



# CHRISTIAN LEGAL FELLOWSHIP

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## Submission to the Standing Committee on Justice and Human Rights National Consultation on Human Trafficking in Canada

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*“Stop them from buying, we were told [by trafficked women and girls], and trafficking will end.”<sup>1</sup>*

### Executive Summary

Canada’s international obligations require it to take all appropriate measures to end the scourge that is human trafficking. While some are calling for a complete legalization of prostitution in Canada, the evidence consistently demonstrates that legalizing prostitution will increase sex trafficking. We urge the Government of Canada to maintain and enforce the current prostitution laws.

### Introduction

Human trafficking is modern day slavery, and it is happening in Canada. The Government of Canada’s recent evaluation of human trafficking found that men, women, and children in Canada are still being trafficked for forced labour and sexual exploitation.<sup>2</sup> Canada has been identified as a source, transit, and destination country for sex trafficking.<sup>3</sup> There were 396 reported victims of human trafficking in Canada (2009–2014). Though this number is already too high, the consensus is that there are many more victims, as human trafficking is severely underreported.<sup>4</sup>

Since May 2002, Canada has been a party to the United Nations’ *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children* (the “Palermo Protocol”).<sup>5</sup> As an

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<sup>1</sup> Canadian Women’s Foundation, *“NO MORE”: Ending Sex-Trafficking In Canada: Report of the National Task Force on Sex Trafficking of Women and Girls in Canada* (2014), online: Canadian Women’s Foundation. <<http://www.canadianwomen.org/sites/canadianwomen.org/files/NO%20MORE.%20Task%20Force%20Report.pdf>> at 69 [emphasis added] [Ending Sex-Trafficking in Canada].

<sup>2</sup> Canada, Public Safety Canada, *2016–2017 Horizontal Evaluation of the National Action Plan to Combat Human Trafficking* (Ottawa: Department of Public Safety and Emergency Preparedness, 2016) [Public Safety Canada].

<sup>3</sup> United States of America, Department of State, *Trafficking in Persons 2017 Report: Country Narratives* (Washington: Department of State, 2017).

<sup>4</sup> Annette Brunovskis & Rebecca Surtees, *Out of Sight? Approaches and challenges in the identification of trafficked persons* (2012), online: The Nexus Institute <[https://nexushumantrafficking.files.wordpress.com/2015/03/out-of-sight\\_identification\\_nexus.pdf](https://nexushumantrafficking.files.wordpress.com/2015/03/out-of-sight_identification_nexus.pdf)> [Brunovskis].

<sup>5</sup> *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000, 39574 UNTS 2237.

organization with special consultative status with the Economic and Social Council of the United Nations (UN), Christian Legal Fellowship (CLF) is grateful for this opportunity to share its expertise on legal issues relating to Canada's international commitments, protecting vulnerable persons, and suppressing exploitation (see Appendix A for more information about CLF's longstanding efforts and commitment to ending human trafficking).

## Prostitution and Human Trafficking

### Canada's International Obligations

International obligations require Canada to take whatever measures are necessary to discourage the demand that leads to all forms of human exploitation—especially the exploitation of women and children.

Article 9.5 of the Palermo Protocol states:

States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.<sup>6</sup>

In similar language, the 1979 United Nations *Convention on the Elimination of All Forms of Discrimination against Women*, to which Canada is a party, states in Article 6:

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.<sup>7</sup>

The majority of human trafficking victims are women and children being trafficked into prostitution.<sup>8</sup> Therefore, CLF submits that the Government of Canada is required, pursuant to its international obligations, to take legislative measures to suppress the demand for prostitution in Canada.<sup>9</sup>

This obligation is reinforced by UN commentary and supplementary materials. The UN's "Recommended Principles and Guidelines on Human Rights and Human Trafficking" state that "strategies aimed at preventing trafficking shall address demand as a root cause of trafficking".<sup>10</sup> The Legislative Guide to the implementation of the Palermo Protocol states that demand reduction "could be achieved in part through legislative or other measures targeting those who knowingly use or take advantage of the services of victims of exploitation."<sup>11</sup>

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<sup>6</sup> *Ibid* at art 9.5 (entered into force 25 December 2003).

<sup>7</sup> [Convention on the Elimination of All Forms of Discrimination against Women](#), 18 December 1979, 20378 UNTS 1249 art 6 (entered into force 3 September 1981).

<sup>8</sup> United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons* (February 2009), online: <[http://www.unodc.org/documents/Global\\_Report\\_on\\_TIP.pdf](http://www.unodc.org/documents/Global_Report_on_TIP.pdf)>.

<sup>9</sup> For a lengthier discussion of compliance with Canada's international agreements, please see the [brief](#) submitted by the Evangelical Fellowship of Canada.

<sup>10</sup> [Recommended Principles and Guidelines on Human Rights and Human Trafficking](#), Report of the United Nations High Commissioner for Human Rights, ECOSOC, 2002, UN Doc E/2002/68/Add.1.

<sup>11</sup> United Nations Office on Drugs and Crime, *Legislative Guides for the Implementation of the United Nations Convention Against Transnational Organized Crime and the Protocol Thereto*, online: <<https://www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html>>.

## The Need for Better Data Collection

CLF urges the government to improve gathering of data on prostitution and sex trafficking in Canada in order to be able to accurately measure the effect of legislation and the progress of the fight against human trafficking.

It is difficult to measure how many women and girls in prostitution are being trafficked. There is no clear line between trafficked and non-trafficked women and girls. In fact, some traffic victims in prostitution may not consider themselves trafficked: traffickers often use manipulative techniques to exercise control over their victims.<sup>12</sup>

There is also a lack of data about trafficking and prostitution in Canada, as there is no central collector of human trafficking data. The Government of Canada's recent evaluation of human trafficking found "There are limited reliable and accurate data sources to map out the scope and nature of human trafficking in Canada, making it difficult for policy makers to implement effective federal responses to human trafficking."<sup>13</sup> The need for systematic data collection, especially as a means of measuring the effects and progress of anti-trafficking efforts, is also highlighted by the United Nations' handbook for Parliamentarians on combating trafficking in persons.<sup>14</sup>

Dubravka Šimonović, UN Special Rapporteur on violence against women, recently conducted an official visit to Canada. After her 13-day mission, she concluded: "Trafficking is also a matter of concern in [Canada], particularly with regard to indigenous women and girls, who are overrepresented as victims of human trafficking in Canada. There is a general lack of data on trafficking, including on trafficking for prostitution and other related purposes."<sup>15</sup>

## The Link Between Prostitution and Trafficking

One thing, however, is clear: although not all people in prostitution are trafficked, many are, and the overwhelming majority of women and girls in prostitution want to leave the sex industry but are unable to; one study found that 95% of women and girls in prostitution in Vancouver wanted to leave.<sup>16</sup> Since trafficked women and girls form a subset of all prostituted persons in Canada,<sup>17</sup> any measures which reduce the demand for prostitution will likewise reduce the number of women and girls trafficked into the Canadian sex trade.

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<sup>12</sup> Maite Verhoeven, *Government Policies and Sex Work Realities: Human Trafficking in the Regulated Sex Industry* (Doctoral Thesis, Vrije Universiteit Amsterdam, 2017) [unpublished] at 17–18 [Verhoeven].

<sup>13</sup> Public Safety Canada *supra* note 2.

<sup>14</sup> United Nations Office on Drugs and Crime, "Combating Traffic in Persons: A Handbook for Parliamentarians" (2009), online: <[https://www.unodc.org/res/cld/bibliography/comb\\_atng\\_trafficking\\_in\\_persons\\_a\\_handbook\\_for\\_parliamentarians\\_html/UN\\_Handbook\\_engl\\_core\\_low.pdf](https://www.unodc.org/res/cld/bibliography/comb_atng_trafficking_in_persons_a_handbook_for_parliamentarians_html/UN_Handbook_engl_core_low.pdf)>.

<sup>15</sup> Dubravka Šimonović, *End of mission statement by Dubravka Šimonović, United Nations Special Rapporteur on Violence against women, its causes and consequences – Official visit to Canada* (2018), online: <<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22981>>

<sup>16</sup> Melissa Farley, Jacqueline Lynne & Ann J Cotton, "Prostitution in Vancouver: Violence and the Colonization of First Nations Women" (2005) 42:2 *Transcultural Psychiatry* 242 at 253.

<sup>17</sup> Canadian Women's Foundation, *An Assessment of Sex Trafficking* (May 2013), online: Canadian Women's Foundation <<https://www.canadianwomen.org/wp-content/uploads/2017/09/NB-Nov-14-FINAL-REPORT-Assessment-of-Sex-Trafficking-in-Canada.pdf>> at 4 [Canadian Women's Foundation].

Research from other jurisdictions which have legalized prostitution is instructive. In Germany, for example, with 150,000 women and girls in prostitution, 32,800 (22%) were estimated to be victims of trafficking in 2004.<sup>18</sup> In Denmark, with approximately 6,000 women and girls in prostitution, 2,250 (38%) were estimated to be victims of trafficking.<sup>19</sup> As of June 2013, there were 158 victims, 75 prosecutions of 128 traffickers, and less than 30 convictions on human trafficking charges in Canada, but this only represents those cases in which charges have been laid, a mere fraction of all trafficking in Canada.<sup>20</sup>

Perhaps more importantly, without attempting to categorize women and girls into “trafficked” or “non-trafficked”, it can simply be stated that one study found that 71% of women and girls in prostitution had been assaulted; 63% had been raped; 68% met criteria for post-traumatic stress disorder, and 89% wanted to leave prostitution, but felt they were unable to.<sup>21</sup> The mortality rate of women and girls in prostitution is 40 times the national average.<sup>22</sup> Prostitution, at bottom, is used as a vehicle for violence against women.

## Canada’s Current Prostitution Laws

Canada currently restricts sex trafficking by suppressing the demand for prostitution. This is grounded in evidence. Conversely, legalizing prostitution will increase sex trafficking in Canada.

In 2013, the Supreme Court struck down Canada’s former prostitution laws in *Bedford v Canada*, a case in which CLF was an intervener at all three levels of court.<sup>23</sup> In response to the Supreme Court’s decision, the federal government introduced the *Protection of Communities and Exploited Persons Act* (PCEPA). The PCEPA set out a new legislative framework surrounding prostitution, bringing it more closely in line with the “Nordic Model” of prostitution legislation pioneered by Sweden and since adopted by numerous other jurisdictions.

The Nordic Model represents an inherently abolitionist approach to prostitution.<sup>24</sup> It is a rejection of the idea that consensual prostitution is a social good to be normalized and legitimized.<sup>25</sup>

Thus, Canada’s prostitution laws, criminalizing the purchase of sex and various prostitution-related activities, serve several purposes. They prevent exploitation of vulnerable women and girls; they

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<sup>18</sup> Seo-Young Cho, Axel Dreher & Eric Neumayer, “[Does Legalized Prostitution Increase Human Trafficking?](#)” (2013) 41 World Development 67 at 75 [Cho].

<sup>19</sup> *Ibid.*

<sup>20</sup> Canadian Women’s Foundation *supra* note 17 at 12.

<sup>21</sup> Melissa Farley *et al.*, “[Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder](#)” (2003) 2:3/4 Journal of Trauma Practice 33 at 34.

<sup>22</sup> Special Committee on Pornography and Prostitution, *Pornography and Prostitution in Canada* (1985), online: <<https://www.ncjrs.gov/pdffiles1/Digitization/131616NCJRS.pdf>> at 350.

<sup>23</sup> The Ontario Court of Appeal in *Bedford v Canada* affirmed that Christian Legal Fellowship, along with its co-interveners, had “a real substantial and identifiable interest in the subject matter of the application and... an important perspective different from the parties.” The Court further acknowledged that Christian Legal Fellowship’s intervention provided “a counterpoint to the respondents’ argument that will not otherwise be made and may be useful to the court.” (*Bedford v Canada (Attorney General)* 2009 ONCA 669).

<sup>24</sup> Gunilla Ekberg, “[The Swedish Law that Prohibits the Purchase of Sexual Services: Best Practices for the Prevention of Prostitution and Trafficking in Human Beings](#)” (2004) 10:10 Violence Against Women 1187 at 1210 [Ekberg].

<sup>25</sup> As CLF stated in our [factum](#) in *Bedford*: “[Prostitution] perpetuates a fundamentally offensive and abusive gender imbalance. It exposes women to physical and psychological harm. It harms the community. In short, Canadians have good reason to abhor prostitution and they have every reason and justification to make sure it is not legitimized...”.

promote gender equality and preserve human dignity; and they work to change public perceptions of prostitution. They send the message that women and girls are not commodities that can be purchased and exploited.<sup>26</sup>

While responses to Canada's new legislative regime have been mixed, the evidence (discussed in more detail below) is clear: the Nordic Model suppresses demand for prostitution by targeting the source of that demand, namely, purchasers of sex. Legalization of prostitution, on the other hand, results in an increase in both prostitution and sex trafficking.

## The Nordic Model Suppresses Demand for Prostitution

Countries that have implemented the Nordic Model, or variations on it, have experienced measurable reductions in prostitution. While Canada's new legislation has only recently been implemented, and its effects have not yet been measured, similar legislation has had favourable effects in other countries.

Since the introduction of the Swedish legislation in 1999, the number of women and girls in street prostitution has been reduced by an estimated 30% to 50%.<sup>27</sup> Norway introduced similar legislation in 2009; by 2014, when they evaluated the results of the legislation, they saw a 40% reduction in prostitution, including a reduction in indoor prostitution.<sup>28</sup>

There is some research which suggests that this decrease is partially attributable to a change in public attitudes towards prostitution.<sup>29</sup> In Scotland, a survey found that 79% of men who had paid women for sex said the threat of jail time would deter them from doing so.<sup>30</sup> A similar survey in Chicago found that 83% of men said a potential consequence of jail time would deter them from buying sex.<sup>31</sup> In Sweden, the number of men saying that they had purchased sex dropped from 13.6% in 1996 to 7.9% in 2008.<sup>32</sup>

Public support for criminalization has also increased since the legislation was introduced. In 1996, 67% of the Swedish population thought purchasing sex should *not* be a criminal offense. Since the law was

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<sup>26</sup> This is reflected in the preamble to Canada's legislation: "Whereas the Parliament of Canada recognizes the social harm caused by the objectification of the human body and the commodification of sexual activity; Whereas it is important to protect human dignity and the equality of all Canadians by discouraging prostitution, which has a disproportionate impact on women and children; Whereas it is important to denounce and prohibit the purchase of sexual services because it creates a demand for prostitution..." (*Protection of Communities and Exploited Persons Act*, SC 2014, c 25).

<sup>27</sup> Ekberg *supra* note 24 at 1193.

<sup>28</sup> Ingeborg Rasmussen et al, *Evaluation of Norwegian legislation criminalising the buying of sexual services* (English Summary) (2014), Government of Norway: <[https://www.regjeringen.no/contentassets/0823f01fb3d646328f20465a2afa9477/evaluating\\_sexkjoeopsloven\\_2014.pdf](https://www.regjeringen.no/contentassets/0823f01fb3d646328f20465a2afa9477/evaluating_sexkjoeopsloven_2014.pdf)> at 11.

<sup>29</sup> Jari Kuosmanen, "[Attitudes and perceptions about legislation prohibiting the purchase of sexual services in Sweden](#)" (2011) 14:2 *European Journal of Social Work* 247.

<sup>30</sup> United Kingdom, All-Party Parliamentary Group on Prostitution and the Global Sex Trade, *How to Implement the Sex Buyer Law in the UK* (2016), online: <<https://appgprostitution.uk/wp-content/uploads/2017/09/How-to-implement-the-Sex-Buyer-Law-in-the-UK-2016.pdf>> at 5.

<sup>31</sup> *Ibid.*

<sup>32</sup> Nordisk information för kunskap om kön (Nordic Information on Gender), *Prostitution in the Nordic Countries* (2009), online: Nordisk information för kunskap om kön <[http://www.nikk.no/wp-content/uploads/NIKKpub2008\\_prostitution\\_conferenceEng1.pdf](http://www.nikk.no/wp-content/uploads/NIKKpub2008_prostitution_conferenceEng1.pdf)> at 29.

introduced, public support for the ban on purchasing sex is now over 70%.<sup>33</sup> Thus, the law has had a normative effect, changing perceptions of prostitution among Swedes.

## Legalization Increases Prostitution *and* Human Trafficking

In recent years, in contrast to the Nordic Model, some countries have pursued a legislative agenda of legalizing and regulating prostitution. These efforts have not reduced prostitution, nor made it safer for women and girls in prostitution.

Consider the following examples:

- Among the Nordic countries, only Denmark has full legalization of prostitution; Denmark has 15 times more women and girls in prostitution per capita than Sweden.<sup>34</sup>
- Germany, with full legalization of prostitution, has approximately 150,000 women and girls in prostitution, more than six times as many per capita as Sweden.<sup>35</sup>
- The Netherlands' legalization did not decrease the number of women and girls in prostitution with pimps,<sup>36</sup> countering the argument that legalization provides more safety and autonomy for sex workers.

Three years after legalizing prostitution, Germany's federal government conducted an impact review and concluded that legalization has not improved working conditions for women and girls in prostitution, has not made it easier for them to leave the industry, and has not reduced crime.<sup>37</sup>

Numerous studies have also shown that legalization of prostitution leads to an increase in human trafficking:

- In the Netherlands, after prostitution was legalized in 2000, the number of reported human trafficking cases more than tripled from 284 in 2001 to 909 in 2009.<sup>38</sup>
- A 2013 study found that countries with legalized prostitution, overall, experience a larger number of reported human trafficking inflows.<sup>39</sup>
- Another study conducted in 2010 found that human trafficking is "most prevalent in countries where prostitution is legalized".<sup>40</sup>

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<sup>33</sup> Sweden, Government Offices of Sweden, *Evaluation of the prohibition of the purchase of sexual services* (Stockholm: Government Offices of Sweden, 2010) (English translation of Chapter 4 and 5) at 9 [Government Offices of Sweden].

<sup>34</sup> Coalition Against Trafficking in Women Australia, *Demand Change: Understanding the Nordic Approach to Prostitution* (2017), online: Coalition Against Trafficking in Women Australia <<http://www.catwa.org.au/wp-content/uploads/2017/03/NORDIC-MODEL-2017-booklet-FINAL-single-page.pdf>> at 13.

<sup>35</sup> Cho *supra* note 18 at 75.

<sup>36</sup> Verhoeven *supra* note 12 at 15.

<sup>37</sup> Germany, Federal Ministry for Family Affairs, Senior Citizens, Women, and Youth, *Report by the Federal Government on the Impact of the Act Regulating the Legal Situation of Prostitutes (Prostitution Act)* (Berlin: Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, 2007) at 79.

<sup>38</sup> Joyce Outshoorn, "Policy Change in Prostitution in the Netherlands: from Legalization to Strict Control" (2012) 9:3 Sex Res Soc Policy 233 at 237.

<sup>39</sup> Cho *supra* note 18.

<sup>40</sup> Niklas Jacobsson & Andreas Kotsadam, "The Law and Economics of International Sex Slavery: Prostitution Laws and Trafficking for Sexual Exploitation" (2010) University of Gothenburg Working Paper No 458 at 16.

## Responding to Arguments for Legalization

Advocates of legalization argue that the PCEPA does not protect women and girls in prostitution, but instead, pushes them to work “underground”, in more dangerous conditions. Underground prostitution, by its nature, is more difficult to measure and track. However, responding to the same concern, Sweden’s official review of its prostitution legislation, conducted in 2010, did not find any evidence that prostitution had shifted underground.<sup>41</sup> Furthermore, as the European Commission states, “Sex markets are reliant, by definition, on buyers finding spaces and places where it is possible to pay for sex. In this sense, the underground argument has a logical fallacy at its heart since some level of visibility is required.”<sup>42</sup>

Furthermore, the legalization debate pits the interests of a small minority of sex workers—those who are part of the sex industry by choice—against those of trafficked persons. While many voluntary sex workers have the resources and freedom to express their views, particularly in opposition to the PCEPA, trafficked persons do not. They naturally lack the resources to publicly express their opinions about Canada’s prostitution laws. Trafficking is chronically underreported by victims, and many are reluctant to come forward or seek help.<sup>43</sup>

In 2013, the Canadian Women’s Foundation created a *National Task Force on Sex Trafficking of Women and Girls in Canada*. As part of their research, the Task Force interviewed 160 women and girls across Canada who were victims of human trafficking.<sup>44</sup> They found that, when interviewed, trafficked women and girls gave “the same message over and over: ‘We need to criminalize the demand and decriminalize the sold.’” The CWF’s *Report of the National Task Force on Sex Trafficking of Women and Girls in Canada* states:

Experiential women [trafficked women and girls] told us trafficking would only end when it ceased to be profitable. Traffickers are not frightened by legal sanctions ... Buyers, on the other hand, *are* deterred by legal sanctions or the risk of public exposure. **Stop them from buying, we were told, and trafficking will end.**<sup>45</sup>

## Other Issues: Commercial Surrogacy

Another concerning issue related to human trafficking in Canada is commercial surrogacy. While Canada’s current *Assisted Human Reproduction Act* (AHRA) prohibits commercial surrogacy,<sup>46</sup> there is a growing movement to legalize commercial surrogacy entirely.

Commercial surrogacy essentially treats women’s and children’s bodies as commodities to be bought and sold by more powerful individuals. It also raises the possibility of abuse and exploitation: “Although not all global surrogacy arrangements are human trafficking cases, the potential for a global surrogacy

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<sup>41</sup> Government Offices of Sweden *supra* note 33 at 9.

<sup>42</sup> European Union, [Study on the gender dimension of trafficking in human beings](#), by the European Commission (Luxembourg: Publications Office of the European Union, 2016) at 135.

<sup>43</sup> Brunovskis *supra* note 4.

<sup>44</sup> Ending Sex-Trafficking in Canada *supra* note 1 at 14 [emphasis added].

<sup>45</sup> *Ibid* at 69 [bold added, italics in original].

<sup>46</sup> [Assisted Human Reproduction Act](#), SC 2004, c 2 at s 6(2) [AHRA].

arrangement to become a human trafficking scenario is startling.”<sup>47</sup> This is also recognized in the AHRA itself, which affirms that “trade in the reproductive capabilities of women and men and the exploitation of children, women and men for commercial ends raise health and ethical concerns that justify their prohibition”.<sup>48</sup>

While there is a lack of research around the connection between legalized commercial surrogacy and human trafficking, there are reasons for concern. In India, where there are no restrictions on surrogacy, there is a booming commercial surrogacy market: one study, in 2008, estimated that there were 3,000 surrogacy clinics in India, growing at a rate of 30% annually.<sup>49</sup> One study observed:

The would-be surrogates are impoverished, often illiterate, women who are recruited from rural villages. They are brought to the clinics by “head hunters,” calling themselves social workers, and are required to stay in the clinic’s living quarters in a guarded dormitory-like setting for the entire pregnancy [...] What is more alarming about the recruiting process is that it is notably similar to the recruitment processes used by human traffickers to coerce rural women into sex work in cities.<sup>50</sup>

At the same time, maternal health in India is extremely poor, with 117,000 mothers dying of pregnancy/birth-related complications annually.<sup>51</sup> The vulnerability of many surrogates makes the situation ripe for abuse. Several recent abuses of commercial surrogacy in Thailand—including a case where an unwanted baby, born with Down’s syndrome, was abandoned—led Thailand to pass legislation prohibiting most forms of commercial surrogacy.<sup>52</sup>

Before Canada moves to legalize commercial surrogacy, CLF urges the federal government to first carefully investigate the potential human trafficking consequences of such a legislative move. Whether by keeping commercial surrogacy illegal, or by introducing additional restrictions on human trafficking for the purposes of surrogacy (as Israel has done<sup>53</sup>), we must take whatever steps are necessary to prevent this abuse of women from taking place in Canada.

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<sup>47</sup> Karen Rotabi & Nicole Bromfield, “[The Decline in Intercountry Adoptions and New Practices of Global Surrogacy: Global Exploitation and Human Rights Concerns](#)” (2012) 27 *Affilia* 129 at 133 [Rotabi].

<sup>48</sup> *AHRA supra* note 46 at s 2(f).

<sup>49</sup> Allison Bailey, “[Reconceiving Surrogacy: Toward a Reproductive Justice Account of Indian Surrogacy](#)” (2011) 26 *Hypatia* 715 at 717 [Bailey].

<sup>50</sup> Rotabi *supra* note 47 at 133.

<sup>51</sup> Bailey *supra* note 49 at 729.

<sup>52</sup> Erik Cohen, “[Surrogacy as international business and national disgrace of Thailand](#)” (2015) 14:2 *Asian Anthropology* 115.

<sup>53</sup> Israel, Office of the National Anti-Trafficking Coordinator, “Human Trafficking for Procreation Purposes”, online: <<http://www.justice.gov.il/En/Units/Trafficking/HumanTrafficking/Other/Pages/forcedpregnancy.aspx>> .

## Conclusion

“Once upon a time, there was the naïve belief that legalized prostitution would improve life for prostitutes, eliminate prostitution in areas where it remained illegal and remove organized crime from the business. ... Like all fairy tales, this turned out to be sheer fantasy.”<sup>54</sup> So said Carolyn Maloney, founder and co-chair of the United States Congressional Human Trafficking Caucus.

Legal restrictions surrounding prostitution reduce demand, and sex trafficking is demand driven. Without the demand of persons (overwhelmingly men) to purchase sex from women, girls, and boys, sex trafficking in Canada would be greatly reduced.

The best way to eradicate sex trafficking is to reduce demand for prostitution, and the best way to reduce demand for prostitution is to make the purchase of sex illegal, as Canada’s current legislative scheme does. While specific legislative provisions directed at combatting trafficking are needed, they do not address the underlying factors and demands that fuel trafficking in the first place. The *Protection of Communities and Exploited Persons Act* (PCEPA) does. Therefore, we urge the Government of Canada to resist calls for the legalization of prostitution, and to maintain, defend, and enforce Canada’s prostitution laws as they stand.

## Recommendations

Christian Legal Fellowship calls on the Government of Canada to:

1. Uphold the *Protection of Communities and Exploited Persons Act* (PCEPA) and defend it from constitutional challenge.
2. Ensure that the PCEPA is applied by police and prosecution services to prosecute those who purchase sex.
3. Improve gathering of data on prostitution and sex trafficking in Canada in order to be able to accurately measure the effect of legislation and the progress of the fight against human trafficking.
4. Investigate any link between commercial surrogacy and human trafficking before changing Canada’s surrogacy laws.

All of which is respectfully submitted,

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<sup>54</sup> Melissa Farley, “[Theory vs Reality: Commentary on four articles about trafficking for prostitution](#)” (2009) Women’s Studies International Forum 311 at 313.

## Appendix A

### About Christian Legal Fellowship

Christian Legal Fellowship (CLF) is Canada’s national association of Christian lawyers, law students, and jurists. CLF has over 700 members across Canada practicing in all areas of law and in every size of practice. It has chapters in cities across Canada and student chapters in most Canadian law schools. While having no direct denominational affiliation, CLF’s members represent more than 35 Christian denominations working in association together.

CLF is dedicated to advancing the public good by articulating legal and moral principles that are consistent with, and illuminated by, our Christian faith through court interventions and public consultations. Over nearly two decades, CLF has been granted intervener standing in almost 40 cases involving *Charter* issues—including 12 at the Supreme Court of Canada—seeking to advance justice, protect the vulnerable, promote equality, and advocate for freedom of religion, conscience, and expression.

CLF has appeared before Parliamentary committees and made representations to provincial governments on issues of conscience, religious freedom, inviolability of life, and human rights. CLF has also been granted Special Consultative Status as an NGO with the Economic and Social Council of the United Nations. As part of its NGO status, CLF has presented written submissions to the United Nations and has been invited to participate in consultations by the UN Office of the High Commissioner for Human Rights. CLF has also participated in proceedings before international courts, including the Inter-American Court of Human Rights and the Supreme Court of Sweden.

In 2012, CLF was recognized by the Quebec Superior Court as “possess[ing] an important degree of expertise in the areas of philosophy, morality, and ethics...”<sup>55</sup>

CLF has developed considerable expertise in legal issues surrounding prostitution legislation in Canada. In particular, CLF was one of the few public interest organizations to intervene at all three levels of court in *Bedford v Canada*. CLF’s submissions focused on promoting gender equality, preventing the exploitation of vulnerable persons, and protecting human dignity. CLF is deeply concerned with the implications of human trafficking in Canada. We appreciate this opportunity to share our expertise on legal issues relating to protecting vulnerable persons and suppressing exploitation.

From a Christian perspective, CLF opposes human trafficking because it represents the commodification, exploitation, and enslavement of precious and unique human lives. Every person is a sacred life, created in the image of God, and having inherent dignity and value (Genesis 1:27, Psalm 139:14). We believe sexuality is a gift given by God to be used in a way which honours His design for marriage and the family, not something to be bought or sold (Hebrews 13:4), and especially not where women and children are forced to participate. We believe God calls us to defend the most vulnerable members of our society (Deuteronomy 10:18) and to seek the cause of justice (Micah 6:8).

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<sup>55</sup> [Leblanc v Canada \(Attorney General\)](#) 2012 QCCS 3530 at para 45 [translation].