

**International Trafficking in Canada:  
A Rights-Based Person-Centered Perspective**

by

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## **Abstract**

Human trafficking for the purpose of sexual exploitation and/or prostitution has gained renewed interest in public discourse and policy. In November 2000, the United Nations Palermo Protocol was adopted and ratified by numerous countries. Yet, like many Western countries, Canada is falling behind in developing a comprehensive three pronged anti-trafficking strategy. It is currently focused on national security issues, the identification of illegal migrants and the prosecution of traffickers rather than placing the rights and the needs of ‘trafficked women’ at the heart of its strategy. These observations are the driving force for this essay to critically examine the following questions: who in Canada is deemed a ‘trafficked person’? And what do women gain or lose under the heading ‘trafficking victims’? I will argue that migrant women do not benefit from Canada’s anti-trafficking strategy or the socially constructed image of a trafficked woman as an innocent, powerless, victim. Instead, I propose that Canada adopt a rights-based person-centered approach as an alternative solution and I stress the crucial role social work plays in addressing this human rights violation.

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## **Introduction**

International social work, social justice and human rights are concepts that I have spent some of my social work career critically exploring both academically and in the field. Much of my undergraduate work focused on international development studies and social work practice with groups and communities from a structural approach. Despite this newly acquired knowledge, I left university to begin my career and found myself wondering about the conceptual frameworks needed to work in the area of ‘international social work’ given our current globalized era. As a result, I wound up focusing my graduate studies around the notion of ‘interconnectedness’ between local and global social work practice as well as the highly controversial and political social phenomenon of human trafficking. Both of these factors have influenced the selection of the topic for my graduating essay and play a significant role in shaping the conceptual framework that I have suggested as part of my concluding commentaries.

The topic I have chosen to discuss is international human trafficking of women for the purpose of sexual exploitation and/or prostitution in Canada. Consistent with the United Nations Trafficking Protocol, this essay defines “human trafficking” to mean the recruitment, harbouring, transportation, provision or obtaining of a person by means of force, coercion or violence for the purpose of sexual exploitation. This will also come to include individuals who enter prostitution ‘voluntarily’ and subsequently are exposed to various forms of exploitation, violence and control.

Human trafficking is a multifaceted phenomenon that has typically been discussed as separate issue, as an issue of migration, or prostitution or organized crime. In hopes of providing a comprehensive understanding of the topic, I will propose a multifocal approach that highlights the interconnectedness between these three issues.

The thrust of my exploration in this essay revolves around the following questions which stem from my research, an extensive literature review on human trafficking and my professional experience. Who in Canada is deemed a trafficked person? If authorities are having difficulties identifying trafficked persons amongst the intercepted or arrested, how they or the government propose to grant them the measures of protection it has committed itself to? And finally, what do women have to gain or lose under the heading ‘victims of trafficking’?

The three main arguments being put forth are that Canada’s anti-trafficking strategy prioritizes national security issues at the expense of the needs and rights of those deemed ‘trafficking victims’. Secondly, I will point out that Canada lacks the political will to move from a primarily one-dimensional, law enforcement response to a multi-dimensional response that places trafficked women at the heart of Canada’s anti-trafficking strategy. Thirdly, I will argue that the simplified and polarized understanding of a trafficked person as a vulnerable individual, a powerless “ignorant” victim and a woman negates the agency and resiliency innate to women. I will conclude suggesting a conceptual framework that integrates a rights-based person centered perspective as a plausible recommendation and highlight the implications for social work.

In order to present my arguments and recommendations, I have divided this essay into four sections. The first section articulates from a historical perspective, the factors that lead to the creation of the modern-day United Nations Protocol to combat Trafficking in Persons and introduces a critical analysis of its shortcomings. The second component aims to contextualize the human trafficking of women for the purpose of sexual exploitation within a larger globalized era. In the third section, I begin to narrow my focus by taking a closer look at Canada’s response, strategies and overall approach in addressing this issue. And finally, the last section describes the proposed conceptual framework and the implications for social work.

## Historical Context of Human Trafficking

The social phenomenon of human trafficking for the purpose of sexual exploitation and/or prostitution has received increased international and national attention in the past two decades. However, the origins of the trafficking debate can be traced back to the nineteenth century. With the era of industrialization, urbanization and free movement of women in Europe and North America, 'white slavery'- the recruitment of white women into sexual slavery, became an increasingly alarming situation and began to shift public and political discourse on prostitution (Outshoorn, 2005). It has been said that during this time, European women were being 'abducted' for the purpose of prostitution into South America, Africa and/or Asia by non-western men that resulted in widespread public upheaval (Doezema, 2000).

Despite, the large display of public concern for 'white-slavery' as well as rallying to abolish prostitution and state regulated brothels (Outshoorn, 2005), public support was not unanimous. On the contrary, there were two competing views that dominated the discourse on prostitution at this time. On the one hand, 'regulationists' were prevalent in discussion forums and pushed for state regulation of licensed brothels and the legalization of prostitution. For them, prostitution was seen as a 'necessary evil' and "the prostitute was constructed as a sexual deviant and spreader of disease" (Walkowitz, 1980, p.40 as cited by Doezeema, 2000, p.26). For example in England, according to Doezeema (2000), prostitutes were subjected to forced medical examinations as a way to control the transmission of sexually transmitted infections and/or other diseases which was enforced by the Contagious Disease Act in 1864, 1866, and 1869.

Meanwhile, the presence of other groups of women typically referred to as 'abolitionists' continued to build momentum and actively engage in the prostitution debate. They argued that prostitutes were not 'sexual deviants' rather they were 'victims' that should be rescued and

rehabilitated (Doezema, 2000). They believed that the ‘blame’ for prostitution lies not within the women but on the shoulders of ‘unbridled male lust’ (Doezema, 2000). Gozdziaak and Collett (2005) argue that during the 19<sup>th</sup> century, the abolitionist movement was strong and pioneers such as Josephine Butler in particular, played a key role in influencing international discourse around prostitution by introducing the concept of ‘involuntary’ prostitution or more specifically, the victimization of white women being forced into prostitution. This in turn increased awareness of the prevalence of white-slavery.

Thus, heightened awareness and the strong public support perpetuated by the abolitionist movement influenced the outlawing of trafficking in women in international law in 1902. The *International Agreement for the Suppression of the White Slave Traffic* was the first international instrument created to stop ‘involuntary’ prostitution and was ratified by 12 countries (Kangaspunta, 2003). This international instrument broadly defined ‘trafficking’ as “bringing women across borders for purposes of prostitution” (Outshoorn, 2005, p.142). Many world-wide organizations as a result of this legislation began devoting time, resources and services to aid in the eradication of ‘white slavery’ (Doezema, 2000).

Subsequently, in 1949, with growing support for the abolishment of prostitution, the *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* was adopted by the Member states of the United Nations. This convention stated that:

Prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of a human person and endanger the welfare of the individual, the family, and the community of a person. (As cited by Gozdziaak & Collett, 2005, p.101)

In fact, “it called on all states to suppress not only trafficking but also prostitution, regardless whether they occur with the consent of the woman involved” (Outshoorn, 2005, p.142). This convention was only ratified by 49 countries, partly because of its abolitionist intent (Outshoorn, 2005). Meanwhile, the United Nations Economic and Social Council, *Report of the Special Rapporteur on Violence Against Women*<sup>1</sup> criticised this convention for “its lack of a clear definition of trafficking, lack of enforcement mechanisms and for addressing trafficking as solely the cross-borders movement of persons into prostitution” (as cited by Pearson, 2002, p.14). In the end, it had limited impact in shaping State policies because of the lack of international pressure to enforce it. Consequently, ‘trafficking’ of women slowly faded “[...] from the public eye and prostitution ceased to be a major political issue” (Outshoorn, 2005, p.142) or at least not until two decades later.

### ***Feminism in the 1980’s until now; the great debate***

By the mid-1980’s, there was a renewed national and international interest in the ‘trafficking’ of persons. Once again, feminist movements alike became influential players in bringing the issue to the political agenda. The current highly politicized and controversial modern-day debate around prostitution and trafficking include radical feminists whose ideologies are rooted in the abolitionist’s movement, liberal feminism or what was then referred to as regulationists as well as the pro-sex workers movement founded by women working as prostitutes.

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<sup>1</sup> United Nations Economic and Social Council, *Integration of the Human Rights of Women and the Gender Perspective: Report of the Special Rapporteur on Violence Against Women, its cause and its consequences, Ms. Radhika Coomaraswamy, on trafficking in women, women’s migration and violence against women, submitted in accordance with the Commission on Human Rights Resolution 1997/44, E/CN.4/2000/68, February 2000* as cited by Pearson, 2002:14.

In order to understand the essence of this great debate and the ideological stance that play a significant role in constructing ‘trafficking’ as a phenomenon and the strategies adopted to address it, I will briefly explain the two dominant views. Saulnier (1996) a feminist social worker, explains that radical feminists’ view all sex work as exploitation; work that serves to dehumanize and objectify women. Prostitution is seen as the product of a patriarchal society which defines women as sex objects rather than human beings. Saulnier goes on to state that:

Women engaged in sex work because they are forced into it by economic pressures, coercion, or violent means. They do not freely choose prostitution or any other form of sex work. Rather, sex work exists on a continuum of coercion, in which women experience everything from being manipulated into unwanted sexual activities to outright rape. Pimp-controlled prostitution is, essentially, female sexual slavery. (Saulnier, 1996, p.190)

Basically, radical feminists believe that women don’t consent to sex work. They do not support the idea that women would voluntarily choose to enter the sex industry. Instead, women are portrayed as victims and more specifically, “unrecognized victims of intimate partner violence by customers as well as pimps” (Farley, 2003 as cited by Farley, 2006, p.103), thereby requiring outside “help to escape slavery and set up a new, prostitution-free life” (Outshoorn, 2005, p.145). From this perspective, feminist groups like the Coalition Against Trafficking in Women (CATW) assert that all prostitution is a violation of women’s human rights (International Organization of Migration, 2005) and because prostitution is sexually exploitative by nature, therefore all women in prostitution are seen as being trafficked (O’Connor & Healy, 2006).

Alternatively, the liberal/socialist feminism or ‘sex workers movement’ formed with women working in the sex industry declares that prostitution is legitimate labour and claims that “not all instances of prostitution could be classified as trafficking” (Standing Committee for Women, 2006, p.14). The sex worker`s movement agrees that there are links between

prostitution and trafficking, but advocates for the rights of sex workers. One of these rights is the right of self-determination by sex workers (Urban Justice, 2009). This implies “the individual’s right to make autonomous choices and decisions which can include engaging in consensual commercial sex as well as of setting the terms of that sexual exchange” (CATW, 2009, p.1). This right brings to light the notion of consent and freedom of choice of women to ‘voluntarily’ choose to work as prostitutes as well as migrate to do sex work. From this stance, women are portrayed as having agency. To have agency means that women have the capacity to make choices and to enact them on the world (“Agency”, 2004). They argue that “there are many reasons women enter the industry, including free choice based on preference for the work, a limited number of options available to them, the chance to earn a higher income, and sometimes, coercion” (Saulnier, 1996, p.189). Thus, the second most predominant ‘right’ invoked by pro-sex workers is the right to work.

Finally, given that sex workers are often times marginalized, stigmatized and discriminated against for the work they do, advocates push for better working conditions and access to non-discriminatory health and social services to name a few (Day, 2008; Saulnier, 1996; Urban Justice, 2006). According to this perspective,

“...the rights to life, safety, free speech, political action and access to information and to basic health and education services are as important to sex workers as to anyone else. No one should lose these human rights because of the work they do.” (Urban Justice, 2009, p.1).

In sum, both first and second-wave feminism as described above play a significant role in influencing modern-day discourse and legislation on human trafficking for the purpose of sexual exploitation and/or prostitution.

It must be noted, however, that since the 1990’s supplementary factors have also contributed to the increased attention on this issue. These factors are namely, the AIDS

pandemic since the early 1980's, child prostitution and child sex tourism, international tourism (Doezema, 2000; Outshoorn, 2005; Wijers and Lap-Chew, 1997) and the perception that there is a "growing prosperity and liberalization of the sexual mores in the West" (Outshoorn, 2005, p.142).

Migration of women has also been cited as a significant factor that has perpetuated renewed interest in human trafficking. It has been suggested that the increasing flow of migration in the last two decades has some correlations with recent trafficking trends (Jordan, 2002; Lusk & Lucas, 2009; Popli, 2008). These correlations have been used to explain some of the root causes of human trafficking. These root causes are due to a combination of what is referred to in the literature as 'push/pull factors'. The 'push' factors include uneven economic growth and breakdown of economic systems, increase in war and armed conflict since the fall of Soviet Union, the collapse of the Chinese socialist system, environmental degradation, natural disasters, high level of gender discrimination, family violence (Jordan, 2002; Popli, 2008) as well as extreme poverty, high population density and high unemployment (Lusk & Lucas, 2009) in the source country (countries where people are being recruited). Meanwhile, the 'pull' factors are namely economic growth, prosperity and peace in transit or destination countries (countries where people are being trafficked to) that are creating the demand for cheap labour (Popli, 2008) in addition to sexual tourism and other markets for sexual exploitation within those same countries (Lusk & Lucas, 2009).

Furthermore, research in the area of organized crime and trafficking have stipulated that international crime networks are immersed in the process of international trafficking of persons due in part to the rise in migration flows in the last two decades (Hughes, 2000). Organized crime networks are seen as a 'facilitating factor' to the human trafficking phenomenon (Jordan,

2002). The Bi-National Assessment of Trafficking in Persons (n.d.) report suggests that there are “three broad categories [of perpetrators]: members of larger criminal organizations, members of small crime groups or individual criminals” (p.4) who are involved in the human trafficking process. However, the extent in which larger organized crime networks are involved in the ‘trafficking’ of persons and in what capacity varies from one country to another. Some authors highlight specific crime groups involved in the sex trade, namely the Italian Camorra, the Chinese Triads, the Russian Mafia, and the Japanese Yakusa (Raymond, 2002). It is also believed that the same crime networks involved in their country of origin also fuel international trafficking of persons. For example, “it is estimated that 5000 organized criminal groups constitute the Russia Mafia, at least 200 having links or operations in 30 different countries” (Vecellio, 2000 as cited by Raymond, 2002, p.493).

Meanwhile, other research has shown that small criminal networks are also involved in the process by specializing “[...] in particular stages of the trafficking process, such as recruitment, transportation, or operating as the ‘employer’” (Bi-National Assessment, n.d., p.4). This might include ‘family run businesses’ as well as husbands and/or boyfriends having been identified as potential recruiters, traffickers and/or pimping their female partners into prostitution (Bi-National Assessment, n.d.; Raymond, 2002; Raymond et. al, 2001 as cited by Raymond, 2002; Sethi, 2007; Sharma, 2005;).

In actual fact, the growing trend involving organized crime and the trafficking of person is a key factor that promoted the adoption of the most recent 2000 legislation in addressing this phenomenon. In essence, it was “the desire of governments to create a tool to combat the enormous growth of transnational organized crime” (Global Rights, n.d., p.2) that added to the

growing list of factors leading up to the conception of the newly adopted *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*.

### ***The UN Protocol; the Palermo Protocol***

In November 2000, at the UN Commission on Crime Prevention and Criminal Justice in Vienna, the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* was adopted as the new international standard to combat human trafficking, supplemented by the *Convention Against Transnational Organized Crime*. Trafficking in Persons shall mean, therefore:

The 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 purpose 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. (UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, 2000, p.2)

### ***The Notion of Consent***

Additionally, the UN Protocol (2000) stipulates that the ‘consent’ of a victim of trafficking in persons to the intended ‘exploitation’ as defined above is deemed irrelevant (Article 3b). Therefore, this provision reinforces that it is “logically and legally not possible to ‘consent’ when any of the following are used: force, coercion, abduction, deception, abuse of power or actions taken while one is in a state of vulnerability or while one is in the control of another person”(Global Rights, n.d.:8). *The Annotated Protocol* goes on to state that “real consent is only possible and legally recognizable, when all the relevant facts are known and a person is free to consent or not” (Global Rights, n.d, p.8). The following is an example to clarify

some of the controversial, confusing and highly debated issue of ‘consent’ at both the international and national level provided by *the Annotated Protocol*.

Despite evidence that the victim consented to migrate, to carry false documents and to work illegally abroad, defendants cannot argue that the victim ‘consented’ to work in conditions of forced labour, slavery or servitude. By definition, these three crimes mean there is no consent. For example, a woman can consent to migrate to work in prostitution in a particular city, at a particular brothel, for a certain sum of money. However, if the defendant intended actually to hold the woman in forced or coerced sex work, then there is no consent because everything the defendant trafficker told the woman is a lie. No one can consent to a lie. Even if a person agrees to work in very bad conditions, for very little money, with very little freedom, he would still be a victim of trafficking if the trafficker intended to hold him in debt bondage, involuntary or forced conditions. (Global Rights, n.d., p.8)

Despite the criticism put forth by many authors regarding the abolitionist connotation of the UN Protocol, the *Interpretative Notes of the Annotated Protocol* attempts to clarify this assumption by recognizing “the existence of both coerced participation and non-coerced participation in adult sex work” (Global Rights, n.d., p.5) thereby making a clear distinction between both ‘forced’ and ‘voluntary’ prostitution.

Fundamentally, the UN Protocol is a law enforcement tool where “governments shall adopt laws to criminalise trafficking, share information and extradite suspected traffickers” (Jordan, 2002, p.32). It sets out to: 1) address the crime of trafficking in persons on a transnational level, 2) create a global language and legislation to define trafficking in persons, 3) provide guidelines for judicial cooperation and the exchange of information among countries and 4) serves as a framework for the creation and application of State laws/policies (Raymond, 2002; UN, 1994).

Secondly, the UN Protocol assumes a ‘retributive and restorative approach’ where retribution on the one hand is sought to create a more just society (Ife, 2008). It implies that “those who have broken the law, acted immorally or committed human rights abuses must be

identified, hunted down, and made to ‘pay’ for their misdeeds” (Ife, 2008, p.27). On the contrary, the notion of justice can also take a restorative approach whereby those whose rights have been violated could seek compensation (Ife, 2008). This should involve “acknowledging that a wrong has been committed and allowing all concerned to move forward in a spirit of reconciliation” (Ife, 2008, p.27). In the case of the UN Protocol, both measures can be understood to exist within the legislation. However, the degree to which one approach dominates over the other becomes quite clear as I will subsequently demonstrate.

### ***Shortcomings of the UN Protocol***

While a justice-based perspective that incorporates a retributive and restorative approach has been stressed by the UN Protocol, many have argued that the restorative approach is nevertheless, scarce. While it attempts to recognize the human rights of trafficked persons and tries to meet their needs by including these broad concepts in the UN Protocol’s objective, it is clear that little emphasis is being placed on adherence (Global Rights, n.d.; Jordan, 2002). Critics affirm that “the weakness of the Protocol is its excessive focus on criminalizing traffickers to the detriment of making protection of trafficked persons the priority” (Godziak and Collett, 2005, p.104).

Ironically the governmental delegations, during the UN negotiations who supported a human rights definition of trafficking which would grant all victims maximum protection of their basic rights and full prosecution of traffickers were from Argentina, Mexico, Venezuela, Colombia, China, Egypt, the United Arab Emirates, Syria, Algeria, Bangladesh, Pakistan, India and Burkina-Faso (Raymond, 2002). These countries are predominantly defined as source countries. This means that it is their citizens who are being trafficked into various countries abroad. Whereas government delegates from destination or transit countries who are primarily

North countries receiving ‘trafficked victims’ emphasised “creating a strong law enforcement instrument and many of them did not believe that human rights was appropriate in the Trafficking Protocol” (Global Rights, n.d., p.2). This geopolitical discrepancy does not come as a surprise given the inequalities that exist within our globalized era, the lack of political will on behalf of Western countries to adhere to a rights-based approach and the financial demands that this would have on countries to do so. The following section on globalization and human trafficking and subsequently in the Canadian context segment will further develop this idea.

In the end, the UN Protocol contains weaker terms in the area of providing assistance and protection namely ‘shall consider’ and ‘shall endeavour’ (Jordan, 2002) thereby demonstrating its limited rights-based perspective in comparison to its strong prosecution based framework. As a result, very few States, including Canada, have fulfilled their obligation to implement these commitments and/or provide adequate protection *per se* and even less so a rights-based framework to protect trafficked persons (GAATW, 1999). Moreover, as Gallagher (2001) suggests,

.... on a practical level this deficiency is likely to undermine the law enforcement objectives of the protocols by ensuring that people caught up in trafficking and smuggling networks have little incentive to cooperate with national authorities. Without such cooperation, it is likely that traffickers and smugglers will continue to operate with impunity. (p.27)

Additionally, the UN Protocol also falls short on clearly defining terms such as ‘exploitation of the prostitution or other’ and ‘sexual exploitation’ in the Protocol or anywhere else in international law. These terms were intentionally left undefined because the one hundred plus country delegations that negotiated the Protocol were unable to agree upon definitions. The ambiguous and vague terminology in the end was a useful way to encourage governments to sign the Protocol regardless of their differing laws on prostitution (Jordan, 2002).

While the lack of clear definition might have been a great strategy to ratify the international instrument, at the national level, it has created confusion and raised many concerns. It has left non-governmental organizations, advocates and national governments having to negotiate, advocate and define these terms as they see fit if they so choose to include them in their respective domestic laws (Global Rights, n.d.; Jordan, 2002). As a result, advocates are being heard on both sides of the great debate over prostitution and trafficking. For instance, some advocates point to the fact that human trafficking efforts throughout history “have also ended up justifying repressive measures against prostitutes themselves in the name of ‘protection’ for women and children” because of its abolitionist intent (Doezema, 2002, p.21). Hence, Doezema (2002) questions whether or not history has repeated itself in the Trafficking Protocol and suggests the following answer:

The Protocol has the potential to be used for repressive as well as for emancipatory ends. On the one hand, the final definition of trafficking in the Protocol can be considered a victory for those who argue that the only way to protect sex workers rights is to recognise prostitution as a legitimate profession. The use of force or coercion is included as an essential element of trafficking in the definition. On the other hand, while the Protocol makes an implicit distinction between ‘coerced’ and ‘non-coerced’ migration for prostitution, it offers very little in terms of human rights protections for trafficking victims and nothing at all for (migrant) sex workers who were not coerced. (p.24)

Yet, he concludes that in the end, time will be the one who will truly be able to answer this question.

### **Globalization and human trafficking**

“The phenomenon of human trafficking cannot be separated from the expansion of economic globalization and growing North-South inequality”  
(Oxman-Martinez, Martinez & Hanley, 2001, p.300).

#### ***Preliminary Global Statistics***

Since the adoption of the UN Protocol, preliminary statistics have emerged. It must be noted, however, that some researchers specify the difficulties in quantifying ‘trafficked persons’

because of its clandestine nature, the lack of a systematic methodological approach to data collection and the limited self-identification process of ‘trafficked persons’. Therefore, it has been said that current statistics are merely an approximation of numbers while some have even gone so far as to say that they are ‘guesstimates’ (Godziak & Collett, 2005; Hodge & Lietz, 2007). Nevertheless, according to the International Organization for Migration (2005) database, 81% of trafficked victims are females while 74% are under the age of 25 with the majority being between the ages of 18-25. The United Nations Office on Drugs and Crime (2009) indicates that 79% of human trafficking situations are women being trafficked for the purpose of sexual exploitation.

An additional ‘tracking’ mechanism often seen in human trafficking literature entails separating the world into source, transit or destination countries. The *UN Mapping Inhuman Trade* (2003) noted a major trafficking trend namely the trafficking of persons between South (source countries) and North (destination countries). Some of the ‘source’ countries have been identified as Ukraine, Russian Federation, Nigeria, Albania, Romania, Moldova, Bulgaria, China, Thailand, Czech Republic, Lithuania, Poland, Belarus and Latvia (Kangaspunta, 2003). Meanwhile, the most cited countries of ‘destination’ for the purpose of sexual exploitation were Italy, United States and Germany (Kangaspunta, 2003).

Based on some of the preliminary statistics and dominant trends, it is clear that the magnitude of this human rights violation has not been well documented in terms of quantifiable data, however, an array of studies have indicated that all forms of human trafficking occurs throughout the world and its dynamics involve the recruitment and transporting of women and children predominantly for the purpose of sexual exploitation to and from multiple countries (Department of Justice Canada, 2005; Kangaspunta, 2003; IOM, 2005; UNODC, 2009). While

more recent research has attempted to be more inclusive in their studies and explore several other forms of trafficking, for the purpose of this essay I have chosen to remain focused on the issue of trafficking for the purpose of sexual exploitation and/or prostitution. Another distinct observation that can be drawn from much of the research on human trafficking is the significant trafficking of women from the South to the North countries. The *UN Mapping Inhuman Trade* (2003) shares the following thoughts on this matter:

Considering the global inequalities in affluence, it is not surprising that Asia, former Soviet Republics and Africa are the main regions where victims of trafficking are recruited. Also, it should not come as a surprise that industrialized countries find themselves at the end of the trafficking route. (p.10)

The fact that global inequality is one of the root causes of human trafficking does not come as a surprise. However, too often the root causes gets omitted when analysing this issue or formulating international and national legislation/policies or while providing direct service to migrant women who have experienced some form of trafficking. So in order to gain a comprehensive analysis, it is important to take a moment to situate this multifaceted phenomenon within a larger structural context. Poulin (2003) echoes this affirmation and proposes that:

“...any political economic analysis of prostitution and trafficking in women and children must take into account structural discrimination, uneven development, and the hierarchical relationships between imperialist and dependent countries and between men and women.” (p.39)

Consequently, the next section will bring to light the correlation between globalization, human trafficking and the transnational sex industry.

### ***Globalization and human trafficking***

Firstly, human trafficking of women for the purpose of sexual exploitation and/or prostitution must be understood as “[...] a phenomenon of globalization, reinforced by an on-

going racialized/gendered bordering of third-world migrants” (Thobani, 1999 as cited by Oxman-Martinez, Martinez & Hanley, 2001, p.300). In recent years, the general study of globalization has become of central concern to many scholars in the social sciences. Held and McGrew (1993) suggest one possible view of globalization by stating:

On the one hand, the concept of globalization defines a universal process or set of processes which generate a multiplicity of linkages and interconnections which transcend the states and societies which make up the modern world system: the concept therefore has a spatial connotation. On the other hand, globalization also implies an intensification in the levels of interaction, interconnectedness or interdependence between the states and societies which constitute the modern world community. (p.262)

Human trafficking is both a global and local problem that requires an international perspective to address this issue (Jones, 2007). The interconnectedness or interdependence between various countries around the world that fuel the supply and demand of human trafficking has been noted in many of the works on this issue (Godziak & Collett, 2005; Jones, 2007; Kangaspunta, 2003; Lusk & Lucas, 2009). Part of the connection intrinsic to globalization and the age of industrialization has been the development of transportation (Jones, 2007). All modes of transportation have made it easier, faster and cheaper to transport people across borders and within countries. Consequently, people like cargo, can be moved around the world depending on the demand and the laws/policies of these countries (Jones, 2007). As Raymond states, “in an era of globalization of capital, information and technology, organized trafficking operates as a transnational industry not restrained by national borders” (Raymond, 2002, p.492).

Secondly, globalization has also fuelled the information and communication technology (ICT) revolution thereby making the Internet and various forms of communication more accessible (Mills, 2008). This accessibility on one hand has fostered several linkages or connections between people around the world, yet it has also facilitated the trafficking in

persons. Research indicates that the Internet has been used as a means to recruit women into the sex industry by traffickers (Barnett, 2006; Department of Justice Canada, 2005; Sethi, 2007) and it “has opened up new opportunities for traffickers to prostitute women” (Hodge & Lietz, 2007, p.168). Plus, “sex tourism and child pornography have become global industries, fuelled in part by the new information technologies such as the internet” (Popli, 2008, p.18). Therefore, it can be argued that the ICT revolution has heightened both the supply and demand for human trafficking.

### ***Globalization and the economic perspective***

Weede (2008) proposes that globalization is just another word for a ‘worldwide expansion of capitalism’ and describes ‘capitalism’, “as an economic system where limited government, economic freedom and private enterprise prevail” (Weede, 2008, p.422). Beyond such a simple definition, Mills & Blossfeld (2005) offer deeper insights with the following comments:

.... globalization can be defined as four interrelated structural shifts that roughly occurred since the 1980’s of (i) internationalization of markets and declining importance of borders for economic transactions, (ii) tougher tax competition between countries, (iii) rising worldwide interconnectedness through new Information and Communication Technologies (ICTs), and (iv) the growing relevance and volatility of markets. (As cited by Mills 2008, p.3)

Consequently, part of the economic impacts of globalization have lead to an increase in financial openness, trade, foreign direct investment, ICT capital investment and use as well as increased migration and mobility of workers throughout the world (Mills, 2008). Furthermore, Mills (2008) describes globalization by saying that:

A central engine of globalization is the internationalization of markets and decline in the importance of national borders for all kinds of economic transactions. This includes changes in laws, institutions, or practices that make various transactions (in terms of commodities, labour, services, and capital) easier or less expensive across national borders, including trade. (p.3)

It is this 'central engine of globalization' upon which a partial foundation can be used to provide insights between the economic aspect of globalization or capitalism and human trafficking.

Firstly, trafficking "must be understood, not simply as the evil deeds of depraved and predatory individuals, but as an integral and inevitable component of a world 'globalized' on neo-liberal terms" (Jhappan, 2005, p.139) which results in the commodification of humans (Resnik, 1998). With the rise of capitalism and free trade agreements, commodities, typically goods and services are being traded across the world. Yet, as the human trafficking definition indicates, humans are being recruited, transported by means of force or coercion for the purpose of exploitation thereby transforming humans into commodities: open to being traded around the world (Jones, 2007; UN Protocol, 2000).

In addition to the commodification of humans inherent to human trafficking, "traffickers dealing arms or involved in the drug trade are quickly learning the increased value of trafficked humans, one of the only commodities on the global market that can be resold and used again" (Jones, 2007, p.113). The monetary 'value' of human beings is very high, especially for women and young girls being trafficked into the sex industry (Bales, 2000). Yet, Bales (2000) suggests that beyond the marketplace value or price that a trafficker can get for selling a person, the trafficked person's inherent 'value' has also fallen in the new form of slavery. According to Bales, trafficked persons or 'slaves' as referred to in the article, have become disposable and expendable compared to the 'old form of slavery' where ownership of slaves was important. In today's world, "a slave becomes unable to work due to injury, disease or illness, he/she is replaced" (Lusk & Lukas, 2009, p.52). The ability to easily replace a person is under minded by the increased supply of people around the world (Bales, 2000). The new form of slavery has

transformed human beings into commodities that are easily accessible and hold little to no ‘value’ other than that of the selling price on the global marketplace (Jones, 2007; Bales, 2000).

Moreover, it is this very marketplace or ‘the sex industry’ that has also become a more recent component of the global marketplace or world economic system (O’Connor & Healy, 2006). The sex industry has “come to occupy a strategic and central position in the development of international capitalism. For this reason, it is increasingly taking on the guise of an ordinary sector of the economy” (Poulin, 2003, p.38). It has allowed traffickers and the customers alike to “buy and sell in all parts of the world depending on the supply and demand of the women and children who are trafficked into the industry” (Poulin, 2003, p.38). Like the free trade of any other commodity, the ICT’s revolution, and the demand for this commodity have contributed to the prevalence of trafficking of women and girls for the purpose of sexual exploitation as well as the endless possibility to recruit a large amount of women from various countries around the world (Mameli, 2002).

Fundamentally, “trafficking is caused variously by the neo-liberal economy, economic inequalities, gender inequalities and immigration processes” (Canadian Council for Refugees, 2003, p.3). It is the restructuring of the world economic order (neo-liberalism) in search of profitable opportunities, cheap labour and fuelled in part by global competition as well as the search for power and control that perpetuates the problem. At the same time, these variables also co-exist within a context of macro-economic reforms promoted by the International Monetary Fund and the World Bank, namely structural adjustment programs impacting South countries. Hence, we must understand that “women who are faced with a lack of economic opportunities at home and limited migration options are more vulnerable to trafficking” (Oxman-Martinez, Martinez, Hanley, 2001, p.302). More importantly, we must acknowledge that those same

women “[...] have been displaced by practices that have resulted in the loss of their land and/or livelihoods through international trade liberalization policies, mega-development projects, the loss of employment in capitalist labour markets, or war” (Sharma, 2003, p.89). Yet, to develop recognition policies founded in this analysis would entail “[...] examining both the pressures exerted by socio-economic conditions and policies in third world countries and those associated with the lure of wealthy countries and their demand for foreign labour” (Bruckert & Parent, 2002, p.9). Unfortunately, this has yet to be seen as it would require a significant amount of international cooperation and political will on behalf of predominantly North countries. And so, as I argue in the following segment, Canada is no exemption.

## **Canadian Context**

Following the broad analysis of human trafficking provided in previous sections, the remainder of this essay will embark on an in depth exploration of this issue located in Canada’s milieu. This section is rooted in the literature, my research findings as well as my professional experiences particularly with the Office to Combat Trafficking in Persons<sup>2</sup>. Thus, I will highlight some of the current Canadian research on this topic, Canada’s legislation, its overall strategy to combat trafficking in persons and its shortcomings.

### ***Literature review of existing research***

Canadian research in the area of human trafficking is still in its preliminary phase. Nevertheless, current research has been trying hard to disseminate information regarding the prevalence of human trafficking in Canada, the trafficking trajectories, the characteristics of the ‘victims’, the perpetrators/traffickers and the customers, as well as the services needed to protect

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<sup>2</sup> The Office to Combat Trafficking in Persons opened in 2007 under the Ministry of Public Safety and Solicitor General with a mandate to develop and coordinate British Columbia’s response to human trafficking.

and support ‘victims’. The majority of information available in published research findings, or in print has been collected through anecdotal accounts from law enforcement officers and workers from non-governmental organizations’ offering frontline services to ‘victims’ of trafficking under an array of issue-related mandates. Meanwhile, other studies have conducted interviews with sex workers to gain a better understanding of the trafficking phenomenon. However, pro-sex workers advocates argue that researchers who interview ‘sex workers’ to describe their ‘trafficking’ experience does not necessarily reflect trafficking *per se* (Hodge & Lietz, 2007). Rather, they assert that not all sex workers have been trafficked and therefore interviewing this population would not reflect trafficking *per se*. This criticism leads me to raise the pivotal question of my essay: who in Canada is deemed a ‘trafficked woman’? While this query is not a simple one to answer, I will attempt to shed light on this matter at a later point.

The following section highlights current trends, scope and prevalence of human trafficking described in the literature. After the essay examines this key background information and analysis, I will provide an in depth description of a trafficked person.

#### *A. Limitations of the quantifiable data*

To date, Canada does not have a national data collection mechanism for human trafficking. Rather, Statistics Canada is currently conducting a ‘feasibility’ study which aims to decipher whether or not it is even possible to develop a ‘tracking system’ in Canada. Yet, according to the U.S. State Department (2004) it is estimated that 600,000 to 800,000 people are trafficked yearly across international borders. The Royal Canadian Mounted Police (RCMP) estimates that 800-1200 victims are trafficked into Canada each year (People’s Law School, 2009).

Canada is typically identified as a destination and transit country (Stewart & Gajic-Veljanoski, 2005). While others suggest that there is growing evidence of it being a source country as well (Barnett, 2006; Department of Justice Canada, 2005). Until now, the RCMP have found that Vancouver as well as Winnipeg, Toronto and Montreal are principal destination and/or transit points for individuals trafficked internally and from abroad (Oxman-Martinez et al, (2005), as cited in Barnett, 2006). Trafficked persons have been identified namely coming from Asia and countries of the former Soviet Union as well as Romania, Philippines, China, Moldova and the Democratic Republic of Congo (Barnett, 2006; Office to Combat Trafficking in Persons Conference, 2008).

#### *B. The trafficking process*

The literature illustrates that “trafficking includes three major space-time dimensions in a chronological order: 1) recruitment and exploitation in the country of origin; 2) migration (legal or illegal) from one country to another; and 3) exploitation in the country of destination” (Oxman-Martinez, Martinez and Hanley, 2001, p.8). Women entering destination countries, such as Canada can arrive as visitors, refugees, family-class immigrants, temporary-work migrants or as exotic dancers and strippers (International Labour Organization, 2005; Stewart & Gajic-Veljanoski, 2005). The IOM (2005) study indicates that some women are smuggled across the borders (illegal entry) most likely due to the restrictive immigration policies which could make them vulnerable to trafficking.

Meanwhile, information about when a trafficked person arrives in Canada primarily focuses on the dynamics between the perpetrator and the ‘victim’. Upon arrival, the perpetrator proceeds to force the trafficked woman to perform sexual services. To do so, various means of control tactics are used, namely instilling a sense of terror contributing to psychological trauma,

uttering death threats and/or threatening to seriously harm the individual or their families and/or displaying inconsistent and unpredictable outbursts of violence (Shigekane, 2007). One informant from my research on domestic trafficking in Vancouver's sex industry<sup>3</sup> mentioned the use of more subtle threats as additional means to control trafficked women: *"you know a lot of the threats, coercion and manipulations are very subtle hum ..., it happens over a period of time"*. To achieve complete domination, perpetrators usually seek to isolate the woman by prohibiting access to various sources of information, material aid, or emotional support (Shigekane, 2007). This type of domination is reflected by the description given by frontline workers involved in the Department of Justice Canada (2005) study on victims of trafficking in persons. The workers reported the living and working conditions of some of the trafficked women they have encountered as such:

Once the trafficked people arrive in their destination, the most important thing for traffickers is that victims be isolated from their own community and even from each other. Most of the time, what happens is that their papers are confiscated and then they are usually herded and placed in dormitory-type arrangements where they are not free to come and go, except to do their work. (p.26)

Studies on the psychological impact of trafficking reveal that a victim of trafficking for the purpose of sexual exploitation "deal with issues similar to those encountered by victims of child sexual abuse and domestic violence" (Lundy & Grossman, 2005 cited by Hodge & Lietz, 2007, p.171). Other studies indicate that victims of trafficking experience severe psychological trauma and in some cases the repeated exposure to trauma results in having symptoms of post-traumatic stress disorder (PTSD) (Clawson, et.al, 2007; Williams, & Sommer, 2002; Farley et. al., 2003), complex PTSD (Williams & Sommer, 2002; Farley et. al., 2003; Herman, 1992), as

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<sup>3</sup> As part of a graduate research methods course requirement for the University of British Columbia Master's degree in social work, I conducted an exploratory case study on domestic trafficking of women in Vancouver's sex industry.

well as disassociation, depression, low self-esteem (Hodge & Lietz, 2007), feelings of shame, guilt, self-blame, fear, lack of trust, and feelings of betrayal (Farley, et.al, 2003). Research findings on psychological trauma specify that “the after-math of traumatic exposure, individual victims may exhibit ... a spectrum of trauma-related psychiatric disorders and a wide variety of posttraumatic response” (Brett, 1992; Briere, 1998; Browne & Finkelhor, 1986; Cohen & Roth, 1987 as cited by Harvey, 1996, p.3). In addition to psychological impacts, physical health problems, and drug and alcohol additions are also identified (Gajic-Veljanoski & Stewart, 2007; Clawson et. al, 2007; Department of Justice Canada, 2005).

When attempting to explore how women ‘escape’ their situation, Hughes and Denisova’s (2001) study on trafficked women in the Ukraine found “that trafficked women perceive only three ways to escape the trafficking ring: first, to become unprofitable due to trauma, emotional breakdown or advanced pregnancy; second, to be helped by a client; or third, to die” (as cited by Stewart & Gajic-Veljanoski, 2005, p.351). To date, there is limited knowledge being disseminated regarding the lived experiences of ‘trafficked women’ in Canada, particularly around ‘escaping’ or the aftermaths of the experience and women’s recovery process. As it stands now, research has focused on the recruitment process, the possible victims and the traffickers. In my opinion, this is an area in need of further research because the exploration of these aspects would provide a comprehensive and holistic understanding of the lived experiences of women who experienced some form of trafficking or more specifically, the continuum of the ‘trafficking process’.

### *C. Organized crime*

“There is little data on the involvement of organized crime in the trafficking of human beings in Canada” (Bruckert & Parent, 2002, p.20). The Criminal Intelligence Services of

Canada (CISC) (2008) report stipulates that “across the country, organized crime networks are actively trafficking Canadian-born women and under-age girls inter and intra-provincially, and in some instances to the United States, destined for the sex trade” (p.1). However, little is known about who is involved with international trafficking of women into the sex trade.

The Royal Canadian Mounted Police (RCMP) has been unable to sketch a profile of the traffickers but stipulates that they are usually male, middle-class, middle-aged Canadian citizens of foreign origin (Oxman-Martinez, Martinez and Hanley, 2001). The Department of Justice Canada (2005) stated that trafficking in Canada appears to be controlled primarily by biker gangs. There have also been individuals, and small businesses identified as potential perpetrators who are already involved in dealing drugs and the sex trade.

Yet, according to Sharma’s (2003) findings, ‘smugglers’ which she correlates to ‘traffickers’ are not part of a powerful mafia rather they are small business owners who are motivated by poverty. Thompson and Ochoa (2004) as cited by Sharma suggest that it is “a business built for the poor by the poor” (Thompson and Ochoa 2004, p.1 as cited by Sharma, 2003, p.95). She argues that the so-called ‘traffickers’ of an ‘illegal migrant’ as depicted in the anti-trafficking campaign is problematic because it reframes the various practices that assist groups of migrants to cross national borders as being acts of trafficking. In the end, these campaigns ensure that these practices become morally condemned and criminalized. And, by doing so it makes the clandestine journeys for the majority of migrants more expensive and more dangerous. This author raises interesting concerns that are worthy of further exploration.

For example, the need to critical thinking about who in Canada is deemed a ‘trafficker’ is as equally crucial when assessing the case of women’s involvement as ‘traffickers’ in the

trafficking phenomenon. An article in the *CanWest News Service* newspaper reflects this reality and writes:

Women are the biggest traffickers of other women and girls for the international sex trade in almost a third of countries that keep such statistics, the first United Nations global report on human trafficking has found. The report also says many of the female traffickers are themselves former sex slaves, while women offenders have, in general, a more prominent role in human trafficking than in any other crime (CanWest News Service, February 13, 2009).

This brief extract seems to suggest that women in this situation on the one hand, could be deemed ‘trafficking victims’ given that they were former sex slaves. Yet, they could also be deemed possible ‘perpetrators’ because they are now involved in the recruitment and trafficking of other women. In the end, defining both the ‘perpetrator’ and the ‘victim’ is a central component to advance the analysis of this phenomenon. But it also has the potential to obstruct the lives of those who are deemed to fall under these same headings. Thus, as Sharma seems to suggest, in the case of the ‘perpetrators’, further analysis must be conducted to explore who is being defined by such a term. However, the purpose of this essay is not to focus on such an analysis, rather the pivotal question that I continue to examine is: who in Canada is deemed a ‘trafficking victim’?

## **Canadian Legislation**

50 years ago, the UN Convention for the *Suppression of Traffic in Persons and Exploitation of the Prostitution of Others*, as mentioned, contributed to the development of international instruments addressing the issue of trafficking in persons. It must be noted however, that Canada never became a signatory to this Convention because “it went beyond condemning trafficking in persons to outlawing all forms of prostitution, whether voluntary or not. [Thus,] in 1949, and still today, this position cannot be reconciled with the law in Canada,

where prostitution itself is legal and only activities associated with it are criminalized” (Barnett, 2006, p.7). Yet, regardless of this fact, Canada was still heavily involved in the negotiations leading to the adoption of the UN Protocol, with the participation of representative from the Department of Foreign Affairs and International Trade (DFAIT), Status of Women Canada (SWC) (Department of Justice Canada, 2000 as cited by Oxman-Martinez & Hanley, 2004). Canada was also among the first nations to sign and ratify the Protocols, thereby formalizing its commitment to fight organized crime and cooperate with other countries in combating human trafficking and smuggling. And by doing so, the Canadian government accepted the three pronged approach: prevention of trafficking, protection of victims, and prosecution of traffickers.

Since then however, most destination countries have merely enacted anti-trafficking laws as a way to further protect their borders and security, prevent illegal migration, criminalize the act of trafficking and punish the traffickers (Future Group, 2006; Laczko & Godziak, 2005; Oxman-Martinez, Hanley, & Gomez, 2005; Stewart & Gajic-Veljanoski, 2005). There has been little attempt to develop and implement a comprehensive anti-trafficking strategy that equally embraces all three components. Canada, as we will see in the next section is once again no exception.

### ***Prosecution***

Currently, Canada prohibits trafficking-related conduct via two laws: The *Criminal Code* and the *Immigration and Refugee Protection Act*. The *Criminal Code* legislation influenced by the UN Protocol was enacted in 2005. Bill C-49 contributes to the federal legislation in prosecuting traffickers. It is comprised of three trafficking-specific *Criminal Code* offences: trafficking in persons (s. 279.01), material benefit (s. 279.02) and withholding or destroying documents (s. 279.03), (People’s Law School, 2009). As a result, human trafficking in Canada is

defined by the *Criminal Code* and differs slightly from the UN definition. It is therefore defined as:

“The recruitment, transport, transfer, receipt, concealment or harbouring of a person, or the exercising of control, direction or influence over the movements of a person, for the purpose of exploitation.” (Barnett, 2006, p.8)

Subsection 279.01(2) specifies that:

“One cannot consent to the activities described, which clearly indicates that all persons who have been trafficked are victims, regardless of whether or not they actually consented or thought that they had consented to any of the activities.” (Standing Committee on the Status of Women, 2006, p.3)

Exploitation under this offence shall mean:

.... causing a person to provide labour or a service by engaging in conduct that could reasonably be expected to cause the victim to believe that their safety, or the safety of someone known to them, would be threatened if they did not provide that labour or service. (People’s Law School, 2009, p.1)

Other charges can be placed in addition to or in substitution for trafficking-specific charges such as intimidation, assault, sexual assault, causing bodily harm, uttering threats, and prostitution related offences (People’s Law School, 2009).

### ***International Trafficking of Persons***

Moreover, “Article 11 of the UN Protocol states that State Parties shall strengthen border controls in order to prevent and detect trafficking in persons” (Oxman-Martinez & Hanley, 2004, p.4). Hence, in the early 90’s, the issue of trafficking was incorporated into migration policy approaches to intensify border-control while repressing illegal migration. Within this context, the 2001 *Immigration and Refugee Protection Act* (IRPA) combined with the application of the

Anti Terrorist and Public Safety Acts tightened access to immigration channels by the following means:

... increased security checks at the beginning of the refugee determination process; increased detention of migrants unable to satisfactorily prove their identities; refusal to consider a refugee claim if there are reasons to believe the claimant is a terrorist; intensification of the use of deportation; and more severe punishments for those arranging illegal entry via smuggling or trafficking. (Jimenez, 2002 as cited by Oxman-Martinez & Hanley, 2004, p.9)

Then in 2002, new sections (117, 118, 122 and 123) were added to further address trafficking across borders as well as providing a clear distinction between smuggling and trafficking. The 2002 IRPA entails the following:

Under section 118, the trafficking offence is defined as:

“To knowingly organize one or more persons to come into Canada by means of abduction, fraud, deception, or the use of force or coercion.[It also includes] the recruitment, transportation, receipt and harbouring of such persons.” (Barnett, 2006, p.10)

Meanwhile section 117 makes a distinction between smuggling and trafficking whereby the offence of smuggling is defined as:

“To knowingly organize, induce, or assist one or more persons who do not possess a valid travel document to come into Canada.” (Barnett, 2006, p.10)

Sections 122 and 123 provide additional offences upon which charges can be laid concerning the buying and selling of travel documents (Barnett, 2006).

### ***Legislation and practice***

In spite of the legislation, there have only been 30 cases of trafficking-related convictions under various criminal code offences reported by authorities between 2004-2007 (UNODC, 2009). It must be noted that “many court decisions were unreported [and] not all human trafficking investigations undertaken by police agencies are reported for the purpose of national statistics” (UNODC, 2009, p.132). Plus, there are approximately ten domestic trafficking cases

that are being charged or have been charged through PEEL Regional Police in Toronto who seem to be leading the way in regards to domestic trafficking charges against ‘traffickers’.

To assist in the implementation of the recently adopted legal framework, the RCMP established a Human Trafficking National Coordination Centre within the Immigration and Passport Branch as well as six regional RCMP Immigration and Passport Sections whose employees are “mandated to investigate immigration and human trafficking offences under the Immigration and Refugee Protection Act and/or under the criminal code” (UNODC, 2009, p.132).

With this mandate comes the responsibility to ‘identify’ trafficked persons. The identification challenge has been clearly reported in the literature and in practice. Caution, on the one hand has been advised by some not to relying solely on information about ‘illegal-migrants’ to describe the human trafficking phenomenon primarily because of the theoretical distinction made between smuggling and trafficking. This distinction is depicted as such:

The illegal-migrants category includes, for example, individuals who were illegally smuggled across the border but who are not trafficked (i.e., they would have been free upon arrival). As well, this category excludes individuals, most often women, who are trafficked but who enter the country on legal immigration visas. (Oxman-Martinez, Martinez & Hanley, 2001, p.303)

Yet, in practice this distinction is not always easy to make. As O’Connell, Davidson, and Donelan (2003) explain:

Trafficking in persons is used as an umbrella term to cover a range of actions and outcomes. Viewed as a process, trafficking can be said to entail several phases—recruitment, transportation (which could be across several countries), and control in the place of destination. Different groups, agents or individuals may be involved in different phases of the process, and can organize recruitment, transportation and control in different ways. There is thus immense diversity between and within trafficking systems. (As cited by Lazcko & Gramegna, 2003, p.181)

Plus, the “typical scenario [smuggling/debt bondage] is subject to so many variations that the association between organized crime and human trafficking becomes a complex and dynamic issue that changes in relation to political, social and economic circumstances, the locations concerned and the period in question” (Bruckert & Parent, 2002, p.19-20). In the end, the so-called clear cut distinction between smuggling and trafficking described within policy and the legislation does not seem to exist. Instead, for many professionals working in the field, the difference between the two is quite ambiguous and multifaceted. As a result, the difficulty in identifying a trafficked person becomes very evident.

Moreover, in the case of law enforcement authorities whose mandate it is to identify trafficked persons, the identification process and their response becomes even more problematic. Like other professionals working in the field, law enforcement authorities however, are faced with the mandate to distinguish between smuggling and trafficking by dismantling the complexities of people’s lived experienced. But, as it stands now, the “...regime created by the two protocols (whereby trafficked persons are accorded greater protection and therefore impose a greater financial and administrative burden on States Parties than smuggled migrants) [...] creates a clear incentive for national authorities to identify irregular migrants as having been smuggled rather than trafficked” (Gallagher, 2001, p.27). This ‘incentive’ has contributed in part to the detainment and identification of the majority of individuals attempting to cross Canada’s borders as ‘illegal migrants’ without having investigated the possibility of it being a trafficking situation (Oxman-Martinez & Hanley, 2004). Meanwhile, other studies have also indicated that individuals who have potentially experienced some form of trafficking are been arrested, imprisoned and/or deported back to their country of origin rather than receiving protection and

assistance by the destination or transit country (CEDAW, 2008; GAATW, 1999 Global Rights, n.d.; Jordan, 2002; Raymond, 2002).

However, part of the reason that could also explain the final outcomes of these individuals is due to the fact that Canada has no clear guidelines on how to proceed when and if a potentially trafficked person has been deemed to fall under this heading. Instead, Canada has only participated in preliminary discussions to address this issue, some of which have been reflected in the *Human Trafficking: Canadian Government Policy and Practice* (2001) as followed:

Some [interviewed] participants feel that ‘victims’ should be arrested on entering Canada. This, they believe, would force the migrants to appear before hearing on their status and to become applicants for official status, which would better protect them from the clutches of their traffickers. In contrast, other participants regard arrest on entry as a violation of human rights [...] Article 14 of the Universal Declaration of Human Rights states that ‘Everyone has the right to seek and to enjoy in other countries asylum from persecution. (p.7)

Meanwhile, governments have also argued that “undocumented migrations and trafficked persons should be treated in the same way in order to discourage future undocumented migration [...] to deport them immediately” (Jordan, 2002, p.30). In the end, Canada has yet to develop a national identification mechanism, a unanimous interpretation of the trafficking definition or clear protocols in how to deal with potentially trafficked persons if they are intercepted at the border. Instead, Canada has adopted a discretionary approach where intervention is “largely a matter of police discretion in deciding how to deal with them” (Oxman-Martinez & Hanley, 2004, p.10). This therefore, leads me to bear the following question as raised by Gallagher (2001): “if authorities have no means of determining among the intercepted or arrested who is being trafficked, how do they propose to grant them the measures of protection they are committing themselves to?” (p.27)

Based on the information provided in this section of Canada's anti-trafficking strategy, I have stipulated that the lack of clear definition and guidelines as well as the prosecution approach incorporated in its anti-trafficking legislation seems to prioritize the identification of illegal migrants versus trafficked persons. Therefore, by adopting this strategy, Canada's priority seems to be rooted in issues of national security rather than focusing on investigating possible human trafficking scenarios despite its commitment to the comprehensive three pronged approach of the UN Protocol. Even more importantly though, given Canada's legislative shortcomings trafficked persons often stand to lose more than they gain. In the end, they face either the possibility of being deported or they are treated as criminals rather than being given the protection and/or assistance they might need.

### ***Prevention***

Canada has taken some initiatives in the realm of prevention. In the last few years, it has delivered several awareness campaigns both within Canada and outside of its country. While these preventative measures attempt to promote a comprehensive anti-trafficking approach, the focus still remains in the case of international campaigns, centered on issue of national security-identifying and restricting illegal migrants. For instance, when we examine the campaigns delivered outside of Canada, they are aimed at halting the trans-border trafficking of women and children. Yet, at the same time, they are used to deter potential irregular migrants in entering Canada while pointing to the likelihood of them being detained upon arrival (Oxman-Martinez & Hanley, 2004). Like many advocates have suggested, these anti-trafficking campaigns play a dual role; on the one hand, these campaigns attempt to address 'trafficking of persons' by warning women and children of the dangers of traffickers and the potentially negative impacts of being trafficked. The flip side to this is that they are also campaigns directed, in particular, at

influencing the decision of women and children not to migrate by warning them of these dangers and urging them to stay in their country of origin (Sharma, 2003). This explains why many advocacy groups working with immigrants and refugees have criticised Canada for its discriminatory migration policies.

Meanwhile, Canada has also increased its awareness campaigns within its own country headed by local NGO's, faith-based organizations, feminists groups as well as academic institutions involved in research in this area and/or support the fight against human trafficking. Awareness campaigns have primarily targeted international trafficking of women and children into the sex industry, while more recent attempts have begun to explore the other various forms of trafficking that also affect men as public discourse still revolves around the latter. Consequently, many sex workers rights movements are concerned that "the conflation of sex work (a commercial exchange of sexual services) with human trafficking (coercion into forced labour of all kinds) harms both the sex workers caught in the confusion and the fight against trafficking" (Urban Justice, 2009, p.1). While they support the anti-trafficking awareness campaigns on some levels, they also tend to increase advocating for sex workers and better working conditions within the industry. In the end, activism and public awareness is being displayed in the political and public sphere from both sides of the trafficking, prostitution and migration debate.

### ***Protection and assistance to trafficked persons***

Once again, in the area of protection and assistance Canada's lack of commitment to a three pronged approach becomes apparent. Currently, under Canadian law, "there is as yet no legal guidance for the protection of trafficking victims" (Oxman-Martinez & Hanley, 2004, p.10). Yet, recent efforts however, have been made at the policy level to include some form of

protection for those deemed ‘victims of trafficking’. In May 2006, Citizenship and Immigration Canada developed and implemented the Temporary Resident Permits (TRP) program which provides access to services for ‘foreign national victims of trafficking’. The TRP can be issued upon application to provide legal immigration status and access to health-care and counselling services for up to 180 days which may be renewed for a maximum of up to three years (Citizenship and Immigration Canada, 2009). The TRP is not conditional on the premise that the trafficked person collaborates with law enforcement to testify against the trafficker rather it is hoped that this measure will decrease concerns around deportation (Citizenship and Immigration Canada, 2009).

While this program might at first glance seem like a positive step in providing protection and assistance to those who are deemed ‘victims of trafficking’, there are two major problems with the implementation of this program. Firstly, there is the issue of jurisdiction between the federal and provincial governments and its impact on social service and health-care delivery.

Gajic-Veljanoski & Stewart (2007) synthesizes this issue as followed:

During this period [when victims of trafficking have received a TRP], TVA and medical services are under the federal jurisdiction provided via the Interim Federal Health program. After the reflection period, funding and organization of TVA transfer to the provincial governments, and their accessibility and completeness may vary substantially from province to province. Therefore, social services for health care, legal, housing and welfare assistance depend on where trafficked women are located. In the CIC TRP guidelines (2006), the federal government suggests that holders of temporary visas obtain private health and dental care coverage. This may pose another burden to trafficked women who are less likely to be employed and to support themselves during the recovery period. In addition, healthcare services are not likely to be covered by the Canada Health Act as trafficked women should obtain permanent residence status to be eligible for provincial health insurance. (p.351)

Therefore, the authors argue that “if the federal government does not take jurisdiction over TVA, the needs of trafficked women as to social, healthcare, education and employment services will

be unmet and provided only sporadically” (Gajik & Veljanoski & Stewart, 2007, p.351). While I agree that the federal government should take jurisdiction over TVAs, this move may not necessarily address the unmet needs of these women as the underlying problem is the lack of political will and prioritization of the Canadian government in providing protection and assistance to those deemed trafficking victims.

The second concern is again rooted in the identification process. In order to receive protection and assistance, the ‘victim’ has to perceive and identify herself/or himself as having been a ‘victim of trafficking’ which in some instances can be difficult. Kelly (2002) suggests that part of the lack of self-identification can be understood in the following manner:

“Many women may not define themselves as having been trafficked either because their exploiters have instructed them not to or because they do not see themselves as having been trafficked.” (p.37)

Then, law enforcement authorities (border patrol and/or police) have to concur with this assessment in order to determine the final outcome. However, as I have highlighted in the previous section, the challenge and/or lack of incentive to identify a trafficked person by law enforcement must not be forgotten. Therefore, it does not come as a surprise that in the end, there has only been 32 TRP’s granted to migrants as a result of being positioned as victims of trafficking in Canada since it came into force 3 years ago (Office to Combat Trafficking in Persons Conference on Human Trafficking, 2008).

Ultimately, Canada’s limited protection measures further highlights its predominate legal approach aimed to prosecute ‘traffickers’ and prevent illegal migration. To do otherwise, would require that Canada not only reaffirm its commitment to universal human rights but act on its commitments. As Benhabic (2004) suggests, “transnational migrations bring to the fore the constructive dilemma at the hearth of liberal democracies: between sovereign self-determination

claims on the one hand and adherence to universal human rights on the other” (p.2). Hence, embracing a rights-based framework, as I propose later on, would force government to respect the social, economic and cultural rights namely the right to health care, to housing, to education, to employment, to adequate social security and so on of ‘trafficked persons’ (Ife, 2008; UN 1994). According to George (1999),

Social and economic rights are, regrettably, in that ephemeral category of ‘rights-claims’ which governments can choose to neglect, reduce or expand to the extent that financial priorities and political process allow. On the other hand, political and civil rights are positive and negative rights fundamental to the participation of people in decisions affecting their lives. (p.20)

And, thereby acknowledging the social and economic rights of women in the sex industry and migrant women (legal or illegal), would necessitate governments and/or others to act as well as financially invest in an array of measures that would support this recognition. Unfortunately, the lack of funding in conjunction with political will remains one of the greatest challenges.

Furthermore, consistent with Canada’s anti-trafficking strategy and its shortcomings, no one including NGO’s, advocates, sex-workers or women who have experienced some form of trafficking has developed or recommended protocols, guidelines and/or a framework in assisting women who might have experienced some form of trafficking. Internationally, there are a few handbooks and/or manuals devoted to direct service provision when working with ‘trafficked persons’ however, applying these guidelines would mean having to contextualize them to Canada’s legislative and welfare state.

Assistance to trafficked persons around the world is divided into two distinct approaches. On the one hand, many countries have adopted a centralized approach which specifically provides services for trafficked persons in one location. The other approach has been the ad hoc method where countries use existing services by building partnerships and signing Memorandum

of Understanding's (MOU) with individual service providers to meet the array of needs. By in large, Canada has adopted the latter approach where the provinces and territories administer varying degrees of services that might be accessible to 'trafficked persons'. These services can include shelter, counselling, legal advice and health care which are provided primarily by immigration and refugee settlement services, women's shelters, violence against women organizations, faith-based organizations and/or an array of services that work with women in the sex industry. The overall service provision has been described as the following:

“...in spite of the fact that most agencies lack a specific mandate to work in a preventative or protective way with trafficking victims, these organizations manage to respond to some of the victims needs.” (Department of Justice Canada, 2005, p.29)

Meanwhile, the Department of Justice Canada (2005) report clearly outlines a range of gaps in services to 'trafficked persons' namely the lack of shelter and difficulties accessing services for women without legal status. Other barriers include the stigmatization and discrimination towards women working in the sex industry when attempting to access similar or different services. Other frontline workers have also voiced similar as well as additional barriers: the lack of public awareness and/or concern, lack of program funding and isolation of those who are trafficked (Canadian Council for Refugees, 2003). Yet, what seems to be omitted in this list of barriers is the heart of the problem. The main reason I argue explaining the gaps in service provision to a 'trafficked person' is Canada's anti-trafficking legislative shortcomings and its lack of political will. As demonstrated in previous sections Canada has adopted a prosecution approach to combat trafficking in persons at the expense of recognizing the needs and rights of the trafficked person. Therefore it is not surprising that organizations are facing lack of funding and struggling to provide support.

Moreover, during my working with the Office to Combat Trafficking in Persons I was able to observe how some of the transition houses service providers raised concerns around safety/security issues leading them to be reluctant in providing shelter to ‘trafficked persons’. They were concerned that the trafficker would seek to retrieve the woman accessing their services and would potentially endanger the woman seeking shelter, the other residents and the staff. As a result, many service providers were reluctant and felt there weren’t enough measures in place to accommodate this ‘high needs’ population. Plus, they felt that they were already overwhelmed with having to deal with increasingly more complex issues with the women they were currently supporting. Such a response however, highlights some of the possible bureaucratic and political challenges faced by organizations that might be reluctant to working with these women. Similar fears were voiced by respondents providing shelter in the Department of Justice Canada (2005) study who stated that they were “feeling uneasy about having to take on that role. They felt ill-equipped to do so but felt it was necessary since the woman had no alternative.” (p.22)

Furthermore, “while services aimed at immigrants and refugees help as best they can, they lack the specific legal expertise and the gender violence advocacy required by trafficked women” (CEDAW, 2008, p.52). Similar concerns were raised during my time at the Office to Combat Trafficking in Persons by many social service providers around needing more training about human trafficking, and how to identify ‘trafficked persons’. Skilbrei & Tveit (2008) echo this statement by stipulating that the challenge for Western countries is the ability of frontline workers to identify ‘victims of trafficking’. This challenge has been described as the following:

Professionals like police officers, social workers and NGO workers might come into contact with women who are victims, or recognize them as such due to the pervasive

paradigm of what a trafficking victim is; and the victims themselves may not for many reasons identify themselves as victims of trafficking. (p.15)

Although legislation at the international and national level has attempted to define the trafficking victim, neither the UN Protocol nor Canadian legislation has “ended the debates on trafficking and its relationship to migration, slavery or prostitution” (Outshoorn, 2005, p.150). With the lack of clear definition, and more importantly, the problematic identification process as well as Canada’s primary focus on national security rather than the needs and rights of the trafficked person, we must critically ask: who in Canada is being deemed a trafficked person? And what do individuals stand to gain or loss under this label?

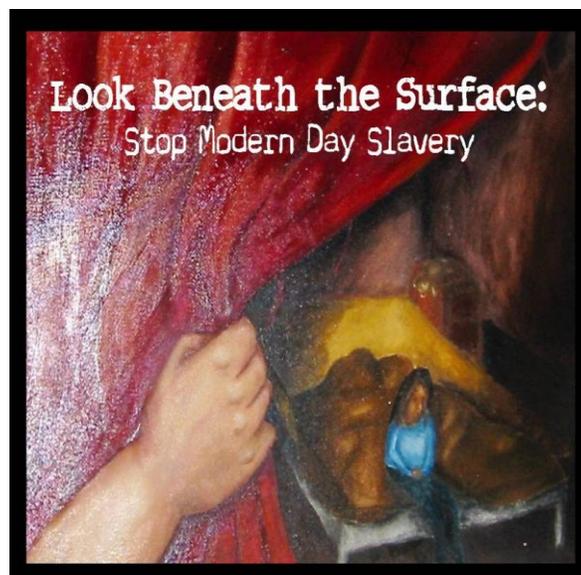
In essence, the paradox of working in this field is that definition and categorizing matter but by doing so, there is a risk of denying agency (capacity to act) to women, minimizing the diversity of women’s lived experiences and simplifying this multifaceted phenomenon. The following section aims to shed some light on this matter and provide preliminary insights to the questions mentioned above.

## **The labelling of women in the human trafficking discourse**

The critical question remains; who in Canada is deemed a trafficked person? The construction of the trafficked person or more specifically the ‘trafficked women’ - as trafficking is said to affect primarily women and children, has been influenced by many factors. As I have described in previous sections, the phenomenon of human trafficking has gained attention over time because of the ‘abolitionist’ movements, in conjunction with local issues such as national security, concerns around organized crime as well as global issues such as migration flows, capitalism and free trade, the transnational sex industry, gender inequality, and the uneven

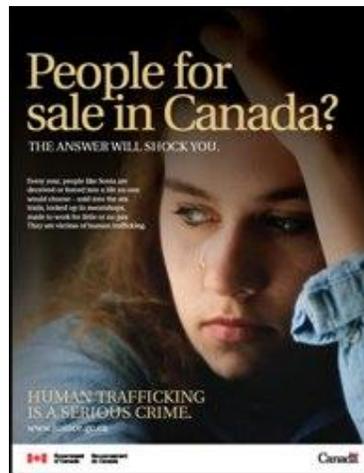
divisions between the North-South. In the end, ideological stance, politics and micro/macro level factors have all influenced the way in which the UN Protocol has been developed and how Canada has framed its anti-trafficking strategy. Consequently, the broad and ambiguous definition as well as the political context of the times, has opened the door for policy-makers, and advocates alike to depict an image of a ‘trafficked woman’ as a poor vulnerable woman- a complete victim.

***Trafficked Woman-Victim or Survivor?***



This is a poster used and promoted by the Salvation Army in 2008 to increase awareness around human trafficking for the purpose of sexual exploitation. This poster urges the general public to look beneath the surface of prostitution. It implies that underneath what we see or understand of prostitution lies another reality; the trafficking of young girls forced into prostitution. This image of an innocent scared looking young girl sitting at the end of a bed holding her hands portrays women as victims. It aims to provoke sympathy and instills a sense of hopelessness depicted through an image of the innocence of a young girl. The text attached to

this image plus the image itself demand the observer to become aware and possibly act to rescue her.



This is another commonly used image in anti-trafficking campaigns created by the Department of Justice Canada. It depicts a young female who appears to be upset as a tear runs down her cheek. She is holding her head which seems to display a sense of hopelessness and powerlessness experienced by the young girl. Essentially, this image and the question posed in the caption draw attention to the suffering that trafficking victim's experience and echoes the most commonly cited trafficking experience of women, namely having suffered psychologically abuse, intimidation, emotional manipulation, and marginalization (Cwikel et al., 2004; Raymond & Hughes, 2001).

Additional written materials have also been distributed to the general public. For instance, in Vancouver an information pamphlet describing trafficked persons reads like this:

Trafficked persons come from rural and urban settings and can vary in age. While men and boys can be victims of trafficking, the majority of the world's trafficked people are women and girls. Generally, trafficked people are drawn from the most vulnerable populations of society. Those facing extreme poverty, unemployment, inequality and lack of opportunity can be more vulnerable to trafficking. (Human Trafficking in Canada, People's Law School, 2009, p.14)

This citation highlights some of the other common descriptions of a ‘trafficked victim’ who are “pictured as poor, naive and ‘unempowered’ women from the third world or former communist countries [...]”(Doezema, 1995 as cited by Doezema, 2000, p.37). Additional affirmations cited by some researchers who fall into the same stereotypical views depicting trafficked women as pure victims indicate that women from the South are more vulnerable to trafficking. They emphasize that trafficked women “are often young and poorly educated [and] easily emotionally and mentally controlled (e.g., by black magic rites)” (Aghatise, 2004; Beyrer, 2001; Busza et al., 2004; Family Violence Prevention Fund, 2005; Haynes, 2004 as cited by Gajic-Veljanoski & Stewart, 2007, p.341). The reasoning behind this affirmation is that women from the South “...usually come from patriarchal societies, and initially, may not be capable of recognizing emotional abuse, exploitation or coercion by their intermediaries (i.e., ‘aunts or friends’ who transport them to destinations)” (Aghatise, 2004; Family Violence Prevention Fund, 2005 as cited by Gajic-Veljanoski & Stewart, 2007, p.341).

Another common description is the display of trafficking women “[...] as total victims who have been the pawns of profit-seeking and unscrupulous individuals” (Bruckert & Parent, 2002, p.8). An example of this can be found in the *Toronto Sun*:

Vietnamese and Chinese mafia are increasing operations in brothels in Toronto, Canada. They traffic in women from Southeast Asia. Agents pay recruiters up to \$8,000 for a woman, who then sells the women to pimps for about \$15,000. Agents take 10% of the earnings beyond the original contract. The women are forced to service buyers 12 hours a day, 400 buyers or \$400, 000 to pay off their debt. Women are abused and terrorized, being beaten and reportedly burned with hot irons. (Rob Lamberti, 10 May 1998. `Sex Slaves: Fodder for Flesh Factories the Women Earn Nothing but Tips until they pay off their \$40,000 Contracts)

Overall, it can be said that trafficked women for the purpose of sexual exploitation and/or prostitution are unanimously presented as “vulnerable and passive objects who are incapable of

making reasoned judgements and consequently, need to be rescued and ‘rehabilitated’” (Jordan, 2002, p.30). This representation sets out, on the one hand, to increase awareness and evoke both sympathy and outrage. But at the same time, it constructs and disseminates a dominant image of a trafficked woman-an innocent, powerless and naive victim.

The problem with this dominant representation is that intrinsic to the victimization of ‘trafficked woman’ is the denial of women’s agency (capacity to act) and their resiliency throughout this experience. Concepts of agency have been founded on notions of individual choice and responsibility where individual actions are taken based on a person’s free will which is unconstrained by structural forces (Schneider, 1993). Meanwhile, ‘victim’ claims for women trigger sympathy and assumptions of passivity, and protectiveness (Schneider, 1993). Hence “by applying the broad and emotionally charged term ‘victim of trafficking’ the choices and experiences of the individuals involved are ignored [...]” (Barnett, 2006, p.19).

A review of some of the stories of trafficked women challenges this narrow focus on victimhood and suggests resiliency and agency. Resilience is “the human ability to adapt in the face of tragedy, trauma, adversity, hardship, and ongoing significant life stressors” (Newman, 2005, p. 227). An example of women’s resilience to the abuse and control they might have endured while forced to work in prostitution is expressed in the following excerpt by a woman from Hungary trafficked into Canada as a stripper.

*“I knew something was going on. I knew but I didn’t do anything...like it’s when you know this is the fire, it’s going to burn you, you know it is but you keep on going.”*  
(McDonald et. al. 2000, p.45)

Other times, as Farley (2005) points out, women who have experienced profound emotional distress as a result of prostitution and/or trafficking might demonstrate resiliency by using dissociation as a coping mechanism. Dissociation allows for psychological survival and enables

women to continue to function despite overwhelming pain, fear or other emotions. This coping mechanism has been expressed by a sex-worker from France in the following manner:

“... when I’m working in prostitution, the real me doesn’t exist. Gradually, the prostitute’s ‘persona’ the character they force us to take on, can take up more and more space...” (Farley, 2005, p.6)

In other circumstances, “trafficked women ... are likely to be strong, risk-taking individuals who have made rational choices and exercised their own agency in deciding to migrate” (Jordan, 2002, p.30). For example, one woman in McDonald’s et.al (2000) study on migrant sex-workers from Eastern Europe and the Former Soviet Union said that she decided to migrate to Canada in hopes of a better life. She expressed the following:

*I have always had a dream of coming here. I have always been told that Canada is one of the best places to live in the world. It is very happy and friendly. It is also very, how do you say, new...modern...and there is many opportunities for a good life here. (p.44)*

While it is true that this woman has made a decision to migrate to Canada, thereby demonstrating agency, there is still a possibility that she might also experience some form of trafficking upon arrival. Trafficked women may start out as willing participants, but by means of abuse, control or deceit women can become trafficking ‘victims’ subject to exploitation and forced into prostitution (Bi-National Assessment, n.d.). Such an occurrence is illustrated by one sex-worker’s retrospective explanation on how she ended up working in the sex industry in Canada.

*I call them and I meet with them, and they said it’s a baby-sitting job and stuff...and then when I come to Canada I find out here that it’s not a babysitting job. And then I just find out this group in Hungary it’s really organized crime. (McDonald, 2000, p.44)*

Therefore, to depict trafficked women as pure victims without resilience and agency does not reflect the full range of women’s experiences within the trafficking process. This type of

depiction shows only a one-dimensional view; one that stresses women's inability to respond or cope in any given situation.

In essence, the notion of victimhood minimizes women, and portrays them as being unaware and passive. Meanwhile, the image of a strong, resilient trafficked woman capable of acting on behalf of her own life, also omits the possible pain and suffering she might have endured. The danger then is to fall into the trap of constructing an either/ors perspective of women's lived experience. This tends to create a dichotomised view of a trafficked woman as either pure victim or as an agent in full control of her life. An example of the danger of this dichotomy is illustrated in the following statement found in *Agence France-Presse*,

“One of the biggest misconceptions about human trafficking is that prostitution is not (an example of human trafficking, but)... we see prostitutes on the street and we don't think of them as victims because we think they choose to do it.” (March 12, 2009)

Consequently, an either/or's perspective can also reinforce the value-laden stance of women in the sex industry where “women trafficked into forced prostitution are treated as ‘madonnas’ (innocent, vulnerable) who need assistance and support or as ‘whores’ (conniving, tainted) who need redemption and rehabilitation” (Jordan, 2002, p.31). Instead, we must “learn to accept contradiction, ambiguity and ambivalence in women's lives, and explore more ‘grays’ in our conceptions of women's experience [...]” (Schneider, 1993, p.3). To embrace this perspective allows for an exploration of the multiple factors and larger forces that shape the full range of women's lived experiences, their suffering and their strengths.

The following reflection serves to illustrate the either/or perspective (trafficked women and sex workers). It emerged from a discussion I had with one of the participants in my research

project about her experience working in the sex industry. While talking about her experience, she reflected on how sex workers or prostitutes are viewed and how it made her feel.

*“...And it’s also lonely because you know how much society hates you. I mean to walk around, I mean you just have to turn on the TV hum ... and hear how much society hates prostitutes, and watch CSI and hear how much “oh she was just a hooker” hum when my friends started going missing I mean, to know that no one looked for you, no one. So it’s lonely as well.”*

Later on in the interview she added the following comments,

*“We want to fix the hookers, we want to get them off the street, but we don’t necessarily want them to be part of society ... It’s funny how we are the ones that never get to walk away from it, but we do everything we can to hide the John’s identity and somehow he’s seen as having a sexual addiction or seen as you know, whatever ‘entitled’ because his wife doesn’t put out, but for us we are just seen as cast offs or sluts or something right?”*

Yet, when we talk about ‘trafficking victims’ and providing support the focus becomes rescuing the victim and helping them to escape their slave-like conditions. For instance, the Salvation Army fundraising campaign constructs its central campaign pledge around the following,

*“By purchasing A Sparkle of Hope pin...you can support the liberation of sexually trafficked women and children that live in fear and bondage.” (p.30)*

In these two lines words such as ‘liberation’ and ‘live in fear’ serves to draw attention to the lack of freedom endured by victims of trafficking and highlights the horrible circumstances they endure. While it is true that most fundraising campaigns appeal to emotion and sympathy, the point I am attempting to make is that we would never see a similar fundraising campaign to support sex workers. Rather, sex workers are continuously confronted by stigma and marginalised by society. In the end, these two examples stress the duality that exists within society and the way in which ‘trafficked women’ (innocent victims) receive public sympathy while sex workers (agents) are stigmatized by the public.

Another dilemma with the typical view of a ‘trafficked woman’ is that it seems to suggest a one size fits all trafficking experience involving coercion, violence and deceit. However, this typical scenario is not what is being described by frontline workers. As one of the frontline worker respondents in the Department of Justice Canada (2005) study suggests:

So, there are many things: there are migratory conditions, the condition in which the person was in their country of origin, conditions during transportation, living and work conditions at the point of arrival. All of this can be different. In other words, a person can be a sex worker in Romania, have a migratory trajectory where, during the transportation to Canada, may or may not have been fooled, may or may not have traveled in horrible conditions, and may or may not work in the sex industry after arriving in Canada. (p.7)

Thus, according to Chuang (1998 as cited by Bruckert & Parent, 2002),

... the narrow portrayal of trafficking as necessarily involving forced recruitment for the purposes of forced prostitution thus belies the complexity of the current trafficking problem, and overlooks numerous victims whose experiences diverge from more traditionally recognized forms of trafficking. (p.9)

Ultimately, the women migrating (legally or illegally) to Canada, the possible trafficking process as well as the women currently working in the sex industry who might experience some form of trafficking are diverse. One of the participants in my research who works in the law enforcement field echoed this by saying that “...*women being recruited in the sex trade, every story is different...*” My experience at the Office to Combat Trafficking in Persons also supports the diverse experiences and trafficking process of women for the purpose of sexual exploitation and/or prostitution. I can recall, for example, hearing on the case of young women aged between the ages of 16-25 brought over by boat from China and forced to work in the sex industry.

Another situation was brought to our attention regarding a woman who had decided to work as a sex worker, was brought over illegally and then was forced to work long hours with no time off. She was abused and her ‘pimp’ threatened to hurt her family back home if she did not continue

to work. Meanwhile, other cases include a family run prostitution network in Canada as cited in the *Toronto Sun*:

A family run prostitution network in Canada made more than \$1 million in two years by prostituting foreign women. A man, his son, his wife, their daughter and daughter-in-law all recruited females who participated in the overall operation. Many of the 20 prostitutes-aged 23 to 39-were related to the operators by marriage or blood, Murarotto said. They worked out of apartments and each turned over at least \$15,000 a year to the operators. (George Christopoulos, 16 May 1998. "Family Ran Prostitution Ring")

The diversity of race, age and class of those being lured into the sex industry as well as the ways in which they are recruited and by whom is reflective of how 'every story is different'.

Women's lived experiences do not fall under one simple category of trafficking or one portrayal of a 'trafficked women/victim/survivor'. To believe in such a clearly defined objective reality ignores the subjective nature of life itself and at the same time, excludes those who do not fit the typical scenario of victimization.

The exclusion of 'other' victims is reflected in situations where "women who knowingly migrate to work in the sex industry and who may encounter exploitation and abuse are not considered to have a legitimate claim to the same sorts of human rights protections demanded for 'trafficking victims'" (Doezema, 1998; Wijers, 1998 as cited by Doezema, 2000, p.37).

Consequently, women who 'voluntarily' migrate to work in the sex industry become excluded from the category of 'trafficked women' because they haven't been 'forced' into the trade, implying that they haven't suffered enough as a person to be deemed a trafficking victim who could potentially receive protection or assistance.

This label further segregates women into two distinct categories; the deserving and the undeserving. The deserving represents the victim or the typical trafficked woman (innocent, vulnerable, victim) while the undeserving is the agent with full control of her life and decides to

enter the sex industry. Or put differently, the undeserving; women who do not fit the typical scenario of victimization or those who have not suffered enough to merit the claim of victimhood deemed by others. And, therefore this formal differentiation which also reinforces the either/ors perspective of a ‘trafficked woman’ can render those who are vulnerable and exploited lacking rights, protection and assistance because they are not vulnerable in the right way (Skilbrei & Tveit, 2008).

Given the compilation of arguments put forward right through this essay, the following section, will serve to advance a conceptual framework that addresses some of the shortcomings of Canada’s anti-trafficking strategy and sets out to reject the typical trafficking woman image. From the proposed standpoint, I draw attention to the diversity of women who experience some form of trafficking and urge Canada to place the needs and the rights of ‘trafficked women’ at the center of its strategy.

## **Recommendations/Suggestions**

In this essay I have stated that Canada was one of the first countries to sign and ratify the UN Protocol, yet I have argued that it has only committed itself to the prosecution of ‘traffickers’ and the prevention of illegal migration. I have affirmed that the lack of protection and assistance for ‘trafficked women’ is due to Canada’s legislative shortcomings, its primary concern for issues of national security and more importantly the lack of political will. Consequently, adopting a strong law enforcement approach in conjunction with the noted ‘challenges’ in identifying trafficked persons, women and migrant women have more to lose by ascribing to this label than they stand to gain.

I have also pointed out in subsequent sections that the notion of victimhood and the typical ‘trafficked woman’ image does not benefit women either. Rather, it ignores women’s

agency and resiliency, the diversity of women's lived experiences and simplifies the multifaceted phenomenon of human trafficking. Ultimately, I have concluded that women who are deemed a 'trafficking victim' do not profit from this label. Instead, being labelled a 'trafficking victim' in Canada equates to being afraid of deportation or the justice system, being stripped of one's inherent rights, and being robbed of one's agency.

Given the main arguments that I have presented through this essay, I conclude by calling for the adoption of a rights-based person-centered perspective by professionals working in the field and the Canadian government. The review of the literature, legislation and experiences of women leads me to call for a reassessment of Canada's anti-trafficking strategy and strengthen its commitment to the three pronged approach stipulated in the UN Protocol. Furthermore, I advocate that women should be seen as having agency (capacity to act) and therefore, we must challenge who in Canada is deemed a 'trafficked women' in policy, legislation and public discourse.

Before we can begin to adopt a rights-based person centered perspective, we must first and foremost start by challenging common perceptions. To do so requires that we reject the 'trafficked woman' experience and dispute the victim/agency dichotomy. We must recognize that women's lives are multifaceted and as equally complex as the human trafficking phenomenon. I advocate that we must view and treat women as being the 'experts' of their own lives, capable of making decisions while at the same time experiencing moments of suffering as well as resistance throughout their lived experience. The active reframing of public and professional perception starts with an openness on behalf of professionals and government delegates working in this area, to listen and to understand in a non-judgemental manner the range of lived experiences of migrant (legal or illegal) involved in the sex industry having potentially

experienced some form of trafficking. With this stance, we are then, more prepared and willing to adopt a person-centered approach.

A person-centered approach in the context of this essay implies that the focus of any intervention, discussion and/or policy-making decisions derives from the understanding and acknowledging the needs and the rights of the trafficked person. Ideally, this would also come to mean increasing the involvement of women themselves in discussions and policy-making. Within a micro level context, this approach also ensures that interventions are both collaborative and individualized. At the same time, this approach aims to empower women so that they can take the action they deem necessary to improve their situation. Empowerment therefore is meant to signify the process of increasing personal, interpersonal and political power of the individual.

Secondly, the politically entrenched challenges of identifying ‘trafficked women’ and law enforcement authorities delegated to do so, has only resulted in the approval of thirty-two TRP’s. Thus, for the rest of the women having potentially experienced some form of trafficking, they might end up being detained, arrested or deported. Under the current political context and the lack of national protocols, I advance that part of the solution would be to actively place the power to define the ‘trafficked woman’ and their experiences in the hands of the women themselves. Until now, the anti-trafficking strategy has been constructed by and with ‘others’ (those who have not experienced ‘trafficking’). As I have argued, national discourse on trafficking does not reflect the multiple realities of women’s lived experience nor does it place these experiences at the heart of its strategy. Canada’s anti-trafficking measures emphasize prosecution and prevention and do not prioritize the protection or assistance of trafficked persons. Instead, when trafficked persons are apprehended they are treated like criminals or illegal migrants with little regard for their inherent human rights. These measures primarily

support the States national security by placing a greater importance on prosecution and the identification of ‘illegal migrants’. It does not contain strong response protocols nor does it acknowledge the diverse lived experience of women. More importantly, it does not recognize that those who have experienced some form of trafficking (coercion and/or exploitation) when apprehended, withhold rights to equality, non-discrimination, dignity and respect. Therefore, I argue that we must reframe from actively seeking to identify ‘illegal migrants’ over ‘trafficked women’. Instead, we must replace the identification process with an exploratory and supportive framework that seeks to understand the particular needs and strengths of women who have possible experienced some form of trafficking while respecting their inherent rights.

The premise for a rights-based perspective integral to the protection and assistance of trafficked persons is also crucial and must be constructed with the following recognitions:

1. Recognize that trafficking in persons is a human rights violation (Special Rapporteur, 2009). A rights-based approach recognizes that human trafficking is not an issue of migration or merely a prostitution problem rather women’s rights have been violated while being trafficked.
2. Recognize that current laws and immigration policies might be discriminatory and violate the rights of some or all trafficked person (Jordan, 2002). This requires that we pay attention to the fact that “the so-called ‘justice system’ can result in what is effectively the just administration of unjust laws” (Ife, 2008, p.27). As noted in previous sections of this paper, trafficked persons often times are deemed as criminals rather than perceived as ‘victims’ of human trafficking.

3. Recognize that trafficked persons are people bearing human rights (Jordan, 2002). The premise for a rights-based approach to the protection and assistance of trafficked persons requires that acknowledgement be made in recognizing that trafficked persons have human rights and freedoms like any other human being.

If applied correctly, this rights-based framework should guide Canada's protection and assistance strategies to honour a trafficked person's right to equality, dignity and respect at the time of apprehension as well as their social, economic and cultural rights namely, the right to health care, to housing, to education, to employment, to adequate social security and so on if they so choose to stay in Canada (Ife, 2008; UN 1994). Moreover, it should push us to admit that trafficking in persons is a human rights violation against women rather than only recognizing it as a social phenomenon that should be addressed. To affirm that a violation of human rights has been committed can aid in strengthening advocacy campaigns and applying pressure on the Canadian government to act in manner that places trafficked women at the center of its action plan. Therefore, in conjunction with a person-centered approach, I strongly advocate for the inclusion of a rights-based perspective as part of my proposed conceptual framework.

## **Implications for social work**

As I have pointed out, human trafficking is a complex and multifaceted phenomenon; therefore multi-dimensional recommendations are also necessary. I have attempted to put forward a conceptual framework (rights-based person-centered approach) that aims to place the lived experience of trafficked women at the forefront of Canada's anti-trafficking strategy. In

this next section, I would like to draw attention to the role that social work professionals can play in addressing this issue.

Given that social work is founded in promoting social justice and human rights, as well as being a practice based profession, I argue that the profession can become involved in two distinct ways. Firstly, it must be noted that social workers may not be aware of this issue and the possible presence of women who might have experienced some form of trafficking already receiving services from within the social service network. Therefore, social workers must educate themselves on this global phenomenon. From this stance, social workers will be better suited to advocate with and/or on behalf of those affected by this issue.

Human trafficking in Canada is but the symptom of interconnected factors involving individual choice, distribution networks, structural dimensions at both the local and global level as well as laws and policies on migration and prostitution within Canada. Consequently, the need to advocate for structural change cannot be excluded. We must advocate for changes in migration policies and urge the Canadian government to reaffirm its commitment to universal human rights rather than placing national security as its priority. And, finally we must strengthen our demands for additional protection and assistance strategies anchored in a rights-based person-centered perspective.

Secondly, on a more practical level and consistent with a rights-based person-centered perspective, comes the professional responsibility to challenge the assumption that all women experiencing such situations need 'rehabilitation' or being 'rescued'. For social workers who might be working with women who have experienced some form of trafficking, we must therefore acknowledge that in some cases, women might not want support or 'escape' their situation. For instance, it has been said that:

Even some of the people who are trafficked, knowing the wrongs of their situation of bondage, may still prefer it to what they left behind; either for themselves or for what it enables them to do for family members. This of course does not in any way justify the abuses perpetrated by the traffickers (Canadian Council for Refugees, 2003, p.21)

Moreover, there is also a growing trend that women deemed ‘victims of trafficking’ are refusing services. As Brunovski & Surtees (2009) indicated in their study on trafficking survivors that some women declined services because they felt they did not need it or felt that what was being offered did not suit their needs. Other times, women were receiving support from informal sources and did not require the formalized services. “Even ‘victims’ who accepted assistance, or had little real choice but to accept assistance due to their status as irregular migrants, described a high level of confusion when first offered services” (Siren report, 2008, p.2). As a result, people who did not understanding the services offered lead to the decline for assistance. While it is important to understand why the person might refuse support, it is also necessary that frontline workers do not assume that all women need or desire assistance.

Following the interviews I conducted for my research on domestic trafficking in Vancouver’s sex industry, I wrote a research memo on the notion of ‘support for trafficked persons’ that explores further this idea. I described the emerging insights in the following manner:

*March 8<sup>th</sup>, 2009 -I began to notice that part of supporting a woman who has been trafficked means that service providers must start ‘where the woman is at’ in her ‘trafficking experience’. What this implies is that because domestic trafficking seems to be a unique experience which occurs over time, and therefore women could potentially benefit from an array of supports during those ‘different points or times’ in their lives. However, starting ‘where the person is at’ also suggests that women might refuse support for a variety of reasons as well. For instance this makes me think of one informant who shared ‘a time’ in her life and said: “I don’t think anybody could have helped me, I was so angry and set off by the rest of society that hum not sure what anyone could have done, looking back on it” (experiential woman). While another informant expressed that some of the women she had encountered “were at different points in their lives [and] had been in the*

industry for a long time and had not intentions of getting out of it” (social worker) *which resulted in a refusal of support at that point in their lives. Therefore, it would appear that a person centered approach that respects the decisions made by the woman to deal with her situation in the way that she feels is appropriate for her is important. I recall listening to the law enforcement officer talk about a time when he was working with a trafficked women and said that “if we get them out and not charge anybody because that’s what they want to do then we’ll do it” (law enforcement). Ultimately, he respected her decision to do what she thought was best for her which seems to be an important component in providing direct support to trafficked persons.*

While it must be noted that domestic trafficking and international trafficking of women are not comparable on many levels, this extract can however, be used to highlight the importance of ‘starting where the person is at’.

Ultimately, I assert that by adopting a rights-based person-centered approach which implies starting where the person is at; we also respect women’s choices and their inherent rights. These choices include: being able to accept or refuse assistance as well as decide whether or not to remain in their current situation. By doing so, we are acknowledging that women have agency and have the right to choose for themselves what they wish to do in any given situation.

The strength of adopting this perspective is that it challenges the stereotypical, one dimensional perspective of a ‘trafficked women’ as being a poor vulnerable victim who needs to be rehabilitated and rescued. It does so by acknowledging women’s agency and reinforcing the notion that women are the experts of their own lives. It allows women to define themselves the way that they choose. It also encourages professionals to gain a deeper understanding of women’s unique lived experience, their strengths and their needs rather than labelling women and/or generalizing the trafficking experience. And finally, it opens the door for women to, if desired, speak out against this phenomenon and partake in policy-making decisions.

## Conclusion

This essay has provided a comprehensive analysis of the human trafficking phenomenon from a historical to modern-day overview. This examination also embraced a national and international exploration of the issue in a globalized era. I have described Canada's strategy to address trafficking in persons and its shortcomings. The main argument presented was that Canada has primarily focused on national security issues by placing a particular emphasis on prosecution and prevention under the guise of having committed to a three pronged approach to combat trafficking in persons. I have argued that gaps in services and protective measures for 'trafficked women' are primarily due to Canada's lack of political will to embrace these strategies. Secondly, I have highlighted the politically driven challenges in identifying a 'trafficked person' and the lack of solid protocols resulting in the possible detainment, imprisonment and/or arresting of potential trafficked victims. Finally, I have illustrated that the conceptualization of 'trafficking women' and the labelling of women minimizes the diverse and unique experience of migrant women, strips women of their agency as well as the opportunity to define for themselves their lived experience.

In the end, I stress that human trafficking is a multifaceted phenomenon, that requires a two pronged conceptual framework; a rights-based person-centered perspective. Subsequently, I have drawn attention to the pivotal role that the social work profession can play in addressing this issue. It must be noted however, that by no means do I suggest that adopting this perspective or following these recommendations could abolish trafficking in persons. Rather, the strength of this conceptual framework and the inclusion of the social work profession on this matter is that together it can challenge the one-dimensional view of various components of the human trafficking phenomenon. At the same time, it urges Canada to reaffirm its commitment to

universal human rights by placing the needs and rights of potentially trafficked persons at the forefront of its anti-trafficking strategy.

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