

TRAFFICKING HARMS

CRITICAL POLITICS | PERSPECTIVES | EXPERIENCES

**Katrin Roots, Ann De Shalit,
and Emily van der Meulen**

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Excerpt

Understanding Human Trafficking

An Examination of Discourses, Laws, Policing, and Migrant Labour

*Katrin Roots, Ann De Shalit,
and Emily van der Meulen*

Much has been said and written on the topic of human trafficking, especially regarding its prevalence, the dangerousness of perpetrators, the helplessness and “risky” behaviour of victims, and the urgent need for governments, law enforcement agencies, nongovernmental organizations (NGOs), religious groups, and members of the public to unite in rescue. Though the intention is to end exploitation and violence, anti-trafficking responses in practice have largely extracted a diverse range of experiences and conditions from their complexities and consolidated them as a problem of sex work, irregular migration and border insecurity, inadequate legislation, policing and surveillance, and personal shortcomings. They have fallen short of meaningfully and substantially mitigating the issues they are alleged to address, or, worse, they have intensified them and other harms. Given the valid concerns of sex workers, migrant labourers, and other marginalized peoples, providing clarity on the consequences of anti-trafficking efforts is important. With chapters by scholars, activists, lawyers, and people who are most directly impacted by anti-trafficking activities, this book aims to do just that.

While the book is primarily focused on anti-trafficking in Canada, the same concerns have clear relevance to broader international contexts. Indeed, a number of critical Canadian scholars and organizations have paved the way for global discussions on the anti-trafficking framework and its embeddedness with anti-sex work and anti-migrant sentiments, neoliberal individualization of social issues, and colonial, white supremacist, and carceral rationalities (for a short list, see Beutin, 2023; Durisin, 2023; Hunt, 2013, 2015; Kaye, 2017; Kempadoo & Doezema, 1998, 2015;

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Maynard, 2018; Roots, 2022). They have also traced important and harmful impacts of anti-trafficking policy on international, national, provincial, and municipal levels (e.g., see Chu et al., 2019; Fudge et al., 2021; Global Alliance Against Traffic in Women, 2007; Lam, 2018a). Many of the issues at the centre of this book are similarly grounded in the local but point to global patterns and contribute to transnational debates.

Human trafficking is complex and contentious, in part because it is an umbrella term used to capture an array of social conditions and activities while excluding a variety of others. The term embodies gendered, racialized, sexualized, and classed dimensions, and intersects with workers' rights, migration, border control, and much more. It is also applied to circumstances involving child abuse, intimate partner violence, sexual assault, missing and murdered Indigenous women and girls, sex work, and notions of modern-day slavery. Thus, definitions of trafficking tend to vary widely, as seen in government laws and policies, reports from civil society groups, and media coverage, resulting in a lack of a clear consensus on exactly what kinds of activities and experiences constitute human trafficking. Even different levels of courts in Canada have varied in their descriptions and definitions (Sibley & van der Meulen, 2023).

Until relatively recently, human trafficking was understood as a transnational phenomenon whereby organized crime groups forcibly transported women across national and sometimes regional borders, usually to engage in sex work. To a significantly lesser degree, men could also be trafficked, though into other labour sectors. This understanding emphasized the need for a global, collaborative, and criminalizing-securitizing approach and was fuelled by the passage of the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (commonly referred to as the *Trafficking Protocol*), which Canada ratified in 2002. Following this, and coinciding with a rise in transnational migration that many nation-states saw as a potential threat to their border security, anti-trafficking measures emerged in the early 2000s as a top priority globally.

The perceived need to manage and control migration and borders has since been used to justify the introduction of new surveillance and biometrics technologies, increased policing, stricter immigration policies, and the movement of borders offshore to prevent the entry of “risky” populations (Miller & Baumeister, 2013; Mountz, 2010; Pratt, 2005). The framing of border control in terms of the need to protect women from

human traffickers has enabled Canada and other Western countries to condone these measures while identifying as a rescuer of the “Other” — a white knight of sorts (Jeffrey, 2005; Musto, 2016; Pickering & Ham, 2014). Critical trafficking and migration scholars have condemned such policing and border control practices, arguing that they undermine the human rights of migrants and lead migrants to take greater risks with their health, safety, and lives in order to migrate (Jeffrey, 2005; Kapur, 2005; Kempadoo, 2005; Pickering & Ham, 2014).

While the conceptualization of trafficking as a border security issue continues to inform policy decisions in highly restrictive and criminalizing ways, anti-trafficking efforts in Canada over the past decade have become increasingly concerned with “domestic sex trafficking,” which does not require the involvement of deceptive or coercive movement across borders. This approach is not exclusive to Canada and has been documented in other countries, perhaps most notably in the United States (Bernstein, 2010, 2012; Musto, 2016; Weitzer, 2007, 2011). Informing and fuelling the focus on “domestic sex trafficking” are prohibitionist and anti-prostitution assumptions that sex work cannot entail consent and is inherently exploitative and violent due to the lack of real alternatives; thus, anyone providing sexual services may be deemed a victim, while those purchasing or managing such services are deemed criminals. This reductive approach ignores the constraints placed on the decisions of all workers in capitalist societies and, at the same time, denies the agency and right to self-determination of people who sell or trade sex (Durisin et al., 2018; Kempadoo, 2005). Indeed, advocates for sex worker rights soundly “reject the idea that all prostitution is forced and intrinsically degrading” (Anderson & Andrijasevic, 2008, p. 139). They view the state itself, in particular the long arm of the law, as responsible for creating the conditions in which violence, abuse, stigma, and discrimination thrive. Sex workers have found the anti-trafficking framework to be especially incapable of addressing their legitimate concerns; instead, it often (re) produces them. Rather than further criminalization, they emphasize the need for workplace protections and employment standards for people engaged in sexual labour, and appropriate safety measures and supports for all people who sell or exchange sex (Abel et al., 2010; Anderson & Andrijasevic, 2008; Chapkis, 1997; Durisin et al., 2018).

It is precisely these kinds of debates and critical appraisals that the following pages of this introduction and the book as a whole analyze in-

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depth. With methods and approaches ranging from ethnographic and media analyses to interview-based data collection, personal reflections based on lived experience, and the examination of court cases, parliamentary debates, and government policies, chapter authors provide the book with analytic rigour and a kaleidoscopic view of the issue. Across four thematic sections — trafficking discourses and representations, laws and prosecutions, policing and surveillance, and migrant labour exploitation — the book draws intersectional attention to the impacts on sex workers; migrant workers; Black, Indigenous, and racialized communities; and other marginalized populations. Written from the vantage points of their respective authors, some chapters are scholarly engagements, some are based on empirical research, and some are short personal narratives told from a first-person perspective. These latter chapters are labelled as such and included at the end of each section. The dynamic authors and their areas of expertise — whether academic, activist, legal, experiential, or a combination of these — highlight the harms produced by anti-trafficking measures and the need for critical perspectives to prevail.

Trafficking Discourses and Representations

Concerns over trafficking can be traced at least as far back as the “white slavery panic,” which emerged in the United Kingdom in the nineteenth century and focused on the purported kidnapping, luring, and sexual exploitation of white British women and youth across Europe, primarily by racialized men (Doezema, 2010). The importance of their protection stemmed from white women’s role in reproducing white British society (Durisin, 2023). Efforts against white slavery targeted the sex trade, driven by what Jo Doezema (2010) describes as powerful and inherently racist discourses that borrowed “the language and the sense of moral outrage generated by anti-slavery activism” (p. 82) and worked to erase the distinction between consensual sex work and so-called sexual slavery (see also Bunting & Quirk, 2017; Kempadoo, 2005).

These discourses have continued to the present, anchored in the United Nations *Trafficking Protocol* (2000), and convey that human trafficking, especially of women and girls for sexual services, urgently requires government intervention, international collaboration, and tough-on-crime mandates (Bales, 2005; Kara, 2009; Perrin, 2010; Shelley, 2010). This new

abolitionism, as Julia O'Connell Davidson (2015) calls it, is criticized for its lack of definitional precision and continuous expansion in contemporary notions of modern-day slavery as they relate to sexuality and sexual labour, all in the name of protecting victims of trafficking. Annie Bunting and Joel Quirk (2017) note the diverse and sometimes competing agendas of an array of practices and problems that have been loosely knit together under larger global causes variously termed modern-day slavery, contemporary forms of slavery, and human trafficking. In recent years this equation of modern-day slavery with trafficking has increased, as seen in the shift from "invoking slavery imagery for rhetorical flair to explicitly suggesting that *slavery* should replace *trafficking* because the latter term is a *passé*, if not inaccurate, descriptor" (Chuang, 2014, p. 624; emphasis in original). This reconceptualization and representation of trafficking as slavery has become a powerful tool for reframing a broad range of practices, particularly in the sex trade but also within intimate relationships (Chuang, 2014). At the same time, the framework has ignored the conditions that manufacture unfree labour in a vast array of workplaces and service sectors (Choudry & Smith, 2016; LeBaron & Phillips, 2019). As Robyn Maynard (2018) and Lyndsey P. Beutin (2023) further demonstrate, the use of the label "modern-day slavery" by the anti-trafficking apparatus has allowed the cause to attach itself to anti-racism movements despite being structured by antiblackness and contributing to and endorsing the carcerality of Black people.

Since the initial concern over the now widely debunked nineteenth-century "white slave trade," there have been numerous waves of panic over sex trafficking. These waves are cyclical and have typically emerged in times of increased migration. The most recent concerns arose in the 1990s following the breakdown of the Soviet Union and the western migration flow from Central and Eastern Europe. Ideological constructs of the victim of sex trafficking were placed on Central and Eastern European women, who were perceived as always-already victims, regardless of how they identified themselves. Shortly after, women from Latin America and Asia were brought into the trafficking discourse as "backward victims" (Hua & Nigorizawa, 2010). While Eastern European women were perceived to hail from failed nation-states and associated with their countries' communist shortcomings (Durisin & Heynen, 2015), their whiteness ensured that they were recognized as only temporarily "backward" or "immoral" (Hua & Nigorizawa, 2010). Women

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migrating for sex work from Asia and Latin America, on the other hand, were tied to a presumed long-standing “immorality” and “backwardness” due to their cultures (Hua & Nigorizawa, 2010). Together, these discourses and rationalities were used to distance Canada from “Other” cultures and political circumstances with the help of stringent immigration policies, raid-and-rescue missions, and enhanced carceral measures. They also prepared Canada to adopt the *Trafficking Protocol*, which would officially establish it as an anti-trafficking state on a global scale.

Over the last two decades, as noted earlier, a discursive shift has been seen in the construction and representation of the victim of trafficking away from the so-called foreign to the domestic. This has aligned with a broader shift in the depiction of trafficking from a transnational offence to a domestic one, which, as Elya M. Durisin and Emily van der Meulen (2021) observe, brought with it a change in the perceived root causes of the problem. Whereas those initially concerned with transnational trafficking saw structural causes of poverty, lack of employment, significant social issues, and an overall collapsed global economy as push factors, domestic trafficking landed primarily on intimate relationships and was considered largely to be the product of low self-esteem and past personal traumas, with the locus of blame placed on individual women and girls or individual “bad” men. In this interpretation, trafficking is reduced to sexual exploitation; correspondingly, a whole host of activities and relationships in the sex trade, be they problematic or not, are deemed sexually exploitative.

Central to the discursive casting of victims of domestic trafficking is “the girl next door,” seen as the innocent and naive young white daughter from a nuclear Canadian family who is vulnerable to being trafficked anywhere and at any time (De Shalit et al., 2023; Roots, 2022). This representation is frequently invoked by politicians, NGOs, religious groups, the media, and police, with her age (unsupported by scholarly evidence) routinely noted as thirteen. The emphasis on the age of trafficking victims is an effective method of garnering support for increased police resources, expanded laws, and harsher punishments, as the image of youth sexual exploitation easily shuts down any critical conversation (Durisin & van der Meulen, 2021).

The girl next door is contrasted with the young Indigenous woman, who is understood as being at an elevated risk for victimization by traf-

fickers due to marginalizing factors resulting from colonization by the very same state that is now representing itself as her saviour. And while the state's attention to the crisis of missing and murdered Indigenous women and girls after years of advocacy by Indigenous groups is a positive step, some scholars argue that the relabelling of colonial injustices as trafficking not only redefines Indigenous experiences through the lens of white feminine subjectivity but also reinforces reliance on a violent colonial legal system and redirects attention from harmful state practices to individual "bad men" (Hunt, 2013, 2015; Kaye, 2017, 2023).

In line with the discursive changes about who constitutes, or who is most likely to be, a victim of trafficking, are parallel shifts in discourse regarding the trafficker. Along with the 1990s concerns over the trafficking of Eastern European, Asian, and Latin American women into Canada came a focus on Russian and Chinese men as transnational traffickers operating or working for international organized crime rings. The threat in that instance stemmed from outside of Canada's boundaries, necessitating stricter border control measures to protect the Canadian citizenry and allowing for the construction of Canada as a "civilized" nation in contrast to the "savagery" of the trafficker (Jeffrey, 2005). More recently, the domestic trafficker, whose victims may not even cross municipal or provincial borders, has taken on numerous discursive forms. He is increasingly conflated with the prototypical image of the sex trade "pimp" (Bruckert, 2018b; Mensah, 2018; Roots, 2022), a deeply racialized, classed, and gendered construct that reinforces stereotypes of Black men in connection with sexuality and crime (Hill-Collins, 2004; Horning & Marcus, 2017; Jeffrey & MacDonald, 2006; Kalunta-Crumpton, 1998; Mensah, 2018).

The image of the homegrown trafficker has been challenged by critical scholars (see Bruckert 2018b; Marcus et al., 2014; Mensah, 2018; Roots, 2022; Williamson & Marcus, 2017), with research finding that it is more accurate to think about the relationship between sex workers and third-party managers on a spectrum when it comes to supervision, facilitation, and control (Bruckert, 2018a). In the context of the United States, Anthony Marcus and colleagues (2014) likewise explain that the stereotypical "pimp" figure is far less common in reality than dominant narratives suggest, and their research highlights sex workers' expressions of agency and control over working conditions and relationships. Nevertheless, anti-trafficking efforts continue to paint sex workers as al-

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ways-already — that is, before they can themselves speak to their conditions — controlled and exploited by ruthless (and often racialized) men.

The proposed responses to trafficking are inextricably linked to the criminal legal system and broader carceral measures. Elizabeth Bernstein (2010, 2012) calls this “carceral feminism,” a term she coined to describe and critique the efforts of a subset of feminists to address human trafficking by turning to punishment-based solutions with heavy buy-in from police, prosecutors, and the prison system. Starting in the late 1990s, secular feminists in the United States collaborated with evangelical Christians and state agents to advocate for the passing of human trafficking laws that equate sex work with human trafficking. As Bernstein (2010, 2012) points out, these initiatives represented a commitment to carceral paradigms and support for law-and-order agendas with harsh punishments for traffickers and the purported rescue of victimized women.

Carceral feminists and certain antiviolence organizations around the world continue to have well documented partnerships with police, calling upon increased criminal legal interventions to reduce violence against women, where sex trafficking is said to be located (Bernstein, 2007, 2012; Bumiller, 2008; Suchland, 2015). Canadian-based research, too, reveals an uncomplicated and rather enthusiastic relationship between social service providers and law enforcement (De Shalit, 2021). Given the majority of anti-trafficking organizations work in the sector of violence against women, it means that a number of such agencies have resorted to individualized punitive measures, including rehabilitation and self-improvement, isolation, and surveillance, to intervene in socioeconomic conditions they are otherwise wholly underfunded and underresourced to address.

Building on and expanding the themes presented above, the first section of the book consists of three chapters that further examine trafficking discourses and representations. In Chapter 2, Lyndsey P. Beutin exposes the antiblackness that informs and is reinforced by trafficking discourses and framework, and examines their role in co-opting and undermining the politics of anticarceral abolitionism. Chapter 3 by Stacey Hannem and Chris Bruckert traces a shift in the “pimp/trafficker” discourse from the 1980s into the mid-2000s, demonstrating the relatively recent emergence of a new super folk devil on whom a host of social ills can be downloaded. Chapter 4 reveals the effects of normative traffick-

ing discourses on sex workers, including the negation of their rights and agency by NGOs, through the first-person narrative of Laura Winters, a sex worker rights advocate in Newfoundland. Together, these chapters illuminate the discursive underpinnings of anti-trafficking efforts, how trafficking comes *to be* through these mechanisms, and their impacts on the people who are harmed, targeted, and, equally, neglected by this framework.

Trafficking Laws and Prosecutions

The legal regulation of human trafficking in Canada began with the 2002 enactment of section 118 of the *Immigration and Refugee Protection Act* and the 2005 inclusion of sections 279.01 to 279.04 of the *Criminal Code*. Both sets of laws were developed in response to Canada's ratification of the United Nations *Trafficking Protocol*. The federal immigration provision governs the cross-border trafficking of migrants and has seen minimal use to date, with only a handful of cases prosecuted since its enactment and no convictions (Ferguson, 2012; Millar & O'Doherty, 2020a; Roots, 2022). The *Criminal Code* trafficking laws, on the other hand, govern both transnational and domestic trafficking and have seen much greater application, particularly since 2014. This timing corresponds with, and must be understood in the context of, changes to the federal anti-sex work laws, which legally and rhetorically aligned sex work with human trafficking and thus facilitated the application of human trafficking criminal charges to sex work cases.

In 2007, three current and former sex workers, Terri-Jean Bedford, Amy Lebovitch, and Valerie Scott, filed a lawsuit against the federal government, claiming that Canada's sex work laws were unconstitutional. Known as *Canada v. Bedford*, this case challenged key sections of the *Criminal Code*, including section 210, prohibiting the operation of a bawdy-house; section 212(I)(j), criminalizing living on the avails of prostitution; and section 213(I)(c), criminalizing communicating for the purpose of prostitution. The plaintiffs argued that these laws violated section 7 of the *Charter of Rights and Freedoms*, which permits everyone the right to life, liberty, and security of the person, and in the case of the communication law, also section 2b, which guarantees freedom of expression. On December 20, 2013, the Supreme Court of Canada struck down all three laws in a unanimous decision, acknowledging that the

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provisions themselves create dangerous conditions for sex workers and further “prevent people engaged in a risky — but legal — activity from taking steps to protect themselves from the risks” (*Canada (Attorney General) v. Bedford*, 2013, para. 60).

In response, the majority Conservative federal government of the day introduced the *Protection of Communities and Exploited Persons Act*. Enacted on December 6, 2014, it follows an asymmetrical criminalization model that prohibits the purchase of sexual services and targets clients and third-party managers, positioning (some) sex workers as victims (Department of Justice Canada, 2014; Durisin et al., 2018). Notably, however, sex workers tend to be seen as victims only if they embody certain predetermined characteristics of victimhood (Sibley, 2020), and therefore most still experience direct criminalization under this decade-old regime. Together, the shift in focus to domestic human trafficking and the changed federal anti-sex work laws made it easier to categorize sex work as human trafficking, upholding the assumption that the sex industry is inherently exploitative and resulting in enhanced criminalization of those involved in sexual service provision.

Asymmetrical criminalization, sometimes referred to as the Swedish model, has been the subject of ongoing national and global debate. First implemented in Sweden in 1999, it focuses on the perceived vulnerability of those working in the sex trade to abuse, exploitation, and, most importantly, human trafficking, particularly when “foreign” women are concerned. Versions of this approach have since been enacted across various nations including Norway, Finland, Iceland, France, the United Kingdom, and, in 2014, Canada. While the approach may appeal to state governments, many researchers and sex workers have raised serious concerns. Jay Levy and Pye Jakobsson (2014), for example, show that Sweden saw no reduction in sex work following the adoption of asymmetrical criminalization, which was a key goal in the first place. Instead, sex work was pushed further underground and made more dangerous (see also Gould, 2002; Kulick, 2003). Similarly, recent studies by Niina Vuolajärvi (2019, 2022) on the impacts of the model in Sweden, Norway, and Finland found that a majority of the issues and harms faced by sex workers are not related to their trade but rather to the policing and immigration policies enacted to address sex work. Among the consequences of asymmetrical criminalization are harsh working conditions and increased violence.

In addition to contestation of Canada's legislative approach to sex work, the state's federal human trafficking laws are also the subject of critique. And, as scholars have pointed out, the *Criminal Code's* anti-trafficking laws are eerily similar in intent and wording to laws against procuring (Millar & O'Doherty, 2020b; Roots, 2013, 2022; Sibley & van der Meulen, 2023). For example, the *Criminal Code* defines those guilty of human trafficking as follows: "every person who recruits, transports, transfers, receives, holds, conceals or harbours a person, or exercises control, direction or influence over the movements of a person, for the purpose of exploiting them or facilitating their exploitation" (s. 279.01(1)). By comparison, the procuring section captures "everyone who ... recruits, holds, conceals or harbours a person who offers or provides sexual services for consideration, or exercises control, direction or influence over the movements of that person" (s. 286.3(1)(2)). Given that sex work is assumed to be inherently exploitative in popular discourse, distinction between the two provisions is also largely absent in law enforcement and prosecutorial efforts, and a number of sex work-related criminal cases have been labelled as trafficking (Roots, 2013, 2022). Although human trafficking is intended to capture exploitation across a broader spectrum, the vast majority of anti-trafficking enforcement is enacted against the sex trade, thereby further erasing the distinction (Millar et al., 2015; Roots, 2013, 2022).

Further, Canadian anti-trafficking legislation is itself inconsistent and contradictory. On the one hand, the law is limited to exploitation (it does not capture the comprehensive provisions set out by international law) and focuses on behaviours 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" (*Criminal Code*, 1985, s. 279.04). In application, exploitation in general is reduced to sexual exploitation, though the language of the law appears to capture a broader set of labour and services. This focus displaces the exploitation and safety concerns of workers outside the sex trade, within a socio-economic and political climate that structurally manufactures unsafe and exploitative conditions in tandem with abuse, coercion, control, force, and deception. This is particularly the case among migrant workers with precarious immigration status (e.g., see Hastie, 2012; Kaye & Hastie, 2015). On the other hand, trafficking legislation expands in application

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to subsume many activities in the sex trade and intimate relationships under the category of sexual exploitation. Among other things, this allows those who conflate sex work and trafficking to argue that in addition to physical safety, concerns over emotional and psychological safety should be factored into determining whether exploitation has taken place (see Roots, 2022; Sibley & van der Meulen, 2023).

The same range of “fear for safety” concerns is not generally afforded to circumstances outside the sex trade. Fear for economic safety, for instance, does not qualify someone as a victim of trafficking, though it can cause significant emotional and psychological distress for those living in poverty and precarity or working in deplorable conditions. If it did, an argument could be made that many migrants who travel to Canada to work in often exploitative conditions, including within the Temporary Foreign Worker Program (TFWP), are victims of trafficking. Yet, as discussed in the final section of this introduction, the exploitation, violence, abuse, coercion, deception, and fear for safety experienced by migrant workers, particularly within the government-run TFWP, are rarely categorized under human trafficking. These tensions and contradictions are brought to light and further unpacked in this collection.

The application of trafficking laws and resulting criminal charges are taking place almost exclusively within the sex trade, which raises numerous questions about why other forms of trafficking or trafficking-like conditions are not being considered within the anti-trafficking framework or in the interpretation of human trafficking legislation. While a few cases of transnational labour trafficking have gone through Canadian courts since the enactment of federal laws, most have resulted in acquittal. The high rate of acquittals is not limited to labour trafficking cases but is also evident with domestic sex trafficking cases, the charges for which are frequently withdrawn, stayed, or acquitted, raising questions about police overzealousness to lay trafficking charges in the first place. However, Katrin Roots (2022) found in her study of 123 cases of trafficking in Ontario that a relatively high proportion (25 percent) of those charged with trafficking pleaded guilty to the offence. This finding is surprising given the serious consequences that accompany convictions, including mandatory minimum and high maximum penalties, numerous collateral consequences, and immigration penalties for those with unsecured immigration status. Yet, as chapters in this book explain, without adequate legal representation, those charged with trafficking

may be eager to plead to avoid a possible sentence of fourteen years of imprisonment for non-aggravated and life imprisonment for aggravated forms of trafficking.

Legal governance of trafficking is problematic not only at the federal level but also at the provincial and municipal levels, which all together form a carceral web of laws that results in diverse impacts for sex-working, migrant, and racialized people (Fudge et al., 2021). At the provincial level, British Columbia, Manitoba, and Ontario have instituted anti-trafficking strategies with notable resources. The most substantial funding has been provided in Ontario, first with the allocation of \$72 million in June 2016 and then \$307 million over five years beginning in 2020. A key component of the provincial investment is the development of an extensive surveillance apparatus through a “new intelligence-led joint forces investigations team from police agencies across Ontario” (Ministry of Children, Community and Social Services, 2021, n.p.), which includes municipal police, First Nations police, and the Ontario Provincial Police. Ontario also passed the *Combating Human Trafficking Act* in 2021 and before that the *Anti-Human Trafficking Act* in 2017. In government debates on this latter legislation, provincial parliamentarians urged an escalation in anti-trafficking action embedded within a trafficking narrative that invalidated the sex trade through invocations of childhood innocence and humanitarian rescue, yet this had no effect in making the legislation and its application less punitive for people in the sex trade (De Shalit et al., 2023).

At the municipal level, cities have implemented bylaws and licensing measures to regulate sex work establishments, such as holistic centres and body rub parlours, under the guise of anti-trafficking. Municipalities use their powers to govern sex work within their own cities as well as across other cities, with concerned residents sometimes acting in cooperation with police and bylaw enforcement officers as gatekeepers and “protectors” of public space (Laing, 2012). The consequence of bylaws targeting the sex trade is that working conditions for sex workers become more unsafe, thereby introducing more, not fewer, opportunities for abuse (Lam, 2018b; van der Meulen & Durisin, 2008, 2018). Elene Lam (2018b) explains the impacts of bylaw enforcement on Toronto massage parlours that employ Asian sex workers: “[Bylaw officers] investigated 400 massage parlours more than 2,600 times a year in order to find trafficking or other criminal issues, investigating sex workers. So we

can see the municipal law oppression is huge and it also makes people in the workplace not safe” (p. 20).

Lam’s (2018b) work and other studies with migrant sex workers in Toronto show that they do not characterize themselves as trafficked and instead increasingly experience unwarranted investigations, charges, arrests, tickets, and fines, as well as physical, verbal, and sexual harassment by municipal bylaw inspectors and police officers as a result of anti-trafficking mandates (see also Chu et al., 2019; Malla et al., 2019). As one Asian spa owner said, “They don’t ask me if I am trafficked.... They are very clear that the purpose of the investigation is to issue tickets” (Chu et al., 2019, p. 15). Here again is a glaring contradiction — an overzealous intrusion into sex work spaces coupled with a reluctance to view migrants as deserving of adequate supports. Research suggests that white sex workers are more readily offered “help” by law enforcement (Chu et al., 2019) and more frequently deemed as legitimate victims in trafficking prosecutions (Roots, 2022) than migrant sex workers are. In contrast, migrants are defined by their immigration status and perceived criminality, and their supposed victimhood is used to ignite action against trafficking.

Chapters in the book’s second section provide a further exploration of human trafficking laws and prosecutions. In Chapter 5, Tamara O’Doherty and Hayli Millar explore the national legal framework and draw attention to trafficking prosecutions across Canada. They show that the enforcement of laws against purported domestic sex trafficking through an ideological framing of sex work as exploitation constrains access to justice for sex workers as well as survivors of violence and abuse. In Chapter 6, Sandra Ka Hon Chu and Robyn Maynard examine the racialized and gendered impacts of provincial level policy by examining Ontario’s *Anti-Human Trafficking Strategy Act* (2021), which gives law enforcement broad powers to question and investigate individuals involved in sex work. In Chapter 7, Elene Lam reveals the harms caused by the combined impact of anti-Asian sentiments and municipal anti-trafficking enforcement against massage parlours in Toronto, suggesting that contrary to popular belief, Asian women in these workplaces are not trafficked but instead require labour protections. Chapter 8 is a firsthand narrative by Mash Frouhar, a criminal defence lawyer in Ottawa who has defended people charged with human trafficking. Her chapter provides insight into how police, Crown attorneys, judges, and the media treat

those accused of the offence. And finally, Chapter 9 is an anonymously written narrative piece that describes the author's experience within the criminal legal system after being charged with human trafficking for his work as a manager of an escort business. Drawing on a range of contexts, the chapters in this section showcase how the enforcement of anti-trafficking laws impacts a diversity of people in various capacities within the sex trade, particularly migrant, poor, and racialized people.

Trafficking Policing and Surveillance

Police are seen as key agents responsible for enforcing the law and tackling the trafficking problem. Human trafficking, and especially what has become known as sex trafficking, is often characterized as a new and pressing criminal issue that requires novel methods of policing. The United Nations and Canada have both emphasized the need for innovative and aggressive police practices to combat what is described as a new global threat, with a particular focus on the enhancement and extension of surveillance capabilities. Recent years have seen massive increases in anti-trafficking funding, with federal and provincial governments investing heavily in police services. At the federal level, the 2012 National Action Plan to Combat Human Trafficking provided \$25 million over four years to, among other things, promote police cooperation and target organized crime networks domestically and internationally, and the 2019–2024 National Strategy to Combat Human Trafficking invests a further \$75 million (Public Safety Canada, 2012, 2019). As noted earlier, provincial governments make similar contributions, and in some cases even greater ones, to this cause, with significant portions of funds going to anti-trafficking policing.

Led by the Royal Canadian Mounted Police and supported by the Canadian Border Services Agency, anti-trafficking policing efforts have expanded through all levels of government, in part by stressing the multi-jurisdictionality of trafficking, and in the process promoting cooperation across law enforcement agencies. Police forces often display this through various sting and “raid-and-rescue” operations, which are collaborative initiatives aimed at “rescuing” victims of trafficking by forcibly entering sex work businesses unannounced or by posing as clients and arranging meetings with sex workers at hotels or other locations, and then detaining the workers in order to conduct inspections and interrogations. Such

efforts are widely covered in news media and are frequently mentioned in government reports on anti-trafficking activities. One of the largest annual cross-Canada operations, Operation Northern Spotlight, ran from 2015 to 2018 (according to the Ontario Provincial Police, it continues to be an ongoing operation, although no raids have taken place since 2018). Following Northern Spotlight raids, newspapers often ran updates reporting on the large number of police forces involved from all levels of government and the extensive geographic areas covered (across provinces or the country). These media reports convey the importance of multilevel anti-trafficking policing, justifying the large-scale funding assigned to the cause and creating an image of a heroic rescuer of a suffering woman or youth. Yet rescue efforts have wide-scale negative impacts. The Canadian Alliance for Sex Work Law Reform (2018) states that the harms stemming from Operation Northern Spotlight's deceptive approach of police posing as clients constituted intimidation and harassment of sex workers and of the sex trade industry more broadly. This deception reduces sex workers' trust in police services even further.

Despite the negative effects and harms caused, the way that police present their actions allows them to assume the role of "white saviour," a term used to describe a seemingly heroic, white Westerner who has tasked themselves with saving the often racialized individual or group from complex situations (Cole, 2021). The activities of white saviours result in dichotomizing expressions of humanitarian care that construct racialized people as unable to care for themselves and, as Kamala Kempadoo (2015) explains, place the burden of saviourhood on the white (wo)man. In the context of trafficking, the white saviour role is taken up by the Western/Northern colonial state and nonstate actors in their efforts to "save" racialized women in the Global South (Heynen & van der Meulen, 2022; Hua, 2011; Hua & Nigorizawa, 2010; Soderlund, 2005). Domestic victims of trafficking in this context come to be filtered through the lens of racial Othering, requiring intervention and saving by police officers and social service providers.

Anti-trafficking surveillance and security apparatuses thus expand beyond police to include NGOs (De Shalit, 2021; De Shalit & Roots, 2023; Heynen & van der Meulen, 2022), capturing what Jennifer Musto (2010) calls carceral protectionism — governance that focuses on the protection of the "good" or "deserving" victim while criminalizing those who fail to meet the criteria for such protection (see also Rodriguez et al.,

2020). In Ontario, the growing role played by NGOs has been attributed to the increased government funding that is allocated to them for anti-trafficking efforts (De Shalit, 2021). In addition to cooperation between governments, the police, and NGOs, various other sectors and industries, such as health care, education, tourism and hospitality, trucking and transportation, and finance, are providing training for their respective workforces on how to spot the signs of human trafficking. These workers are then responsabilized to report to police any suspicions about trafficking. Yet the unsound or unclear anti-trafficking indicators that are noted within the various training materials are broadly inclusive of sex work activities and intimate relationships (De Shalit, 2021). The resulting profiles of trafficking victims individualize trafficking while invisibilizing complex systemic conditions, such as racism, colonialism, sexism, and classism, as well as people's own understanding of their victimhood, or lack thereof. Nevertheless, these indicators contribute to the construction of the trafficking victim.

The general public is also invited to participate in anti-trafficking initiatives through a plethora of public awareness campaigns that have emerged in recent years. One such example is the Shoppable Girls campaign launched in 2020 by Covenant House Toronto and the Toronto Police Service. The campaign depicts young women as products to be purchased, with captions such as “shop this season's most unsettling collection today” and “some things shouldn't be for sale” (O'Neil, 2020, n.p.). The physical manifestation of this campaign included images of young women as items displayed on storefronts at a popular shopping destination on Queen Street in the city's downtown. Posters depicting the same were displayed across the subway system. The goal was to train the public, in particular young people, to be able to notice the signs of trafficking, and therefore become anti-trafficking experts, so they could identify and report such instances to police and avoid being trafficked themselves.

As Ann De Shalit (2021) explains, public awareness campaigns tend to focus their messaging on young women involved in sex work, and sometimes simply in intimate relationships, thus increasing emotional investment by inviting the public to imagine the victim as their daughter, their sister, their niece, or their granddaughter. The public is then encouraged to surveil their neighbours and communities and report their suspicions to the national human trafficking hotline developed by the federal gov-

ernment in 2019 or to law enforcement directly. Elena Shih (2016) describes such surveillance and responsabilization strategies as “backyard abolition,” in which members of the public are assigned to be the eyes and ears of the police in a collective aim to prohibit sex work (see also Schwarz, 2020). This neoliberal and paternalistic approach to trafficking, in which the public and purported or potential victims themselves are responsabilized to carry out the functions of state security and surveillance, is not only harmful but it is also undemanding of systemic change, including meaningful protections for people experiencing workplace or intimate partner abuse and violence, undignified labour conditions and withheld compensation, lack of sustainable resource (e.g., housing) allocation, or irregularization of immigration status (De Shalit, 2021). The same extension of surveillance and carcerality emerges from social media portrayals of human trafficking as involving kidnappings at malls, airports, and other public places. Not only do such accounts often rely on stranger danger myths but they also invite the “securitization of society” (Schuilenburg, 2015) along with increased surveillance and augmented police budgets.

An emerging body of scholarship indicates that the growth of anti-trafficking surveillance and security has had inequitable and often counterproductive impacts. Existing studies, including chapters in this book, point to a number of concerns and adverse effects of current anti-trafficking policing. For one, while criminal charges for trafficking have increased over the last decade, a majority of those are stayed, withdrawn by Crown attorneys, or acquitted by judges, as noted above (Millar & O’Doherty, 2020a; Millar et al., 2015; Roots, 2022), suggesting unwarranted and overzealous charging practices by police. Second, officers overwhelmingly lay trafficking charges against racialized people and especially young, low-income Black men, contributing to the criminalization of race and poverty (Millar & O’Doherty, 2020a; Roots, 2022). This finding is not exclusive to Canada, as scholars have found parallel outcomes in the United States (Bernstein, 2012; Williamson & Marcus, 2017). The more generalized police targeting of racialized people has been well documented by critical race scholars (Alexander, 2010; Davis, 2017; Maynard, 2017; Wortley, 2019), and it is reflected in the context of the sex trade by way of anti-trafficking efforts. Third, anti-trafficking policing has resulted in the surveillance of the sex industry writ large; the criminalization and harassment of Indigenous, racialized, and low-

income sex workers (Kaye, 2023; Lam, 2018a; Raguparan, 2023); and the deportation of migrant sex workers (Bernstein, 2010, 2012; Lam & Lepp, 2019; Lester et al., 2017; Roots & De Shalit, 2015). Sex workers report feeling traumatized by the intimidating spectacle of police forcing entry into their workplaces, hotel rooms, and apartments.

Examining policing and surveillance in more depth, the chapters in the third section of the book detail the consequences of these efforts, particularly for marginalized, racialized, and Indigenous people. In Chapter 10, Robert Heynen discusses intelligence-led policing, which involves bringing together a large number of police forces, government organizations, NGOs, and the public in what he calls a “whole-of-society” approach to target trafficking. Chapter 11 by Alison Clancey and Julie Ham describes the work of SWAN Vancouver, a sex worker rights organization, and the abject failure of police to respond to a series of violent robberies against Asian im/migrant sex workers in the Greater Vancouver area. In Chapter 12, Julie Kaye and Cerah Dubé examine anti-trafficking policing in Manitoba, showing that the dominant and infantilizing discourse of Indigenous women and girls as vulnerable to trafficking places an emphasis on individual risks, divorcing the issue from the larger ongoing context of settler colonialism. And last, Chapter 13 features a narrative piece about working in both the street-based and indoor sex trade. Victoria Erin Flett recounts her experiences as an Indigenous trans woman in Winnipeg and describes the impacts of settler colonialism and abuse, which are exacerbated by anti-sex work and transphobic police practices in the city.

Trafficking and Migrant Labour Exploitation

Migration is only infrequently addressed in contemporary mainstream anti-trafficking efforts in Canada. Yet studies have repeatedly demonstrated the impacts of the anti-trafficking framework on migrant communities (e.g., see Chu et al., 2019; Lam, 2018a; Malla et al., 2019). The pursuit of economic and other opportunities by migrants who come to Canada for work, which at times involves sex work, is written off as a site of victimization or criminalization. It is not commonly situated in the larger context of globalization and the seemingly borderless movement of capital, or in the increasing poverty and deplorable labour practices of Western/Northern capitalist corporations that move their operations to

the Global South for cheap servitude and more lenient human rights and labour standards. Instead, migrants, particularly women, who leave parts of the world that have been dubbed trafficking centres are positioned as helpless victims at risk of falling into the sex trade, from which their inherently “injured bodies” must be saved (Doezema, 2001; Woods, 2013). And while appeals to victimhood on the individual level can be used to “mobilize and claim rights” (Aradau, 2003, p. 56), their deployment in the context of anti-trafficking has proven to be based on essentializing categories that mute the complexities of labour and migration.

Indeed, as this introductory chapter has emphasized, trafficking is assigned to overly simplified criminal legal solutions. We can see how such politics unfold in a notable example from a national study on human trafficking conducted from February to May 2018 by the House of Commons Standing Committee on Justice and Human Rights. At one of the committee meetings, Philippe Massé (2018) from Employment and Social Development Canada (ESDC) explained:

We know that workers coming into Canada under low-wage streams — caregivers and primary agriculture workers — are the most vulnerable to exploitation ... because of language barriers, isolation, and lack of access to accurate information on rights and protections. Some also fear retribution, including the threat of being returned to their home country if they speak out. (n.p.)

Massé went on:

ESDC has the authority to conduct administrative inspections to ensure that employers meet certain requirements when they first apply for the program, and continue to meet them while the TFWs [temporary foreign workers] are here in Canada. However, ESDC has no jurisdiction over criminal matters such as human trafficking, and it refers such cases to the CBSA [Canadian Border Services Agency] and to the RCMP [Royal Canadian Mounted Police]. (n.p.)

Here, inadequacies in the current immigration system are recognized by a government actor but are distinguished from trafficking, and the latter is seen as requiring the intervention of law and border enforcement measures.

As Massé notes, the TFWP, which houses the Seasonal Agricultural Worker Program and the Live-in Caregiver Program, along with others, is dependent on low-wage and so-called “low-skilled” migrant labour. The federal government promotes the TFWP to fuel the country’s economic growth and fulfill the needs of various employers (Fudge & MacPhail, 2009). Evidence demonstrates that the government is far less concerned with the needs and safety of the migrant labourers themselves. A substantial body of research on the TFWP shows that temporary migrant workers experience extremely long hours of work, unpaid overtime, inadequate and overcrowded housing, a lack of health care, confiscation of passports and other identifying documents, threats of deportation, and physical, psychological, and emotional abuse by employers (Bhuyan et al., 2018; Cajax et al., 2022; Landry et al., 2021; Strauss & McGrath, 2017; Vosko, 2022; Zwaigenbaum et al., 2021). The lack of redress for these issues is unsurprising, given that Canada has failed to ratify the international conventions that specifically safeguard the rights of migrant workers, including the 2001 *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (United Nations), and the 1949 *Convention on Migration for Employment* and its 1975 *Migrant Workers* subprovision (International Labour Organization). This seeming disregard for migrant worker protections stands in direct contradiction to the state’s eagerness in ratifying the *Trafficking Protocol*.

Academic and grassroots investigations have specifically named the closed nature of federal government work permits, under which workers are tied to their employers, as contributing to and facilitating the kinds of exploitation, abuse, coercion, deception, and control mentioned above. According to Nandita Sharma (2012), the status of temporary migrants in Canada is dependent on their employability; thus, the lack of status afforded to migrants outside of the workplace renders them unfree (Basok, 2002; LeBaron & Phillips, 2019; Lenard & Straehle, 2012) and leaves them vulnerable to structural conditions that result in potential and confirmed exploitation, abuse, coercion, deception, control, and so on (Hennebry & McLaughlin, 2012; Weller & Cohen, 2018). Nevertheless, such cases are rarely labelled as human trafficking. Here we are highlighting the inequitable enforcement of trafficking laws, despite evidence of rampant exploitation and abuse documented in various industries, rather than advocating for an expansion of the anti-trafficking

apparatus and the labelling of more activities and offences as human trafficking. As chapters in this book argue, widening the anti-trafficking net to other labour sectors will only result in more marginalized people experiencing the harms of anti-trafficking legislation and policing.

A notable exception to the typical disregard of labour exploitation is the case of *R. v. Domotor* (2011), in which the exploitation of migrant workers in the construction industry led to trafficking convictions (through guilty pleas), long prison sentences (only partially served), and ultimately deportation of the employers/perpetrators who were permanent residents (as opposed to citizens) and therefore subject to removal orders due to “serious criminality.” The case involved the recruitment, transportation, and exploitation of several Hungarian men brought to Canada by two Hungarian families, the Domotors and the Kolompars, who ran a construction business in Hamilton, Ontario. This case is often referenced as evidence that transnational trafficking is taking place in Canada and that courts and the federal government are taking a tough stance. Interestingly, the offenders in this case were prosecuted under the *Criminal Code* human trafficking provisions, which tend to govern domestic trafficking, rather than section 118 of the *Immigration and Refugee Protection Act* (2001), despite the cross-border transportation of the complainants. Notwithstanding the rigour with which the Domotor-Kolompar case was handled, migrant exploitation does not often see such responses from Canada’s criminal legal system, particularly if these cases take place within the TFWP. Indeed, the prosecution of the Domotor case was empowered by the fact that the exploitation was carried out by individuals for their own benefit, rather than via a state-approved program such as the TFWP, thus allowing the state to position itself as the saviour rather than the perpetrator.

To mitigate experiences of exploitation and abuse, migrant workers and advocates across the country have called for open work permits for migrant labourers, a strategy that informs practice within the boundaries of the capitalist business model of which exploitation is part and parcel. In 2019, as a direct result of migrant justice organizing, the federal government introduced open work permits for vulnerable workers. Albeit with concerning gaps in reach and scope, the permits allow migrant workers with closed or employer-restricted permits who are experiencing abuse to leave their employers and embark on a temporary search (6 to 12 months) for work elsewhere (Migrant Workers Alliance for

Change, 2020a). Organizers have also long campaigned for permanent status for all migrants on arrival. On December 14, 2023, Immigration Minister Marc Miller tabled a promise to consider a broad and comprehensive regularization program, as proposed by the Migrant Rights Network (2023). Organizations such as the Migrant Rights Network (2023) and the Migrant Workers Alliance for Change (2020b) insist that efforts seeking to address exploitation and abuse should not be tied to law enforcement and must instead enforce anti-racist, access-without-fear, and status-for-all policies across the board. State-coordinated policies, although recognized for their shortcomings in overhauling and regulating global capitalism, can be useful points of intervention in such instances.

Nevertheless, most anti-trafficking efforts continue to focus on the expansion or redefinition of criminal legislation and victim protection or rehabilitation. They fail, for example, to “grapple with how state immigration and labour policies combine with labour market institutions and actors to create a range of different types and degrees of labour exploitation” (Fudge, 2020, n.p.). Even if the anti-trafficking framework is only concerned with extreme forms of exploitation, abuse, coercion, deception, control, force, and threats to safety (Weitzer, 2020), consideration must still be given to how normalized and “everyday” forms of such conditions in capitalist societies give way to those more extreme cases. Questions remain about what will be considered extreme and what will not, according to law. Anti-trafficking efforts suggest that most activities that take place as part of, or alongside, trading or selling sex will be rendered extreme and addressed through concerted anti-trafficking policing and legal efforts, whereas those involving migrant labourers will fall through legislative cracks. In these instances, the threshold of severity is preestablished and often unrelated to practical working conditions.

In the fourth and final section of the book, chapter authors provide compelling accounts of the politics of trafficking and exploitation in relation to the labour and migration of temporary residents in Canada. In Chapter 14, Jessica Templeman’s investigation of temporary resident permits for victims of trafficking reveals the governing of migrants through notions of “illegality and fraud” and “foreignness and temporariness,” which in the process lead to the denial of their permit applications. In Chapter 15, lawyer Shane Martínez similarly examines the interpretation of migrant experiences in relation to trafficking and trafficking-like con-

ditions, though here focusing specifically on the Seasonal Agricultural Worker Program, under which labourers face systematic and persistent exploitation while being denied “victim” status. To close the book, in Chapter 16, Chris Ramsaroop, a long-time organizer with Justicia for Migrant Workers, provides a first-person narrative of struggling alongside agricultural and other migrant labourers who seek redress from systemic and often state-sanctioned forms of exploitation. Chapters in this section demonstrate the inadequacies of the anti-trafficking framework in addressing the exploitation and abuse experienced by migrant workers, especially within the programs developed and regulated by the Canadian federal government.

Conclusion

As we grapple with the assumptions, undercurrents, operations, and impacts of anti-trafficking efforts, we are also confronted with the many resulting harms. Accounts written from various points of experience and knowledge converge to reveal the contradictions and tensions of anti-trafficking representations and discourses, enforcement and prosecutions, and policing and surveillance, all of which neglect migrant exploitation and abuse. Indeed, as the chapters in this book demonstrate, the existing approach to trafficking suppresses the collective labour, bargaining power, and agency of sex workers, migrant workers, and others. We can see clearly the difficulty but also the urgent necessity of abandoning the contemporary anti-trafficking framework and replacing it with alternative interventions that meaningfully reduce problematic labour conditions, workplace violations, and human rights abuses. Such a context will only be achieved, however, if the individuals who are most directly impacted by the anti-trafficking apparatus, along with their supporters, play a determining role in charting the path forward — these include the authors of the chapters to come.

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