

Literature on Labour Trafficking in Canada

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Introduction

This paper reviews the academic literature on labour trafficking in Canada and identifies the key themes. The vast majority of literature on human trafficking focuses on sex trafficking, which is treated as categorically different from labour trafficking.

Method of Collecting Literature

In 2021, we conducted a search of the English-language academic and grey literature on labour trafficking in Canada. The terms “modern slavery”, “forced labour”, “labour exploitation”, “human trafficking”, “sex trafficking” and “labour trafficking” were used to search key university search engines and data bases (Academic OneFile, Google Scholar, JSTOR, Nexis Uni). In addition, the terms “labour trafficking Canada”, “labour exploitation Canada” and “modern slavery Canada” were used to search Google and Google Scholar as well McMaster University’s on-line search engine for journal articles, books, media and more. The results of these searches were scanned to determine whether they focused on labour trafficking, exploitation or forced labour in Canada. Using these selection criteria, we reviewed 31 items ranging from peer-reviewed articles, book chapters and theses to working papers, conference papers, guides and reports produced by the Parliamentary Library of Canada, universities, federal departments and non-governmental organizations.

Most of the literature on labour trafficking is either published in law reviews or written by criminologists, legal researchers and legal practitioners, and, thus, legal themes predominate. The literature has been sorted into three central categories: doctrinal and critical legal literature; socio-legal and theoretical; empirical work estimating the extent and types of trafficking in Canada and the practices associated with it. As the review moves through each of these categories key themes in the literature will be identified.

Definitional Debates

For the purposes of situating the term labour trafficking within the broader trafficking realm, it’s important to note the literature that interrogates the definitions and constructions deployed by Canadian policy efforts reveals that “trafficking” is largely conflated with sex trafficking.¹ Though

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¹ See Annuradha Sikka, “Trafficking in Persons and the Canadian Response: Looking for a ‘Victim’”, JD Thesis: University of Ottawa, 2014; Yuka K. Doherty and Angelique Harris, “The Social Construction of Trafficked Persons:

Ricard-Guay and Hanley note the discursive and definitional expansion of Trafficking in Persons (TIP) in the international arena to one more attuned to labour trafficking, they contend that TIP remains a nebulous term, creating challenges for organizations seeking to redress certain forms of TIP.² In Canada, the sex trafficking discourse remains so powerful that national trafficking policy strives to construct Canada as a 'good' nation combatting sex trafficking brought behind the border by 'bad' foreign traffickers with a tendency to construct the ideal victim as women and children.³ The sex trafficking discourse is often replicated in Canadian news media.⁴ As related discourses of border security and migration continue to become more polarized, editorial calls for increased police power to combat sex trafficking have intertwined with calls for stringent border regulation and the policing of migrants.⁵

These challenges, as well as a wider effort to historicize the use of the term 'trafficking,' has lead feminist historians Hetherington and Laite to provocatively conclude that "trafficking" is a "useless category of historical analysis." Not to be taken literally, Hetherington and Laite warn that if "trafficking" is to have any use as a conceptual tool, it must always be historicized, and the discursive and material context in which the term is deployed must be critically interrogated.⁶

Literature: Types and Themes

A. Legal Literature: Doctrinal and Critical

Most of the literature on labour trafficking either explains the Canadian law prohibiting human trafficking or criticizes the criminal law approach and suggests other areas of law, such as human

An Analysis of the UN Protocol and the TVPA Definitions," *Journal of Progressive Human Services* 26 (2015): 22-45; Katrin Roots and Ann De Shalit, "Evidence that Evidence Doesn't Matter: The Case of Human Trafficking in Canada," *Atlantis* 37/2 (2015): 65-80; Stephanie Gruhlke, "Controlling Borders & Securing the State: An Interpretive Analysis of International Human Sex Trafficking Policy," MA Thesis: University of Victoria, 2021; Michael Wilson and Erin O'Brien, "Constructing the Ideal Victim in the United States of America's Annual Trafficking in Persons Reports," *Crime, Law and Social Change* 65 (2016): 39-42.

² Alexandra Ricard-Guay and Jill Hanley, "The Challenge of Addressing Both Forced Labor and Sexual Exploitation," in John Winterdyk and Jackie Jones (eds.) *The Palgrave International Handbook of Human Trafficking*, London, UK: Palgrave Macmillan, 2020, pp. 291, 300. Ricard-Guay and Hanley suggest that collaboration between different sectors might expand the definition of TIP to include labour trafficking and modern slavery.

³ See Leslie Ann Jeffrey, "Canada and Migrant Sex Work: Challenging the 'Foreign' in Foreign Policy," *Canadian Foreign Policy Journal* 12/1 (2005): 33-48. See Kate Grantham, "Criminals or Victims? An Analysis of the Harper Conservatives' Efforts on the Sex Trade and Human Trafficking," in Stephen Baranyi and Rebecca Tiessen (eds.) *Obligations and Omissions: Canada's Ambiguous Actions on Gender Equality*, Kingston and Montreal: McGill-Queen's University Press, 2017, pp. 91-113.

⁴ See Jeff Gulati, "Media Representations of Human Trafficking in the United States, Great Britain, and Canada," *SSRN*, 2010; Heather Simmonds, "Human Trafficking 2.0: The Intersection between Human Trafficking and News Media in Canada," MA MRP: McMaster University, 2012; Elya M. Durisin and Robert Heynen, "Producing the 'Trafficked Woman': Canadian Newspaper Reporting on Eastern European Exotic Dancers During the 1990s," *Atlantis* 37/2 (2015): 8-24; Shannon Fournier, "The Human Trafficking Crusade: A Content Analysis of Canadian Newspaper Articles," MA Thesis: University of Ottawa, 2020.

⁵ Durisin and Heynen, "Producing the 'Trafficked Woman'", 14.

⁶ Philippa Hetherington and Julia Laite, "Trafficking, a Useless Category of Historical Analysis?" *Journal of Women's History* 33/4 (2021): 29.

rights or labour law, as better mechanisms for addressing the problem. The bulk of the legal doctrinal literature, mostly found in law journals or in grey literature, focuses on the definitions of trafficking under the Immigration and Refugee Protection Act (IRPA) and the Criminal Code, and, thus, the focus is on criminal prosecutions and the availability of Temporary Resident Permits (TRPs) to victims of trafficking.

The human trafficking offences under the IRPA and the Criminal Code differ as the IRPA's offence at Section 118 focuses on cross border human trafficking and treats the exploitation of an individual as an aggravating factor.⁷ By contrast, Section 279 of the Criminal Code does not require movement of any kind, and, instead, focuses on exploitation. Exploitation is defined in the Criminal Code as causing a person "to provide, or offer to provide, labour or a service by engaging in conduct that, in all the circumstances, could reasonably be expected to cause the other person to believe that their safety or the safety of a person known to them would be threatened if they failed to provide, or offer to provide, the labour or service."⁸

A key theme in the legal literature is the way in which the Canadian definitions of human trafficking and forced labour differ from the definitions in the United Nation's Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children (Human Trafficking Protocol) and the ILO's Forced Labour Convention, 1930 (No. 29).⁹ The Human Trafficking Protocol does not define exploitation, but, instead, provides a list of specific examples of exploitation, such as slavery and forced labour that are defined in other international legal instruments. The ILO's Forced Labour Convention provides the leading definition of forced labour in international law, which is "all work or service which is extracted under the menace of penalty and for which the said person has not offered himself voluntarily."¹⁰

The definition of exploitation in the Criminal Code is narrower than the examples of exploitation provided in the definition of human trafficking in the Human Trafficking Protocol since the Canadian definition of exploitation requires that the victim 'fear for safety' of themselves or

⁷ Jesse Beatson, Jill Hanley and Alexandra Ricard-Guay, "The Intersection of Exploitation and Coercion in Cases of Labour Trafficking." *Journal of Law and Social Policy*, 26:7 (2017) p. 142; Judy Fudge, "Migrant and Domestic Workers in British Columbia, Canada: Unfreedom, Trafficking and Domestic Servitude." In *Temporary Labour Migration in Global Era: The Regulatory Challenges*, edited by Joanna Howe and Rosemary Owens (Portland: Hart Publishing 2016), p. 160.

⁸ Criminal Code, s. 279.01. To address concerns that the definition of exploitation was difficult to understand, subsection 279.04(2) was enacted and provides a non-exhaustive list of factors that a Court may consider in determining whether an accused exploits another person. These factors include the use or threatened use of force or another form of coercion, deception or abuse of a position of trust, power or authority.

⁹ ILO (1930) C029 - Forced Labour Convention, 1930 (No. 29). Geneva: ILO; UN General Assembly, Resolution 55/25, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (November 15, 2000).

¹⁰ Forced Labour Convention, 1930 (No. 29), Article 2 (1).

others.¹¹ Researchers argue that the definition in the Criminal Code's standard is too narrow, since coercion and exploitation can exist without a threat to physical safety.¹²

Case law involving labour trafficking is limited.¹³ Three cases have been brought under the IRPA trafficking prohibition, each involved racialized victims and alleged perpetrators, although only one resulted in a conviction.¹⁴ One labour trafficking case was brought under the Criminal Code trafficking provisions, which resulted in a conviction.¹⁵ All the cases involved migrant workers, and three involved migrant workers performing domestic work, although none of these workers were admitted under the Temporary Foreign Workers Program (TFWP). The results of the cases turned on the victims' credibility around the issues of coercion and exploitation.

Researchers argue that the narrow definition of labour trafficking in the IRPA and the Criminal Code, the high burden of proof on the prosecution and a limited appreciation of the nature of coercion on the part of police, prosecutors and the judiciary have resulted in the small number of labour trafficking cases and an even fewer number of successful prosecutions.¹⁶ Some researchers suggest that the emphasis on the criminal law has contributed to the marginalization of migrants and the vulnerability of trafficked individuals.¹⁷ Others recommend revising the definition of exploitation for the purposes of labour trafficking in the Criminal Code by removing the requirement of "fear for safety" in order to capture a broader range of constraints faced by victims.¹⁸

Critical of a carceral approach, some researchers explore how human rights and labour laws can address labour trafficking since these legal jurisdictions do not focus on punishing perpetrators, but instead are concerned with providing remedies for victims.¹⁹

Researchers claim that human rights law has several attractive features for addressing the harms experienced by victims.²⁰ Human rights law can take into account how broader social relations,

¹¹ Beatson, Hanley and Ricard-Guay, "The Intersection of Exploitation and Coercion in Cases of Labour Trafficking," p. 142; Barnett, *Trafficking in Persons: Background Paper*, p. 5 & 6.

¹² Beatson, Hanley and Ricard-Guay, "The Intersection of Exploitation and Coercion in Cases of Labour Trafficking," p. 143.

¹³ See Appendix.

¹⁴ *R v. Ladha* [2013] BCSC 2437; *R v. Orr*, [2015] BCCA 88; *R v. Morris* [2016] ABQB. The only case of these three that resulted in a conviction under the IRPA was *R v. Orr*.

Fudge, "Migrant and Domestic Workers in British Columbia, Canada," p. 161-164; Canadian Council of Refugees, "Human Trafficking and the Law: How to Protect Trafficked Persons." (Published February 2018), p. 16.

¹⁵ *R v. Domotor* [2011] ONSC 626.

¹⁶ Cha, *Deconstructing Human Trafficking and Victimization*, p. 25; Kaye and Hastie, "The Canadian Criminal Code Offence of Trafficking in Persons," p. 95-96.

¹⁷ Cha, *Deconstructing Human Trafficking and Victimization*, p. 28.

¹⁸ Beatson, Hanley and Ricard-Guay, "The Intersection of Exploitation and Coercion in Cases of Labour Trafficking," p. 146 & 7.

¹⁹ Fudge, "Migrant and Domestic Workers in British Columbia, Canada," p. 165.

²⁰ Laurence Matte Guilmain and Jill Hanley, "Creative Recourse in Cases of Forced Labour Using Human Trafficking, Human Rights and Labour Law to Protect Migrant Workers," *International Migration*, 59:2 (2021), p. 136.

such as migration status, contribute to an individual's vulnerability to exploitation.²¹ Human rights tribunals can expedite and anonymize the proceedings, grant monetary awards and provide systemic remedies to guard against similar discrimination in the future.²² However, researchers also note shortcomings to this approach, such as delays occasioned by employers, which may jeopardize the ability of workers without permanent status to complete the legal proceedings.²³

Labour law is also advocated as an alternative to criminal law for tackling labour trafficking. Labour law mechanisms can provide financial compensation for victims and, like human rights law, has a lower evidentiary burden.²⁴ Enforcing employment standards through labour inspectors could play a role in the prevention and identification of labour trafficking.²⁵ Researchers argue that the failure to use traditional labour law techniques to root out the causes of labour exploitation reifies the distinction between labour exploitation (criminal law) and the violation of labour standards (labour law), when, in fact, it is unclear where employment standards violations end and the criminal enforcement relating to issues of human trafficking begins.²⁶ There is also a concern that labour standard violations are becoming normalized, as the focus turns to egregious forms of labour exploitation.²⁷

B. Socio-Legal and Theoretical Literature

A slender critical socio-legal strand in the literature explores how social categorization and legal characterization assemble a social understanding of labour trafficking and the types of activities that constitute unacceptable forms of exploitation. Researchers argue that the choice of legal jurisdiction, whether criminal or labour law, for example, to address worker mistreatment and abuse is a political choice that subsequently determines the legal characterization of labour exploitation.²⁸

²¹ Ibid.

²² Natalie Drolet and Bethany Hastie, "The Potential of Human Rights Law to Address the Harms of Labour Exploitation and Human Trafficking," *Human Rights Conference, The Continuing Legal Education Society of British Columbia*, Paper 4.1 (2016), p. 18.

²³ Drolet and Hastie, "The Potential of Human Rights Law to Address the Harms of Labour Exploitation and Human Trafficking," p. 17 & 18; Guilmain and Hanley, "Creative Recourse in Cases of Forced Labour Using Human Trafficking, Human Rights and Labour Law to Protect Migrant Workers," p. 136.

²⁴ Fudge, "Migrant and Domestic Workers in British Columbia, Canada," p. 170; Guilmain and Hanley, "Creative Recourse in Cases of Forced Labour Using Human Trafficking, Human Rights and Labour Law to Protect Migrant Workers," p. 134.

²⁵ Cha, *Deconstructing Human Trafficking and Victimization*, p. 36; Yvon Dandurand, Vivienne Chin and Laura Wilson, *Improved Response to Labour Trafficking*. (International Centre for Criminal Law Reform and Criminal Justice Policy 2017), p. 6.

²⁶ Fudge, "Migrant and Domestic Workers in British Columbia, Canada," p. 171; Anette Sikka, *Labour Trafficking in Canada*. (Prepared for Law Enforcement and Policing Branch, Public Safety Canada 2013), p. 29.

²⁷ Fudge, "Migrant and Domestic Workers in British Columbia, Canada," p. 171.

²⁸ Fudge, "Migrant and Domestic Workers in British Columbia, Canada"; Kendra Strauss, "Sorting Victims from Workers: Forced Labour, Trafficking and the Process of Jurisdiction." *Progress in Human Geography*, 41:2 (2017), p. 145.

C. Labour Trafficking in Canada: Empirical Literature

There is little data on the amount and nature of labour trafficking in Canada. Some researchers use identified and prosecuted cases to estimate the prevalence of labour trafficking, although reported cases remain very low.²⁹ The emphasis on the criminal law is identified as a reason for the low numbers, as some researchers suggest that little attention is paid to exploitive activity in legal sectors.³⁰ Despite the limited data, researchers maintain that labour trafficking is an ongoing issue in Canada.

Although often associated with illegal migrants, research indicates that in most labour trafficking cases, migrant workers have entered Canada legally but are forced to work using threats of deportation or violence.³¹ Some researchers attribute gaps in the data to the evolving nature of a migrant's working conditions from fair treatment to deception and other forms of labour exploitation.³² Researchers note that the fear of deportation and detention means that migrant workers with irregular status are reluctant to report an exploitative situation to law enforcement officials, NGOs or the media.³³

Building on the definitional debates mentioned earlier, a theme that emerged from all the different strands of the literature is problems associated with the term, "labour trafficking". It appears the term is not universally accepted, is inconsistently used in varying contexts and not all victims identify with the term or victimhood in general. There are varying degrees of exploitation a worker may face, and each degree can be viewed differently by the law and by the workers themselves, which may also contribute to gaps in available data.³⁴

D. Vulnerabilities to, and Causes of, Labour Trafficking in Canada

²⁹ Kaye and Hastie, "The Canadian Criminal Code Offence of Trafficking in Persons," p. 91.

³⁰ Beatson, Hanley and Ricard-Guay, "The Intersection of Exploitation and Coercion in Cases of Labour Trafficking," p. 152 & 153; Alexandra Ricard-Guay, *Labour Trafficking in Canada: At the Margins of the Anti-Trafficking Efforts*, (European University Institute: Working Papers RSCAS 2016), p. 11. Sikka identified 47 additional probable cases by scanning media and literature sources for cases that possessed potential elements of labour trafficking. Sikka, *Labour Trafficking in Canada*, p 18.

³¹ Drolet and Hastie, "The Potential of Human Rights Law to Address the Harms of Labour Exploitation and Human Trafficking," p. 6; West Coast Domestic Workers' Association, *Labour Trafficking & Migrant Workers in British Columbia* (Vancouver, B.C. 2014), p. 16.

³² Beatson, Hanley and Ricard-Guay, "The Intersection of Exploitation and Coercion in Cases of Labour Trafficking," p. 153; Dandurand, Chin and Wilson, *Improved Response to Labour Trafficking*, p. 5.

³³ Beatson, Hanley and Ricard-Guay, "The Intersection of Exploitation and Coercion in Cases of Labour Trafficking," p. 144; Dandurand, Chin and Wilson, *Improved Response to Labour Trafficking*, p. 7; Guilmain and Hanley, "Creative Resource in Cases of Forced Labour Using Human Trafficking, Human Rights and Labour Law to Protect Migrant Workers," p. 12; Sikka, *Labour Trafficking in Canada*, p. 18 & 24.

³⁴ Dandurand, Chin and Wilson, *Improved Response to Labour Trafficking*, p. 2-3.

Researchers have identified precarious migration status, which includes all migration statuses short of permanent residency and citizenship, as a key factor contributing to an individual's vulnerability to labour trafficking.³⁵

The literature emphasizes a few barriers that particularly heighten migrants' vulnerability to labour trafficking. Language barriers and limited resources make it difficult for migrant workers to exercise their labour rights. Researchers note that migrants' dual frame of reference, which encompasses the social and living standards of both the receiving and sending countries, and the dependence of migrant families and communities on remittances constrain migrant workers' willingness to leave abusive employment.³⁶ Their precarious migration status makes migrant workers reluctant to report mistreatment.³⁷ Workers who have an irregular migration status are considered to be particularly vulnerable to labour trafficking since employers and recruiters can use threats of deportation or detention to control the workers.³⁸ Researchers claim that workers with irregular migrant status are more likely to be treated by law enforcement officials as having violated immigration law than as potential victims of labour trafficking.³⁹

Researchers identify immigration controls as contributing to migrant workers' vulnerability to labour trafficking.⁴⁰ Programs such as the TFWP tie a migrant worker's right to work in Canada to a specific employer and, thus, restricts their free movement in the labour market.⁴¹ Researchers report that migrant workers accept abusive treatment because changing employers is so

³⁵ Sasha Baglay, "Access to Compensation for Trafficked Persons in Canada." *Journal of Human Trafficking*, 7:4 (2021), p. 401.

³⁶ Sasha Baglay, "Access to Compensation for Trafficked Persons in Canada." *Journal of Human Trafficking*, 7:4 (2021), p. 401; Bethany Hastie, "The Inaccessibility of Justice for Migrant Workers: A Capabilities-Based Perspective." *Windsor Y B Access Just*, 34:2 (2017), p. 28 & 29; Dandurand, Chin and Wilson, *Improved Response to Labour Trafficking*, p. 3; Beatson, Hanley and Ricard-Guay, "The Intersection of Exploitation and Coercion in Cases of Labour Trafficking," p. 155; Louise Langevin, "Trafficking in Women in Canada: A Critical Analysis of the Legal Framework Governing Immigrant Live-In Caregivers." *International Journal of Comparative and Applied Criminal Justice*, 31:2 (2007), p. 20.

³⁷ Strauss, "Sorting Victims from Workers," p. 148; Beatson, Hanley and Ricard-Guay, "The Intersection of Exploitation and Coercion in Cases of Labour Trafficking," p. 153 & 154.

³⁸ Beatson, Hanley and Ricard-Guay, "The Intersection of Exploitation and Coercion in Cases of Labour Trafficking," p. 155; Dandurand, Chin and Wilson, *Improved Response to Labour Trafficking*, p. 6; Kaye & Hastie, "The Canadian Criminal Code Offence of Trafficking in Persons," p. 96; Alexandra Ricard-Guay and Jill Hanley, *Frontline Responses to Human Trafficking in Canada: Coordinating Services for Victims*, (McGill University School of Social Work for the Committee of Action Against Human Trafficking National and International 2014), p. 33; West Coast Domestic Workers' Association, *Labour Trafficking & Migrant Workers in British Columbia*, p. 24.

³⁹ Beatson, Hanley and Ricard-Guay, "The Intersection of Exploitation and Coercion in Cases of Labour Trafficking," p. 145 & 156; Drolet and Hastie, "The Potential of Human Rights Law to Address the Harms of Labour Exploitation and Human Trafficking," p. 6.

⁴⁰ Beatson, Hanley and Ricard-Guay, "The Intersection of Exploitation and Coercion in Cases of Labour Trafficking," p. 145 & 156; Drolet and Hastie, "The Potential of Human Rights Law to Address the Harms of Labour Exploitation and Human Trafficking," p. 6; West Coast Domestic Workers' Association, *Labour Trafficking & Migrant Workers in British Columbia*, p. 24 & 36.

⁴¹ Dandurand, Chin and Wilson, *Improved Response to Labour Trafficking*, p. 4; Hastie, "The Inaccessibility of Justice for Migrant Workers," p. 30 & 31; Canadian Council of Refugees, "Trafficking in Persons for Forced Labour." (Published January 2018), p. 3.

difficult.⁴² Migrant workers are also heavily reliant on their employers for future employment opportunities and extensions or renewals of work permits.⁴³ Other aspects of the TFWP such as the reliance on an employer for living accommodations, with housing often shared or tied to the employer, amplify migrant workers' vulnerability to exploitation.⁴⁴ A recurring concern in the literature is that migrants lack of access to permanent residency means that they are unable or unwilling to leave exploitive workplaces.⁴⁵

Third-party recruiters have also been identified as contributing to labour trafficking by engaging in practices that include luring migrant workers to Canada under false pretense and charging illegal recruitment fees.⁴⁶

Some researchers identified the broader economic structure, especially global inequality, as creating a pool of mobile workers who are vulnerable to labour trafficking.⁴⁷ The potential impact of climate change and its projected socio-environmental impacts are also seen as increasing worker vulnerability to extreme forms of exploitation.⁴⁸ These researchers suggest the need to go beyond the criminal law to consider the role of labour markets and immigration institutions in cultivating exploitive practices.⁴⁹

Conclusion

Most of the literature on labour trafficking has a legal caste looking at the legal definition of labour exploitation or at different legal strategies for addressing it. The literature on labour trafficking focuses on migrant workers, likely because the UN Human Trafficking Protocol is concerned about cross-border crime, and it is treated as distinct from the problem of forced labour in supply chains. Most of the literature tends to be legal doctrinal or reform-oriented, rather than theoretical. There is a dearth of data on the amount, nature and causes of labour trafficking in Canada.

⁴² Hastie, "The Inaccessibility of Justice for Migrant Workers," p. 32.

⁴³ Dandurand, Chin and Wilson, *Improved Response to Labour Trafficking*, p. 3; Drolet and Hastie, "The Potential of Human Rights Law to Address the Harms of Labour Exploitation and Human Trafficking," p. 4 & 5; West Coast Domestic Workers' Association, *Labour Trafficking & Migrant Workers in British Columbia*, p. 34.

⁴⁴ Canadian Council of Refugees, "Trafficking in Persons for Forced Labour," p. 3; Drolet and Hastie, "The Potential of Human Rights Law to Address the Harms of Labour Exploitation and Human Trafficking," p. 4 & 5; West Coast Domestic Workers' Association, *Labour Trafficking & Migrant Workers in British Columbia*, p. 25.

⁴⁵ Beatson, Hanley and Ricard-Guay, "The Intersection of Exploitation and Coercion in Cases of Labour Trafficking," p. 156.

⁴⁶ Drolet and Hastie, "The Potential of Human Rights Law to Address the Harms of Labour Exploitation and Human Trafficking," p. 5; West Coast Domestic Workers' Association, *Labour Trafficking & Migrant Workers in British Columbia*, p. 16 & 38.

⁴⁷ Jill Hanley, Jacqueline Oxman-Martinez, Marie Lacroix and Sigalit Gal, "The 'Deserving' Undocumented? Government and Community Response to Human Trafficking as a Labour Phenomenon. *LABOUR, Capital and Society*, 39:2 (2006), p. 89, & 99; Langevin, "Trafficking in Women in Canada," p. 200 & 203.

⁴⁸ Strauss, "Sorting Victims from Workers," p. 153 & 154.

⁴⁹ Fudge, "Migrant Domestic Workers in British Columbia, Canada," p. 170; Strauss, "Sorting Victims from Workers," p. 148.

Appendix

Table of Labour Trafficking Case Law in Canada

Case Citation	Legislative Jurisdiction	Facts & Outcome
<i>R v. Domotor</i> [2011] ONSC 626	Criminal Code Section 279.01(1)	<ul style="list-style-type: none"> ▪ A Hungarian family in Ontario exploited 19 Hungarian workers in the construction industry. The workers faced an exploitive workplace practice (little to no wages, poor conditions, threats, violence, control over movement and personal documentation). ▪ The case involved organized crime and fraud schemes. ▪ Two of the accused received prison sentences of 7 & 9 years. ▪ The first successful criminal conviction of labour trafficking, despite having atypical factors not always present in common labour trafficking cases.
<i>R v. Ladha</i> [2013] BCSC 2437	IRPA* Section 118, 124(1), 127(a)	<ul style="list-style-type: none"> ▪ Ladha was accused of bringing a Tanzanian woman to West Vancouver and exploiting her as a maid in her family home. The woman claimed she was misled and exploited, working against her will without pay. Ladha asserted the woman was a guest visiting them and fabricated the charges when her visa was set to expire. ▪ The misalignment of testimonial evidence provided by three witnesses, issues with the complainant's credibility and a lack of corroborating evidence resulted in Ladha being acquitted of all four charges.
<i>R v. Orr</i> , [2015] BCCA 88	IRPA Section 118	<ul style="list-style-type: none"> ▪ A domestic worker from the Philippines came to B.C., Canada

		<p>with her employers, Orr and his wife. She endured exploitive workplace practices (extensive hours, control over movement and personal documentation).</p> <ul style="list-style-type: none"> ▪ Orr was sentenced to 18 months in prison for trafficking related charges. ▪ First successful conviction of trafficking for labour exploitation under the IRPA.
<i>R v. Morris</i> [2016] ABQB	IRPA Section 127(b)	<ul style="list-style-type: none"> ▪ Morris hired three TFWs** to work as light duty cleaners, promising to pay them \$11-11.44 per hour despite paying them less once here. The workers endured exploitive workplace practices (excessive hours & punishment for refusal, charged for travel expenses and recruitment fees). ▪ Morris was initially charged with trafficking under s.118 of the IRPA but entered a guilty plea to knowingly misrepresenting or falsifying information. ▪ Morris was sentenced to 2.5 years in prison for the three workers and they received restitution of \$22,000.
<i>R v Harlens Trucking Ltd.</i> [2018] BCCA 389	IRPA Section 127(a)	<ul style="list-style-type: none"> ▪ Surrey trucking company hired 30 TFWs and contractually promised to pay them \$23.50 per hour despite paying them only \$0.15 - \$0.40 per mile. ▪ The company pleaded guilty to misrepresenting to the government the wages it would pay their TFWs. ▪ Following unsuccessful appeals, restitution of \$352,001.83 was ordered to be paid to the TFWs.

*IRPA = Immigration and Refugee Protection Act **TFW = Temporary Foreign Workers

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