made recommendations to help others overcome the obstacles they encountered following their arrest. The women were interviewed mostly at home. Some preferred sharing their experience by writing personal journals.

Four Thai women who were arrested in Project Trade agreed to participate in this project. With the help of the research assistants, an informal group discussion was conducted, recorded and transcribed. Another Thai woman who was detained and about to be deported at the time also agreed to give a short interview.

The qualitative data from the women's testimonies are valuable and unique. The eight interviewees represent the largest number of affected women to participate in such a study in Canada. Locating them was a challenge as many were deported shortly after their arrest. Some women declined to be interviewed because of their own immediate needs and problems. This is understandable because of the nature of the research study, which renders only long term indirect benefits.

Precautions were taken to ensure that participating in this study would not compromise their status. Accordingly, pseudonyms are used and identities are withheld. The women were advised that they could choose not to respond to a question if it made them uncomfortable. They were also aware that they could withdraw from the study at any time.

Eighteen people were interviewed. A set of interview questions was developed for the research participants. For two groups, interview questions were developed from the research objectives and a review of the literature in the area of trafficking in women and prostitution. The interviewers also canvassed recommendations to improve social service delivery, policy amendments, and other strategies for change.

Participants executed letters of consent that advised of the purpose of this study, the participant's rights with respect to the information collected, and obtained their consent to use the information. Interviews were tape-recorded, and on average were a half-hour to one hour in length. Where interviews were in Thai, the interview was transcribed and translated, fully or in part, as was appropriate. Where a participant requested that the interview not be tape recorded, notes were taken.

- **Documentary research**

The research team carried out a literature review of the following areas:

- Σ International reports and international instruments⁴ (United Nations, European Council) on trafficking in persons (conference papers from Japan, Southeast Asian regional reports)
- Σ Thailand and prostitution
- Σ Trafficking in women
- Σ Irregular migration
- Σ International standard minimum guidelines to assist trafficked persons
- Σ Prostitution in Canada
- Σ Canadian immigration policy

⁴ United Nations Convention on Trafficking in Women, United Nations Convention on Organized Crime and Trafficking in Persons.

Σ News articles from the Canadian, Thai and Chinese (local) press

Data collected from the women's interview transcriptions and their essays were organized and categorized chronologically and under sub-headings on the women's experiences and their situations. The research assistants were consulted through the entire research process. Recommendations for the government, law enforcement officials and social service providers emerge from the information obtained through interviews of the many people who became involved directly and indirectly with Project Orphan. The recommendations focus on (a) policy; and (b) service delivery. From the information obtained, together with the synthesized data, a comparison was made between the services required and those available at the time of and following the arrests. Also, an analysis was carried out on the barriers that the women encountered in accessing these services.

The Advisory Committee⁵ reviewed and provided input for the final draft. Copies of the report were distributed to the list of organizations that were involved. The report is also available on the internet at (http://citd.scar.utoronto.ca/MHSO/trafficking_women.html). The data and information collected for this project are archived at the Multicultural History Society of Ontario, a not-for-profit educational institute that is open to the public.

⁵ Avvy Go, Winnie Ng, Dora Nipp, Lynne Russell (Joint Centre for Asia Pacific Studies, University of Toronto), Fiona Sampson, Keith Wong (ACAS).

Appendix A

Thailand: country of origin

The sex workers who participated in this study are Thai nationals, although some are from ethnic groups living within the Thai border (e.g. Cambodian, Laotian).

A brief discussion of the socio-economic and political factors of Thailand's prominent role in the international sex trade will help the reader to better understand the context of globalized trafficking. While the Royal Thai government is reluctant to acknowledge this, the present-day Thai economy is intrinsically linked to the sex industry. For several decades, foreign exchange generated by the sex industry provided the foundation for the country's economic surge. The sex industry continues to add hundreds of millions of dollars to the Thai economy. Crudely stated, the sex trade is insulated against inflation, recession and economic fluctuations. Some have quipped that Thailand's modern economy was built "on the backs of its women".

Thailand's modern-day sex resorts, sex tourism, and its now notorious reputation as a global supplier for the international sex trade can be traced to the Vietnam War. During the 1960s and 1970s tourism was identified as a major industry for developing nations. Prompted by the International Monetary Fund, the World Bank and agencies like U.S.A.I.D., developing countries, including Thailand, were urged to exploit their natural resources by developing resorts and hotels to attract foreign capital. In Thailand, sex was the "natural resource" that became a key tourist attraction.

During the Vietnam War, the Thai government opened sex resorts to serve American GIs who came for R & R (often referred to as "I & I" -- "intercourse and intercourse").⁶ The Thai government encouraged American men to spend their money in the country through, for example, the Entertainment Act, which included a shocking policy referred to as "Hired Wife Services." By the mid-1970s, the Thai government's direct involvement in supporting the sex industry fostered a new labour source of some hundreds of thousands of prostituted Thai women.

Secondary industries- travel agencies, hotels and airlines--benefited greatly from the sex resorts. When the Vietnam War ended, the Thai government adopted policies that promoted sex tourism to Thailand. Sex tourism achieved two objectives. It provided (a) a quick source of foreign exchange and (b) a means by which to channel labour migration in response to

⁶ By the mid-1980s the sex industries around the bases in the Philippines had generated more than \$500 million. At the end of the war in Vietnam, Saigon had 500,000 prostituted women – a number equal to the total population of Saigon before the war.

the country's increasing unemployment. When the Americans departed Thailand and the "I & I" resorts declined, the commercial sex trade industry survived and flourished. Tour operators began to market Thailand as a nation of "sun, sea and sex". Sex tours and sex-related entertainment were incorporated as a strategy for national economic development. In addition to bolstering tourism, national and multi-national corporations used sex-related entertainment as an incentive for their employees.

In an intricate network involving government officials, legitimate businesses and organized crime, Thailand has become a major recruiting and distribution point for sex workers into other regions of Asia. The human rights organization, Asia Watch⁷ reports that the Thai government has made little concerted effort to investigate or punish its own agents involved in the trafficking in women. Asia Watch research suggests, for example, that the Thai police and border officials are directly involved with procurement and trafficking for the purposes of sexual exploitation.⁸

Studies indicate that the sex industry has created generations of sex workers, where young girls follow their older sisters, relatives and friends into the profession. Women have stated that they feel pressure, as the oldest or only daughter, to be responsible for the family's economic viability.⁹

Ironically, in March 1994 the United States, which played a pivotal role in the development of the Thai sex industry, placed Thailand at the top of a list of countries accused of violating the rights of women and children. According to US Secretary of State for Human Rights, John Shattuck, about 800,000 women under the age of 18 are employed in Thailand's sex trade - a charge which Thai authorities were quick to condemn as "grossly exaggerated."¹⁰

⁷ See further, The Human Rights Watch Global Report on Women's Human Rights, 1996.

⁸ The Royal Thai Government has been complicit in Burmese women and girls being trafficked into forced prostitution in Thailand. (See "Burmese Women and Girls Trafficked to Thailand", The Human Rights Watch Global Report on Women's Human Rights, 1995) and "A Modern Form of Slavery: Trafficking of Burmese Women and Girls into Brothels in Thailand," Asia Watch Women's Rights Project, 1993.

⁹ A former Thai sex worker now living in San Francisco states that Western-style values have twisted what were once social taboos. Today, a Thai woman in the sex industry is defined by the material goods that she can afford to provide her family. Her family did not see this woman as a "good whore" because she provided her family only with land on which to build a house. It was pointed out to her that another family that sent a daughter to labour as a sex worker in Japan had bought her family a house with glass windows. That daughter was referred to as a "good whore". Glass windows, in this case, were a needless extravagance because of the tropical climate.

¹⁰ It is estimated that 15-20 percent of Thai prostitutes are HIV positive, while between 20,000 and 50,000 people--nearly one percent of the population--has AIDS.

2. THEMES AND TRENDS IN DEFINING "TRAFFICKING IN WOMEN"

For the purpose of this study, "trafficking in women" is the preferred term of reference rather than "trafficking in persons" or "human trafficking/smuggling", because the facts surrounding Project Orphan involve women who were brought to Canada for the sex industry.¹¹ To interchange "trafficking in persons" with "trafficking in women" suggests a gender neutrality that, in reality, and particularly in the case of trafficking for the sex industry, does not exist.¹² Those who work in the global sex trade are predominantly women.

In Marjan Wijers and Lin Lap-Chew's pioneering study, *Trafficking in Women, Forced Labour and Slavery-like Practices in Marriage, Domestic Labour and Prostitution*,¹³ the authors point out that, "A fundamental problem in addressing the issue of trafficking in women is the lack of a clear and unambiguous definition". There is increasing recognition that the historical characterizations of trafficking are outdated, ill defined and fail to respond to the realities of the women concerned.

This section provides an overview of the various definitions of "trafficking in women" and identifies the themes that have emerged. Some of the themes and trends, as noted by Marjan Wijers and Lin Lap-Chew, run parallel, while others merge.

Distinguishing the different forms of trafficking and the ways in which the various terms are employed will assist Canada in developing a working definition that applies to the Canadian context. Attitudes toward trafficking, and an understanding of what may constitute trafficking, have shifted and evolved over time. The issue of the modern-day trafficking in women is integrally related to migration, forced labour and slavery-like practices, prostitution, and sexual exploitation.

¹¹ In this report, *sex trade/sex industry* refers to prostitution (street prostitution, off-street prostitution) and/or exotic dancing (including lap dancing). The Global Survival Network has identified four types of situations that result in women and girls' involvement in the sex trade that can be applied to other forms of labour for which women migrate or are trafficked: 1) women who are completely duped or coerced; 2) women who are told half-truths by recruiters about their employment and then are forced to do work that they had not previously agreed to, but which they have no choice of rejecting (e.g. their movement is restricted due to debt bondage and the confiscation of their travel documents); 3) those who are informed about the kind of work they would be doing and, because there was no other viable economic options, relinquished control to their trafficker who exploited their vulnerability for financial gain; and 4) women who are fully informed about the work they would be doing, have no objections to doing so, and are in control of their finances and have freedom of movement. Testimony by Steven Galster, Director of Global Survival Network, before the Commission on Security and Cooperation in Europe, Helsinki Commission, June 28, 1999.

¹² Marjan Wijers and Lin Lap-Chew, *Trafficking in Women, Forced Labour and Slavery-like Practices in Marriage, Domestic Labour and Prostitution* (STV: The Netherlands, 1997), p. 35.

¹³ The Netherlands: Foundation Against Trafficking in Women (STV), 1997.

The second part of this section supports the proposition that the trafficking in women is a violation of human rights. It discusses international human rights protection for trafficked women and those suffering related abuses. Canada, as a member state of the United Nations is a signatory to international instruments that protect the rights of women.

Background

There is no consensus among international agencies and non-governmental organizations on how "trafficking in women" ought to be defined. Beginning at the turn of the last century, various international instruments were introduced that provided varying definitions of "trafficking in women". These early instruments stressed "compulsive forms of procurement" and did not address situations where there was little or no apparent coercion or abuse.¹⁴ Moreover, they were virtually ineffective in providing women any protection. The 1949 UN Convention replaced all preceding instruments, and made trafficking punishable even if the woman consented to be trafficked.

The issue resurfaced on the agenda of the United Nations in the late 1980s, and by the 1990s was the main topic of the Working Group on Contemporary Forms of Slavery. The 1979 Convention on the Elimination of All Forms of Discrimination Against Women¹⁵ specifically deals with the human rights of women, requiring states to "take all appropriate measures to suppress all forms of traffic in women and exploitation of prostitution of women".¹⁶ The Vienna Declaration and Programme of Action which was adopted at the World Conference in 1993 urges the elimination of violence against women and addresses the issue of "international trafficking" as a form of gender-based violence. The Declaration calls for the elimination of trafficking through international co-operation and the introduction of national legislation.

The Platform for Action of Beijing (1995) incorporates contemporary forms of "trafficking and slavery-like practices". It calls upon governments of countries of origin, transit and destination to:

¹⁴ Historically, international instruments on trafficking in women have included: Paris, May 18, 1904; International Agreement for the Suppression of the White Slave Trade, International Convention for the Suppression of the White Slave Trade, Paris, May 4, 1910; International Convention for the Suppression of the Traffic in Women and Children, Geneva, September 30, 1921; International Convention for the Suppression of the Traffic in Women, Geneva, October 11, 1933; UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949).

¹⁵ U.N. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), December 10, 1979.

¹⁶ Ibid., Article 6.

*take appropriate measures to address the root factors, including external factors, that encourage trafficking in women and girls for prostitution and other forms of commercialized sex, forced marriages, and forced labour in order to eliminate trafficking in women, including strengthening existing legislation with a view to providing better protection of the rights of women and girls and to punish perpetrators, through both criminal and civil measures.*¹⁷

European governments and non-governmental organizations, the Council of Europe and the European Commission, and the International Organization for Migration (IOM) have been actively discussing the trafficking in women. In 1996, the European Commission and the IOM took the initiative to hold a European Conference on Trafficking in Women in Vienna. In the past few years, the trend in Western Europe, Canada and the United States has been to equate "trafficking in women" with "smuggling" and "illegal aliens"; the working definitions that are emerging are framing the trafficking in women in terms of illegal immigration.

Current Themes and Trends

The following sets out the current themes and trends, as well as challenges, in arriving at an internationally agreed-upon definition of "trafficking in women".

- **"Cross-border movement" versus "unfamiliar milieu"**

1. One definition proposes that the trafficking in women involves facilitating the movement of migrants from country to country.
2. Another definition proposes that trafficking does not necessarily involve cross-border movement, but involves the movement of persons to "unfamiliar milieu". An "unfamiliar milieu" isolates one physically and emotionally from family, friends, and community. Language, culture and other barriers, and illegal, non-national or non-state status act to further separate these persons. One of the many consequences of isolating women is that they are in greater risk of abuse, violence, exploitation and unequal treatment.

- **"Coercion"**

¹⁷ Platform for Action, Strategic Objective D3, para. 130b, Fourth World Conference on Women, Beijing, 1995.

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1. Coercion -- whether it is adjudged a prerequisite to being trafficked, and the varying degrees of coercion -- is a factor in all the current definitions of "trafficking in women".
 2. Some definitions require that coercion be the main factor defining a woman as being trafficked. That is, a woman is coerced or unwittingly recruited into the sex industry and moved across the border or to an unfamiliar milieu. In the absence of coercion, a woman is not trafficked.
 3. The counter argument is that coercion is but one element of the process of trafficking and that the process of trafficking is a continuum. Women can be subjected to coercion at any point during the trafficking process -- at the recruitment stage or later on, when coercion becomes a condition of work. This perspective relates to the organized work that trafficked women find themselves carrying out i.e. domestic, matrimonial, sexual.
 4. Some definitions of trafficking refer to a coercive recruitment process with no reference to exploitative working and living conditions. Yet women can find themselves in forced labour and slavery-like conditions without having been trafficked. This is because those who are involved in the trafficking process -- recruiting agencies, intermediaries and other profit-seeking individuals, and organized crime -- may be involved in supplying underground markets with cheap sources of labour.
 5. Other definitions draw a distinction between recruitment and the working and living conditions to which women are subjected. This latter perspective separates abusive brokerage practices (which is defined as "trafficking") and slavery-like exploitation of women (which is defined as "forced labour and slavery-like practices"), and advocates that while the two are closely related and ought to be considered in relation with one another, they are not intertwined. Trafficking involves the recruitment and transportation of women under coercive conditions, and can bring women into forced labour and slavery-like conditions.
 6. One definition now being advanced is that coercion should be defined so as to encompass all forms of force in which "the woman loses control over her own life, body and mind". In this regard, coercion can take various forms, including but not limited to the following:
 - Σ violence or threat of violence, including deprivation of freedom of movement and of personal choice;
 - Σ deception with regard to working conditions or the nature of the work to be done;
 - Σ abuse of authority or dominant position ranging from confiscation of personal documents to the placing of another person in a dependent position, abusing one's dominant social position, abusing one's natural

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- parental authority or abusing the vulnerable position of persons without legal status; and
- Σ debt-bondage, meaning the personal service or labour of a person indefinitely as security for a debt, when the length and nature of the service is not clearly defined.

- **"Legal entry" versus "illegal entry and/or residence"**

1. The debate on trafficking includes the status of entry and/or residence of the woman. For example, the International Organization for Migration's (IOM) definition considers illegal entry and/or residence as a basic element in trafficking.
2. One definition recognizes that trafficking can occur whether or not there is an element of illegal entry or stay. That is, both abusive recruitment and slavery-like working and living conditions can occur without having crossed borders legally or illegally and can ensnare those with legal or illegal status.

- **Defined in terms of prostitution**

Most of the historic definitions of trafficking refer to a woman as being brought into another country for the purpose of prostitution. The current debate goes beyond this interpretation and recognizes that trafficking may be carried out for purposes other than prostitution, for example, adoptive and intimate relationships, and non-sexual forms of labour such as domestic, manual or industrial (in the formal or informal sector).

- **The trafficking in women and the trafficking of children**

Children (generally those who are under 18 years of age) are defined by international treaties and national law as incapable of giving consent to engage in commercial sex. In many cases, trafficked women (or those who were considered as being trafficked) are perceived or constructed as young, innocent, naive and childlike. The international community tends not to distinguish between the sexual trafficking in women and that of children. When this occurs, complex issues of volition, self-determination, and the migrant adults' decision to participate in the sex industry as an economic and/or survival strategy, are overlooked.

- **Gender**

Gender is a factor that affects risk and vulnerability, and increases exposure to exploitation. Although men are also trafficked, women are clearly more

vulnerable. The immigration policies of most countries are gender-biased, restricting women's access to regulated work. The gendered nature of the migrant labour market places many women in unregulated, and informal, sectors of work such as domestic work, prostitution, and the invisible sector of marriage. As a consequence they find themselves working in poor conditions and at increased risk of violence and abuse.

- **Linking "trafficking as procurement" with "prostitution as exploitation"**

The 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others links "trafficking as procurement" with "prostitution as exploitation". Focusing on trafficking for the purposes of prostitution, the 1949 Convention shifted the definition of trafficking in women from physical recruitment to commercial exploitation. The 1949 Convention set the standard for the day with the result that trafficking provisions of several countries equated recruiting activities with prostitution. As a consequence, trafficking activities continue to be interpreted as any form of third party involvement with prostitution, such as brothel keeping, recruiting, procuring, or living off the avails of prostitution, all of which are punishable in law.

- **"Nature of the work/service" versus the "way in which work/service is organized"**

Whether the focus of anti-trafficking forces should be on work or service, or the manner in which the work/service is organized and carried out, is a matter of current debate.

1. By one definition, prostitution is a form of sexual exploitation, constitutes violence against women, and is therefore a violation of human rights. From this perspective, the actual activity of prostitution rather than the forms of exploitative relationships in prostitution make trafficking a violation of human rights. This perspective stems from a movement to ban prostitution.
2. Other definitions draw a distinction between forced and voluntary prostitution, proposing that anti-trafficking campaigns should focus on the conditions in which prostitution takes place, not the occupation per se. This argument stresses that sexual exploitation ought not be used to indiscriminately criminalize migration for the sex trade. Rather, sexual exploitation encompasses the unequal power relationship between women and men and the resulting situations where women have no control over their working and living conditions.

- **Prostitution "with consent" versus "without consent"**

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1. This debate closely related to that of coercion and has been a point of vigorous discussion over the past several decades. The 1933 *International Convention for the Suppression of the Traffic in Women*¹⁸ removed the requirement of constraint with respect to the international traffic in women. It further obligated states to impose punishments where a person "procures, entices or leads away", even with a woman's consent, for "immoral purposes to be carried out in another country". This Convention emphasized protecting "innocent" women. Constraint remained a factor in defining the trafficking of a woman within borders.

The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)¹⁹ replaced all preceding treaties. It completely removed any requirement that coercion or constraint be an essential element in order for a woman to be trafficked, and defined trafficking as all forms of procurement and exploitation for the purpose of prostitution, with or without consent.

2. In the 1980s, the debate on trafficking resurfaced. During this time, there were women's groups in North America that began to link prostitution to violence against women, arguing that prostitution demeans all women and constitutes sexual exploitation. By extension, trafficking which involves sexual exploitation, was seen to constitute a form of violence against women. By further extension the violence was deemed to be a violation of human rights. This definition rejects any notion of entering prostitution voluntarily. Consensual prostitution is seen as an anomaly; what might appear to be consensual is a manifestation of poverty or past abuse.
3. Countering this debate is the argument that not all trafficked women are prostitutes and that not all prostitutes have been trafficked. Proponents of this definition separate anti-trafficking issues from female self-determination. The individual right to self-determination includes the ability and the right of a woman to work, if she chooses, as a prostitute.
4. Another definition is reflected in a paper entitled, "Discussion in the Workshop on Judicial Cooperation of the European Union at the Vienna Conference on Trafficking in Women, 1996", in which it was agreed that the level of consent was irrelevant, as was the actual legal or illegal means of entering the territory. The crucial issue was the sexual exploitation (not limited to prostitution) of foreign women in vulnerable situations.

¹⁸ *Supra*, note 9.

¹⁹ *Supra*, note 9.

Trafficking in Women: a violation of human rights

The trafficking in women is clearly recognized as a human rights violation. In 1981, the United Nations General Assembly ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993 (A/CONF.157/23) affirmed that the human rights of women and the girl child are inalienable, integral and indivisible elements of universal human rights.

In 1995 and 1997, the United Nations passed resolutions that, inter alia, called upon governments to address the problem of trafficking in women and girls. The resolutions urged governments to cooperate and to ensure that the victims are provided with:

- Σ necessary assistance;
- Σ support;
- Σ legal advice; and
- Σ protection, treatment and rehabilitation.

Various existing international legal human rights instruments, to which Canada is a signatory, offer points of reference to address the trafficking in women. These include:

- Σ The Convention on the Elimination of All Forms of Discrimination against Women
- Σ The International Covenant on Civil and Political Rights
- Σ The International Covenant on Economic, Social and Cultural Rights
- Σ The Convention on the Rights of the Child
- Σ The Supplementary Convention on the Abolition of Slavery, Slave Trade, and Institutions and Practices Similar to Slavery
- Σ Relevant ILO Conventions (on forced labour, equal remuneration for work and the freedom of association etc.)

Canada's Positions and Responses to the Issue of Trafficking in Women

Canada plays a prominent role in the international arena as a supporter and promoter of women's human rights. In 1995 at the United Nations' 9th Congress on the "Prevention of Crime and the Treatment of Offenders", Canada introduced a resolution on the Elimination of Violence against Women (Agenda Item 6: Cairo Egypt, April 29 - May 8, 1995). In September of 1995, at the Fourth World Conference on Women, Canada was instrumental in the drafting of the Beijing Declaration and Platform for Action. The Declaration states that:

Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms... The long-standing failure to protect and promote those rights and freedoms in the case of violence against women is a matter of concern to all States and should be addressed. ... The term violence against women means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.

The Declaration specifically addresses the trafficking in women, commits nations to eliminating practice and urges them to help victims of violence arising from the trafficking in women:

The effective suppression of trafficking in women and girls for the sex trade is a matter of pressing international concern. Implementation of the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, as well as other relevant instruments, needs to be reviewed and strengthened. The use of women in international prostitution and trafficking networks has become a major focus of international organized crime. The Special Rapporteur of the Commission on Human Rights on Violence against Women, who has explored these acts as an additional cause of the violation of the human rights and fundamental freedoms of women and girls, is invited to address, within her mandate and as a matter of urgency, the issue of international trafficking for the purposes of the sex trade, as well as the issues of forced prostitution, rape, sexual abuse and sex tourism. Women and girls who are victims of this international trade are at an increased risk of further violence, as well as unwanted pregnancy and sexually transmitted infection, including infection with HIV/AIDS.

From 1995 onward, Canada has participated in international dialogue and has urged that perspectives on trafficking in women should reflect human rights issues and issues of violence against women. Prior to Project Orphan, Canada had largely been a country of transit (i.e. to the United States); it now found itself as a country of destination for the international trafficking in women. Project Orphan caused Canada to shift its perspective, replacing the previous more compassionate analysis of the issue with the more popular, and hard-line view that equates trafficking with organized crime. The criminal aspect of trafficking was the focus in 1996 at the European Union sponsored *Vienna Conference on Trafficking*, in which Canada participated.²⁰ According to the Summary of the Discussion within the Workshop on Judicial Cooperation:

²⁰ For example, see Canada's Paper for EU Conference on Trafficking in Women for Sexual Exploitation (June 10-11, 1995).

There was a broad consensus [among the participants] to consider that trafficking in women involved a cross-frontier element but the eventual level of consent of the victim had little relevance, as had the actual legal or illegal means of entering the territory; the crucial point was the sexual exploitation (not limited to prostitution) of the vulnerable situation of foreign women. That, in a sense, was the behaviour to be tackled by criminal law.

The trend is disturbing and marks a dramatic shift toward criminalizing those who are the most vulnerable to trafficking - the women. For example, the Canadian Criminal Code provisions under which the women in both Project Orphan and Project Trade were charged considered only the alleged act of prostitution, not the process that brought and maintained them in the sex trade.

Canada is a signatory to over twenty major international conventions that are based on fundamental human rights principles. Accordingly, Canada's commitment to the development and maintenance of fundamental human rights, at home and abroad, is a matter of law. Domestic courts are required to interpret legislation in conformity with international convention, insofar as the domestic legislation permits.

In 1976, Canada and the provinces acceded to the International Covenant on Civil and Political Rights. This and other instruments to which Canada is a party are incorporated into Canadian law by implication through the Canadian Charter of Rights and Freedoms (the "Charter"). The Charter is described as implementing legislation that is supremely authoritative and binding on all Canadian tribunals and institutions, with governing phrases that are derived from the principles and instruments of the international legal system.²¹

In Canada, like other common law countries, the presumption that the state does not intend to breach its international obligations also applies to conventional law. States should implement international laws where there is no obvious inconsistency between domestic and international law. Moreover, as a member of the United Nations and a signatory to international human rights instruments, Canada is obligated to ensure that its domestic laws are bound by international human rights principles. Canada is therefore obligated, by its accession to international human rights instruments and the domestic application of those principles, to assist and protect trafficked women.

The following points highlight the obligations that Canada and the European Union both agreed should be applied to trafficked women. While they should have served as guidelines in framing Canada's obligations to

²¹ Chief Justice Dickson reaffirmed this position in a majority decision in *Slaight Communications Inc. V. Davidson* [1989] 1 S.C.R. at page 1041, in which he reiterated the importance of Canada's upholding its obligations under international treaties to protect rights enshrined therein.

women who were trafficked, there was no structure in place at the time to ensure that they would be realized.

- Σ As a participant in the 1996 European Commission Conference in Vienna on Trafficking, Canada is aware of the need for effective measures to address sex trafficking and assist those who are trafficked. Such measures include access to legal counsel and legal assistance, a witness protection scheme, and adequate social, medical and financial support while in Canada. There should be an option to cooperate with the justice system. If a woman's situation worsened because she denounced trafficking, she should be permitted to remain.
- Σ The European Parliament's December 16, 1997 Resolution on the trafficking in women for the purpose of sexual exploitation (COM (96)0567 - C40638/96) calls on Member States to prioritize, above all, protection of the victims, including access to:
 - Σ Adequate income and confidential social, health and psychological care;
 - Σ Emergency telephone lines;
 - Σ Legal assistance and translators for the purposes of bringing formal complaints;
 - Σ Safe houses and temporary residence status pending the decision on whether the woman stays in the country;
 - Σ Advice on the right of asylum, how to apply for temporary or permanent resident permits, and repatriation to the home country;
 - Σ Legal advice with regard to the possibility of damage compensation;
 - Σ A work permit and training opportunity for the period the victim spends in the country.
- Σ The Communication from the European Union to the Council and the European Parliament on Trafficking in Women for the Purpose of Sexual Exploitation (January 1997) identifies the following as imperative and are to be included in any international agreement on suppressing the trafficking in women and children:
 - Σ Measures which will encourage and help victims of trafficking to report offences, particularly special arrangements for reception and provision of assistance;
 - Σ Taking into account of the abuse and exploitation of the particularly vulnerable position and dependency of the victims, regardless of apparent consent;
 - Σ Protection of witnesses which could apply to victims of trafficking and which involve the NGOs that provide assistance for victims;*
 - Σ Exchanging information between judicial authorities including the establishment of a legal basis for the spontaneous sharing of information and the confiscation of proceeds of organized crime relating to trafficking in women.

Appendix B

Some Current Definitions of "Trafficking in Women"

The following are some current definitions of trafficking in women.

- **Special Rapporteur on Violence Against Women**

At the fifty-sixth session of the United Nations Commission on Human Rights (resolution 1999/42)²², the Special Rapporteur set out considerations on which the definition of trafficking in women should be based in her report, "Integration of the Human rights of Women and the Gender Perspective":

- Σ Trafficking must be understood in the broader context of violations that are committed against women in the course of their movement and migrations. (point 9)
- Σ Movement and migration, coupled with governments' reactions to them and attempts to restrict such movements through immigration and emigration policies and the exploitation of such attempts by traffickers, place women in situations in which they are unprotected or only marginally protected bylaw. (point 9)
- Σ New understandings of trafficking derive from an assessment of the current needs of trafficked persons in general and trafficked women in particular. (point 17)
- Σ Trafficking is never consensual -- it is the non-consensual nature of trafficking that distinguishes trafficking from other forms of migration. (point 18)
- Σ The movement or transport of women is such as to place the victim in an unfamiliar milieu where she is culturally, linguistically or physically isolated and denied a legal identity or access to justice. Such dislocation increases trafficked women's marginalization and therefore increases the risk of abuse, violence, exploitation, domination or discrimination by traffickers, police officials, the courts, immigration officials etc. (point 21)
- Σ It is the combination of the coerced transport and the coerced end practice that makes trafficking a distinct violation from its component parts. The transport of trafficked persons is inextricably linked to the end purpose of trafficking. (point 22)
- Σ Facts indicate that the common patterns in the trafficking in women include 1) the lack of consent; 2) the brokering of human beings; 3) the transport; and 4) the exploitation or servile conditions of the work relationship. (point 23)

²² *Supra*, note 16

- **The United Nations' Definition**

In 1994, the UN General Assembly defined trafficking as the

*... illicit and clandestine movement of persons across national and international borders, largely from developing countries and some countries with economies in transition, with the end goal of forcing women and girl children into sexually or economically oppressive and exploitative situations for the profit of recruiters, traffickers and crime syndicates, as well as other illegal activities related to trafficking, such as forced domestic labour, false marriages, clandestine employment and false adoption.*²³

- **European Union**

The European Union interprets trafficking in women as:

... the transport of women from third countries into the European Union (including perhaps subsequent movements between Member States) for the purpose of sexual exploitation. A distinction must be made between legal and illegal entry. Some women enter legally, either because they come from countries whose nationals are not required to hold a visa in order to enter for a short stay the territory of a Member State, or are in possession of a short stay visa or even of a longer term work permit, for example as a "dancer". This may be a cover for prostitution.

It further states that:

Trafficking for the purpose of sexual exploitation covers women who have suffered intimidation and/or violence through the trafficking. Initial consent may not be relevant, as some enter the trafficking chain knowing they will work as prostitutes but are then deprived of their basic human rights, in conditions which are akin to slavery. The Communication does not, however, seek to address the question of women who are not put under duress by a third party to travel to work as prostitutes over borders, nor does it address the questions of black market labour in other sectors in the European Union.

- **The Global Alliance Against Trafficking in Women (GAATW)**

GAATW defines trafficking²⁴ as:

²³ General Assembly resolution 49/166 of 23 December 1994; see also the report of the Secretary-General on traffic in women and girls (A/50/369) of 24 August 1995.

²⁴ Global Alliance Against Traffic in Women, *Human rights Standards for the Treatment of Trafficked Persons*. (Global Alliance Against Traffic in Women: Bangkok, Thailand 1999), p.1.

*... all acts and attempted acts involved in the recruitment, transportation within or across borders, purchase, sale, transfer, harbouring or receipt of a person involving the use of deception and coercion including the use or threat of force or the abuse of authority or debt bondage for the purpose of placing or holding such person, whether for pay or not, in involuntary servitude (domestic, sexual or reproductive). In forced or bonded labour, or in slave-like conditions, in a community other than the one in which such person lived at the time of the original deception, coercion or debt bondage.*²⁵

- **The Netherlands-based Foundation Against Trafficking in Women (STV)**

The factors defining the "traffic in women" include the following. The woman is:

- Σ Unaware that she was destined for prostitution or was deceived with respect to the conditions under which she has to work;
- Σ Not free to decide for herself whether, and the way in which, she is to be engaged in prostitution;
- Σ Forced to surrender earnings to a third party;
- Σ Bound by a "debt" (e.g. for traveling expenses, documents and clothing or because a 'take-over price' has been paid for her), which first has to be repaid before she is allowed the disposition of her own earnings, before she is free to stop working or before she will recover her passport;
- Σ Constantly under the supervision of third parties;
- Σ Limited in her freedom of movement or contacts with others;
- Σ Not free to refuse certain customers or sexual acts.

3. PROJECT ORPHAN: THE ARRESTS

By the end of the last century, the illegal smuggling of people, particularly for the sex trade, has evolved into a multi-million dollar business for organized crime.²⁶ In the fall of 1997 a series of events would lead to Canada's involvement in the lives of a small group of Asian women.

²⁵ According to the *Supplementary Slavery Convention*, article 1, *debt bondage* means "the status or condition arising from a pledge by a debtor of his/her personal services or those of a person or a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined."

²⁶ "Sex slaves sold around the globe", *Toronto Star* (April 5, 2000). "Global trafficking of women and children as sex slaves is booming, with an annual trade estimated at two million victims".

This section looks at how Canadian law enforcement officials and the criminal-justice system, print and broadcast media, as well as the Royal Thai Government and its representatives in Canada, dealt with the women of Project Orphan. Despite repeated requests for interviews, police authorities did not participate in this study.

The following section pertains largely to the experience of the Thai nationals who were arrested and the quotes cited below are translated from interviews conducted in Thai. It discusses the women's reaction to the events of the raid, their arrests and how they coped with legal hurdles. The Chinese-Malay women of Project Orphan were not involved in this research project. Information on Chinese-language social and legal services were more readily accessible, and these women were likely to be less isolated, than their Thai counterparts.

- **The Police Investigation**

Information obtained during this study suggests that, in 1996, Canadian law enforcement officials were advised by the Buffalo field office of the United States Immigration and Naturalization Service (USINS), that a Toronto-based sex trade ring was procuring young women, primarily from Thailand and Malaysia, and funneling them into Canada and the United States through Vancouver. With Canada's growing reputation as a central entry point and staging ground for smuggling women into the United States, police agencies launched an investigation. Purportedly with the help of a very knowledgeable and well-connected USINS informant, Canadian law enforcement agencies initiated an investigation that would last eleven months.

During this investigation, the police were made aware of a highly organized international prostitution ring that linked Vancouver, Toronto, and Montreal with several Asian and US cities. Teenaged girls and young women, aged 16 to 30, were brought in for the sex trade on the basis of an indenture system that required them to work off their accrued debts on North America's sex circuit. Once past Canadian and US immigration officials -- with visitors' visas or false travel documents -- the women were required to service hundreds of men in order to repay the cost of their transportation and "debt bond" that ranged from \$30,000 to \$40,000. The size and scope of the operation was reputed to have generated between \$2 and \$3 million dollars a year. Law enforcement officials began to focus their attention on the issues of human smuggling, transportation for the purposes of crime, and 'laundering' the proceeds of crime.

- **September 10, 1997: The Raids**

On the evening of Wednesday, September 10, 1997, the Newmarket, Ontario-based Combined Forces Special Enforcement Unit, an 18-member organized crime task force comprising officers from the Royal Canadian Mounted Police (RCMP), Ontario Provincial Police (OPP), and the Metropolitan Toronto Police (now the Toronto Police Service), as well as police from the neighbouring regions of Peel and York, conducted a series of raids on a number of highrises and storefront apartments in the Greater Toronto Area (North York and Scarborough), a massage parlour located in an upscale Markham office complex, and a minivan en route to the casino in Niagara Falls. By late evening, 23 suspects had been detained and charged, including sixteen sex trade workers who were arrested and charged both as keepers and inmates of a bawdy-house.²⁷ Several alleged middlepersons (male) and managers, and two women whom police called the ringleaders, were also charged and taken into custody.

As tactical officers stormed through the doors of the apartments, condominiums and massage parlours, many interviewees initially thought that the police were armed robbers or burglars. One woman stated:

The arrest took place at 6 p.m. on September 10th, 1997. We were cooking dinner when the police raided the place; no one ended up having dinner that evening.

I was arrested at the massage parlour. When I realized that I was arrested, I was terribly scared. They came in as regular customers, walked back and forth before showing us their police badges. When I realized that they were the police, I was trembling and frozen with fear. I was so frightened that I could not think clearly. I could not focus on the questions I was asked ... I could not even remember my name. As I have never been arrested before, I was overwhelmed. The police asked how I had come to be here; I could not speak because my mind had gone blank.

They asked me about my passport but I could not answer because I did not speak English. It was almost impossible for me to even understand them. I could not even go to washroom. After a while, they called us inside the massage room for a strip search. They told us to take off our clothes.

²⁷ Subsections 210 (1) and (2), respectively, of the *Criminal Code*, R.S.O., 1985. Subsection 210 (1) is an indictable offence under which they could be liable for a term not to exceed two years; subsection 210 (2) is punishable on summary conviction. Fifteen of the women arrested were charged under the *Criminal Code* with being an inmate in a bawdy-house. "Inmate" is not defined in the *Criminal Code* but is understood to include a person who is a resident or regular occupant of a place occupied for the purpose of prostitution; this is an offence punishable on summary conviction and the accused may be found liable for a fine of not more than \$2000 or a prison term of six months or both. Most of these women were also charged with keeping a bawdy-house, an indictable offence for which they could be found liable to imprisonment for a term not to exceed two years.

They used a baton during the search. We were not allowed to talk to one another. I was very scared because I could not speak the language. I was scolded many times because I did not understand the questions they asked.

They did not let me ask a friend next to me or allow me to sit close [to her]. I was so scared that I was about to cry, but had to hold back the tears. After the questions, we were handcuffed. I felt nothing except fear. They videotaped everything that happened.

Then we were transported by police cars to an unknown destination. I focused on my parents in order to calm myself. We were all brought to a police station, but I did not know where. There were a number of reporters and journalists waiting for us and they gathered around the car as soon as we arrived. We had to cover ourselves while entering the station.

Another woman who was arrested on the way to the casino in Niagara Falls stated:

I was confused. Everything was so well planned ... and exciting, as if it were something we saw in a movie. The police pulled their van right in front of ours. At that time we did not know they were the police ... they did not wear uniforms. They used their cars to block us from all sides, front and behind, and then dashed towards our van. One of them banged his fist on the driver's side of the door with a gun in his hand. When we opened the doors, they told us to hand them our purses and they searched every single item we had in the purses. They placed plastic cuffs around our wrists and told us to get out of the car, one by one. ... At first, I thought that we were being robbed. Even when I realized that they were police, I thought there might be something highly illegal hidden in the car for them to bust us like dangerous criminals.

At the time of their arrest, the women stated that no one explained the charges against them, what their rights were, or what was going to happen next. Few women could speak English, and there were no Thai language interpreters at the scene of the arrests.

Police officers in unmarked cruisers and police vans transported the women from the scene of each arrest to the Metropolitan Toronto Police Department's 55 Division Headquarters to be formally charged. As they were led into the building, the women were brought face to face with awaiting media.²⁸

²⁸ In subsequent police raids, the press (specifically, the Chinese language press) would be notified ahead of time. (See news reports from Sing Tao and Ming Pao newspapers.)

Oh boy! They [reporters] were all over the place, a woman recalled. As soon as our car pulled in... 'Holy cow!' I said to [name withheld], 'Oh, dear! That's the TV camera, quick...duck your head!' When I bent my head down, I still saw the bright lights flashing as if the sky was lit. Luckily, my hair is long ...

A journalist with a local Chinese-language daily, recalled the women having to make their way past the gauntlet of reporters. "I can say that the police seemed to be a showing off a bit more in this case... I think we got at least 30 seconds to [to take pictures of the women]. It's quite enough to do the job."

Once inside, the women underwent strip searches. While carried out in a private room, the door was left open so that those outside were able to see in. Remembering the "disgraceful " strip search, a woman said. "We were told to enter the room, one by one, for another strip search. We had to take off our clothes, as told, and the room door remained open. We were so embarrassed and humiliated, but could not do anything."

The women were then processed and catalogued, photographed and fingerprinted. By this time, a Thai language interpreter had arrived at the station. Through the interpreter they were informed of the charges against them. Held overnight in the police holding cell pending court appearances in the morning, several women stated that they requested blankets only to receive four to be shared among more than twenty people. "Most of us ended up shivering in the cold and couldn't sleep all night, including me," a woman recalled. "We could not even talk to one another and the cell was under video surveillance."

Another woman recalled that, "Some of us were afraid and did not dare to talk to one another, but I talked to everyone. I think people in this kind of situation need to have someone to share their misery with".

Some of the women asked for something to eat but were denied. Some stated that they received a few slices of bread and coffee the following morning. Others requested a lawyer but received no response. With assistance from the interpreter, the police asked if any of the women would like to make a phone call. A woman recalled having jumped at the chance to do so:

They said that if we wanted to make a phone call, we had to sign our names on a form. I really wanted to make a call so I signed my name. I did not even know what I signed. Another friend in the holding cell asked if I knew what I had signed and I said it was for a telephone call, but she said it wasn't. She told me that if I signed that paper, it meant I was acknowledging that I worked as a prostitute. I told her, 'Oh, really? I didn't know that.' The police said it was a request for a phone call and I believed them.

Her request to make a phone call was never granted.

- **September 11, 1997**

On the morning of September 11, 1997, the women were transported to the College Park Provincial Court (College and Yonge Streets) for bail hearings, where they had access to duty counsel and an interpreter.²⁹ In court, they were released on their own recognizance, subject to a number of bail conditions that included: reporting to the bail office on a weekly basis; obeying a curfew (10 p.m. to 6 a.m.); not socializing with one another or with former employers; handing over foreign and Canadian passports and travel documents to the RCMP; and refraining from employment at any place described as a massage, shiatsu or health care facility. A breach of any of these bail conditions would result in a one-thousand-dollar fine.

The women, who spoke little English and lived at their place of employment, now found themselves without work, shelter or money. After pleading with the judge, the women obtained the court's permission to return to their living quarters/workplaces for a one-time visit to pack up their belongings. Since the only people the women knew in Canada were their employers and co-workers, they were permitted to stay with co-accused.

After the bail hearing, the women walked out of the College Park Court into a media scrum. Two or three of them managed to exit the building unnoticed as reporters and television cameramen jostled for the best place to shoot photographs or videotape. "I went out with the first group...nobody knew," a woman recalled. *"I was kind of standing there. There were lots of people on the street. I was walking like I was OK, but I was shaking inside. The reporters had their cameras ready on their shoulders and were waiting right at the College Park Mall exit."* The attempt of six or seven women to escape unwanted publicity collapsed when one member of the group stopped to ask for a cigarette. *"The reporters rushed out from the other side of the street ... They knew she was a Thai woman. They ran out in a big group and surrounded us right in the middle of the road! An old lady shouted, 'Leave her alone. Leave her alone', something like that, I didn't quite understand what she said...I was very annoyed by those reporters. If that woman hadn't helped me, I would have been finished. That older woman, the woman who shouted 'Leave her alone!', shoved me into a taxi."*

The women stated that when they returned to their apartments to pick up their belongings, they were startled to find that the police had searched their accommodations and seized their money and personal items, including

²⁹ Interviews with the women, and Leslie Ferenc, "No 'promised land' for sex-ring accused," *The Toronto Star*, 12 September 1997.

photos, letters, wallets and address books.³⁰ A woman who lived in an apartment offsite from where she worked was particularly shocked to discover that the police had searched her personal residence. She stated:

It was early evening when I arrived home. I was stunned that everything in the house was scattered all over the place, that there was no space clear for moving around. I felt insecure and I was uneasy being alone. At around 10 p.m. a Chinese friend who had also been arrested called me and told me that two of my Thai friends were brought to an apartment in Thornhill. It was my friend's place but I knew that she was not home that night. So, I gathered together food and water and eighty dollars and asked my boyfriend to look for them. He could not find them. I was so worried because it had been hours since the court hearing and the weather was getting colder. I was also worried about other friends because we were separated when we tried to escape from the reporters who were waiting for us in front of the court. I felt we were like ants in the same anthill that were scattered in all directions after one blow.

- **September 12, 1997**

The women would also find themselves at the top of the morning news agenda of September 12, 1997,³¹ after the police announced that they had "smashed" a sex trafficking and human smuggling ring. "It's incredible but true. Human beings are being bought and sold in Toronto in 1997," a police investigator would remark to Toronto Sun reporters. "We're used to dealing in kilos of heroin or cocaine, but people? I thought I'd seen everything, but I had never seen anything like this."

The Head of the Combined Forces Special Enforcement Unit, RCMP Inspector (now Superintendent) Ben Soave expressed shock in the press that such an operation had established a foothold here in Canada. "White slavery is something that's traditionally [associated with] Third World countries," Soave told the assembled reporters, "Suddenly it's here, in our backyards."³²

³⁰ At the end of the court process, several months later, some of their belongings were returned.

The police retained their money which were considered the proceeds of crime, as well as their address books. As a result, the women who were still under debt bondage found themselves in a

particularly difficult financial bind. The money confiscated from the individual women were likely their tips. For those who were still paying off debt bonds, tips were all the money they had to send home to support their families.

³¹ Scott Magnish and Jonathan Kingstone, "Asians sold as sex slaves," *The Toronto Sun*, 11 September 1997.

³² Henry Hess, "Toronto sex ring not alone," *The Globe and Mail*, 12 September 1997.

A news release/fact sheet issued by the task force also stressed the need for police action and the above-reproach purpose of the raids: "The focus of this investigation was not prostitution per se, but that the women were being exploited and bought and sold for the purposes of prostitution."³³

Inspector Soave painted a stark portrait of Thai and Malaysian women, who were sold into slavery for prices ranging from \$7,500 to \$15,000 (CDN), and then forced to work off debts totalling \$35, 000 to \$40,000 through prostitution. As well, most had severely restricted freedom, little food or access to medical care. "These types of criminal organizations traditionally attack poor women in underdeveloped countries," Soave said. "Poor women, uneducated women, young women who owe large debts, young women who have problems with their families or who need medical help."

The police said the women were victims, but arrested or charged them with prostitution-related offences, nevertheless, under the Criminal Code. The irony was not lost on some members of the press. A Toronto Sun photo caption would read "FREE BUT ARRESTED ... Two women held as sex slaves enter 55 Division police station on Coxwell Avenue in manacles last night." The Globe and Mail's crime reporter, Henry Hess wrote: "Police also laid prostitution charges against women found in the brothels. Asked whether it was fair to charge people who may themselves be victims, Inspector Soave said investigators are still trying to find out exactly who the women are and how they got here. Eventually, the Crown will decide whether to prosecute."

- **The Managers / Coordinators**

Held on suspicion of running a prostitution ring was Wai Hing (Kitty) Chu, age 33 of Markham, and Wing Han (Judy) Tam, age 25 of Scarborough. Each was charged with 135 procuring/prostitution offences, as well as aiding and abetting illegal entry into Canada, and aiding and abetting unauthorized employment. Also arrested were several alleged associates and middlepersons including Lai Ming (Lilly) Chau, age 24 of North York, charged with 69 prostitution-related charges; Nisa Khongsa-ard, of Scarborough, charged with 26 prostitution-related offences, as well as aiding and abetting unauthorized employment; Shih Chien (Annie) Boui of Scarborough, charged with 69 prostitution-related offences; Kung Sheung (Jackson) Kam, age 26 of Scarborough, charged with 22 prostitution-related offences; and finally, Kaman Ly, of Scarborough, charged with 66 prostitution-related offences.³⁴

³³ Combined Forces Special Enforcement Unit, "40 Arrested in International Prostitution Ring" News Release, 11 September 1997. Rosie DiManno, "Sex slave 'victims' weren't captives chained to beds," *The Toronto Star*, 12 September 1997. Henry Hess, "Toronto sex ring not alone," *The Globe and Mail*, 12 September 1997. See also the front page headline, "Sex-Slave Ring Smashed," *The Toronto Sun*, 11 September 1997. Also, Scott Magnish and Jonathan Kingstone, "Asians sold as sex slaves," *The Toronto Sun*, 11 September 1997.

³⁴ See Criminal Code 210 (1) Keeping Common Bawdy-house.

While Canadian police laid a total of 750 charges that night, US immigration officials arrested several more people in San José, California. Law enforcement officials in both countries indicated that arrests in Vancouver and Los Angeles were imminent.³⁵ According to news reports, members of the joint task force seemed buoyed with the success of the sweep. Through a collective effort, a powerful syndicate had been brought under control by arresting several middle-people and Wai Hing (Kitty) Chu, who police alleged had ties to the Big Circle Boys, reputed to be Canada's pre-eminent Asian organized crime group with roots in the People's Republic of China.

Chu, believed to be from China originally, arrived in Vancouver from Hong Kong in 1987. Convicted of several prostitution-related offences in Canada, Chu tried several times to obtain permission to stay in Canada without success; immigration officials had ordered her deported in 1995. It was believed the deportation would finally take place two years later. "When these [criminal] matters are completed-police alleged Chu operated a number of bawdy-houses including those located at 125 Bamburg Circle, 3050 Pharmacy Avenue, 110 Parkway Forest Drive and 3000 Victoria Park Avenue --she'll be removed from Canada," Citizenship and Immigration Canada spokesman Kevin Sack stated in the press.³⁶ Chu's associate and fellow refugee claimant, Judy Tam, was now a Canadian citizen and would not face deportation proceedings. As well, Sack stated that Canadian immigration officials were not interested in pursuing the charges against the sex trade workers under the Immigration Act for working in Canada on a visitor's visa and/or using false documents to travel to Canada.³⁷

- **Following the Raids: the Media**

The initial reaction of the press was overwhelmingly sympathetic to the women. In the public imagination, the women were the hapless victims of a sex trafficking and human smuggling ring.³⁸ The banner headline of the September 12, 1997 edition of the *Toronto Sun* read "Sex-Slave Ring Smashed." Within hours, however, the attitude of the media was to change with unseemly haste as the women came to be portrayed as "willing" sex workers who did not appreciate "liberation" by the police. *Toronto Star* columnist Rosie DiManno³⁹

³⁵ Leslie Ferenc, "No 'promised land' for sex ring accused," *The Toronto Star*, 12 September 1997.

³⁶ Danylo Hawaleshka, "Sex, lies and money," *Maclean's*, September 22, 1997. Henry Hess, "Toronto sex ring not alone," *The Globe and Mail*, 12 September 1997. Henry Hess and Jan Wong, "Sex-ring trial highlights growing trend," *The Globe and Mail*, 3 October 1997.

³⁷ Global Alliance Against Traffic in Women (GAATW) Canada, *A Preliminary Report on the September 1997 Toronto Massage Parlour Raids*, November 15, 1997.

³⁸ Michele Landsberg, "No real 'free will' in sex-trade trafficking," *The Toronto Star*, April 19, 1998.

³⁹ "Sex-Slave Ring Smashed", *The Toronto Sun*, September 11, 1997.

observed that the women who had been "saved" by the police "were not exactly glad to see cops coming through the door" - they were archetypes of evil, fallen women and illegal immigrants, greedy for ill-gotten money and material goods, working at a sordid trade. DiManno's September 12, 1997 column, "Sex slave 'victims' weren't captives chained to beds", opens with:

Sex slaves, my fanny. Indentured sex trade workers, yes. Exploited concubines, possibly. Self-conscripted whores, apparently.

As they emerged from the glare of publicity, each of the women now had to address their immediate needs of finding food and shelter as well as dealing with feelings of confusion and uncertainty. One woman recalled:

I was afraid and worried about how long they were going to put me in jail. I thought it might be forever. I thought about what charges would be laid and how serious they would be. I was so upset that I could not eat anything. I had no money and didn't know anybody. I did not even know the street names or directions. I had lived with friends who used to work at the massage parlour. I only lived with them in each place temporarily -- for a week or two, or a month. They gave me some food. I just lived day to day.

Sharing the story of her own private doubts and fear, another woman stated:

I felt miserable. I was worried about whether I would be put in jail or be deported, or I would have to serve time in Thailand. I was confused and wasn't sure I'd be able to afford the lawyer's fee. I was so depressed that I lost a lot of weight. I was mentally unstable for months ...

- **Navigating the Legal System**

During the court proceedings, the women had access to an interpreter, but expressed concerns about the interpreter's role and the quality of interpretation.

There were interpreters at the police station and another interpreter in the court hearing. We were quite cautious with what we said because they were police interpreters and we were afraid the interpreter's relationship with the police would affect our case.

It appears that their concerns were justified. Following the first court appearance, the women would have to contend with police interviews. Led to believe that they were to provide data for Statistics Canada, they were asked questions about their lives and previous jobs in Thailand, how they came to

Rosie DiManno, "Sex slave 'victims' weren't captives chained to beds," *The Toronto Star*, 12 September 1997. Cecil Foster, "Whole story yet to be heard on latest alleged sex slave ring," *The Toronto Star*, December 7, 1998.

Canada, and their work conditions here. They agreed to the interview with the understanding that it would have no bearing on the court case. Each signed a piece of paper at the conclusion of the interview, despite their meagre English-language skills and without full knowledge of its contents. Some of the women were even illiterate or semi-literate in Thai, and they had not spoken with counsel. One woman stated that:

We were told by the interpreter to plead guilty, but none of us did because we did not know what would happen after that. There were reporters who approached us and asked us for stories to write in their articles. Each time we went to court it was different. The court interpreter asked if we wanted to plead guilty. She said that she would help us. But no one decided to plead guilty because we were afraid. The next time we were in court, the court interpreter encouraged us to plead guilty. Fortunately, there were volunteers who approached us and told us the consequences if we were to plead guilty. We therefore decided not to plead guilty and waited to see what the court would say.

Against this backdrop, the women tried to obtain legal help. With the assistance of well-meaning friends, the women stated that many were unwittingly referred to immigration lawyers and immigration consultants, who had little or no experience with criminal law. Many of them were also deprived of a truly effective lawyer-client relationship, severely hindered by the language barrier and a lack of awareness of their rights and the various protections -- "Some of us know nothing about the law" -- under the Canadian justice system. A woman who felt a profound sense of remoteness and a lack of connection to her first lawyer said:

I went to see my lawyer two or three times. He did not explain much to me. He later seemed to be upset when I asked him questions. He often said to me, 'How many times have I told you 'Don't worry'?' Yeah, but I was worried and I wanted to ask him questions... I wanted to ask him what would happen to me; what kind of evidence the Crown had against me. However, all he kept telling me was, 'How many times do I have to tell you? Don't worry.'

Appointed as the Crown Attorney to prosecute the women under Project Orphan, Hugh S.D. Paisley, Q.C., stated from the outset that the alleged ringleader, Kitty Chu, stood at the top of the prosecution's target list. "*The interest of the Attorney General in this case and, most especially, in Kitty Chu,*" Paisley said, "*is due to the organized and global nature of the operation, breach of immigration laws, taxes and proceeds of crime.*" Kitty Chu, the Crown argued, would have to plead. "[I] told the lawyers of her front person, bag lady/accountant, middle managers and six location managers of the need to

get Chu to plead... If she doesn't plead, they all go down," Paisley recalled.⁴⁰ As for the women themselves, the Crown understood that virtually all were adults, and while some were previously married, many had children and had suffered abuse by their husbands. They lived at the border of the poverty level (income \$1,500 per annum). With the exception of "one silly young woman [who] said she wanted some money to buy a Sony Walkman," Paisley believed that the vast majority came voluntarily -- with the knowledge that they were entering the country illegally and with the knowledge that they would be working in bawdy-houses -- with the hope of improving their lives and that of their families.

But it was one thing to understand, even sympathize, with the plight of the women and quite another to withdraw the charges against them. This, the Crown was unwilling to do. Indeed, the Crown felt that it was "his job to deter" and to "send a message" to the women in Malaysia and Thailand "not to come as prostitutes." Criminal defense lawyer, Ms Nadia Liva, who represented a number of the women, stated:

Each client was charged both as an inmate and as a keeper of a bawdyhouse. The first charge is a summary conviction offence. The second, the Crown advised that if the matter were to go to trial, would proceed by way of indictment. The indictable offence has potential negative effects on the immigration status of these women. Should they be convicted of two summary conviction offences, or one indictable offence, their status in Canada would be affected.

I was advised by my clients that prior to my retention, the Crown had indicated that if they were to plead guilty to the inmate offence, the Crown would seek a conditional discharge. Shortly thereafter, and I believe as a result of consultation with Immigration authorities, the Crown advised that it would not agree to a conditional discharge but would be seeking a suspended sentence-which is a conviction.

None of my clients had prior criminal convictions. In fact, for all my clients, this was their first offence. Normally, an inmate charge for a first time offender would result in a discharge. It is my belief that a conviction was being sought in order to assist in the removal of my clients.

- **The Royal Thai Embassy**

During the early days of their ordeal, the women learned that they were stigmatized not only because of their profession, but also because of their status in their home country. Since most of the women came from humble or rural classes in their country of origin, their personal contacts with consular

⁴⁰ Interview with Hugh S.D. Paisley, 15 April 1999.

officials from their homeland were not much easier than with the agents of the Canadian host society. Many of the women assumed that the officials of the Royal Thai Embassy in Ottawa and the consulate in Toronto found them an embarrassment, even more so on the eve of the Vancouver Asia Pacific Economic Co-operation (APEC) summit.

The women would learn that the consular services of the Thai government were for the middle classes and people of commerce, not for those who worked in the sex trade and/or ran afoul of the law. The Thai government, for example, indicated that it was prepared to offer food, shelter and assistance in repatriation to Thai nationals abroad who were displaced by war or natural disasters and, it would do so, for the most part, free of charge. However, the Thai government did not see fit to provide assistance in any form to those facing criminal charges and stipulated that the cost of repatriation was to be reimbursed after their safe return. In response to this study, Renu Chaisuwan, First Secretary of the Royal Thai Embassy, in correspondence with the researchers dated 24 August 1999, dismissed the women with a statement: The women of Operation Orphan do not represent any challenges since they declined to accept assistance in repatriation and wish to remain in Canada.

The Honorary Consul of Thailand at Toronto, William (Bill) A. Dickinson, had initially contacted the women to inform them of their rights and had attended a number of court hearings to make sure that their rights were protected within the Canadian justice system. The consul also indicated that he would arrange for translators as needed. In return for this assistance, however, it appeared that the women were being asked to provide information - - regarding the use of false documents to travel, for example -- that could potentially result in further prosecution upon their return to Thailand.

In the weeks that followed, the women would endure repeated court dates, the result of lawyers "of the senior people," jockeying for position. The women were also to be sick at heart about the pressure to plead guilty coming from a variety of quarters including the Thai consular staff, the court interpreter and law enforcement officials.⁴¹ Remembering an encounter with a court interpreter, a woman said:

One time, at a court hearing, an interpreter came to me and asked if I wanted to plead guilty. She told me this was a good chance for me to plead

⁴¹ The women state that when they decided not to attend at the courthouse for pre-trial hearing scheduled for October 24, 1997, they were contacted at the safe house by the interpreter. The interpreter led the women to believe that she called on behalf of the Thai Counsel, cautioning them that if they did not attend at the courthouse to plead guilty they would receive no assistance from the Embassy. In subsequent calls, the women were told that "Bangkok was not happy with what was going on and wanted to see the matter proceed as quickly as possible", that the Crown Attorney was angry that they were not at court, and that Immigration Canada would go immediately to the safe house to arrest and detain them.

guilty and there would be no other good chance like this. I was very confused. I asked the interpreter what would happen to me if I pleaded guilty. She did not give me a clear answer and never asked me again. I did not make a plea until six months later.

The women would eventually plead guilty to the inmate charge and received conditional discharges despite the Crown's recommendation that they receive suspended sentences. The keeper charges were also withdrawn but numerous conditions would be placed on the women as part of their sentences.

4. THE TORONTO NETWORK AGAINST TRAFFICKING IN WOMEN (TNTW)

The Toronto Network Against Trafficking in Women (TNTW) was formed shortly after the September 10, 1997 arrests under Project Orphan. This section discusses TNTW's crisis intervention effort on behalf of the Thai women who were arrested. Over the next one and a half years, the TNTW provided the women with food and shelter, and assisted them in accessing health, social and legal services.

Chronology of the Events/ Crisis Intervention

- **GAATW sends representatives to Toronto**

On September 19, 1997, ten days after the arrests, GAATW sent two representatives to Toronto to engage in crisis intervention. Their initial objective was to determine the status of the women arrested. They intended to ensure that their rights were protected and necessary services provided. They met with law enforcement officials, representatives of Immigration Canada, and the media to gather basic information about the arrest from these sources.

GAATW also made several attempts to contact the arrested women directly. Their first attempt was through the RCMP, without success. GAATW states that an RCMP official agreed to forward information to the women but when efforts were made to do so, the official indicated that none was interested in making contact.

On September 23, 1997 GAATW learned that most women did not have legal representation and, again, efforts were made to contact the women directly at the court hearing. This was not possible, however, because the women were accompanied by several men and women who appeared to be "running interference" on their behalf.

GAATW's next step was to mobilize community-based organizations, including health and social services providers in Toronto. They contacted organizations and individuals whom they knew through the women's network. A first meeting was organized on September 25, 1997, where information was shared but no strategies or plans of action were developed then, however.

On October 3, 1997, GAATW representatives, including Dawn Passar, a Thai-speaking sex-worker/activist from San Francisco, met with Toronto advocates.⁴² Following this meeting, the Toronto contacts prepared an information sheet in Chinese and Thai (setting out the names of organizations and individuals prepared to provide assistance) to distribute to the women the following week (October 6) at the College Street Courthouse, and put together a preliminary list of volunteer contacts.

Duty counsel agreed to distribute the information sheet to the women and no objection was raised by the Crown to their doing so. Passar and Noulmook Sutdhibhasilp, a Thai graduate student who had volunteered to help, tried to initiate discussion with the women. Some accepted the handouts; others did not because they thought Passar and Sutdhibhasilp were reporters. Only three would respond, wanting to know what would happen to them at the court hearing. Given of the number of individuals and charges involved, the proceedings were then moved to the Finch Avenue Courthouse.

- **Setting up TNTW**

There was no organization in Toronto that was equipped or mandated to assist the arrested women. In response, persons from several non-governmental groups in Toronto created an ad hoc group that later adopted the name the Toronto Network Against Trafficking in Women (TNTW) to provide these women with emergency shelter, food, and access to legal advice. To assist the women effectively, two strategy meetings were organized a few days after the departure of the GAATW representatives.

The group then contacted the Royal Thai Embassy and their consulate in Toronto, and invited their representatives to participate at whatever level they felt comfortable. At these meetings, the First Secretary to the Royal Thai Embassy, Mr. Praphan Lohratvilai, extended a generous promise of Thai governmental cooperation and support. If the women required assistance with travel arrangements to return to Thailand, documentation such as certificates of identification (CI) and coverage of expenses incurred at trial, the Thai government was prepared to help. The group's delight in this promise of assistance soon gave way to the reality that the offer of help was made solely to minimize any embarrassment to the Thai government as result of the arrests.

⁴² Avvy Go (Director of the Metro Toronto Chinese and Southeast Asian Legal Clinic) and Dora Nipp.

The support group wrote to the provincial Ministry of the Attorney General to express concern that the first court interpreter was male and to request that the women be given access to a female court interpreter. TNTW also produced another information sheet with more details setting out the women's rights and a brief overview of the criminal and immigration charges against them. The sheet was produced in Thai, Chinese, and English.

- **Second attempt to make contact**

On October 20, 1997, TNTW volunteers attempted to contact the women at the Finch Avenue Courthouse. Mr. Edmund Chan, Duty Counsel, arranged for the women to receive the prepared handouts. He gathered them together, away from their managers and boyfriends, and spoke with them in the Duty Counsel office through a female Thai interpreter. After reading the information sheet, some women had questions about what would happen if they pleaded guilty and decided to proceed to trial, and what the immigration consequences might be. TNTW later learned that the interpreter had added personal comments as well as omitted some important points that were made by the Duty Counsel.

The hearing date was set for January 12, 1998. After Mr. Chan explained the court procedure, the charges and possible sentences, five women indicated to TNTW volunteers that they wanted to return to Thailand as soon as possible. In the interim, they said they needed shelter. At the time, they were staying with co-accused and the living conditions were not very good. TNTW volunteers called a few shelters on their behalf but the shelters could not accommodate all five women together and some had an age restriction.

A plan was put into place for Sutdhibhasilp to provide a safe shelter for three women in her one-bedroom apartment; Sara T. would accept two women. However, Mr. Lohratvilai suggested that all five women stay together as it would be easier to keep an eye on them. He also asked Sutdhibhasilp to advance the money for their expenses and assured her that she would be reimbursed. Mr. Lohratvilai assured the women that the Embassy would pay for all their food and accommodation expenses. Arrangements were made by the volunteers to bring the women's personal belongings to the safe house.

It became apparent at that time that none of the five women had legal representation, although each had answered in the affirmative when the judge asked whether they had counsel. The women indicated that their managers had thus advised them. The pre-trial date was set for October 27, 1997.

- **Settling into the safe house**

The safe house was a one-bedroom flat in the lower level of a house in downtown Toronto. The five women slept in one room, on mattresses that were placed beside each other on the floor. Winter clothing and jackets were donated or obtained from Goodwill. In the small quarters, the women divided up household responsibilities taking turns cooking and cleaning. There were no rules in the safe house other than the women were to smoke outside. Most of the time, the women stayed in the apartment and watched Thai videotapes provided by Sara T. They talked among each other and to Sutdhibhasilp, mostly about legal matters. Sutdhibhasilp accompanied those who liked to read to the public library to borrow Thai language books.

A TNTW volunteer⁴³ discussed the October 27th pre-trial date with the women, suggesting that they retain legal counsel before entering plea. The women agreed and Ms. Sampson contacted the crown to reschedule the date. The women and TNTW volunteers who were at the safe house recalled receiving telephone calls from the interpreter, who pressured them to plead guilty. The phone calls left the women feeling extremely confused, worried, scared and intimidated. They felt that their right to decide how they would handle their situation had been taken away. Shortly afterward, a person identifying himself as an RCMP officer called Sutdhibhasilp and asked her to pass on the same message. The caller said that the women should attend the courthouse to plead guilty, as this would help them return to Thailand as soon as possible. When the caller was told that the women wanted to retain counsel, the response was that "twenty lawyers could not help them".

At the women's suggestion and agreement with TNTW, no further telephone calls were accepted at the safe house from either Thai Embassy officials or persons identifying themselves as representing the Embassy.

- **Retaining legal counsel**

On October 23, 1997, the women applied for and received legal aid certificates. TNTW arranged for the five women, and two other arrested women, to meet immigration lawyer Herman Pat and criminal lawyer Nadia Liva on October 28, 1997. Ms. Liva explained the charges against the women and Mr. Pat set out the immigration consequences. Following the meeting, Ms. Liva said she would represent the women on a pro bono basis. After discussing it among themselves, the five women agreed to have Ms. Liva as their legal counsel.

It was understood that the Crown's intention was to request a suspended sentence for these women with a year's probation, which would have negative consequences for their immigration status. The terms of

⁴³ Fiona Sampson (then counsel with Metro Action Committee on Public Violence Against Women and Children (METRAC)).

probation being sought by the Crown included refraining from engaging in sexual acts in return for money, refraining from employment in a bawdy-house or massage parlour, not associating with other persons involved in the arrests, and abiding by a curfew. Another consideration for the women was that if they were willing to plead guilty and subsequently breached any of the terms of their probation, they would face more serious charges.

The following week, the women agreed that they should also retain an immigration lawyer and arrangements were made for them to meet with Mr. Ian Wong. Mr. Wong also proposed to represent five women on a pro bono basis and the women agreed to have him represent them. Several meetings were arranged with Ms. Liva and Mr. Wong and on most occasions Sutdhibhasilp acted as the interpreter. Later on, Ms. Chutima Sirisamattakarn volunteered to help as an interpreter.

- **Accessing medical care**

TNTW accompanied the women for medical check-ups for sexually transmitted diseases. The women felt it was important to see a physician as none had had a medical examination since they had begun working in Canada. The women went to the Hassle Free Clinic in downtown Toronto. Two or three follow-up meetings with the doctors were arranged after that.

- **Other women contacted TNTW for assistance**

In early November 1997, eight other women who had been arrested began contacting TNTW volunteers, on an as-needed basis, for interpreting services, access to medical care or legal counsel. Some women remained unrepresented. Others felt that their counsel did not serve them well, because of the nature of the charges and a language barrier. TNTW arranged lawyers for the women, accompanied them to legal meetings and interpreted for them as well.

- **The Thai Embassy qualifies its offer of assistance**

As indicated earlier, NGOs and volunteers were led to believe that the Thai government would provide full financial assistance to the women. TNTW subsequently learned that the women were expected to sign debt contracts with and repay the Royal Thai government. Specifically, the 'emergency loan' was to be paid back to the Thai Department of Public Welfare, Ministry of Interior, on returning to Thailand. Mr. Lohratvilai further qualified the Royal Thai Government's assistance by requiring that the women sign a debt contract before Sutdhibhasilp was reimbursed for her expenses.

The women who had gone overseas in order to earn money with which to repay debts at home found that these terms compounded their financial problems. The women felt caught. They discussed the terms and did not want to be in debt to the government. They were also concerned, however, that there was no other way to return to Thailand or to reimburse Sutdhibhasilp,⁴⁴ and so they decided to agree to the conditions. After further discussions among themselves, and on being made aware (through witnesses) that Mr. Lohratvilai had often spoken of them disparagingly, the women concluded that the government's demand was unfair and they collectively decided against agreeing to the debt contract. Moreover, in discussions with Mr. Lohratvilai, Sutdhibhasilp reminded him that Thai sex workers provided substantial revenues for the Thai government through their remittances. Once the women had made their decision, TNTW looked for other sources to provide for the women's daily expenses and subsequently their airfare home.

- **Raising funds for daily expenses**

Fundraising for the women's expenses became a part of TNTW's on-going work. Volunteers helped raise funds at NAC⁴⁵ events, for example, by auctioning Thai dinners the women promised to prepare and through appeals at other community events. Arrangements were made through the Canadian Airlines Union to provide free airline tickets for those women who wished to return to Thailand. Although Toronto's Thai community did not formally respond to the arrests, Mr. Prasert Bootsingorn of the Thai Radio News Program made public service announcements requesting assistance.

On occasion, TNTW accessed food banks to supplement the women's food, although this made the women feel uncomfortable.⁴⁶ Food and clothing were obtained through informal networks. Many individuals generously contributed money. The women returned the generosity by cooking Thai meals. With the financial assistance of the International Centre for Human Rights and Democratic Development, a twelve-minute video was produced, which recounted the women's experiences since their arrest.⁴⁷ The women agreed that the video could be shown only for the purpose of the Counter Conference of the APEC Summit People's Conference held in Vancouver (November 1997), at a session hosted by the National Action Committee on the Status of Women.

⁴⁴ Sutdhibhasilp had been advancing funds from her scholarship.

⁴⁵ National Action Committee on the Status of Women (NAC) subsequently passed a resolution at its Annual General Meeting on the issue of trafficking in women. NAC representative, Winnie Ng, and Olivia Chow, City Councillor, raised \$700 for the women's expenses at the Chinese Canadian National Council's fundraising banquet.

⁴⁶ The women felt very strongly about any form of social assistance. At a later date when they were qualified to apply for assistance, they refused to do so insisting that they would find work. While awaited their immigration hearings, the women made and sold Thai food at fairs and events and cleaned homes.

⁴⁷ Produced/Directed by: Dora Nipp and Kwoi Gin.

Following the screening, Conference participants contributed \$500 towards the women's living expenses.

- **December 1997 / January 2000**

Ms Liva was waiting for word from the Crown on which charges he was proceeding against and whether he would request a suspended sentence. A suspended sentence would have serious consequences for their immigration status. Christmas was approaching and there was no response. The women realized that they might indeed have to wait until January 12, 1998 before they could enter a plea. The only good news in December was that those who wished to go back to Thailand would receive free plane tickets donated by the airlines workers' union and issued in the new year.

For three weeks in December and January a TNTW volunteer⁴⁸, offered her house to the women. It provided the women with a change of venue and more space. TNTW volunteers got together with the women for a Christmas dinner party.

In January 1998, two women chose to remain at the safe house while the three others moved to the home of a volunteer. Shortly thereafter, two women decided that they wanted to return to Thailand, while the other three decided they wanted to stay in Canada. TNTW arranged for the three to enrol in English as a Second Language class at Scadding Court Community Centre.⁴⁹ Two, who had received little formal education in Thailand, had difficulty following the English lessons. About a month later, Ms Jirawan Sangarum, a Thai graduate student, volunteered to teach the women English using her bilingual skills and this made it easier for the women. Other Thai women also joined the class that was held once a week and ran for approximately three months.

Arrangements were also made for one woman, who was a university graduate and with some knowledge of English, to enroll in the Can-Start programme founded by Doreen Wicks. The programme offered upgrading and computer courses for women at risk. The woman's limited English language skills, however, made it difficult for her to continue with the programme.

As the January 12th court date approached, the women met with Ms Liva. She explained the legal process and the Crown's position -- that it would be proceeding against them as inmates and would not entertain a conditional discharge. The women agreed to enter their plea on January 12, 1998.

- **Public education**

⁴⁸ Lorraine Michael.

⁴⁹ Kevin Lee, Executive Director of Scadding Court Community Centre, accepted the women into the ESL classes as they were identified as "women in crisis".

In January 1998, contact was also established with the Netherlands-based Foundation Against Trafficking in Women (STV). Ms Marjan Wijers, Project Leader of STV, assisted TNTW by providing extensive current documents on the trafficking of sex workers in Europe. Contact was also established with Anti-Slavery International, London, UK.

Armed with the information received from STV and other research, TNTW wrote, on 4 February 2000, to Canada's Minister of Justice, Minister of Foreign Affairs and Secretary of State for Asia-Pacific, and the Minister Responsible for the Status of Women. The purpose of the correspondence was, first, to raise concern about the globalization of human trafficking for the sex industry, second, to urge Canada to raise the issue at the upcoming United Nations Commission for Human Rights and, third, to meet with Ministry representatives to begin dialogue on the issue.

A public information forum was held on February 17, 1998 in conjunction with the Pro bono Students Programme at the University of Toronto's Faculty of Law. A panel of advocates, including representatives from TNTW, the National Action Committee on the Status of Women (NAC), End Child Prostitution and Trafficking (ECPAT) and Asian Sex-Trade Outreach Project of Asian Community Aids Services (ACAS) participated in the forum.

- **Media Interest**

In January 1998, TNTW was contacted by woman "A", who said that she and another woman had been approached by a television producer to appear in a documentary. Contact had been made through a Thai woman who tried to convince "A" that being part of the documentary film would help with her court case. "A" was told that the public would be sympathetic to her if it saw a film about her life. "A" was also told that if she agreed to participate, she would receive a plane ticket to Thailand. TNTW volunteers consulted with the women's lawyer who suggested that if they wanted to become involved in a documentary, it would be better to wait until the court case was over. The two women finally decided not to participate.⁵⁰

Coincidentally, a few days later, one of the Thai women living at the safe house heard from her boyfriend in Thailand. He had received a phone call from the filmmaker's interpreter. The interpreter had told him, he said, to convince his girlfriend to be interviewed for the documentary; it would help with the court case. The woman was surprised that the filmmaker knew how to reach her boyfriend in Thailand. She speculated that the police must have released that information.

⁵⁰ "Thai Girls" aired in late November 1998 on CBC's "Witness". The women who were interviewed in the film were not those who were arrested under Project Orphan.

On being made aware of the documentary, the women worried that the media would be waiting for them at the courthouse on January 12. Ms. Liva indicated that she would ask the court to postpone the court hearing to early February so that the women would not have to face the media. On January 12, the filmmaker and her crew were waiting outside the courthouse. The five women being assisted by TNTW did not attend at the Courthouse on that day. The women who did said that they were followed out of the Courthouse by the camera crew and chased to an awaiting car.

- **Court Dates**

On February 4, 1998, the first of the thirteen Thai women arrested pled guilty on an inmate charge. The Crown had requested a suspended sentence, but the judge issued a conditional discharge and thus established a precedent.

On February 17, 1998, seven women (the five at TNTW safe houses and two who had received assistance from TNTW) pleaded guilty on inmate charges. They received a conditional discharge with sixteen months' probation. All were required to report to probation officers once a month in the area where they lived.

The police returned only some of the women's seized belongings, such as photos, through their lawyer, but not their money or passports.⁵¹ Following the hearing, the three women living at the home of the TNTW volunteer moved in with another woman who shared an apartment with her boyfriend.

- **Applying for Certificates of Identification**

On March 4, 1998, after the court case concluded and the women began reporting to their probation officers, the two women who wanted to return home applied for temporary certificates of identification (CI) with the Thai Consul in Toronto. Mr. Dickinson, the Thai consul, and Mr. Lohratvilai had advised the women's lawyer, Ms. Liva, that they need only fill out certificate of identity (CI) forms and the documents would be issued within seventy-two hours. Both women thought that they would be back in Thailand within a week and were excited to be returning home. The plane tickets were to be issued when the travel date was set.

Several days passed with no word from the Thai Consulate. A follow-up call was made on March 10, 1998: Mr. Dickinson advised that Mr. Lohratvilai was waiting to receive the women's false passports from the RCMP; the certificates would not be issued until those documents had been received. He also insisted that the women would have to be interviewed and provide written

⁵¹ Some women had entered Canada with another person's passport.

statements before CIs would be issued. Once again, the Embassy staff showed their lack of cooperation and intention to inform the women fully of all requirements and their rights. The women felt uncertain and worried about when they would be able to go back to Thailand.

TNTW decided to send letters to the Honourable Raymond Chan (Secretary of State, Asia-Pacific), and to Cholchineephan Chiranond, Minister of the Royal Thai Embassy, Ottawa, expressing concern over Mr. Lohratvilai's unprofessional treatment of the women and his efforts to delay their departure from Canada. Three weeks later on March 25, Mr. Dickinson notified the women's legal counsel that the Embassy had received photocopies of the false passports from the RCMP and that they were ready to issue the CI's. The issue of providing a written statement was not raised.

- **Arrest on landing in Bangkok**

On April 1, 1998, two women flew back to Thailand and were promptly arrested at the airport. Not knowing that this had been planned, Sutdhibhasilp had nevertheless arranged for GAATW International (Bangkok) to assist the women in the event that they encountered problems when they landed. On their arrival, they were charged and detained in a holding cell at Don Muang police station for one day and released after providing bail of B20, 000. Sutdhibhasilp was not able to contact them until they were released from jail. They advised her that Thai Immigration had received an official letter from the Thai Embassy in Ottawa to charge them with travelling on false passports and failing to cooperate with the Thai Embassy's investigation in Canada.

TNTW, GAATW Canada, GAATW International in Bangkok, and the anti-trafficking network in North America and Europe, other concerned individuals and Thai students sent letters, faxes and e-mail to the Ambassador at the Thai Embassy in Ottawa, to Canada's Minister of Foreign Affairs, and to the media, protesting the arrest of these two women. Through contacts in Geneva, TNTW had a letter of protest hand-delivered to the Thai Ambassador to the United Nations.

GAATW Canada and GAATW International sent out press releases protesting against the Thai government for punishing the women and treating them as criminals. The network demanded: 1) the removal of Mr. Lohratvilai from his position in Ottawa; 2) the dropping of charges against the two women; 3) the adherence by the Royal Government of Thailand to international human rights instruments protecting the rights of all women who are trafficked (the government itself had acknowledged these when it ratified the Convention on the Elimination of all Forms of Discrimination); and 4) the reimbursement of all money advanced by the TNTW volunteers.

The Thai government returned the money to the TNTW volunteer almost a year later. The charges against the women were not dropped, but were reduced to the possession and buying stolen goods (i.e., passports). The women paid a fine of approximately \$60 Canadian (B4, 500).

- **Winding down TNTW's involvement**

Project Orphan's crisis intervention wound down at the end of April 1998, but TNTW continued to provide assistance on a much smaller scale. The Thai women who decided to stay in Canada kept regular contact with Sutdhibhasilp and the TNTW volunteers. From time to time they asked for assistance and advice. ACAS also organized small-group educational sessions about sexually transmitted disease, family planning, and HIV for the six or seven women who were interested in the issues. The sessions were conducted at one of the women's apartment. The women continued to be involved with ACAS.

Appendix C

Lessons Learned from Project Orphan

Project Orphan was a lesson in crisis intervention involving an emerging issue of global proportions. Front-line crisis intervention for Project Orphan became full-time work for the volunteers. With no funding and few human resources, TNTW worked through personal connections and networks. Dora Nipp was central in gathering available resources and making many referrals for the women. Sutdhibhasilp worked directly with the women, providing them with support on a 24-hour basis.

The following sets out some of the conclusions, needs or requirements that can be drawn from this experience.

a. Issues involving the migrant workers and/or trafficking in women for the sex industry cannot be addressed on an ad-hoc basis.

Σ There is no organization that has as its mandate, or as part of its mandate, provisions to assist migrant sex workers and/or trafficked women. The assistance required includes:

- Safe shelter, food and clothing
- Neutral, culturally sensitive, native-speaking interpreters (preferably women)
- Access to culturally sensitive and non-judgmental health services
- Quick access to a network of informed and sensitive legal counsel
- Life skills training and counselling

b. The approach to addressing issues of migrant workers and/or trafficking in women for the sex industry must stem from a human rights framework.

- **Respecting the women's rights**

The crisis intervention team made efforts to insure that the women's basic human rights and fundamental freedoms were respected and protected. TNTW mobilized volunteers, conducted educational events and carried out letter-writing campaigns to insure protection.

Supporting the women's needs and concerns

TNTW found that effective crisis intervention requires focusing on the women's needs first. Strategies stem from responding to those immediate needs, with respect for the women's self-determination as a central principle. By giving the women as much space as possible and access to resources, they were able to self-identify their greatest needs and concerns and make informed decisions about their lives.

The women learned through their own experience that society frowns on prostitution. Volunteers used discretion when speaking to the women about their private lives, and tried to minimize any unnecessary intrusion. On their own time, the women raised concerns and identified their needs themselves. TNTW made it clear to the women that they had the right not to answer any question that made them feel uncomfortable.

The informal setting of the safe house replaced what would otherwise have been a more traditional interview or in-take process to gather information. This approach worked, it was agreed, because a volunteer spent almost 24 hours a day with the women at the safe house over a period of several months and trust and rapport were established.

c. Provisions are required to formalize crisis intervention.

Σ Steps to crisis intervention-what was done in this case and what needs to be done in the future

- *Initial Contact:* Investigate what happened; mobilize groups and individuals interested in assisting the women; make initial contact with the women; organize strategy meetings.
- *Service Provision:* Provide shelter, food and clothing. Obtain legal counsel. Help the women to apply for legal aid certificates. Arrange for medical check-ups, and set up on-going counselling and ESL classes. Accompany the women to court. Organize fundraising events to assist with expenses such as food, clothes and airfare back to Thailand.
- *Repatriation and Resettlement:* Assist with obtaining travel documents for those who wished to go back to Thailand. Contact organizations in Thailand to assist the women should they need help.

The crisis intervention team must include women who: understand and work within a human rights' framework; respect the women's cultural background; are able to speak the women's native language; see the women as autonomous persons with the right to receive accurate and sufficient information with which to make their own decisions; are non-judgmental about sex workers; understand the dynamics of the global sex trade and the issue of

trafficking; and are familiar with available resources (e.g. health, social and legal services).

d. The Canadian government and its legal system failed to protect the women's basic human rights.

- Σ Canadian police agencies and the judicial system treated the women as criminals* , as well as patronizing them because of their sex, race and occupation. This resulted in different treatment than would have been accorded similarly situated Canadian women. Their rights to due process were violated. Examples are set out below:
 - Σ The women were not immediately made aware of the charges against them, because no interpreter was available at the site of the arrest;
 - Σ The women were strip-searched while the door to the office remained open;
 - Σ When the women were detained at the station, they were given access to an interpreter who was in direct conflict with the women's interests. The women signed papers without understanding what they were signing and without the benefit of legal counsel;
 - Σ Their requests at the police station for access to legal counsel were ignored, as were requests to make telephone calls;
 - Σ Prohibited from returning to the apartment where they lived and worked, they had lost a place to stay. With limited English language skills and their money confiscated, the chances of securing longer-term accommodation were greatly reduced.
 - Σ Rather than working in co-operation with community-based organizations and NGOs, law enforcement officials seemed to view these groups as meddlers in the matter of the raids. While the press clearly was given advance notice of the raids, no advance planning was in evidence in providing for such basics as where the women were to sleep, how they were to obtain food, and where they would get money for accommodation or basic needs. The women, with few language skills or contacts, were left to fend for themselves.

e. The Royal Thai Embassy and the Thai Consulate failed in their diplomatic obligations to the women.

Thai officials failed to provide for the women's maintenance in crisis situations. They employed unscrupulous tactics to pressure the women to plead guilty and imposed a debt contract in return for financial assistance. Moreover, officials delayed the issuance of Certificates of Identification and therefore their return to Bangkok, and further harassed and criminalized the women by arranging for their arrest upon their arrival in Thailand.

5. THE WOMEN OF PROJECT ORPHAN

This section canvasses the thoughts and experiences of some of the women who were arrested under Project Orphan and the many individuals who, over several months, became involved with assisting them. Individual volunteers, NGOs and community-based organizations (CBOs), and members of the legal and health communities, became involved with TNTW through strategy planning sessions and/or in providing direct assistance.

The volunteers became involved with the TNTW network when they were contacted, either by GAATW representatives or personally by Dora Nipp and Noulmook Sutdhibhasilp. Some assisted the women on a personal level, while others were involved in a professional capacity. Of the NGOs and CBOs only ACAS (Asian Sex Worker Outreach Project) was mandated to work with migrant workers in the sex trade. Other organizations worked with or provided services to migrant workers or local sex workers, but did not work directly with undocumented migrant sex workers.

Nipp and Sutdhibhasilp coordinated the day-to-day services provided to the women. Winnie Ng helped with on-going fund raising activities and Avvy GCo provided legal advice and referral assistance. GAATW Canada, based in Victoria, assisted the network by providing funding and policy advice.

• Needs and concerns

The needs and concerns of the women were shaped by the interplay of two factors: their undocumented status and the nature of their work. The women shared the same needs and concerns of local sex trade workers as well as those of documented migrant workers. Given the illegal nature of their work, they were not protected by formal labour codes. As undocumented workers, their access to formal institutions and available services was greatly limited. At the same time, some of their experiences were specific only to them, including:

- Σ On their release, the bail conditions imposed prohibited from returning to their workplace, which was also was their living quarters.
- Σ They were not permitted to associate with their co-accused who were among the few people they knew and could turn to for help in Canada.

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- Σ They were not allowed to visit, or work as a masseur in a massage parlour or health clubs, and were therefore denied access to a livelihood. Their money was confiscated and they were therefore left without accommodation or employment while waiting for a long court trial. Also, they could not work or apply for social assistance because of their undocumented status.
 - Σ Following the court case, the women faced long-term needs upon their return to Thailand or settlement in Canada.

- **Poor working and living conditions**

According to the women, the working and living conditions varied from one establishment to another. Generally speaking, sex workers are not protected under employment standards and other forms of protective legislation relating to labour, social security or human rights. Their undocumented status makes them vulnerable to exploitation by their employers and state officials. If the conditions of the work agreement or contracts are not upheld, the women have few options for exacting any change in their working conditions. Many do not report unfair work conditions to authorities for fear of being discovered and arrested.

In all cases, each woman relied on an agent to enter Canada. The agent and the establishment owner both agreed to the amount a woman would be charged for arranging her entry and work. Some women had different expectations of their working conditions. For instance, one woman said she thought she would be working in bar or cocktail lounge where she could choose her own customers, but she ended up working in an apartment-style establishment.

Once a woman entered Canada, the establishment owner paid off the agent. Upon arrival, she began working immediately in order to pay off her debt to the establishment owners. Only those who landed in one city and were then transported to another were allowed to rest for a day or two. The amount of the debt imposed ranged from \$35,000 to \$40,000. These debts were calculated on the basis of the number of clients to be served; they could be repaid in cash.

Another common practice of establishment owners was to keep the women's travel documents. Because sex work is conducted outside the formal labour environment, this may have been the only way establishment owners could be sure that the women would stay and work for them till their expenses are paid back.

While the debt was outstanding, the woman's earnings were held by the establishment owners. Her only source of real income was tips from clients. If

there were an emergency at home in Thailand, she had to ask the establishment owner for an advance. This decision was not made lightly, however, because the amount borrowed would be added to the debt, thereby increasing the number of clients to be served and prolonging the period of indebtedness.

The debt repayment period was the most vulnerable time for the women. The majority relied entirely on the establishment owner to provide such basics as shelter, food, condoms, medical care, personal purchases, family remittances and transportation. Some women were provided with adequate food and accommodations; others complained about the substandard work and living conditions. One woman reported that at her previous place of employment, the establishment owner provided her with bad food and little of it, yet she had been obliged to rely totally on the owner to supply it.

Over-crowded living conditions and lack of privacy after work were other common problems, especially for the women who lived and worked in apartments. After work, some just wanted to sleep and rest, while others wanted to talk, play cards, smoke, listen to music or watch television. This sometimes led to conflicts.

Women were also required to work long hours, usually from noon until five or six in the morning the following day, or from five or six in the evening until the following morning, seven days a week. Many times, they had to work even if they were not feeling well (i.e., menstrual cramps or bladder infections) in order to pay off their debts as soon as possible. In some cases, they were denied the right to refuse clients or to set the terms for selling sex. They were concerned for their health and safety. They reported that the owners of establishments would try to persuade them, using pressure tactics, to comply with customers' requests, such as not to use condoms.

Many women felt compelled to pay off their debt in the shortest possible time because they wanted either to earn wages for themselves alone or to move to another working environment with better conditions. Moreover, they felt obligated to honour the agreement into which they had entered with their employer. In those situations where their employers did not comply with the informal debt contract, the women did not have many options except to agree to the employer's arrangement or to leave the job.

After this period, which ranged from two to six months, depending on how quickly a woman worked, the women reported that they would split income with the owners in the ratio of sixty to forty, as did local sex workers. They determined their own hours of work, which was one of the few conditions that they controlled.

- **Access to health care and social services**

As indicated in a previous section of this report, none of the women had access to proper health care while they were working or immediately following their arrests. It was not until TNTW intervened that the women were introduced to the Immigrant Women's Health Centre and the Hassle Free Clinic, but both required that an interpreter accompany them.

Some women said that when they had health problems the establishment owners would provide medication. Others wanted to limit the women's contact with health care professionals because they were afraid of being reported to the authorities. As undocumented workers the women's status deterred them from seeking any type of services including legal, medical or social, for fear of being "turned in". Social service providers, in turn, acknowledged that the women's undocumented status effectively excluded them from the system.

Another concern raised by ACAS was that women who are new to the sex trade may know little about AIDS prevention. For example, they did not use condoms when having sex with their boyfriends, because they believed they were safe. Some of the women confirmed that what they learned about AIDS prevention they learned only from their co-workers.

- **Social isolation**

The women worked long hours and were indoors most of the time due to the nature of their work and the establishment owners' desire want to restrict their movements. The women could go grocery shopping or to the hairdresser on their own if those places were within walking distance or, in some cases, only if accompanied by the establishment owner or manager. Even if they were able to get out on their own, they had difficult time accessing the transportation system because of a language barrier and unfamiliarity with the neighbourhood. One woman who could read, write and speak English fairly well felt that the establishment owner did not want her to know much about maps, the TTC and how to get around on her own.

Their sense of isolation was heightened by the absence of families and the support network they had at home. For some, it was their first time overseas and they were new to the sex trade. It was difficult for them to link up with members of the Thai community because of the stigma attached to their employment. Many women in the sex trade simply chose not to associate with other Thais in the community or, if they did, they were careful not to reveal their occupation. Many relied on boyfriends for financial and emotional support.

- **Lack of information**

The women indicated that they had little knowledge or information about Canada. For example, those who had facilitated their entry into Canada said that prostitution was legal, but they did not tell the women that activities related to prostitution were illegal. They were told that certain sex activities were legal in massage parlours, so long as there was no intercourse with clients. They mistakenly believed that so long as they worked in licensed massage parlours, they were working legally. They were also told that they were in Canada legally and could work for as long as their visitor's visa was valid.

Some women had different expectations of their working conditions. For instance, one woman said she thought she would be working in bar or cocktail lounge where she could choose her own customers, but she ended up working in an apartment-style establishment.

When the women were arrested, the lack of information on legal matters had a tremendous impact on the women. As mentioned earlier, many women arrested in Project Orphan were initially interviewed without counsel and were subjected to further police inquiry at their apartments, again without access to counsel. Some managers and establishment owners had promised that they would arrange for legal counsel and, when the women appeared at court, they were instructed to say that they were represented.

Withholding information proved to be a very effective means of exercising control. On October 20, 1997 at the Finch Avenue Courthouse, five women had indicated to the Royal Thai Embassy in Ottawa that they wanted to go home and needed assistance. The women were prepared to make a plea on the bawdy-house charge and return home, but wanted to know the implications of doing so. The Embassy representative indicated that there was no need to caution the women about possible problems with their immigration status, because if they were aware, they may choose not to plead guilty.

The lack of understanding of the legal system worked against the women. One woman paid four thousand dollars for the service of a legal consultant who was recommended by a well-known person in the Thai-Lao community. The consultant said that she could apply for landed immigrant status under the Live-in Caregiver Programme and absconded with her four thousand dollars.

- **Negative social attitudes toward sex workers and Asian women**

Social attitudes towards sex workers in general affected how social and medical service-providers responded to the women's needs. Kara Gillies of

Maggie's (the Toronto Prostitutes' Rights Advocate Group) stated that she had contacted organizations in Toronto that worked specifically with migrant and immigrant women providing ESL courses, cultural interpreters etc. However, when she indicated that she was calling from Maggie's, the response seemed almost hostile and she was told that these services were not available to sex workers.

The Royal Thai Embassy shared a similar disdain for the women's situation. The women were concerned about their future. Being cooped up in a safe house for weeks left them feeling depressed, and one evening they decided to go to a karaoke bar for a few hours. Mindful of the bail conditions, they returned home before their curfew. A few days later, the Thai Embassy representative in Ottawa called the safe house stating that he was aware that women had gone to a karaoke bar. The Embassy instructed that the following message be relayed to the women, "Tell them to behave well so that they can go home as soon as possible." The message implied that the women, because they were sex workers, went out to look for customers.

Service providers and the women's suggestions

Service providers and the women who worked on this project generated the following suggestions:

1. Make available safe, culturally sensitive, non-judgmental and accessible services

The undocumented status of the women and the stigma applied to the sex trade deters and/or prohibits women from accessing health and social services. In the case of Thai women, interpretation services in their native language must be included in the services provided. Service-providers should also be non-judgmental about the kind of work the women did or do, as well as sensitive to cross-cultural issues.

2. Develop a special programme for the women those who wish to get out of prostitution

A programme using existing community resources should be developed to help women who wish to leave the sex industry. Sessions should be designed for specific groups of women who are from the same country or who speak the same language. The women should to be given the opportunity to reflect on their situation and time to heal themselves of their experiences of being exploited. It should focus on the immediate and long term needs as defined by the women themselves, and emphasize developing their capacity to exert control over important decisions that affect their lives.

3. Access to information

It is important to find ways to make information on health and legal services readily available to women in the sex trade. Medical and social service providers should provide information that is culturally appropriate, positive and mindful of the women's experiences and their lives, and is available in their native languages. This information should be available to all migrant workers as well as sex workers.

One means of distributing information is through an outreach programme, in such a manner that it will not alarm the women's employers.

Peer education: Another way to disseminate information is by means of peer education or through an informal network of women in the sex trade. Both local and migrant sex trade workers have informal networks where they share information and provide support to one another.

4. Educate the public

Educating the public and the community about the issue of trafficking and socio-economic situation of the women's country of origin is necessary to counter the biased, inaccurate and sensational press coverage. Some members of the local Thai community blamed the women for tainting the reputation of the ethnocommunity. There is a great need to educate members of this group. If the community is better informed of the problems the women have encountered and what their needs are, members may be more inclined to assist.

5. Government funding

Most agreed that the government has an obligation to assist women who are in the same situation and/or affected by trafficking by providing funding to improve access and service delivery.

6. Visas for women

The women suggested that migrant women who wish to work in the sex trade should be allowed by the Canadian government to enter the country to do so. This would enable them to control conditions of work and not to rely on informal, illegal and unprotected processes to enter Canada. Some suggested adopting a program such as Singapore's, where women were allowed to stay and work in the sex trade for up to two years. The Singapore government assigned their work areas and instituted mandatory medical check ups.

6. PROJECT TRADE: THE PAST IS PROLOGUE

On December 2, 1998, officers from the Toronto Police Service, York and Peel Region Police, the Ontario Provincial Police, the Royal Canadian Mounted Police and Immigration Canada arrested 68 people at ten brothels in Toronto's west end, Scarborough, North York and Richmond Hill. Beginning at 8:00 p.m., 154 officers conducted simultaneous raids on a number of businesses. Among them were the Mona Lisa Shiatsu on Bloor Street East at Sherbourne Street, the East Paradise Massage at 810 Wilson Avenue, the Swan Palace on Bloor Street West, the Fairbanks Hotel at Dufferin Street and Eglinton Avenue West, Taiwan Rose's Massage on East Beaver Creek Road in Richmond Hill, a business located at 804B Wilson Avenue, the Hawaii Volcano on East Wilmot Street in Richmond Hill, as well as businesses in apartments on Eglinton Avenue West, Baymills Boulevard and Kennedy Road.

Of those arrested, 53 were women. A total of 192 prostitution-related charges were laid including keeping a common bawdy-house, procuring for the purpose of prostitution, forcible confinement, and forging documents. The arrests capped Project Trade, a year-long police investigation into a prostitution ring in which women were brought from a number of Asian countries including Thailand, Malaysia, Korea and Vietnam.

*"This was a very sophisticated operation, and we targeted the agents behind it. I think we broke the back of this organization," said Toronto Police Detective Sergeant David Perry. "I think we've stemmed the tide of women who will be coming here for the near future... We've got to keep going in the same direction."*⁵²

According to police blotters, Project Trade targeted a group of five people who were alleged to be the brokers or agents. They sold the women's services for \$16,000 to \$25,000 each to brothel owners, who in turn required that each one service up to five hundred⁵³ customers before allowing them to keep a percentage of their earnings.

Detective Peter Yuen of the Toronto force's special (Asian) task force said many of the women knew what they were getting into when they agreed to come to Canada. However, "they have been exploited," he said.⁵⁴ According to

⁵² Peter Edwards, "Raids linked to global crime: Prostitution ring just one example," *The Toronto Star*, 4 December 1998. Henry Stancu, "39 held after probe into Thai sex ring raids, charges end year-long investigation," *The Toronto Star*, 3 December 1998.

⁵³ Following the *Project Orphan* arrests, the debt/indenture for women new to Canada was increased to as high as \$40,000.

⁵⁴ "Women lured from Asia sold to Toronto brothels," *The Province* (Vancouver), December 4, 1998.

media reports, some thought they would be working as dancers or factory workers before they were forced into prostitution. Others were forced to work tirelessly. One woman stated:

"I had a problem with my boss. S/he was silly. I had to work every day, even when I had my period. Everyone had to do the same. I tried to pay the debt by working a total of 500 contacts. I tried not to have problems with my boss. I had to do everything that s/he ordered. When I was hurt or sick, I wanted to take some rest, but I couldn't do that."

One of the women arrested that evening at the Mona Lisa Shiatsu described the execution of the raid:

The police, around fifteen of them, dashed inside the building (the door was unlocked) with guns in their hands, ready to fire. That picture has stayed in my mind. They approached us one by one and ordered us to put our hands in the air. They then handcuffed us from behind, separating the men and women, and put us in another room. Each second went on so slowly, nobody dared to move. I was so scared, as I had never experienced this kind of situation, but I did not cry. I don't know why I could not cry. Then, we were told to move to another room. I was told to sit in the corner of the room and not to speak or move.

After that, they told us the women to enter the room with one female officer. The door closed. We were told to take off our clothes. It was quite a relief that they did this in a private room and with only one female officer. After that, they searched our purses and interviewed us. I was interviewed by a male officer from a one-page questionnaire. I felt I had to sign the paper after the interview, so I took some time reading it over before I decided to sign. I was able to understand some parts of the questionnaire.

Then I went back to sit in the corner of the room and waited while the police searched everything in the building. It felt like such a long time to wait. They also photographed every one of us during the interview [with a Polaroid camera]. I noticed that none of my friends were crying; everyone was in really deep thought. Only the Vietnamese woman was crying constantly and we felt annoyed. I think it is useless to cry when you're stuck in that kind of situation.

We were then ordered to stand next to one another so they could handcuff us in groups of two or three. We were allowed to talk to one another but only in English. The police brought us downstairs where there were scores of reporters and bright lights all over the place. There was also tons of people swarming in because the building was opposite a subway station. We had to cover our faces with our hands to get away from everyone.

The police would eventually transport the women to 55 Division. Saddened to discover the presence of the media, a woman recalled: *At first, there were a lot of journalists. We tried to hide our faces by using our clothes to cover our heads, but some of us were stuck in the police car for two or three hours. We had to keep our heads down but our hands were tied in back. We hurt a lot."*

Within minutes of their arrival at the station, the women were booked and processed. A woman recalled police procedures: *"They took off our stuff, such as necklaces and watches. They listed all of our belongings separately. The police searched our entire bodies. They forced us to take off our clothes and then asked us to put out our tongues and jump up and down."*

Another woman remembered: *"When I arrived at the jail, I was very surprised to see more than twenty Thai women already there. They told us to take off all our jewelry and be ready for the interview both by the police and immigration officers. It took so long before the interviews finished, almost dawn. Moreover, we had to be photographed, one by one, and had our fingerprints taken." After the interviews, the women were placed in a police holding cell. "It was very tormenting," a woman recalled. "The floor was made of cement and the weather was extremely cold. I was very sleepy and cold at the same time, but I could not sleep because there were too many people, and it was very stressful. I did not feel hungry at all."*

On December 3, 1998, 19 women and 12 men were transported to court where they made a brief appearance in Ontario Court, provincial division, before Mr. Justice Hugh Porter, facing a number of prostitution-related charges including: keeping and permitting a common bawdy-house; living on the avails of prostitution and exercising control. A woman recalled: *"They didn't allow us to talk in the court... There were a lot of people there. They cuffed our hands and chained us together. We walked very awkwardly. We were dragged like a football team. People were staring at us."* The December 3, 1998 edition of the *Toronto Star* would say, *"As the suspects were brought into the courtroom, Thai, Cantonese, Korean and Vietnamese interpreters were called to the prisoners' box to translate."*

The first order of business for Crown Attorney Michael Leshner was to *"satisfy who is in the country legally and what their real citizenship is ...that's an issue we're trying to resolve before we can embark on any bail hearings."* A total of four men and five women were released on bail. In addition, some of the suspects (25 women and one man) faced charges under the *Immigration Act*. This represented an important departure and significant shift of government policy, as Canadian immigration officials were not involved with the sex workers who were arrested under Project Orphan.

The court appearance set the stage for a further round of immigration detention reviews and criminal bail hearings. A release from detention came with a hefty price tag. The women would have to post a \$3,000 immigration bond as well as \$1,500 criminal bail. Most of the women were held from two to ten months in the Toronto Metro West Detention Centre, a medium security jail,⁵⁵ as they and their friends scrambled for cash and searched for bonds-persons.

"That period of time in the jail was very distressing for us," a woman recalled. "We were very frightened. When we slept they woke us up, but when we couldn't sleep they forced us to sleep. We had a problem with the food. It was different from what we were accustomed to eating. Sometimes we cried." Many would have particularly vivid memories of the painstaking procedures and lengthy waits surrounding requests for medical care. "We had to write an official petition at least two days to one week before going to the doctor," a woman recalled. "Sometimes we couldn't tolerate it."

A woman who found herself nursing a bad toothache while in detention had to wait for five days before obtaining badly needed dental care. *"I asked for some medication but they ignored my request,"* she said.

Yet another was moved to say of this period:

We wondered why they had to chain both our legs and our hands. We are such little women. Even when some fell down, the restraints were not removed. There were three guards who were taking care of us. We wondered why -- we weren't murderers. They wouldn't let us eat. We had no right to ask for anything. They wouldn't do anything for us because we are Asian. They were nice only to prisoners from their own country because they spoke the same language. The guards never paid attention to us. When they took us to see the doctor, they never helped us to stand up when we fell. We had to help ourselves and it was very difficult. We had a lot of scrapes.

Many women found themselves having to turn to their bosses for bail and bond money and in doing so acquired additional debts and new loan contracts. One woman, who had come to Canada only four weeks before she was arrested had no choice but to turn to her employer for financial assistance, *"I don't have a friend here. The only person I know is my boss"*. Her boss promptly added the cost of the lawyer's fee to her original debt. After getting out of detention, the woman had to work longer hours and take greater risks of re-arrest in order to pare down her debt.

⁵⁵ Many women were sent by the court to "Street Light", an intensive programme originally designed to assist local sex workers to get out of prostitution. After attending this one week programme, their charge on inmate in common bawdy-house would be dropped.

Once again, members of TNTW, GAATW, as well as members of a new organization, the Migrant Sex Workers Alliance, marshaled their very limited resources of staff, time and money to undertake the difficult job of crisis intervention and service provision on an ad hoc basis. The TNTW and GAATW Canada assisted seven women who had been detained by Immigration officials at the Toronto Metro West Detention in December 1998. In the first few months following their arrest, the women were learning to adjust to jail conditions. They were concerned about their immigration detention reviews, criminal bail hearings and their court dates.

Project Trade was referred to on page 31 of the *Report of the Special Rapporteur on Violence Against Women*,⁵⁶ submitted to the United Nations in January 2000:

The women described situations of forced labour and sexual slavery and the traffickers were charged with forcible confinement. Nonetheless, law enforcement agents were hesitant to label the operation sexual slavery due to the existence of contracts, under which the women's travel documents were confiscated, their movements restricted and they were forced to work off their debt by performing approximately four to five hundred sex acts. Because some of the women agreed to migrate to work in the sex trade, law enforcement agents concluded that "they knew exactly what they were getting into."

Excerpts of a statement by a Thai woman arrested under Project Trade

Two women arrested under Project Trade provided the following statements.

- **Woman "N":**

When I first arrived, I worked and stayed at a place on Kennedy Road [in Scarborough]. I stayed with the owner who had bought me. Later on, there were quite a number of women who worked there -- about four other girls. I used to serve four to five customers per day. Some days, I had eleven customers. I wanted to finish my contract quickly. Once there were more girls, I did not have to work as much and the owner decided to move me to another place, which was where I was arrested.

At this place, I had to put up with all kinds of customers. They were all drunk and stupid. I had to do everything they wanted. At first, I could not stand it. I went back to the first place because one of the girls who had come here a month before me had finished her contract. At the time, the owner of the parlour was going to the US. At first she told me that she would take me back to the second place to work and I just had to let her

⁵⁶ *Supra*, note 16.

do that. She let me go back, however, when one of my regular customers was going to spend the night. When I came back the next day, she told me that she would like me to finish my contract fast and she would take me to her friend's parlour in the Sheppard area. I had no objection. She could do anything to me because I wanted to finish the contract as soon as possible. However, instead of taking me to her friend's, she sold me to a Thai girl who had a Vietnamese boyfriend, in Mississauga. I could not stand staying there because I did not have enough customers. After two or three days, I could not stand it anymore.

At the time I owed \$12,000 more. It took seven or eight days before my former boss bought me back. The boss bought me for \$10,000 and wanted \$2,000 from me. Every day, I had to work. I had no time to rest even when I had my period. Sometimes when I got really tired, she asked her boyfriend to take me to her place for some sleep. I could not sleep at the massage parlour because the owner ... had fights with her boyfriend. I had to put up with my circumstances because I owed them money. If I finished paying her back I could leave. I had to work everyday because they forced me to. I had to have my period in one day; I had to take three or four birth control pills per day. Actually, I did not want to work at all. When I told her that I hurt, and where, she still made me work without stopping. I had to be patient and I never had a fight with her. The owner was a workaholic. If we did not have enough customers on any day, she would start to complain and use abusive language saying that I did not do a good job. I just had to be patient and listen to her. When we had lots of customers, she was happy and went out with her boyfriend, but when they came back, they started fighting again.

The arrest

That day I woke up early in the morning to launder my clothes at a place near my work. On that day, the owner of my massage parlour went out to advertise our phone number -- that hadn't been done for one to two months. At that house, one of my friends was making a dish called "Kanom Jeen Man Nguew". That day the house was strangely quiet. I felt like going out; I did not want to stay at in this parlour. One of the reasons was that all day we had had only two customers. I worked for one and my friend worked for the other. The owner of the parlour, my friend and I played a card game. We finished the game. I was lying down on the sofa. There was a Vietnamese man who came to see the owner. This person was looking for a girl to work at his place. The parlour I worked in had been open for a full year... After the conversation was over with the owner, the Vietnamese man walked out the door. After about five minutes, there was somebody knocking on the door. The owner of the parlour opened the door and thought that it was a customer. She did not look through the cat door. That was the moment we were about to be

arrested. It was about eight or nine at night. There was a middle aged Vietnamese-Chinese man who knocked on the door. She opened the door. ... As soon as she opened the door, the police, about ten of them, raided the place. They ordered us to be still and not move.

The owner of the place turned very pale, like a boiled egg. ... Some of the policemen searched for evidence. They broke the glass windows in two rooms-the workroom and the room that the owner and I stayed in. The officers who restrained us shouted very loud saying that we should not do anything. My friend and I and the owner of the place sat on the sofa with our hearts sunk and lost. I told myself that I was arrested, and would accept the situation later on. The owner of the place could not control herself and cried.

Then there was a woman officer who came and sat down near us and asked us to tell her our first name and family name. I gave her the name in the passport that I used to get into the country. My friend had her illegal passport that she had used to get into the country, in her bag. The officer took it as evidence. When we finished our confession, the police divided themselves up to search the place. They took some of the money the owner of the place kept. I saw about \$400 Canadian dollars and \$700 US dollars. The police put them in a plastic bag and labeled them. Then they took pictures of the evidence. They also took the Thai videotapes.

When they finished with the evidence, they told us to change into our working clothes and took our pictures. After that they told us to change again. I walked into a room with my friend. That room was being torn apart by the police. Things were all over the place. I picked up some clothes to wear. The police were shouting for us to be quick. When we came out of the room, the police were ready to take us to jail at a police station. They handcuffed us. We were taken out through the back and got into a car, on a small street.

I was so afraid that my heart sank down to my ankles. I did not know what to do. I wanted to cry, but I could not. I tried to understand the situation and not to worry about anything. We tried to figure out what to do and talked among ourselves. The owner of the place knew a lot of people who could help her. She contacted some of them to let them know that she had been arrested and asked them to find a lawyer for her. It took a long time to find lawyers for the owner of the place and me. When I was at a police station, I met a lot of people we knew, even some close friends. I tried to contact my boyfriend at his friend's house and found him there. I asked him to bail me out and find a lawyer for me.

When we arrived at the police station, they called me in and asked me to tell them the truth about my real name and family name. My friend and I

told them our real names. There were two interpreters... The interpreter asked me where my passport was. I was so scared. I would have liked to tell them that my passport was with the owner of the place, but I also felt pity for her, so I did not tell them. The police ordered me to tell them, so I told them that my passport was with my boyfriend and gave them a name. It took a long time before we went to court. Finally, we went to court, on Friday the 5th, and then we were put in jail.

When we were in jail at the police station, we had nothing to eat, and felt very cold. I felt like I was being tortured. I wanted to go to the washroom, but did not want to disturb others who were sleeping because the flush made a very loud noise. At first, I was not worried about anything because I knew that at least I still had my boyfriend who would help me. I talked to the owner of the place and told her that I would like to borrow some money to bail myself out and for a lawyer's fee. She told me that I should wait until she was out. I asked her when would she be out. My friend had already been bailed out on criminal charges because she still owed the owner of the parlour a lot of money. But for me, I only owed about \$1,000 and I would finish the contract. That was why the owner of the parlour did not want to help me. At first, she told me that she would help my friend and me. Finally, however, she did not help me but helped my friend first.

I knew that the boyfriend of the owner of the parlour had more than \$10,000. I told my boyfriend to borrow some money from him. But the parlour owner's boyfriend refused and he said that he would ask his girlfriend first. I should not have listened to her, believing that she would help both of us out. The parlour owner's boyfriend got very scared. So, he asked my boyfriend to go with him to get some money hidden in a factory. He then gave the money to a restaurant owner to bail out his girlfriend but not me, even though my boyfriend went with him. I asked him why he didn't bail me out as well. My boyfriend told me he did not know what to do because he did not give him the money.

The owner's boyfriend consulted with the parlour owner on the phone. My boyfriend had a car. The owner's boyfriend wanted to buy it. My boyfriend had to sell it cheap--for about \$1,800--to get the money to bail me out.

When I was about to go to the immigration court, I needed to hire a lawyer. My boyfriend said that he did not have the money. I told the parlour owner that I had no money at all. She told me to get \$500 from her boyfriend to pay for the lawyer's fee. But the lawyer's fee was not \$500, it was \$1,070. My boyfriend had no money, so he talked to her again. She told him to find the money himself and she would pay \$3,000 for the immigration bail. She forced him to find the money for the lawyer, and when he had enough money for hiring a lawyer, then she would give the money to pay for the bail. My boyfriend took the bail money to pay for the

lawyer. I did not know whether he completed the payment. In any case, my boyfriend needed \$600. So he tried asking the owner of the parlour to give him \$600 more. He was so worried and tried to find a way out by gambling. He lost all the money. I was so disappointed I did a lot of crying. I did not think he could do this to me.

I went to the Immigration Court again on February 16, 1999. I had no lawyer. They asked me to come back on February 25, 1999. The head of the court asked me why the person who was supposed to bail me out had not come... I told him the truth -- that the person had lost all the bail money in gambling and I could not contact him. He asked me whether I had a lawyer. I said "yes", because at the time there was a kind woman who had contacted Mr. Ian for me. I told the court "yes" and the lawyer's name was "Ian". The court asked if I had a lawyer why he was not here, and whether it was because I could not pay the money. I told the court that the Association [TNTW] found him for me and today he could not be here because he had to be somewhere else. The court asked me to present the letter showing that Ian was my lawyer. They said there was no signature. I then pointed Ian's signature out for them.

My interpreter was a man. That was the day the court would decide on my case. I had two charges: 1) I entered the country illegally by using another person's passport and 2) I was working illegally in a massage parlour. When we finished talking about the case, the head of the court said that he pitied me that my boyfriend did this to me. He did not want to keep me in jail because I had been in jail for quite a long time already. He asked me whether the bail programme asked me to sign anything yet. I told him that I had put my name down for the bail programme for some time... I contacted the kind woman who helped me to contact my boyfriend's friend to bail me out. He came to bail me out without using any money. All my friends in jail felt happy for me that I could get out without putting up any money ... I was freed on March 1, 1999.

- **"Pam's" [pseudo name] case**

"Pam" had to turn to her employer because she was arrested shortly after her arrival. The seven women were detained from a month and a half to ten months, depending on their ability to raise the cash bond and/or meet bail conditions.

"Pam" came to Canada in early 1998, like many other Thai women, via an agent. She owed her employer \$35,000 which meant she had to serve 450 customers. She worked in a massage parlour owned by a Thai woman named "Fa" [pseudo name]. Four weeks after "Pam" arrived in Canada, she was arrested. Two undercover police officers and two uniformed officers arrested her along with five other women at a massage parlour in downtown Toronto.

She was brought to Division 52. She recalls that there were many reporters waiting at the police station to take pictures. She remembers that it was very cold in the holding cell, where she was held with other two Thai women. All day and night, she had only a muffin to eat. When the police interviewed her, the translation was conducted over the telephone. She did not recall the police telling her that she had the right to legal counsel. She was charged with being an inmate in a common bawdy-house.

The next day, the police went to her apartment and searched it. They confiscated her money but it was returned to her later on. They kept her personal phone book. A few days later, she went to the courthouse for the bail hearing. She was not released, however, and was transferred to the Toronto Metro West Detention Centre. Two months later she was bailed out (for criminal charges) on a \$2,500 bond. "Fa", who was not arrested at that time, helped her to find a criminal lawyer and a bail person who was well respected in the Thai community. Nobody knew about the connection between "Fa" and this bond person, including the lawyer who was hired through a friend of Pam's employer.

Technically speaking, Pam was released on bail. She remained in the detention centre, however, because Immigration Canada was detaining her. It took another two months after the approval of criminal bail before her employer retained an immigration lawyer for her. Immigration Canada was waiting for a proof of citizenship because the passport she had used to enter Canada was not hers. Pam went through eight detention hearings. Inaccurate translations and/or the absence of an interpreter contributed to the delay (a detention hearing was held every 28 days). The bond person signed a \$4,000 performance bond for her. She had spent four months in detention from the time of her arrest. Other women were detained for 2 to 3 months.

In the four weeks before her arrest, Pam had reduced her debt/indenture from \$35,000 to \$26,000. Once she got out of jail, "Fa" told Pam she now owed \$30,000 -- the lawyer's fee that "Fa" paid out had been added to Pam's debt. After getting out of detention, Pam returned to work immediately to begin repaying the debt. She did not earn anything except small tips during this period of time. When asked why she did not seek help from other people or run away from her employer, she said she did not know anyone in Toronto. "I don't have a single friends here. The only person I know is my boss. My co-workers were also arrested." She was not allowed to go anywhere out side the massage palour. Pam said Fa's boy friend was well known in the organization crime scene and had reputation for violence.

Second arrest

Pam was re-arrested in December 1998. This time she was detained by Immigration at Toronto's Metro West Detention Centre. She was strip-searched

by two police officers. The female officer told her to take off her clothes and pants. She used the truncheon to go over her body while the male officer stared at her. Pam asked to be searched only by female police without the presence of a male officer but her request was ignored.

This time "Fa" was also arrested. Pam did not want to ask for financial assistance from "Fa" for fear that she would have to pay her back by working as a prostitute and repeat the risk of being arrested. This time she knew some people who could assist her financially. A friend of Pam helped pay for the immigration lawyer's fee but when the money ran out, the lawyer refused to go to attend the hearing. Pam was detained for four months before she contacted a TNTW volunteer and asked for help. A criminal lawyer referred by Ms Liva, helped Pam on a pro bono basis. She received an absolute discharge but was still retained by Immigration officials. The Refugee Law Office provided assistance by sending an immigration lawyer to help her with the detention review. Another two reviews were conducted, but Immigration officials would not release her. TNTW asked GAATW and the Migrant Sex Workers Alliance to write letters to the adjudicator at Immigration Canada explaining how the indenture debt played a role in Pam's decision to go back to work. A bond person (her boyfriend) was ready to assist her and a TNTW volunteer agreed to provide temporary shelter. Despite the support offered to Pam, the adjudicator would not have her released.

Two more months went by and Pam was still in detention. In June 1999, a new lawyer from the Refugee Law office was assigned to Pam's case. At the detention hearing in July, Immigration officials said that they did not believe Pam went back to work because she was forced to by the circumstance, "Nobody put the gun to her head," said the immigration officials. They did not want to acknowledge or hear any reasons why she had gone back to work, breached probation, and was re-arrested and detained.

Pam had her refugee hearing in July 1999 and was denied refugee status. Her lawyer requested that she be transferred from the Metro West Detention Centre to the Celebrity Inn Detention Centre where living conditions were better. Pam was desperate. After being in detention for over 14 months (four months the first time and another ten months the second time), she gave up hope of living in Canada legally and decided to go back to Thailand.

A TNTW volunteer spoke with Pam at the detention centre before she left for Thailand, and asked her if she had any words to say about her situation. She said she felt that she had been treated unfairly. She had not killed anyone, yet had been in jail for more than a year. She felt that it was easy to treat her this way because she had no education. Regardless of what she said, it seemed that every 28 days her detention was extended and this became a pattern. She did not understand how Immigration Canada worked or how they judged her.

What she disliked most were the poor living conditions in jail. She also said that her lawyers had charged her a lot of money--\$500 each time they went for a detention hearing--yet spoke no more than three words to her. The bail and bond money also posed problems. She had applied for a Legal Aid certificate when she was at Metro West Detention Centre but was refused and told, "You can apply [for a legal aid certificate], but you won't get it."

"There was no lawyer to help me. I tried to represent myself but it is very difficult," said she. She also said that if she had received help from legal aid, she would not have had to rely on "Fa" for the lawyer's fee and other expenses.

At the time of her first arrest, the police asked if she wanted to act as a witness against her employer. She did not join the witness program because she felt compelled to help "Fa". According to Pam, "Fa" was the only person who had helped her when she was in trouble.

Pam's suggestion to other women wishing to work abroad is that they should know about law in that country and ought to be aware of what to do when you are arrested. Think of yourself first rather than your boss.

7. CONCLUSION AND RECOMMENDATIONS

The primary materials obtained collected in this case study of *Project Orphan* offer a glimpse into the Canadian experiences of Asian women who were brought to the country to work in the sex industry and who were identified by Canadian officials as being "trafficked". They also provide a critique of Canada's response to their presence and how immigration and prostitution-related laws affected their lives. Recommendations for the government, law enforcement officials and social service providers emerge from the information obtained through interviews of the many people who became involved directly and indirectly with *Project Orphan*.

As mentioned earlier, depending on how one views what constitutes trafficking, it is still inconclusive to say that Thai women who were arrested in Project Orphan and Project Trade were 'trafficked'. Rather, the study attempts to discuss the women's circumstances and experiences, and the facts presented by the women suggest that their *basic human rights* were not guaranteed. In addition, their situation reflects only *partial or some components* of current definitions of "trafficking".

The evidence indicates that some women of this study were subjected to abusive recruitment and sub-standard and exploitative work conditions. The Thai women of *Project Orphan* were brought to Canada, illegally, by small-time agents and medium-sized brokerage operators in Thailand. Those who came to Canada on false passports travelled on documents that had been prepared or obtained for them by the brokers. The women did not indicate that they were "forced" or "coerced" to come to Canada or to enter prostitution, nor were any kidnapped. Some suggested, however, that they were misled into believing that their working conditions would be considerably better than what they encountered, and others believed that they would be able to exercise some control over their work. What appeared to be a common feature was that the women were led to believe that they could legally work in Canada as sex workers. Some information was intentionally withheld from the women, particularly with regard to their immigration status and the criminal charges that they subsequently faced.

Unprecedented debt-bonds, ranging in size from \$30,000 to 35,000⁵⁷ and the withholding of passports were means used by establishment owners to keep the women to work for a certain period of time. Other pressure tactics caused the women to lose what little control they had over their work situations during the debt repayment period. For example, establishment owners took

⁵⁷ According to the Chinese language press, the debt rose to \$40,000 following *Project Orphan* and the smaller raids that were subsequently conducted in Toronto and Vancouver.

advantage of their role as creditors to pressure the women into working longer hours and subjugating their rights as workers. The debt repayment period was the time when the women were most vulnerable, but following that, the women earned income like other local sex workers in similar establishments.

One of the key objectives of this study is to develop recommendations to ensure that policies and operational directives do not violate the rights of women who are trafficked. Whether the Thai women arrested under *Project Orphan* and *Project Trade* are deemed to be trafficking victims, important questions that need to be considered in developing policies related to trafficking in women in the Canadian context are:

- Σ whether the definition of "trafficking in women" ought to be based solely on abusive recruitment, the brokerage practice of trafficking or the condition of forced labour and slavery-like practices;
- Σ whether the illegal entry/residence of persons must be an integral component in the definition of trafficking;
- Σ whether trafficking should be defined in terms of cross-national borders or only include inter-city and provincial border issues;
- Σ whether a woman's right to movement and self-determination, in terms of the work she chooses to engage in (i.e. sex work, formal or informal labour), ought to be considered in defining "trafficking in women".

With the increasing disparity in the global economy between the north and the south, it is likely that international female migration will increase and that women from "Third World", or developing countries with declining economies such as Thailand, will continue to seek work overseas. Two aspects of this migration are a given: women are in vulnerable positions and will be exploited; and the events that unfolded from Operation Orphan and Project Trade underscore Canada's position on the trafficking in women: that it is a "criminal activity that has immigration consequences".

Despite rhetoric intended to demonstrate that Canada was assuming the moral high road on the issue, Canadian officials have steadfastly refused to recognize their obligations to women who are trafficked for the sex industry. Canada has echoed the international community's recent call for a worldwide ban on trafficking in women and children for sex. Canada has also indicated that it intends to frame the issue in terms of crime -- more specifically, organized and transnational crime. Moreover, Canada's anti-immigration stand confuses alien smuggling with trafficking. This confusion was reflected in Bill C-31, tabled in the fall of 2000:

... global migration pressures and the promise of significant profits from transporting and exploiting migrants have led powerful transnational criminal organizations to extend their activities to migrant smuggling and trafficking. Canada, like many developed countries, has in recent years witnessed a growth in criminally organized trade in lives and forced labour of human beings. Canadians want to ensure they have the policy and legislative tools to deter migrant trafficking and punish those who engage in this form of modern slavery.⁵⁸

Bill C-31 emphasized the need for amending the Immigration Act in order to maintain "the safety of Canadian society and respect for Canadian norms of social responsibility". It therefore proposes to provide for means of "protecting" Canadian borders and society by:⁵⁹

1. Creating a new offence of trafficking with severe penalties for people smugglers and those caught trafficking in humans of up to life in prison and/or one million dollars; and
2. Creating new offences related to the possession, use, importation and exportation of passports, visas and other documents that are used to contravene the Immigration Act.

Although Bill C-31 did not proceed because the 2000 election was called, the principles evoked are likely to resurface when a subsequent immigration bill is tabled. Bill C-31 Canada signalled its Canada's intent to follow in the steps of the United States by imposing stricter immigration legislation and harsh punitive measures for those who breach the law. Noticeably absent was any reference to ensuring that human rights, as enshrined in international instruments, are protected. Rather than deter trafficking, this "crime-busters" approach will only serve to drive trafficking deeper underground, force up the stakes⁶⁰ and transform trafficking into not only a more lucrative venture for smugglers, but a comparably more dangerous environment for those who are trafficked, leaving them vulnerable to extreme exploitation and abuse.

Bill C-31 further omitted to consider the following:

- Σ Canada applied no definition of trafficking and therefore the weight of evidence required to prove what constitutes "trafficking" will likely be heavy. Project Orphan and Project Trade have demonstrated the difficulty in identifying those who are responsible for "trafficking". Those arrested were managers -- middle people -- who operate bawdy-houses.

⁵⁸ "Overview of Bill C-31", The Immigration and Refugee Protection Act.

⁵⁹ Ibid. "Tough penalties for trafficking and smuggling"; "Penalties for fraud and forged documents".

⁶⁰ As it stands, the indenture debt required of Asian women is \$30,000 to \$40,000. For women from Eastern European the debt is considerably lower (\$10,000 to \$15,000).

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- Σ Women trafficked for the sex industry and who are physically in Canada, were to will be punished under point 2 above. False documents are provided overseas, not by Canadians, by individuals well beyond the reach of Canadian law.

The Special Rapporteur on Violence Against Women, notes at page 43 of her report:⁶¹

Documentation shows that inflexible policies of exclusion, which are most easily enforced through severe punishments of a penal nature and deportation, feed directly into the hands of traffickers. The availability of legal migrant work, which is subject to government regulation and scrutiny, reduces reliance on third parties by those who seek to migrate for work abroad. Trafficking economies which arise out of a combination of supply, demand and illegality are less likely to develop in situations in which opportunities exist for legal migrant work. Increasingly, highly industrialized countries such as those in Europe, North America and Asia have placed restrictions on legal, long-term immigration. Strong anti-immigration regimes are increasingly typical in these countries and are justified by governments as a component of a rational policy of protectionism and deterrence arising out of economic imperatives.

Women who are trafficked across transnational borders are women in need of protection. They are also women who are highly stigmatized because of their occupation, and marginalized because they are poor, do not speak the language, and have no means of support.

Recommendations

This report deals with undocumented Asian migrant workers in the sex trade who work in massage parlours and/or whose workplace is a "parlour" in an apartment or condominium. It does not assume that the experiences of the women involved with this project are representative of the experiences of all women trafficked, documented and undocumented, to Canada for the sex industry. Accordingly, the recommendations set out below, although they may be applicable to similar situations, relate to this particular group of workers. The recommendations are mainly based on the analysis that considers Thai women as being trafficking victims.

1. Trafficking in women must be analyzed in terms of structural inequality between Third World and industrialized countries.

⁶¹ *Supra*, note 17.

A gender and race - based analysis must be applied to immigration policies in receiving countries, considered in the international migration of women (i.e. the low status of women, poverty), factored into the criminalization of prostitution and applied in the intersection of inequalities, such as race analysis.

2. A clear and working definition of "trafficking in women" and "forced labour/slavery-like practices" must be adopted and must have as the primary focus the protection of women's human rights and fundamental freedoms.

The Canadian government is obligated under human rights instruments to recognize the woman-specific character of violations of human rights during the process of trafficking. In doing so, the needs of migrant women and the rights of women to self-determination must be recognized. Moreover, coercion and abusive circumstances in various forms and levels with respect to brokerage practices and/or working conditions in both public and private domains, must be considered.

3. It must be recognized that women's rights include the right to movement and to earn a living.

It must be recognized that Canada's response to the movement and migration of women through the construction of "tougher" immigration policies places women in high-risk situations. Bill C-3 is an attempt to assuage political opinion by locking doors to the world's most vulnerable and marginalized. There is no consideration of those who must earn a living and who are impacted by the global economy. Accordingly, work visas should be available to migrant women to allow them to find temporary employment in Canada. This would encourage their legal entry as workers. This will give women greater security in their status and therefore increase the likelihood that they would seek recourse, for example, against poor working conditions.

4. Policies are required to address all forms of discrimination and forced labour/slavery-like practices involving sex workers, domestic workers, mail-order brides and migrant workers.

The policies must incorporate legal and other strategies (e.g. identify social services) to address human rights abuses.

5. Existing legislation and other legal instruments, both national and international, should be re-assessed.

The Canadian Criminal Code, for example, should be amended to include trafficking in women as an indictable offence. Women who are

trafficked and/or subjected to forced labour and/or slavery like practices, should be provided treatment that is fair and equitable, no different from or harsher than Canadian citizens. The women of Project Orphan, for example, were not provided with an opportunity to act as witnesses against the organizers/managers. At the same time, a long-term goal to be considered is the removal of criminal provisions that penalize and limit the rights of sex workers.

6. Canada should expand its human rights framework to recognize sexual autonomy and self-determination, and non-discriminatory collective and individual human rights as a basic right of every human person.
7. A comprehensive national program to assist trafficked women - which includes health care, job training, shelter and financial assistance -- is required and can be put into place using existing services. More specifically:
 - Σ Women should be provided with assistance while they await trial, and access to competent, qualified, neutral and sensitive interpreters
 - Σ Women who are prepared to act as witnesses should be entitled to work for a period of no less than six months, and/or participate in the witness protection plan
 - Σ Women should be able to access the Victim Assistance Programme for economic, physical and psychological damage caused to them by trafficking and related offences
 - Σ Women who are trafficked should have the option of remaining in Canada

In terms of working conditions, the women are entitled to:

- Σ Safe and healthy working (and living) conditions
 - Σ Protection under universal health and safety standards
 - Σ Freedom to their control working (and living) conditions
 - Σ Freedom of movement
8. To combat the trafficking in women and forced labour and slavery-like practices, Canada must work in cooperation with the official representatives of the country of origin, NGOs and community-based organizations that are assisting trafficked women and migrant women both in Canada and in country of origin.

NGOs such as the Global Alliance Against Trafficking in Bangkok have developed guidelines to protect the human rights of trafficked persons, forced labour and slavery-like practices. These guidelines can be used as starting points to develop a protocol to assist the women. The European Union has also done much work in this area. Canada, having already

participated in several EU initiatives, should work more assertively with European experts, institutions and NGOs to develop an international framework to address the issues and, at the same time, initiate a framework to specifically address the problem in the Canadian context.

9. The Canadian government should allocate adequate funds for NGOs, grassroots and community-based organizations to advocate for and serve the needs of trafficked women.
10. Data on trafficking in women must be collected and made available to the public.

The information obtained should include the following:

- Σ The Canadian government's efforts to address the trafficking in women, including its efforts with the countries of origin;
 - Σ Governmental efforts with NGOs and inter-governmental agencies in addressing the issue;
 - Σ Identification of services available to women who are trafficked;
 - Σ The disposition of trafficking cases in the criminal courts and in regards to immigration;
 - Σ Regular reviews of governmental legal and administrative measures to reduce trafficking and the effect on women who are trafficked.
11. A protocol is required to assist from the point of arrest onward. From the experiences of women arrested in Operation Orphan and Project Trade, the following guidelines were developed:
 - Σ A native-speaking interpreter ought to be available at the time of arrest
 - Σ Strip searches should not be used to intimidate the women. If deemed necessary, it should be conducted by female police officers and in private.
 - Σ Large-scale arrests (as in Project Orphan) must factor in the need to adequately provide for the number of detainees (i.e. blankets; food; interpreters etc.).
 - Σ Non-governmental agencies ought to be notified, as are members of the press, of impending arrests.
 - Σ Immediate access to legal counsel should be available to avoid undue influence from employers.
 - Σ The bail conditions imposed on the arrested women need to be realistic (disallowing a return to their workplaces, which double as their living places, imposes an undue hardship on those detained). Bail conditions ought to take into consideration the very limited support the women can expect on their release.

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12. Sensitivity training -- of police officers, the judiciary and health and social service providers - is necessary.

- Σ police officers should undergo training so that they can understand the nature of international trafficking networks, their operation and how they affect the situations of migrant women.
- Σ health and social service professionals need training, in order to minimize biases against prostitution and/or illegal work.

13. The health, social, and legal services that were pulled together on an ad hoc basis under Project Orphan should be formalized.

A coalition of groups should be established to improve service delivery to migrant women in the sex trade. The coalition might address health, legal, or social service issues. The network can also collaborate and work together in terms of funding and advocacy. These groups can also provide assistance to those who want to escape from debt bondage or abusive working conditions, return home, or obtain legal redress against those who have abused them while in Canada.

Service providers should be non-judgmental about the kind of work the women did or do, as well as sensitive to cross-cultural issues. Interpretation service in their native language is important with any kind of service delivery. Such confidential service is needed to ensure protection of privacy, and to ensure that the women are informed of their rights.

14. The Royal Thai Embassy:

- Σ The Thai government must cease discriminating against, and treating as criminals Thai migrant women who engage in the sex trade.
- Σ The Thai government is obligated to help the women to return to Thailand, without fear of persecution, and provide them with assistance to resettle. The provision of emergency assistance, protection and legal advice are necessary.
- Σ A hotline or contact point at the Thai Embassy in Ottawa or at the Thai Consulate in Toronto for Thai citizens who find themselves in abusive situations should be established.
- Σ A Canadian handbook for Thai immigrants is required. It would contain explanations of the laws applicable in certain situations (e.g. when an arrest is made), the individual rights that an immigrant could expect to find protected, the services available at the Thai embassy, and the process of applying for these services. It would have a listing of contacts in Canada and in Thailand and information about trafficking.