

Beyond Criminal Justice: A Case Study of Responding to Human Trafficking in Canada¹

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Malgré la sensibilisation accrue en matière de la traite des personnes au Canada, les connaissances portant sur la manière dont les communautés réagissent à l'expérience des victimes sont limitées. En se concentrant sur les interventions de lutte contre la traite des personnes à Calgary, en Alberta, ce projet représente la première tentative canadienne à documenter la manière dont un centre urbain important aborde la traite des personnes. Le projet exploratoire interrogea 53 répondants qui représentaient des agences faisant partie de la lutte contre la traite d'êtres humains, lesquelles assistent les victimes à divers titres. En se basant sur les résultats des entrevues, cinq groupes de discussions furent créés à l'automne 2011. Cet article suggère que, bien qu'un cadre juridique pénal soit important pour lutter contre la traite des personnes, des stratégies locales tireraient profit d'une collaboration intersectorielle plaçant les droits des victimes au-dessus des besoins des agents de police.

Mots clés : traite des personnes, lutte contre la traite d'êtres humains, exploitation, système juridique pénale, assistance aux victimes

Despite increasing awareness of human trafficking in Canada, there is limited knowledge about how local communities are responding to the experiences of trafficked persons. By focusing on the case of counter-trafficking responses in Calgary, Alberta, this project represents the first Canadian attempt to document how a major urban centre is addressing human trafficking. The exploratory project surveyed 53 respondents representing agencies involved in the counter-trafficking response, which in various capacities serve individuals victimized by trafficking. Building on the survey findings, five focus group discussions were conducted during the autumn of 2011. The article suggests that, while a

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criminal justice framework is important for addressing human trafficking, local strategies will benefit from an emphasis on cross-sector collaboration that emphasizes the rights of the trafficked persons above the needs of law enforcement.

Keywords: human trafficking, anti-trafficking, exploitation, criminal justice system, victim assistance

Human trafficking – what some refer to as ‘modern-day slavery’ (Kara 2009) – has been described as the second most profitable organized criminal activity in the world.² While evidence to support this and other claims about the prevalence of human trafficking remains controversial (see Barrett 2011; Jordan and Burke 2011), trafficking has received significant attention from academics, policy makers, and advocates, both internationally (e.g., Kempadoo 2005; Shelley 2010; Lee 2011) and in Canada (see, e.g., Bruckert and Parent 2002; Oxman-Martinez, Lacroix, and Hanley 2005; Ogrodnik 2010; Perrin 2010a). Yet there is still little consensus about the nature, extent, or definition of human trafficking, which at various times has been understood as, and often conflated with, prostitution, labour exploitation, irregular migration, and transnational crime (Sanghera 2005). Since the adoption of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children in 2000 (Palermo Protocol), international definitions of human trafficking emphasize human trafficking as a form of transnational crime, resulting in counter-trafficking initiatives that focus on restrictive border controls and immigration policies (e.g., Jordan 2002; Kempadoo 2005; Lee 2011).³ However, such anti-trafficking responses have struggled to successfully prosecute perpetrators as well as protect the rights of trafficked persons (Dottridge 2007; Lee 2011; Milivojevic and Segrave 2012).

The fundamental rights afforded to all human beings outlined in the United Nations Universal Declaration of Human Rights offer some protection to trafficked persons, such as the right to freedom from slavery and servitude, freedom of movement, and freedom from inhuman or degrading treatment (see Lee 2011). Through this declaration and that of the Council of Europe Convention on Action against Trafficking in Human Beings, human trafficking has been seen as a violation of human rights. Nonetheless, mandatory provisions to protect and assist individuals victimized by human trafficking were absent from the Palermo Protocol (Jordan 2002). Thus, building on the international definition, Canada ratified the protocol by establishing crime-focused

response mechanisms (e.g., enhanced border security, immigration controls, and initiatives driven by law enforcement), yet paid limited attention to the development of provisions to address the rights and experiences of trafficked persons.

In Canada, there is a widespread belief that both internal and international forms of human trafficking are occurring within and across Canadian borders (Bruckert and Parent 2002; Oxman-Martinez, Lacroix, and Hanley 2005; Perrin 2010a).⁴ Yet, from a criminal justice standpoint, there have only been a handful of successful charges laid and fewer convictions since the inclusion of human trafficking legislation in the Criminal Code in 2005 (Government of Canada 2012). Yet, in spite of a legally untested definition and a limited number of criminal cases, law enforcement and criminal justice actors have largely shaped discussions of human trafficking and responses to trafficking in Canada (RCMP 2010).⁵ In a context where the law remains relatively untested, yet the response emphasizes criminal justice approaches, the actual experiences of trafficked persons remain unclear and poorly defined.

To help clarify understandings of human trafficking within a localized context, this article explores the patterns and trends of human trafficking in Calgary, Alberta, and specifically examines how front line workers perceive human trafficking and the existing counter-trafficking response. Calgary offers a unique context to examine human trafficking responses, given the municipal interdisciplinary network established by the Action Coalition on Human Trafficking (ACT) Alberta.⁶

This article comprises five main sections. The first section briefly engages with the literature on human trafficking and responses to trafficking in Canada. The second section outlines the methodology underlying our findings. The third and fourth sections highlight some of our key findings, including the identified patterns and trends and the problem of overreliance on criminal justice response models. In the final section, we offer recommendations for responding to human trafficking in Canadian cities and present a prospective research agenda for future analysis.

Human trafficking and responses to trafficking in Canada

Canada is known as a source, transit, and destination country for human trafficking (Bruckert and Parent 2002; Perrin 2010a; Government of Canada 2012; US Department of State 2012; RCMP 2012) where men, women, and children are trafficked for the purpose of sexual

exploitation⁷ and/or forced labour. To identify the national trends of human trafficking, the RCMP released the findings of a threat assessment that examined cases and intelligence between 2005 and 2009 (RCMP 2010). In particular, the assessment found that, while men, women, and children are trafficked in Canada, women represent the majority of *identified* trafficked persons and are trafficked primarily for the purpose of sexual exploitation.⁸ However, more recently, cases involving trafficking for the purpose of forced labour are being detected (see, e.g., Government of Canada 2012; “How Hungarian criminals” 2012; “Human trafficking affects foreign workers” 2012). As of December 2012, charges of labour trafficking have been laid in Alberta, Ontario, and British Columbia and have involved the exploitation of male and female foreign nationals (Government of Canada 2012).⁹ In these cases, police have faced significant barriers to obtaining cooperation from victimized individuals, especially since the individual often faces real and perceived risks of job loss and/or deportation if he or she cooperates (Faraday 2012). Moreover, it is suspected that forced labour cases have gone undetected because they can occur through the fraudulent use of legal entry points into Canada (e.g., *R v Domotor et al.*).¹⁰

According to the National Action Plan to Combat Human Trafficking, socially and economically disadvantaged persons – especially some First Nations women, youth, and children, as well as migrants and new immigrants, street-involved youth, children in protective services, and new arrivals to large urban centres – are considered “at risk” of being trafficked (Government of Canada 2012). Some evidence suggests that First Nations women are specifically targeted for trafficking for purposes of sexual exploitation (see Bruckert and Parent 2002; Oxman-Martinez, Lacroix, and Hanley 2005), including trafficking by gangs (see Sikka 2009) and exploitation during the migratory movements from First Nations reserves to cities in search of education, employment, or other opportunities depicted in media portrayals and anecdotal descriptions of city life (Sethi 2007; Oxman-Martinez, Lacroix, and Hanley 2005). In these and other cases, socio-economic marginalization increases vulnerability to human trafficking (see Quayson and Arhin 2012).

Canada was among the first countries to ratify the Palermo Protocol by enacting two pieces of anti-trafficking legislation. The first is section 118 of the Immigration and Refugee Protection Act (IRPA).¹¹ This section only covers international human trafficking, referring specifically to cases that involved crossing the border into Canada.

In 2005, section 279.01 was incorporated into the Canadian Criminal Code.¹² In addition, section 279.011 criminalizes the trafficking of a person under the age of 18 years. Further, sections 279.02 and 279.03 criminalize the material benefit gained from [trafficking in persons](#) and withholding or destroying documents for the purpose of human trafficking. Finally, section 279.04 defines the concept of exploitation in human trafficking cases.¹³ However, the definition of exploitation has proved problematic for obtaining human trafficking convictions.¹⁴ The onus has been on the individual victimized by trafficking to demonstrate their belief that their safety was threatened. However, trafficked persons do not always wish or are not always able to cooperate with official agencies, given the potential consequences of giving evidence against a trafficker (e.g., possible job loss, deportation, threats against family members, etc.). In this way, the very nature of the human trafficking abuse (e.g., deception or coercion) can create challenges that prevent trafficked people from considering themselves as victims of crime. In these instances, respect for autonomy can be violated by responses that link “victim” cooperation to service provision or prioritize the prosecution of perpetrators above the rights of trafficked persons.

Despite the adoption of legal mechanisms, Canada has faced major challenges when prosecuting human traffickers. As of April 2012, there have been 25 human trafficking convictions under the Criminal Code, representing 41 trafficked persons ([Government of Canada 2012](#)).¹⁵ In addition to charges under the Criminal Code, three charges have been laid under section 118 of the IRPA, including one charge in Alberta.

In response to significant gaps in the protection of trafficked persons in Canada, in May 2006, Citizenship and Immigration Canada (CIC) adopted a policy to enable trafficked persons to secure immigration status by providing a Temporary Resident Permit (TRP).¹⁶ Initially for up to 180 days, TRPs offer legal immigration status to international trafficked persons identified in Canada and can be extended at the discretion of CIC ([Citizenship and Immigration Canada 2009](#)). During this time, trafficked persons can obtain access to health care and other services (such as trauma counselling and work permits). While CIC considers whether the person can assist law enforcement in criminal proceedings, the policy clearly states, “victims of trafficking are not required to assist in any criminal investigation or testify against their trafficker to gain temporary or permanent resident status” ([Department of Justice 2012](#)).¹⁷ Despite the stated TRP policy,

an overreliance on criminal definitions of human trafficking has created barriers for trafficked persons to access TRPs. Therefore, it is important to explore alternatives to the conventional criminal justice response mechanisms.

Methodology

Given the complexity and diversity of experiences represented by the single concept of *human trafficking*, this exploratory study adopts a mixed-method approach, including a survey and facilitated focus group discussions. The sampling procedure for this research was designed to draw on the existing response mechanism in Calgary: the counter-trafficking network coordinated by ACT Alberta. Consequently, a range of agencies and front line workers providing services to trafficked persons or populations considered vulnerable to human trafficking (e.g., agencies serving immigrants, sexual assault centres, and youth drop-in centres) were the focus of recruitment efforts for participation in the study.¹⁸ Each of the participants self-identified as being directly involved in the counter-trafficking response and the final sample included government officials, law enforcement personnel, non-government organizations, and other social service agencies.

Based on the sampling criteria, a link to an online survey of 28 questions was sent to a total of 94 individuals.¹⁹ The survey questions were designed to gather information about the organizations represented by the respondents as well as their knowledge of human trafficking, their experience working on cases of human trafficking (including details of the cases they identified), and their perceptions of the existing response to human trafficking in Calgary. The survey questions were also designed to inform the focus group portion of the research. In total, 53 survey responses were received, representing a response rate of 56.4%.

Focus group discussions offered survey respondents the opportunity to expand on their responses to the survey questions and to build on the information collected through the survey data. Five focus group sessions were held with a total of 18 representatives.²⁰ Due to the diverse composition of each focus group, the discussions took different paths, and participants were encouraged to contribute from their areas of expertise and speak on behalf of their current position and agency as well as in light of their previous experience and knowledge.

Patterns and trends of human trafficking in Calgary, Alberta

Given the exploratory and predominantly qualitative nature of the data, it is not possible to state with confidence that certain types of trafficking or the victimization of individuals from a specific demographic is more common or prevalent in Calgary. Rather than identify specific numbers of trafficked persons in the city, the present research provides a detailed picture of the perceptions of front line workers to the existing response.

According to survey respondents and focus group participants, instances of trafficking for labour and sexual exploitation, involving both foreign nationals and Canadian citizens, occur in Calgary. In a context where there have been no criminal convictions for human trafficking, it is notable that 44.4% of respondents indicated that they believed they had come into contact with one or more cases of human trafficking (see [Table 1](#) for further detail).

Of the survey respondents who indicated they had come into contact with one or more trafficked persons, 18 had encountered internal cases of trafficking and 11 had encountered international cases. This is contrary to many media, academic, and policy discourses that focus on international forms of trafficking.

In terms of internal forms of human trafficking, respondents identified Aboriginal persons as an over-represented group among individuals victimized by trafficking primarily for the purposes of sexual exploitation.²¹ Trafficking of Aboriginal persons was also a key theme mentioned during focus group discussions. In particular, there was a desire to understand how human trafficking affects or includes Aboriginal communities, especially populations living on First Nations reserves. As one front line service provider suggested, participants were particularly concerned with the limited training and awareness available:

Table 1: To your knowledge, has your group or agency come into contact with trafficked persons?

	Number of Survey Responses	Percentage of Survey Responses
Yes	24	44.4%
Maybe	9	16.7%
No	13	24.1%
Don't know	8	14.8%

I think the individuals coming to the city from the reserves, a lot more awareness needs to be brought to the Aboriginal community . . . but I think that you have to be very culturally sensitive in terms of going to the reserve, in how someone would present this information; it's their youth.

Despite such an expressed desire for more awareness and culturally based education, there is very little research on First Nations' experiences of human trafficking.²²

The characteristics of identified trafficked persons in Calgary were varied. While participants described popular stereotypes of trafficked individuals as young, female, and Asian, trafficked for forced prostitution, their experiences working with trafficked persons deviated from such stereotypes. Specifically, responses varied about whether or not the majority of trafficked persons in Calgary are male or female; yet there was general agreement that those trafficked for labour exploitation were typically male (with the exception of domestic servitude) and those trafficked for sexual exploitation were typically female.

Although there was no conclusive data that determined if there were more cases of trafficking for the purposes of labour, sexual, or other forms of exploitation, some focus group participants suggested, in spite of popular images of trafficking, that labour trafficking is more prevalent in international cases of human trafficking:

It was posed to us that human trafficking was explicitly imbedded in our communities . . . and it was incredibly prolific, a huge problem, and so as an enforcement unit we could either take that and just go investigate, but we didn't have anything to investigate. So, strategically, we determined that what we would do is assess whether that was a true statement - whether human trafficking is to the extent that it's being reported to be. And we focused mainly on two categories, of course, labour and sexual exploitation, and international because that's our mandate. What we're seeing is - although there's a propensity to sort of gravitate or be drawn to the sexual exploitation component . . . we're seeing, in terms of minor complaints to actually fully blown investigations and charges - it's on the labour [side]. (Law Enforcement Representative)

As this excerpt suggests, the prevalence and form of human trafficking identified from a law enforcement standpoint differs from a service

provision perspective. Meanwhile, both perceptions diverge from sensational campaigns to raise awareness that predominantly emphasize the sexual exploitation of women. Rather, the research confirmed that front line workers in Calgary have come into contact with trafficked individuals exploited for labour, including domestic servitude as well as forced labour exploitation in the construction, farming, and service industries.

Another trend identified by the survey and the focus group respondents was the use of legal immigration channels to facilitate human trafficking and other forms of exploitation throughout Alberta. In particular, TFW programs for lower skilled workers, including the Live-in Caregiver Program (LCP), were used to facilitate legal entry into Canada. However, once in Canada, some workers involved in these programs have been subject to exploitation by their employers. Examples of such treatment include poor or unsafe working conditions, the withholding of passports or identity documents, confinement in warehouses, and the repayment of debts through forced work (known as debt bondage) (also see [Bruckert and Parent 2002](#); [Hastie 2012](#), [Perrin 2010b](#)). In these cases, the trafficked persons deviate from stereotypical images because they are legitimate migrant workers with legal immigration status in Canada. Yet, as participants argued, lack of familiarity with the laws that govern labour standards and the ambiguous relationship between human trafficking and labour exploitation have created challenges for identifying and responding to experiences of human trafficking in the province.

While the above data cannot be interpreted as a reflection of the number of trafficked persons in the City of Calgary, they do offer useful insight into how front line workers understand the trends and patterns of human trafficking in Calgary. They can also be used to inform existing responses to the experiences of trafficked persons. Building on this understanding, we now turn to two key factors that have served to limit existing counter-trafficking measures: definitional challenges and an overreliance on criminal justice responses.

Human trafficking definitions: Impeding counter-trafficking initiatives

Trafficking discourse has been plagued by the proliferation of inaccurate information and confusion over what constitutes human trafficking (see, e.g., [Barrett 2011](#); [Salt and Hogarth 2000](#); [Aronowitz 2001](#); [Dottridge 2007](#); [Kempadoo 2005](#); [Segrave, Milivojevic, and](#)

Pickering 2009; Doezema 2010; Jordan and Burke 2011). In turn, ambiguous definitions have impeded the development of effective counter-trafficking responses. In this context, it is unsurprising that participants in this study expressed general confusion surrounding the relationship between legal definitions of human trafficking and other forms of exploitation and abuse. Participants similarly cited definitional challenges, including clear misunderstandings of the existing legal definitions in Canada, as hindrances to identifying and responding to human trafficking. Such definitional challenges further point to the need to conceptualize human trafficking outside a restrictive criminal justice framework.

Focus group discussions revealed that overemphasizing images of victimized women in the sex trade has restricted law enforcement, service providers, and the general public from accurately identifying and understanding the lived experiences of trafficked persons. In the words of one social service provider,

It's easy to ignore, if you believe [human trafficking] is one thing and then you come into contact with someone [and] if you had the correct information, red flags would be going up, but you're thinking, "No, it has to be this. This is what it is." You're missing potential people who are at risk.

In this way, sensationalized images of an "ideal victim,"²³ while possibly helping to raise public awareness, can prevent realistic understandings and result in overlooking certain types of experiences as forms of victimization. Overemphasizing sensational images of human trafficking specifically resulted in individuals trafficked or exploited through legal programs – such as the TFW programs for lower skilled workers – being overlooked as possible trafficked persons in Calgary. As the following excerpt from a front line service provider highlighted, the distinction between labour exploitation and human trafficking remains unclear:

The foreign workers, some of them are not really trafficked per se, they came legally, but when they get exploited, sometimes I find it hard to connect human trafficking because the foreign workers they might not have been trafficked in the definition of human trafficking but they are just as exploited as the ones who were trafficked . . . There is a grey area there for me because when someone is exploited, like if they are not being paid, the contract is not being adhered to, it could be an employment standards issue and maybe there is abuse

as well, which is a human rights violation . . . So with the foreign workers, it doesn't start with transit, it starts here, they come here and everything is legal.

Although human trafficking charges and a related conviction have occurred in a case involving the exploitation of TFWs in Alberta,²⁴ the ambiguous relationship between labour standards, labour exploitation, and human trafficking has created challenges around accessing services for victimized foreign nationals.

Despite requiring similar services to those of a trafficked person, individuals classified as experiencing forms of labour exploitation that fall outside the realm of human trafficking investigation have been unable to access services. In the words of a front line service provider,

Foreign workers have really limited access to resources. So, if a foreign worker resigns from their job, then their work permit is also cut off. So once they are identified as victims of trafficking they will eventually be given a TRP but, you know, for some people who are not found to be victims of that have very limited options.

As this excerpt suggests, when people enter Canada through TFW programs and experience coercion, deceit, or exploitation, they require support and assistance, irrespective of whether enforcement agencies are pursuing charges of a human trafficking offence or not. These experiences are especially problematic because individuals trafficked through legal government programs may be overlooked by government agencies, such as the Canada Border Services Agency (CBSA) or the CIC that issues TRPs, which are an important tool of support for international trafficked persons. According to the survey participants, this potential oversight occurs because many agencies, both governmental and non-governmental, are unclear on the definition of human trafficking or how to interpret and apply the legal definition of trafficking in Canada's Criminal Code or IRPA. Thus, law enforcement agencies identified the Criminal Code definition of trafficking as particularly onerous and narrow when it comes to laying human trafficking charges, and this, if the definition is universally applied, has created significant gaps in the service provision model.

Beyond legal definitions and criminal justice responses

In addition to sensationalized images of trafficked persons, participants identified as problematic an overreliance on the legal definition of

trafficking. As one law enforcement officer highlighted: "If you look at human trafficking, by anyone's definition . . . there's probably about 25 things that could, sort of, fit into that human trafficking definition." This participant further stated that there were approximately 50 active cases that involve some component of human trafficking, yet only 15 that met the threshold of the legal definition.²⁵ Thus, in a context where human trafficking responses are being developed predominantly from a law enforcement or criminal justice standpoint, some victimized individuals experiencing one or more components of human trafficking – or even cases that meet the legal threshold of trafficking – may not be identified.

Similarly, a government representative highlighted the narrow scope and mandate of law enforcement compared to the breadth and complexity of experiences that potentially fall under human trafficking definitions:

Because we are a law enforcement unit available to government, when we look at these things, I think we're losing some of the picture. We have a certain amount of resources we can deploy in any area, so we are needing to prove our cases to the criminal court standard and therefore we're simply not able to allocate resources to just going out, and just looking at feelers 'cause our mandate is pretty narrow on this pretty broad issue . . . There have been cases I've seen where I have some pause, but upon further questioning they just weren't getting there for us to allocate those resources.

As this excerpt suggests, relying on the criminal threshold outlined in the legal definition of trafficking leads to ignoring the varying experiences of trafficked persons that may fall outside the narrow criminal justice mandate and resource allocation. As a result, trafficked persons may not be able to access services that exist, especially services that are tied – explicitly or implicitly – to some form of criminal investigation.

An overreliance on the legal definition is also problematic given some of the general challenges faced by law enforcement and the criminal justice system with laying charges, having the charges move forward, building case law, and attaining convictions. One representative of a law enforcement agency discussed the "onerous" nature of the Criminal Code definition:

[The Criminal Code definition] is so unbelievably onerous, unfortunately, so onerous that we can't lay charges to actually

create the case law that defines the Criminal Code . . . it's horrific. It's one of the first real Catch-22s we've seen in the Criminal Code. You know, assault is easily defined and you can lay those charges, case law defines it, very quickly. This one [human trafficking], it's been on the books for several years and it is almost to the point where investigators are realizing we really can't hit that standard and the prosecutors are very reluctant to try to prosecute on that standard.

This participant went on to share additional detail on why the Criminal Code has proven problematic for law enforcement agencies when pursuing human trafficking charges and prosecutions:

You have to prove a fear, you have to prove that [trafficked persons] were entirely unwilling or there was no real consent component at any point, or maybe if there was consent it's a clear delineation of when that consent stopped, and it's just unbelievably onerous . . . And it may continue to be until we either get charges and the case law defines it, or Parliament realizes that and starts clipping at it. And . . . if you attribute the threshold, for us, there's two thresholds: one, do we have the grounds to charge and then the threshold to actually convict.

This experience of implementing and applying the Criminal Code appears to be in opposition to the actual text of article 2 of section 279.01 that reads, "No consent to the activity that forms the subject matter of a charge under subsection (1) is valid." Nonetheless, this problem has also been identified by other research in the area (see, e.g., Perrin 2010a). Regardless, the narrow scope of the legal definition of human trafficking, alongside the resource constraints of law enforcement agencies aiming to meet the criminal threshold of this definition, result in a limited capacity of law enforcement to identify the complex experiences of trafficked persons. Thus, while criminal definitions and responses are key elements of any response model, they should not be the exclusive, or even the dominant, element of the response. Rather, as will be discussed, the experiences of trafficked persons are better served by expanding response models to include government, non-government, and criminal justice elements.

Overall, it was suggested that the confusion surrounding the definition of human trafficking has limited effective identification and support of persons victimized by human trafficking or elements of trafficking and has created challenges for pressing criminal charges against traffickers.

This highlights the need to examine and accept definitions of human trafficking between and across sectors. As discussed, while law enforcement agencies will require a definition that outlines the threshold of evidence to determine that a crime has been committed, many social service agencies can and will accept a more liberal interpretation of the phenomenon for the purposes of service delivery.

Towards cross-sector collaboration

Despite the limitations just discussed of approaches that centre on a criminal justice framework and definition, Canada's response to human trafficking is largely driven by the same criminal justice mandate (RCMP 2010; Perrin 2010a; Government of Canada 2012) that is characteristic of how most countries attempt to respond to human trafficking (see Shelley 2010; Dalla, Baker, DeFrain, and Williamson 2011). While the criminal justice system remains an important aspect of any response model, the present research points to the need to move beyond a strict criminal justice framework when responding to the trafficking of human beings. In Calgary, since 2008, law enforcement, social serving agencies, and government have participated in cross-sector information exchanges and ad hoc case management of identified trafficked persons through the ACT network. A common observation in focus group discussions was the need to move cross-sector interactions beyond information sharing to develop a more collaborative response, including protocol agreements, standard operating procedures, and collaborative case consultation and management.

As discussed, participants representing government and law enforcement agencies indicated that human trafficking experiences are falling outside the realm of a criminal justice response. As one government official declared, "[W]e could be missing a lot of the picture and a lot of them are afraid of government. So, the social agencies are probably getting a bigger picture than the enforcement agencies." Although social services agencies may be best situated to identify the broad-ranging experiences of human trafficking, it is law enforcement and government agencies that have been mandated with key aspects of victim assistance and support.²⁶ For instance, to access a TRP, trafficked persons are, in essence, required to report their experiences to law enforcement, and law enforcement is mandated with primary aspects of victim support during the investigative process. However, as one law enforcement representative suggests, the interest of law enforcement centres on investigation and obtaining criminal convictions, goals that

are not necessarily in line with the interest or rights of the individual victimized by human trafficking:

The investigative side is unbelievably selfish, and I'd like the two to split, so there's still consult between the support group and the investigative group in terms of the best things for the victim, but the investigative group should not be doing the support piece. It's impacting negatively the prosecution of these cases in terms of time delays, in terms of manpower, and resources. So, I'd like those two things split. (Law enforcement representative)

As this excerpt suggests, offering support to trafficked persons constrains the limited resources available to law enforcement to investigate and prosecute human trafficking cases. Meanwhile, the support offered to the trafficked individual is connected to the investigative needs of law enforcement, which can be counter-productive to the interests of trafficked persons. This is especially the case in a context, such as Canada, where prosecutions are dependent on the testimony of a "victim" of crime.

Overall, participants pointed to a need to move away from strict legal interpretations of human trafficking to better incorporate the autonomy and rights of trafficked individuals. Participants further perceived a need to support collaborative efforts that made a clear separation between assistance to trafficked persons and the investigation and prosecution of human traffickers. Notwithstanding the importance of such collaboration, it is worth noting that effective collaboration across these sectors can prove challenging, given the unequal resources and capacity that each actor brings to the table. For instance, NGOs typically face more significant resource constraints, including human resources, making it difficult to maintain an equal footing in collaborations with government and law enforcement agencies. Even more problematic are occasions when NGOs receive government funding that is attached to the mandates of the funding body. For example, ACT Alberta receives funding from the Victim of Crimes Fund,²⁷ which could potentially prohibit ACT from offering a response that distinguished between law enforcement and service provision mandates. As discussed, emphasizing the "victim of crime" status of trafficked persons can limit support, especially in cases of internationally trafficked persons who could benefit from accessing a TRP but who do not wish to report their experiences to government or law enforcement. In this way, discussions of collaboration should not be naïve as to the role of power dynamics,

funding sources, and the specialized mandates of the organizations involved in the collaboration.

Conclusion and future research

Through an exploratory examination of counter-trafficking responses in Calgary, Alberta, the article shows that definitional challenges alongside an overemphasis on law enforcement and criminal justice responses have limited the identification of trafficked persons, especially those trafficked and/or exploited through legal entry points into the country, such as individuals arriving in Alberta through TFW programs for lower skilled workers. Further, in examining a localized context, the article suggests that by centring the national response model on restrictive legal definitions of human trafficking and the investigative requirements of law enforcement agents, the existing response strategy limits service provision in the city for trafficked persons and individuals experiencing elements of exploitation related to trafficking. In light of this, it is suggested that there needs to be enhanced cross-sector understandings of human trafficking to account for the narrow investigative needs of law enforcement alongside the broad ranging services required to address the experiences of trafficked persons. In this way, it becomes important to situate response models outside the limited realm of the criminal justice system by developing cross-sector collaborations whereby government, non-government, and law enforcement agencies collaborate to develop and implement localized protocols to respond to human trafficking. However, in doing so, such partnerships require a thorough recognition of the politicized nature of responses to human trafficking and the funding, mandate, and power dynamics that shape anti-trafficking agendas.

Overall, the research highlights the need to better understand specific forms of human trafficking, especially the internal trafficking of Aboriginals in Canada and the effects of human trafficking on Aboriginal communities. In addition, the use by traffickers of TFW programs for lower skilled workers, as well as the relationship between human trafficking and labour exploitation, requires further examination. Moreover, future analyses may enhance existing knowledge by replicating this study and comparing the findings with findings from other jurisdictions throughout Canada. Thus, this research can inform the development of protocols within other communities and provinces that can eventually be used to inform interprovincial partnerships and collaboration. As the present article demonstrates, localized understandings of

human trafficking can contribute to the adoption of more effective national understandings and response strategies to address human trafficking in Canada.

Notes

- 1 The researchers would like to acknowledge support from Mount Royal University, *PrairieAction* Research Foundation, and Changing Together: A Centre for Immigrant Women. Julie Kaye further acknowledges support from the Social Sciences and Humanities Research Council of Canada (SSHRC).
- 2 Multiple sources attribute this claim to the U.S. Department of Health and Human Services (see, e.g., [Jordan and Burke 2011](#)); however, the claim is no longer on the department's web site. Nonetheless, it proliferates in materials to raise awareness and associated "fact" sheets on human trafficking, with no reference as to its original source.
- 3 According to the Palermo Protocol, trafficking in persons refers to, "[T]he recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs" (Palermo Protocol, art 3(a) at 366; qtd. in [UNODC 2000](#)).
- 4 Due to the clandestine nature of human trafficking, the Department of Justice acknowledges that it is difficult to provide accurate estimates as to the number of trafficked individuals. Similarly, as Savona and Stefanizzi point out, in the introduction to *Measuring Human Trafficking*, "the low reliability of data in this field of study results from a number of factors which cannot be easily or quickly eliminated" ([Savona and Stefanizzi 2010: 3](#)). In this context, the RCMP (unpublished) report that the number of trafficked persons in Canada ranged between 600 and 800 persons. However, this figure is no longer used. In fact, contrary to previous years, the [RCMP \(2012\)](#) fact sheet offers no numbers regarding the scope of HT.
- 5 Compare, for example, the funding outlined by the [Government of Canada \(2012\)](#) in the National Action Plan to Combat Human Trafficking that falls within a criminal justice framework, including just over \$2 million for a dedicated enforcement team (RCMP and CBSA), \$1.3 million for a human trafficking national coordination centre (RCMP), \$1.6 million for regional

coordination and awareness (RCMP), \$445,000 for border service officer training and awareness (CBSA), \$96,000 for an anti-crime capacity building program (DFAIT) versus up to \$500,000 to support victims services ([Government of Canada 2012](#)).

- 6 ACT Alberta is a non-profit organization with a central office located in Edmonton, Alberta. ACT operates as a coalition of government agencies, NGOs, survivors of trafficking, and the general public involved in the response to human trafficking. ACT has chapters in five communities within the province: Calgary, Edmonton, Grande Prairie, Fort McMurray, and Red Deer. The Calgary-based chapter was established in 2008.
- 7 While the terms *sexual exploitation* and *sex trafficking* have been conflated with sex work and prostitution in anti-trafficking literature (see, e.g., [Barry 1984](#); [Raymond 2005](#)), we used the phrase *trafficking for the purpose of sexual exploitation* to recognize that sex industries represent one site of labour where human trafficking can occur ([Sanghera 2005](#)). In this way, we align with the Palermo Protocol definition quoted in note 3 above. In other words, the Protocol recognizes that not all forms of sexual labour are exploitive; while human trafficking, by its nature, entails exploitation. For further discussion, see [Downe \(2006: 66\)](#) on “systems of prostitution” and [Sanghera \(2005: 46\)](#) on the “proverbial shades of grey” in explorations of prostitution and sex work.
- 8 Identification can be skewed by instances where human trafficking for the purpose of sexual exploitation is conflated with prostitution or sex work.
- 9 Human trafficking for the purpose of sexual exploitation has been recognized as both an international and internal problem; however, at present, responses to labour trafficking focus solely on international forms of human trafficking.
- 10 In 2010, the first charges of labour trafficking in Canada were laid against Ferenc Domotor in Hamilton, Ontario (see “[Three make court appearances](#)” 2010). This case represents Canada’s first prosecuted case of labour trafficking (see “[Hamilton human trafficking kingpin sentenced to 9 years](#)” 2012).
- 11 Section 118 of IRPA states, “(1) No person shall knowingly organize the coming into Canada of one or more persons by means of abduction, fraud, deception or use or threat of force or coercion . . . (2) For the purpose of subsection (1), ‘organize,’ with respect to persons, includes their recruitment or transportation and, after their entry into Canada, the receipt or harbouring of those persons.”
- 12 Section 279.01 of the Criminal Code states, “(1) 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 is guilty of an indictable offence ... (2) No consent to the activity that forms the subject matter of a charge under subsection (1) is valid."

- 13 Section 279.04 Criminal Code states, "(1) For the purposes of section[] 279.01 ... a person exploits another person if they cause them 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; (2) In determining whether an accused exploits another person under subsection (1), the Court may consider, among other factors, whether the accused (a) used or threatened to use force or another form of coercion; (b) used deception; or (c) abused a position of trust, power or authority."
- 14 For a broader, yet similar, international perspective, see [Wade \(2012\)](#).
- 15 While the number of cases before the courts is in constant flux, there were approximately 56 cases before the courts as of April 2012 ([Government of Canada 2012](#)). These cases represent 136 trafficked persons and 85 accused traffickers. The majority of these cases concern internal trafficking.
- 16 For more information about the Temporary Resident Permit (TRP) and its relevance to human trafficking support, see [Citizenship and Immigration Canada 2009](#)..
- 17 Significantly, between May 2006 and December 2010, 120 TRPs were issued to 68 foreign national victims of human trafficking ([Department of Justice 2012](#)). Since, to date, there has only been one successful human trafficking prosecution involving the victimization of foreign nationals - *R v Domotor et al.* (for nationalities of those convicted, see [Domotor et al. 2011](#)) - the issuing of TRPs has been distinct from criminal investigative processes ([Hastie 2012](#)).
- 18 The assumption made was that individuals involved in the existing counter-trafficking response, particularly those working at the front line of service provision, are well suited to offer observations on their perceptions of the existing response to human trafficking and to comment on the lived experiences of their clientele. While trafficked persons are best suited to speak to their unique experiences, there are a limited number of documented cases from which to draw in the local context. While formerly trafficked persons involved in the existing response were also invited to participate, they participated in their current capacity as front line workers and are identified as such in the analysis.

- 19 Since the informants were invited to suggest other agencies they felt would be interested in participating in the study, these 94 individuals include a small number of agencies recommended by the informants. Only recommended agencies fitting the target description were contacted.
- 20 When possible, the focus groups were organized by sector (e.g., government and law enforcement, non-government and service provision, etc.). However, due to scheduling constraints, many of the focus groups included a cross-sector mix, which, in the end, led to some interesting cross-sector dialogue and information sharing.
- 21 Other frequently mentioned demographic details of identified cases of trafficking included female children, female adults, and both Canadian and non-Canadian citizens.
- 22 Important exceptions include [Sikka \(2009\)](#) and [Sethi \(2007\)](#).
- 23 See [Christie \(1986\)](#) for a description of an “ideal victim,” including presenting as weak and vulnerable and without any possibility of choice.
- 24 Migrant workers from Poland and the Ukraine were allegedly trafficked to St. Paul, Alberta for the purpose of labour exploitation (“[Human trafficking affects foreign workers](#)” 2012).
- 25 This observation is consistent with the issues and concerns raised by various contributors in [Savona and Stefanizzi \(2010\)](#).
- 26 As outlined in a presentation by [Citizenship and Immigration Canada \(2012\)](#), CIC is responsible for issuing TRPs; however, all human trafficking referrals to CIC require consultation with the RCMP, which then consults with the possibly trafficked person for purposes of investigation and victim assistance.
- 27 The Alberta Victims of Crime Fund emerged from the Victims of Crime Act. The fund is supported by the surcharges on provincial fines and surcharges imposed by the courts under the Criminal Code of Canada ([Alberta Justice and Solicitor General 2012](#)).

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