

LABOUR  
TRAFFICKING  
IN EDMONTON



# Holding Tight to a Double- Edged Sword

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## About ACT Alberta

The Action Coalition on Human Trafficking (ACT Alberta) is a nongovernmental organization mandated to identify and respond to all forms of human trafficking. Founded in 2010, ACT Alberta coordinates services for victims of human trafficking, provides training and education, researches and collects data, helps to develop policy provincially and nationally, and works to build capacity for community-based responses to human trafficking. ACT Alberta works collaboratively with government agencies, law enforcement, and nongovernmental organizations to identify the needs of victims and respond to human trafficking in Alberta.

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Karen McCrae, MA

All views and opinions expressed in this report are those of the author and do not necessarily represent those of ACT Alberta or Public Safety Canada.

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# TABLE OF Contents

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<b>EXECUTIVE SUMMARY</b> .....	<b>ii</b>
<b>LIST OF ACRONYMS</b> .....	<b>iv</b>
<b>SECTION I: Setting the Stage</b> .....	<b>1</b>
Global Context of Human Trafficking .....	1
The Definition and Response to Human Trafficking in Canada .....	4
Canadian Immigration Policy – A Primer.....	8
The Alberta Context.....	11
<b>SECTION II: Research Project</b> .....	<b>15</b>
Methodology.....	15
Results.....	17
<i>Defining Trafficking</i> .....	17
<i>Trafficking Dynamics</i> .....	19
<i>Responding to Labour Trafficking in Edmonton</i> .....	37
<i>Challenges Posed by Societal Attitudes</i> .....	55
<b>SECTION III: Recommendations</b> .....	<b>56</b>
<b>SECTION IV: Conclusion</b> .....	<b>58</b>
<b>SECTION V: References</b> .....	<b>59</b>
<b>APPENDIX A: Information Sheet</b> .....	<b>66</b>
<b>APPENDIX B: Interview Consent Form</b> .....	<b>68</b>
<b>APPENDIX C: Focus Group Consent Form</b> .....	<b>70</b>
<b>APPENDIX D: Guiding Questions</b> .....	<b>72</b>

# EXECUTIVE

# Summary

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Human trafficking is an abhorrent crime that is of serious concern both globally and in Canada. Although Canada has officially taken a firm stance against all forms of human trafficking since ratifying the United Nations Trafficking Protocol in 2002, the response has centered almost entirely on human trafficking for the purposes of sexual exploitation. This report outlines the results of a study on labour trafficking that aims to address this gap. It was undertaken with the goal of developing knowledge about the extent, nature, and responses to labour trafficking in legal industries in Edmonton, Alberta by drawing on interviews and focus groups conducted with 54 key cross-sectoral stakeholders in the spring of 2016.

This study identifies that the Temporary Foreign Worker Program, and in particular the low-wage stream within that program, prevails as the primary vehicle by which labour trafficking occurs in Edmonton. By manipulating the weaknesses of a program that fails to robustly protect the rights of migrant workers, recruiters and employers traffic workers both into and across the country with impunity. Many businesses in Edmonton reap immense profits off the backs of victims of labour trafficking, who often work and live in deplorable conditions.

Traffickers exploit victims through control tactics such as deceit, monitoring, isolation, and fear. While some fears arise from real and intended physical harm, others stem from non-physical forms of coercion such as debt bondage and threats of denunciation and deportation. Thus labour trafficking in Edmonton occurs along a spectrum of abuse and exploitation, in which physical force assumes only one of many forms of control in the labour trafficking dynamic. This study identifies that these mechanisms of control, exerted in the context of migrant worker vulnerabilities such as precarious immigration status and financial debt, are extremely effective for the purposes of exploitation; workers are forced to labour for long hours for such little pay that they often cannot feed or house themselves.

Human trafficking is a unique and complex crime, composed of many separate elements in which the whole is greater than the sum of its parts. Notably, when human trafficking is stripped down to its various component pieces, the larger crime can be overlooked. This quality also makes identification challenging, since the various organizations that encounter a trafficked individual may only be seeing snapshots of the larger picture, such as the control, or the exploitation, or the abuse, rather than the overarching human trafficking story. As a result, victims of labour trafficking often go unidentified and larger systemic issues go unaddressed. This problem can only be solved by continuing to cultivate a deep and wide sense of collaboration, coupled with mass cross-sectoral training on labour trafficking.

It also became apparent throughout the course of this study that individuals and organizations from across a wide array of sectors are eager and willing to collaborate on crafting effective and tangible responses to labour trafficking in Edmonton. While labour trafficking is not a new issue, it is one that is receiving increased attention in Edmonton.

This report concludes with a series of recommendations on ways to prevent labour trafficking and protect those who have been victimized. Edmonton is poised to become a national leader in the response to labour trafficking. It is my hope that this report will add to this momentum.

A handwritten signature in black ink, appearing to read 'K McCrae', with a long horizontal flourish underneath.

Karen McCrae, MA, Project Manager

# LIST OF Acronyms

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- ACT Alberta – Action Coalition on Human Trafficking Alberta Association
- AINP – Alberta Immigrant Nominee Program
- CBSA – Canada Border Services Agency
- ECLC – Edmonton Community Legal Centre
- EPS – Edmonton Police Service
- ESDC – Employment and Social Development Canada, also known as Service Canada
- HTNCC – Human Trafficking National Coordination Centre
- ILO – International Labour Organization
- IRCC – Immigration, Refugees and Citizenship Canada
- IRPA – *Immigration and Refugee Protection Act*
- LMIA – Labour Market Impact Assessment
- RCMP – Royal Canadian Mounted Police
- TRP – Temporary Resident Permit
- TFWP – Temporary Foreign Worker Program
- TFWAO – Temporary Foreign Worker Advisory Office
- UN – United Nations

## SECTION I:

# Setting the Stage

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## Global Context of Human Trafficking

Human trafficking is a heinous abuse that affects large numbers of women, children, and men around the globe. While global campaigns have been launched against human trafficking sporadically for over a century, the most recent revival against human trafficking began in mid-1990s amidst growing concern over transnational crime and illegal migration. The increasing alarm over trafficking of persons culminated in the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* (the "UN Trafficking Protocol"), adopted in December 2000. This Protocol defines human trafficking as:

[T]he recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Despite being left intentionally vague (see Chuang, 2013), this definition currently provides the best universal framework for understanding this highly contentious and ambiguous issue. Human trafficking is framed within the UN Trafficking Protocol as the sum of three component parts, namely (1) action, (2) means, and (3) purpose.

**Table 1: UN Trafficking Protocol**

<b>(1) ACTION</b> (What a trafficker does)	Recruitment, transportation, transfer, harbouring or receipt of persons
<b>(2) BY MEANS OF</b> (How the trafficker does it)	Threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or position of vulnerability, giving or receiving payments or benefits to achieve consent of a person having control over another
<b>(3) FOR THE PURPOSES OF</b> (Why the trafficker does it)	Exploitation (including, 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)

*Adapted from Gallagher and Skrivankova, 2015*

In the UN Trafficking Protocol, exploitation, the ultimate purpose of human trafficking, is further defined as “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” (United Nations, 2000).

Sex trafficking was initially the sole concern of global counter-trafficking efforts, a focus that was set in the first international agreement on human trafficking, the 1904 *Convention against White Slavery*. This Convention was exclusively concerned with the movement of white women and girls across borders for the purposes of sexual exploitation and established the longstanding conflation of human trafficking with prostitution – terms which are still regularly used synonymously today despite clear legal distinctions at both international and national levels (Sanghera, 2005).

## DATA DISPUTATIONS

*Covert activities that occur in shadow economies are notoriously difficult to measure and human trafficking is no exception. While both governmental and nongovernmental bodies around the world are increasingly engaged in attempting to quantify human trafficking, reliable statistics and data in this area remain largely absent. Collecting reliable data on human trafficking is a challenge both worldwide and within Canada.*

*Part of the difficulty lies in the nature of human trafficking, a clandestine crime that primarily affects marginalized and hidden populations. Individuals in such groups may never be counted or even identified, as membership is often stigmatized or illegal and individuals may choose not to come forward or give reliable answers for fear of being ostracized or punished (Gallagher & Skrivankova 2015; Tyldum & Brunovskis, 2005). A lack of training and understanding of human trafficking and definitional discrepancies, compounded with gross sensationalism, further complicates the identification of trafficking experiences. In 2010, the RCMP identified that “the widespread understanding of human trafficking is often clouded by stereotype, bias, and sensational media reports” (RCMP Criminal Intelligence, 2010).*

*In light of these challenges, statistical data on human trafficking has been incorporated into this report sparingly and only when it has been generated through the use of transparent and rigorous methodology.*



This focus on sex trafficking has largely been maintained up to the present day in many circles, despite the fact that sexual exploitation is only one of several purposes and outcomes of human trafficking. Indeed, labour exploitation, in which an individual performs labour services through the use of force, deception, or coercion, may in fact be the most prevalent form of trafficking globally. According to Feingold (2005), evidence gathered in global field studies indicates that labour trafficking is actually more common worldwide than sex trafficking. The International Labour Organization (ILO) confirms this, estimating that there are currently 14.2 million people being exploited in labour industries worldwide with an additional 2.2 million in state-imposed forced labour, dwarfing the estimated 4.5 million people currently exploited in the commercial sex industry (ILO, 2012).<sup>1</sup> In Canada, widespread labour exploitation has been well documented by a wide variety of sources, although the number of people fitting official definitions of human trafficking is arguably relatively small (see Hanley, Oxman-Martinez, Lacroix, and Gal, 2006; Sikka, 2013; US Department of State, 2016).

In addition to being conflated with prostitution, human trafficking is also often used synonymously with human smuggling, despite the two being legally distinct crimes. As explained by Gallagher & Skrivankova (2015), "migrant smuggling seeks to facilitate a person's illegal movement for profit; trafficking seeks their exploitation. In a classic migrant smuggling situation, the relationship between the smuggled migrant and his or her facilitator ends when the journey is completed. In cases of trafficking, both profit and purpose are directly tied to the exploitation of the migrant's labour." Despite this legal distinction, there is frequently a legitimate blurring of lines between these two concepts. There is an increasing number of smuggled migrants who end up in situations of trafficking at the end of the journey, and yet smuggled migrants are considered to be criminals rather than victims of a crime under most international and national regimes. The labelling of migrants as either "smuggled" or "trafficked" has severe implications for their later protection or criminalization at the end of their journey (Gallagher & Skrivankova, 2015).

Trafficking can occur either internationally (when an individual is trafficked across an international border) or internally (when all the stages of the crime occur within the borders of a given country). Notably, official definitions and practices of human trafficking globally and within Canada do not require the movement of a person and define human trafficking in terms of exploitation and coercion rather than in terms of movement (Chuang, 2013). Accordingly, movement is not required for an individual to be officially considered trafficked in Canada.

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1 *While the ILO considers forced labour to encompass trafficking in persons, it does not treat the issues as synonymous. However, more precise statistical information on human trafficking compiled using clear and consistent methodologies is not currently available.*

# The Definition and Response to Human Trafficking in Canada

## LEGISLATION

Canada is internationally recognized as a source, transit, and destination country for men, women, and children subjected to sex trafficking and a destination country for men and women subjected to labour trafficking (US Department of State, 2016).

Canada has historically taken a firm stance against human trafficking and was among the first countries to sign and ratify the UN Trafficking Protocol in 2002. Shortly thereafter, Canada amended Section 118 of the *Immigration and Refugee Protection Act* (IRPA) to read, "No person shall knowingly organize the coming into Canada of one or more persons by means of abduction, fraud, deception or use or threat of force or coercion." As this section is only applicable in cases involving international trafficking incidents in which individuals are trafficked across a border, it would not apply to internal trafficking cases.

This limitation was partially addressed in 2005 when the *Canadian Criminal Code* was amended to include provisions against human trafficking that can be applied in both internal and international human trafficking cases. Section 279.01 of the *Criminal Code* states that, "Every person who recruits, transports, transfers, receives, holds, conceals or harbours a person, or exercises control, direction or influence over the movements of a person, for the purpose of exploiting them or facilitating their exploitation is guilty of an indictable offence."

According to this section, establishing exploitation requires that the accused engage in conduct that "could reasonably be expected to cause the other to believe that their safety or the safety of a person known to them would be threatened," commonly referred to as the "fear for safety" requirement. Although often interpreted as the requirement to prove actual fear, this provision only requires evidence that it would be reasonable for a person with a similar background and in similar circumstances to be fearful for his or her physical, mental, emotional, or psychological safety (Kaye and Hastie, 2015; Standing Committee on Legal and Constitutional Affairs, 2012). However, Canadian courts have historically used this as an implicit requirement for the presence of real or intended physical harm.

According to unpublished data from the RCMP, as of January 2016 there have been 330 cases where law enforcement have laid human trafficking specific charges nationwide under either the *Criminal Code* or IRPA. Of these, 311 involve internal cases where all stages of the crime occurred in Canada, and in 19 cases, the victim crossed an international border in the process of being trafficked. As of January 2016, 38 of these cases have been completed through the courts with human trafficking specific convictions and an additional 54 have been completed with human trafficking related convictions (e.g. procuring, living off the avails of prostitution, forcible confinement). As of January 2016, 198 human trafficking cases remain before Canadian courts.

These numbers of human trafficking charges and convictions have been criticized as unreasonably low due to arguably onerous evidentiary thresholds, ambiguous criminal definitions, interpretational challenges, and a low number of judicial interpretations (Kaye & Hastie, 2015). In particular, the applicability of *Criminal Code* provisions to cases of labour trafficking are considerably restricted in practice due to the “fear for safety” requirement. Many of the means commonly used by perpetrators to ensure compliance in labour trafficking cases include debt bondage, retention of identity documents, and threats of denunciation to authorities, which may not directly relate to the physical safety of a person. As courts have historically used the “fear for safety” provision as a requirement for real or intended physical harm, *Criminal Code* provisions are thus limited in their applicability to situations of labour trafficking. Indeed, labour trafficking cases in Canada have only ever tended to proceed to charges in cases of physical harm, high levels of organization, extremely young victims, or female caregivers (Sikka, 2013).

Because of the challenges to laying human trafficking charges, many law enforcement investigators in Canada reportedly rely heavily on alternate or complementary charges to those found in the *Criminal Code*. For instance, in cases of sex trafficking, law enforcement may rely on charges of procurement, sexual assault, or living off the avails of prostitution, as these crimes tend to be easier to prove. However, unlike other major Western states such as the United States, the United Kingdom, and Australia, Canada does not differentiate the different forms of trafficking or provide a precise definition of labour trafficking, instead relying on a broad, “catch-all” definition of human trafficking. There is no specific forced labour legislation in the country (Kaye & Hastie, 2015). The challenges of laying labour trafficking charges, compounded by the lack of any additional forced labour provisions, have arguably left many labour trafficked individuals with no judicial recourse (Kaye & Hastie, 2015).

This has had a palpable effect on the numbers human trafficking convictions in Canada. Of the total 94 human trafficking specific and related convictions in Canada, only two have involved labour trafficking. There remain an additional two labour trafficking cases before the courts as of January 2016. The longest sentence for human trafficking for forced labour involved a guilty plea and totalled nine years, dwarfed by the longest sentence for sex trafficking of 23 years.

## DEBT BONDAGE

*Debt bondage, also known as bonded labour, is intimately related to human trafficking, although the two crimes differ legally. According to the United Nations, debt bondage involves the pledge of an individual's services to repay a debt when the reasonably assessed value of the individual's services is not applied toward the debt, the length of the services are not limited, or the nature of those services are not defined (OHCHR, 1956). In other words, in situations of debt bondage labour is forced by the obligation to repay a debt; however, debts cannot be paid off in a reasonable amount of time (if at all) as the lender may artificially inflate the amount owed, deduct little or nothing from the debt, or unilaterally change the terms of repayment. Debt bondage can be considered a means of financial coercion, but must be coupled with an action and a means in order to be considered human trafficking. While there have been reports of debt bondage occurring within Canada (including several reports by participants in this study), more research on the modalities of debt bondage in Canada is needed.*

## OTHER CANADIAN MEASURES TO ADDRESS HUMAN TRAFFICKING

Other actions have also been taken to address human trafficking at the federal level. In 2005, the RCMP launched the Human Trafficking National Coordination Centre (HTNCC), which primarily acts as a focal point for law enforcement organizations on human trafficking issues. The HTNCC is tasked with developing tools, protocols, and guidelines, coordinating national awareness and training, identifying and maintaining lines of communications and coordination, developing and maintaining international partnerships, and coordinating and disseminating human trafficking intelligence across the country.<sup>2</sup>

In 2006, Citizenship and Immigration Canada began issuing specialized Temporary Resident Permits (TRPs) for victims of human trafficking, the main measure taken by the government to protect trafficked people in Canada. The purpose of these permits is to provide trafficked individuals with precarious immigration status with a reflection period to consider their options, begin to recover from physical or mental trauma, and potentially (but not necessarily) participate in any ongoing law enforcement investigations. Holders of this permit have legal status in Canada for short-term (up to 180-days) or long-term (up to three year) time periods, with the possibility of extension. While they hold this permit, victims of human trafficking are eligible to apply for fee-exempt open work permits and are eligible to access Interim Federal Health coverage, including trauma counselling (CIC, May 2016). Since 2008 in Alberta, victims of human trafficking who hold a Temporary Resident Permit are also eligible to receive income support for the duration of their permit through the Ministry of Human Services, Alberta Works (Alberta Human Services, 2014).

**Table 2: Victim of Trafficking in Persons - Temporary Resident Permits (TRPs) Issued Across Canada**

YEAR	TOTAL – TRPS ISSUED	SUBSEQUENT TRPS <sup>3</sup>
2015	44	25
2014	34	24
2013	36	14
2012	28	13
2011	57	52
2010	66	39

Source: IRCC, Global Case Management System, 2016

<sup>2</sup> Although the HTNCC is understaffed as of the time of writing in November 2016, it would normally have a full staff of four (one sergeant, two corporals, and one civilian member). The HTNCC is also supported by three Human Trafficking Awareness Coordinators in British Columbia, Quebec, and New Brunswick. These Coordinators are responsible for carrying out awareness raising activities and networking with local organizations working in the field of human trafficking. Various analysts, specialists, senior managers and other branches of federal policing also support the HTNCC as needed.

<sup>3</sup> Refers to extensions of previously issued TRPs that had lapsed.

In June 2012, Public Safety Canada adopted the National Action Plan to Combat Human Trafficking. This Action Plan provides a four-pillar framework to respond to human trafficking in Canada based on the principles of (1) prevention, (2) protection of victims, (3) prosecution of perpetrators, and (4) building domestic and international partnerships. The approach focused on crime-control with a special concern for domestic sex trafficking. The National Action Plan came to an end in March 2016 and has been neither renewed nor replaced by another national strategy (Ricard-Guay, 2016). A Human Trafficking National Taskforce was established in 2012 under the auspice of Public Safety Canada to oversee the implementation of the National Action Plan. Comprised of key government and law enforcement agencies and departments, this taskforce coordinates the federal counter-trafficking response and oversees the implementation of the National Action Plan.

Despite these efforts, critics both within Canada and internationally have argued that Canada could do significantly more to protect, prosecute, and prevent human trafficking, particularly trafficking for the purposes of labour exploitation. According to critics, government funding for specialized non-governmental services is inadequate, interagency coordination is uneven, victim support is ad-hoc, and counter-trafficking resources are severely limited (Barrett, 2012; US Department of State, 2016). There is currently no national system to collect data on the number of trafficked people, no national referral mechanism to ensure that victims receive adequate services, and no specific government programs to offer comprehensive assistance to victims of human trafficking (Ricard-Guay, 2016). The government has devoted what few resources are available almost entirely towards combatting sex trafficking, as evidenced by clear funding biases towards sex trafficking initiatives (Clancey, Khushrushahi & Ham, 2014).

# Canadian Immigration Policy – A Primer

While illegal migration and smuggling routes can be used for trafficking purposes, legal channels tend to be the predominant vehicle through which individuals are trafficked into Canada. Indeed, individuals trafficked to or within Canada reportedly come far more often through legal channels than illegal ones, even if the use of those channels is later found to be fraudulent (Hastie, 2015). As Canadian immigration policies shape these legal channels, a minimal cursory understanding is necessary in order to understand the modalities of human trafficking in the country. The following is a reduced and simplified overview of Canada's temporary and permanent immigration programs.

## TEMPORARY ENTRY

Individuals can apply for temporary entry to Canada as (1) a visitor, (2) a student, or (3) a worker. As of 2014, temporary workers can enter Canada through either the Temporary Foreign Worker Program (TFWP) or the International Mobility Program.<sup>4</sup> In light of the important role the TFWP plays in labour trafficking in Canada, this program will be explained at some length.

The federal government created the TFWP with the oft-reiterated intention of it being a last resort for employers who require foreign workers to fill jobs on a temporary basis when there are no qualified Canadians available (ESDC, 2014). The program has been modified, updated, and expanded since it was first created in 1973 and has arguably been sewn into the fabric of the Canadian labour market, particularly as a means to fill low-wage positions in the food service, caregiving, hospitality, and tourism industries (CCR, AMSSA, AAISA, OCASI, 2016; Faraday, 2012; Foster, 2012; Kaye, 2013). The TFWP is legislated through the *Immigration and Refugee Protection Act* and *Regulations* and is jointly administered by Employment and Social Development Canada (ESDC),<sup>5</sup> Immigration, Refugees and Citizenship Canada (IRCC), and Canada Border Services Agency (CBSA).

Under the TFWP, foreign workers enter Canada at the request of employers and upon approval of a Labour Market Impact Assessment (LMIA). The main purpose of an LMIA is to verify that there is a need for a temporary worker and that no Canadians are available to fill the position. As of 2014, the non-refundable fee for an employer to apply for an LMIA is \$1,000. A positive LMIA must be in place before the foreign worker is eligible to apply for a valid Canadian work permit. Work permits are highly restrictive and authorize the temporary foreign worker to work exclusively for the employer listed on the work permit, doing the specific job listed, and only at the designated location. If the temporary foreign worker wishes to change jobs, he or she must find an employer willing to apply for and receive an LMIA and then apply for and receive another work permit.

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<sup>4</sup> *This program is primary intended to advance Canada's economic and cultural interests rather than filling particular jobs and gaps in the labour market. Workers under this program enter Canada through bi/multilateral agreements with other countries and are not subject to Labour Market Impact Assessments.*

<sup>5</sup> *Also known as Service Canada.*

As of 2014, the TFWP is broken into four streams: the high-wage stream, the low-wage stream, the primary agricultural stream, and the caregiver stream.

- **HIGH-WAGE AND LOW-WAGE STREAMS** are determined relative to the median wage of the province or territory in question. Workers in the low-wage stream face different restrictions than those in the high-wage stream. For example, employers of low-wage temporary foreign workers must reapply (and pay) for a new LMIA every year, which is not a requirement for employers of high-wage workers. There is also a 10 percent cap on the proportion of low-wage temporary foreign workers that can be part of any given employer's workforce. Employment and Social Development Canada has also implemented unique protections for low-wage workers, such as the requirement of an employer-employee contract, mandatory transportation costs paid for by the employer, and health insurance coverage. It is also a requirement for the employer to ensure that affordable accommodations are available for low-wage workers (ESDC, 2016).
- **THE PRIMARY AGRICULTURE STREAM** allows employers to hire migrant workers to fill on-farm primary agricultural positions for up to 24 months and also encompasses the Seasonal Agricultural Worker Program.
- **THE CAREGIVER STREAM**, also known as the Caregiver Program, allows families in Canada to hire caregivers to provide care in private residences to children, seniors, or persons with certified medical needs. Previously termed the Live-in Caregiver Program, as of November 30, 2014 caregivers are no longer required to live in the home of their employer. Notably, the Caregiver Program is the only stream within the Temporary Foreign Worker Program that allows workers to apply for permanent residency.

Due to political backlash and unpopularity of the TFWP amongst many Canadian voters, the federal government has introduced measures to try to limit the numbers of temporary foreign workers in the country, particularly those in the low-wage category. Among these measures is the "four in, four out" rule, also referred to as the "cumulative duration" rule, which was introduced in 2011. This policy was designed to limit the amount of time most foreign workers can work in Canada and began taking effect on April 1, 2015. According to this rule, workers are ineligible for to apply for new work permits after working in Canada for four years. The ban lasts for four years; hence the term "four in, four out."

In Alberta, migrant workers have limited access to services provided by provincially funded settlement agencies and are unable to access any language training or federally funded settlement services<sup>6</sup> (CCR, AMSSA, AAISA, OCASI, 2016). However, as of 2007, migrant workers are able to access some limited supports through the Temporary Foreign Worker Advisory Office (TFWAO), mandated to support migrant workers who are in situations involving unfair, unsafe or unhealthy working conditions (Alberta Labour, 2016).

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<sup>6</sup> *The Caregiver Program is the only notable exception. Caregivers do have some limited access to settlement services through the National Settlement Program.*

## PERMANENT ENTRY

Streams that lead to permanent residence status can be broadly divided into four major pathways: (1) Express Entry, which encompasses the Federal Skilled Worker Program, Federal Skilled Trades Program, and Canadian Experience Class; (2) Immigrant Investor, Start-up Visa (i.e. entrepreneur), and Self-employed; (3) the Caregiver Program; and (4) various provincial nominee programs. Other possible avenues of entrance include the family sponsorship and refugee programs, and in Quebec, an additional skilled worker program (CIC, June 2016).

The former two pathways are exclusively reserved for high-skill individuals and those with significant capital, respectively. Through the third, caregivers have traditionally been granted the option to apply for permanent residence status after 24 months of fulltime live-in employment or 3,900 worked hours (CIC, October 2015). However, barriers such as the introduction of a cap on the number of caregiver applications allowed annually, a backlog of 38,000 applications awaiting a decision, and arguably inconsistent criteria requirements have resulted in paperwork taking an average of 49 months to be processed (Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, 2016). This makes it extremely difficult to gain permanent residence status through this program.

For the vast majority of low-wage temporary foreign workers in Alberta, the Alberta Immigrant Nominee Program (AINP) is the only possible route to permanent residency. This employer-driven program allows provinces to nominate prospective immigrants based upon specific economic and labour needs and upon recommendation by an employer (Fudge & MacPhail, 2009). There is a combined cap of 5,500 annual nominees for both high- and low-wage applicants, which has not increased in over five years. Nominees must meet both provincial and federal language requirements and have a minimum of a Grade 12 education or equivalency. As of 2016, the processing time for AINP applications reportedly averages between 18 and 24 months (CCR, AMSSA, AAISA, OCASI, 2016).

Once individuals become permanent residents, they are eligible for most services available to Canadian citizens, including federally funded newcomer settlement services. Permanent residents also have access to the Canadian Immigrant Integration Program, which provides free pre-departure orientations, personalized plans, and online advice to newcomers prior to their arrival in Canada.



# The Alberta Context

## LABOUR TRAFFICKING IN ALBERTA

The RCMP noted rising numbers of allegations of labour trafficking across Canada as early as 2010, with the highest number of cases reportedly being in Alberta (RCMP Criminal Intelligence, 2010).<sup>7</sup> These allegations have resulted in a small but significant number of charges in the province. In 2012, RCMP charged three individuals (namely, Ukrainian Orthodox Priest Father John Lipinski, his wife Angela Lipinski, and business partner Calvin Steinhauer) with trafficking 63 individuals from Poland and the Ukraine to work for their company, Kihew Energy Services Ltd. in St. Paul, Alberta. The workers arrived on student visas and were predominately controlled through threats of deportation. Eventually, charges against the individuals were dropped and the company pled guilty to lesser charges (Kaye & Hastie, 2015).

In 2014, Jennilyn Morris of Edmonton was charged with labour trafficking after a five-year investigation identified that she exploited at least 71 foreign nationals and trafficked at least three through her company, Demot Cleaning. She paid workers less than minimum wage for long hours of work and charged high fees for LMIA's, work permits, and living expenses, including charging workers \$20 each for the use of a blanket. At times, up to five people would sleep in one bed and occasionally some were forced to sleep on the floor (R v. Morris, 2016). Although authorities dropped the human trafficking charges, Morris was sentenced to 2.5-years imprisonment on related charges (Simons, 2016).

Lastly, in 2015, Varinder Sidhu and Ravinder Sidhu, husband and wife owners of the Econo Lodge motel in Red Deer, were charged with labour trafficking following 10-month investigation into allegations of abuse of eight temporary foreign workers. The couple are awaiting their preliminary hearing, scheduled for March 2017 (Human Trafficking Case Set, 2016).

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<sup>7</sup> *British Columbia and Ontario were also noted to be among provinces with relatively high numbers of labour trafficking incidents. Notable labour trafficking cases across Canada include the Domotor crime family, which trafficked nineteen victims from Hungary into Canada between 2000 and 2009. Victims lived in the Domotor basement under deplorable living conditions and worked construction for little or no pay. The victims, who spoke no English, were forced to make false refugee claims, provide their social service benefits to the offenders, and open bank accounts that were accessed by the offenders. They were controlled through debt bondage and threats of violence. Law enforcement laid charges in Hamilton, Ontario in 2010 (FPT Working Group on Trafficking in Persons, 2015; Sikka, 2013). There have also been several high-profile cases of labour trafficking in British Columbia and Ontario involving live-in caregivers who were allegedly trafficked by their employers.*

## **ACT ALBERTA DATA<sup>8</sup>**

ACT Alberta has consistently screened and tracked human trafficking referrals throughout its existence. Between March 2008 and September 2016, ACT Alberta received 434 referrals. Of these, 188 were confirmed to have significant elements of trafficking as defined by the UN Trafficking Protocol. Of these 188 cases, 52.7 percent were trafficked for sexual exploitation, 39.4 percent for labour exploitation, 7.4 percent for both sex and labour exploitation, and 0.5 percent for organ trafficking.

Labour trafficking referrals make up an increasing proportion of referrals for services to ACT Alberta. Between 2012 and 2014, labour trafficking referrals to the organization doubled; between 2014 and 2015, labour trafficking referrals increased by an additional 68 percent. Of the labour trafficking referrals made to ACT Alberta, 80 percent were trafficked into Canada from abroad and the remaining 20 percent were trafficked internally within Canada.

Notably, all referrals for labour trafficking have involved newcomers who almost exclusively enter the country through legal channels. All internally trafficked individuals referred to ACT Alberta have been foreign nationals who entered Canada through legal means and were subsequently trafficked upon arrival. For those trafficked into Canada internationally for the purposes of labour exploitation, the most common mode of entry into Canada by far (75 percent) is the Temporary Foreign Worker Program. Other confirmed victims of labour trafficking include visitor and student visa holders, permanent residents, new Canadians, and those with no status. Labour trafficked individuals referred to ACT Alberta entered Canada from a wide variety of countries representing every continent but Oceania and Antarctica. Most common countries of origin include the Philippines, various countries in Eastern Europe, and various countries in South Asia.

While there appears to be a gender bias towards male victims of labour trafficking, it is not a particularly glaring one. From March 2008 to September 2016, 44 percent of the referrals for human trafficking for the purposes of labour exploitation have been women and 56 percent have been men.

ACT Alberta has assisted victims of labour trafficking who have been exploited in agriculture, construction, retail, restaurants, hotels, nail salons, and in homes as caregivers. Many of the establishments that rely on trafficked labour are popular businesses and franchises in Edmonton.

## **ALBERTA'S ECONOMY AND LABOUR MARKET**

Alberta has historically been home to high levels of migrants, both permanent and temporary. Between 2005 and 2008, the number of temporary foreign workers in Alberta nearly quadrupled, from under 6,000 to approximately 20,500. These numbers have

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<sup>8</sup> *These statistics are only reflective of cases reported to ACT Alberta within the province between 2008 and 2016 and are not generalizable.*

remained consistently high for a decade. In 2006, Alberta had proportionately 12.5 times as many temporary foreign workers as the United States (Alberta Federation of Labour, 2007). By 2007, Alberta had the second highest number of temporary foreign workers in the country, after only Ontario, and proportionately the highest number in Canada. In 2013, Alberta had roughly 947 temporary foreign workers per 100,000 people, whereas Ontario had a comparatively low 292 temporary foreign workers per 100,000.<sup>9</sup> In part due to the “four in, four out” time restriction and the 2014 overhaul of the program, the number of temporary foreign workers in Alberta began to drop after 2013. However, despite significant decreases, Alberta has retained the third highest number of temporary foreign workers in the country as of 2016, after British Columbia and Ontario (CIC, May 2016).

**Table 3: Temporary Foreign Worker Program Work Permit Holders with a Valid Permit on December 31st by Destination\*, 2005 to 2014**

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>NEWFOUNDLAND AND LABRADOR</b>	483	464	405	585	733	495	607	831	1,237	991
<b>PRINCE EDWARD ISLAND</b>	46	107	148	294	369	411	411	476	356	351
<b>NOVA SCOTIA</b>	531	615	778	1,103	1,378	1,332	1,464	1,394	1,209	953
<b>NEW BRUNSWICK</b>	315	387	608	939	973	890	1,046	1,244	1,303	1,257
<b>QUEBEC</b>	5,488	5,694	6,471	6,928	7,667	7,539	8,042	8,352	8,785	8,870
<b>ONTARIO</b>	19,202	24,338	30,881	35,251	31,151	28,732	23,498	22,923	22,891	19,574
<b>MANITOBA</b>	1,182	1,297	1,918	2,280	1,986	1,091	739	1,030	1,389	1,221
<b>SASKATCHEWAN</b>	837	789	1,145	1,795	2,452	1,885	1,436	2,150	3,698	3,432
<b>ALBERTA</b>	5,966	9,701	20,435	35,635	38,313	30,039	28,092	29,537	40,461	35,486
<b>BRITISH COLUMBIA</b>	9,143	10,389	15,310	25,533	27,277	19,472	16,007	18,568	22,542	21,755
<b>NORTHWEST TERRITORIES</b>	127	122	138	163	148	131	128	127	169	130
<b>NUNAVUT</b>	35	35	31	10	21	22	28	27	29	23
<b>YUKON</b>	50	46	75	74	45	42	27	33	56	56
<b>NOT STATED</b>	4	25	7	29	50	40	34	0	0	10
<b>TOTAL UNIQUE PERSONS</b>	<b>43,409</b>	<b>54,009</b>	<b>78,350</b>	<b>110,619</b>	<b>112,563</b>	<b>92,121</b>	<b>81,559</b>	<b>86,692</b>	<b>104,125</b>	<b>94,109</b>

\* Defined by the intended destination as specified on the permit and, when the intended destination is not specified for permits signed on or after January 1st, 2012, the last known address of the permit holder as of December 31st of the given year is used instead. In 2012, intended destination became an optional field for open employment authorizations.

Source: CIC, July 2015

<sup>9</sup> Calculated from Statistics Canada, 2016.

High levels of immigration to Edmonton can be explained in part by an economy that is dependent on the resource industry. Revenue from oil and gas extraction has fueled a series of economic expansions in Alberta that attract high number of migrants. However, in the Albertan economy, busts have a tendency to follow booms very quickly. Most recently, despite the Conference Board of Canada identifying the Edmonton region as Canada's major economic engine in 2014, by the summer of 2015 economists reported that Alberta was in the midst of a province-wide recession (Johnson, 2015). By April 2016, economist Peter Tertzakain reported that Alberta's oil industry had passed the recession stage and the province is currently in the midst a fully-fledged depression (Schmidt, 2016). Oil, gas, and supporting industries have concurrently experienced steep declines, with the provincial economy as a whole contracting by four percent. Economists now estimate that the economy could continue to contract well into 2017 (Shmuel, 2016).

## SECTION II:

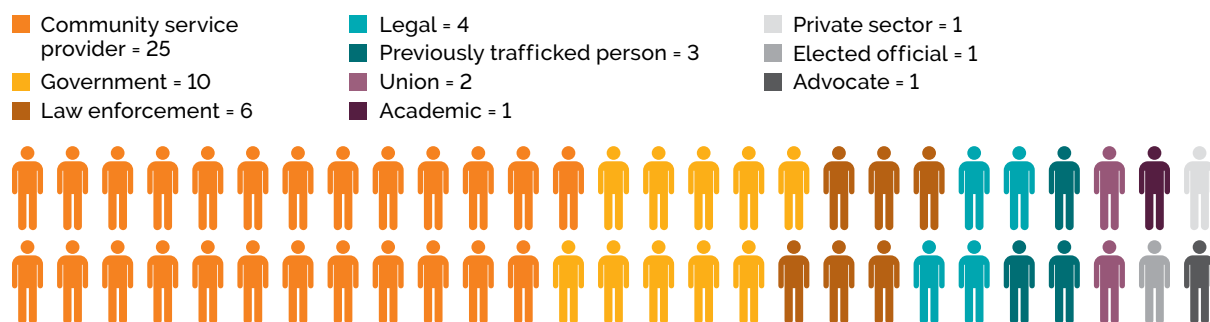
# Research Project

## Methodology

The following is an analysis of interviews and focus groups conducted on the topic of labour trafficking in Edmonton in the spring of 2016. Research participants were recruited between March and May and data was generated in one-on-one interviews, group interviews,<sup>10</sup> and focus groups<sup>11</sup> between March and June 2016. Participants were recruited through convenience sampling, facilitated through ACT Alberta's partnerships and relationships. Additional potential participants were further identified through snowball sampling, in which the initial participants were asked to refer other potential participants.

Participants consisted of individuals involved in counter-trafficking and related fields, including service providers, federal and provincial government officials, law enforcement representatives, academics, private sector representatives, and individuals victimized by labour trafficking. Note that this study was concerned with labour trafficking in legal businesses; criminalized or partially criminalized industries (including the sex industry, the illicit drug trade, gangs, etc.) fell outside of the scope of this study. All focus groups and group interviews were face-to-face and interviews were a mixture of face-to-face and over-the-phone conversations. In total, 28 interviews, four group interviews, and four focus groups involving 54 individuals were conducted. All interviews and focus groups were conducted by the project manager, Karen McCrae.

**Figure 1: Participants by Sector**



<sup>10</sup> Group interviews included interviews with two to three participants

<sup>11</sup> Focus groups ranged from four to six participants

Conversations were semi-structured and questions were open-ended. The interviews and focus groups, in all but one instance, were audio-recorded, transcribed verbatim and analyzed using content analysis and open coding for recurring and significant themes. In the solitary case in which a participant did not consent to having the interview audio-recorded, detailed notes were taken and analyzed in lieu of a transcript.

In order to maintain the confidentiality of the participants, names and occupational positions have been omitted in this report and participants will only be identified based on sector type. All efforts to protect participant identities have been taken. However, in light of the relatively small population working on counter-labour trafficking responses in Alberta, participants were informed that they might be recognized based the information they provided.

# Results

## *Defining Trafficking*

Participants were each asked to define human trafficking in order to document their understandings and establish a common framework for discussion. Although some participants were quick to admit that they did not understand the definition of human trafficking and requested further education, most expressed familiarity and comfort with the concept. Several directly referenced the UN Trafficking Protocol definition, the *Immigration and Refugee Protection Act* definition, or the *Criminal Code* definition. While these definitions broadly overlap each other, some participants noted that working cross-sectorally among organizations that adhere to various definitions tends to require compromise and adaptation. For example, one government participant noted that determining whether an incident is trafficking requires “assessment and then consultation [with other organizations] where we come to a conclusion, ‘yes this file has elements of human trafficking.’”

The legal definitions of human trafficking are complex and several participants critiqued them as unwieldy. Most participants skirted this issue by not relying on any official definition. Rather, participants frequently described human trafficking with a series of examples and descriptors. For example, participants variously described human trafficking as involving force, manipulation, coercion, deceit, abuse of power, or more broadly, “elements of control,” in which an employer exploits a worker under poor conditions for labour services. These descriptors act as red flags, which frontline staff use to identify possible cases of human trafficking.

Many participants further overcame challenges with complex and commonly misunderstood legal definitions by referring to a continuum or scale of exploitation, rather than defining a case as being either “trafficking” or “not trafficking.” This scale typically begins with labour standards abuses and contract violations, such as non-issuance of overtime or vacation pay, and ends with human trafficking. The point or “threshold” at which the crime of human trafficking begins varies according to the discretion of the person involved in identification. However, it was noted that it can be difficult to determine this threshold with consistency. As one participant noted, “where the boundary is between what is trafficking and what is not trafficking becomes kind of difficult,” and tends to vary significantly from person to person.

While some participants, particularly those in law enforcement and government, had a relatively clear and consistent understanding of the definition of human trafficking, others adhered to vague descriptions not reflected in any official definition. Several felt that workplace bullying, labour standards and contract violations, or domestic violence involving non-Canadians would variously qualify as human trafficking. Others were tied to the notion that human trafficking must involve captivity or the transfer and movement of an individual. Other participants felt that the entire Temporary Foreign Worker Program

fell under the definition of human trafficking. As one participant who had been working with temporary foreign workers for many years stated:

Participant: I think the foreign worker program is labour trafficking.

Interviewer: The whole thing?

Participant: Personally, yeah, I do.

Participants noted that these definitional challenges can at times be compounded by an ongoing and exclusive preoccupation with sexual exploitation. As noted above, the human trafficking framework has historically been used to refer primarily (if not exclusively) to sex trafficking, which presents considerable difficulties for accurately identifying non-sexual labour trafficking. As one government participant noted, "when people hear human trafficking, they think sex trafficking. Labour trafficking doesn't even enter their minds." This preoccupation with sex trafficking was a reoccurring frustration voiced by participants in nearly every sector consulted.

The lack of consensus or consistency around the definition of human trafficking poses serious challenges for identifying and responding to human trafficking. One government participant expressed frustration with this inconsistency, noting that it is impossible to know how widespread human trafficking is without being on the same page regarding the definition. He went on to argue that erratic cross-sectoral definitions make it difficult to trust that referrals between agencies are accurate. These challenges are also identified in a 2013 study on human trafficking in Calgary, which noted that the lack of clarity and misunderstanding surrounding the definition of human trafficking acts as an impediment to effectively identifying and responding to victimized persons (Quarterman, Kaye, & Winterdyk, 2012).

Beyond the unclear and frequently misunderstood definition, participants – particularly service providers – expressed deep frustration with the limitations of the human trafficking framework. Some noted that there is little that can be done to assist individuals, particularly those with precarious legal status, whose cases do not meet the threshold of trafficking. As one service provider noted:

Sometimes it resembles some things about trafficking but there aren't all the elements ... So it's exploitation because the person was recruited, comes here, and they're underpaid or you know, not paid for overtime, they're not getting the hours that they thought they would, that sort of thing. But without threats or abuse or other factors, then I don't feel comfortable calling it trafficking ... There are very few opportunities for help for those who fit in that camp.

Another service provider also identified this challenge: "It's tough when I come across people who I don't feel like their situation meets the threshold of labour trafficking but it's still a pretty bad situation. Then I don't have any alternatives to point them to." This is a challenge that Canadian researchers and practitioners alike have recognized for more than a decade. In 2006 for example, Hanley, Oxman-Martinez, Lacroix, and Gal identified that the number of people fitting the official definition of human trafficking is low, despite



*It is impossible to know how widespread human trafficking is without being on the same page regarding the definition.*





rampant labour exploitation. In a 2014 study, Ricard-Guay and Hanley noted that, “The focus on human trafficking as it is officially defined risks banalizing less extreme forms of exploitation,” and risks creating tiers of “deserving” and “undeserving” victims.

Although almost all participants reported that they are engaged in work in which they come into regular contact with labour trafficking, several reported that they do not actively engage with human trafficking terminology and do not make a special point of identifying it amongst their clientele. Organizations are mandated to work on a variety of issues and are primarily concerned with assisting specialized populations in specific areas (e.g. domestic violence, immigration and labour related issues, various criminal matters, etc.). As one participant noted, “we’re dealing with things on a case-by-case basis. You know, what comes to us. After a while, I suppose you could start to see some patterns emerging, but it’s not something that we’ve thought about in a systematic way.” In other words, it is hard to see the forest for the trees, particularly in light of immense workloads on complex problems. This presents barriers in identifying human trafficking and coordinating responses with other stakeholders.

There were also mixed responses about the overarching usefulness of the language of human trafficking. Some participants reported that human trafficking is a powerful concept and has motivated individuals to go the extra mile in providing services. In the words of one government participant, “putting that label on it changes things a lot.” However, others reported that the label could be frightening and intimidating to both funders and trafficked people, and they correspondingly avoid the use of the term completely.

## Trafficking Dynamics

Participants painted a remarkably consistent picture of the process of labour trafficking and the individuals involved, which affirms previous research done on this topic by a variety of Canadian researchers and practitioners (see for example Oxman-Martinez, Lacroix, and Hanley, 2006; Ricard-Guay and Hanley, 2014; Sikka, 2013).

The vast majority of trafficked people were reported to enter Canada through the low-wage stream of the Temporary Foreign Worker Program. While some participants reported a small number of trafficked people being illegally smuggled into Canada and trafficked upon arrival, these were exceptional cases. By far, the vast majority of trafficked people were reported to come through legal means to work in Canadian jobs.

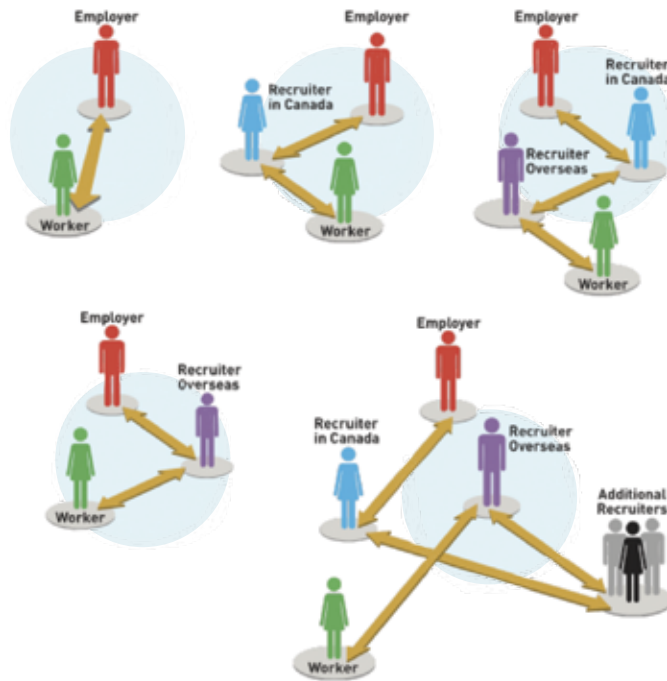
Participants reported that the process of human trafficking begins, almost without exception, with recruitment. Recruiters – variously referred to as immigration consultants, employment agencies, employment brokers, and recruitment agents – were reported to be virtually ubiquitous in cases of labour trafficking. While some recruiters rely on friendship and family networks and operate on a micro-scale, others can work in highly organized and complex networks, with local brokers reporting to global agencies.



*The vast majority of trafficked people were reported to come through legal means to work in Canadian jobs.*



Figure 2: Recruiter Supply Chain Models



*Recruiter supply chain models can range from simple, local transactions to complex arrangements that span the globe.*

Source: Faraday 2014. Graphic Design by Pat Dumas-Hudecki. Reproduced with permission.



*Recruiters will reportedly blatantly misinform or lie to potential migrant workers.*



Despite fairly rigorous regulatory provisions that govern recruitment agents in Alberta, recruiters are intimately acquainted with the rules and regulations and are equipped to avoid detection. For example, there are clear federal and provincial regulations that require recruitment agents to register with the Immigration Consultants of Canada Regulatory Council, and yet many (the so-called “ghost recruiters”) never do. They ensure that their names are never included in any of the workers’ submitted paperwork and operate undetected. “They’re smart enough to know not to fill those forms out. So then if they’ve not put [their names on] and nobody has filled it out, you’re not going to pick up on that,” reported one government participant. These stratagems to avoid detection, combined with minimal government oversight, allow recruitment agents to operate with impunity. “These agents are so tricky. Most of the time they operate under the table,” reported one service provider.

There are also explicit prohibitions against charging workers fees for LMIA and work permits, and yet participants reported that it is an open secret that workers not only regularly pay, but often pay extremely high amounts. As one service provider reported, “I don’t think I’ve come across someone who has significant elements of trafficking who has not paid a recruitment fee.” Participants reported that fees charged for LMIA and work permits may be as low as \$500 or as high as \$80,000, but reportedly typically fall

within the \$2,000 to \$10,000 range. Recruiters also often charge transportation fees to low-wage temporary foreign workers, despite provisions in the Alberta *Fair Trading Act* and Employment and Social Development Canada regulations that prohibit this. Workers are thus starting out their employment deeply indebted. As one service provider noted, "No food counter attendant job at \$11.50 an hour is worth a recruitment fee of \$10,000." As another participant observed, "you can do the math. They're not going to make what they've borrowed."

In order to pay fees, participants reported that migrant workers will often sell or mortgage land and other assets, take out loans at extremely high interest rates, empty their savings accounts, or borrow from the recruiter and/or employer. According to participants, traffickers most often demand payments in cash to avoid leaving a paper trail.

While recruitment agents often travel abroad to recruit workers, many, if not most, operate within Alberta. There are many temporary foreign workers, visitors, and students who are already present in the province that are eager to remain here. The number of out-of-work and out-of-status temporary foreign workers was widely reported by participants to have increased with the economic downturn and changes to the Temporary Foreign Worker Program, such as the "four in, four out" time restrictions which began taking effect in April 2015. These policy changes, alongside the economic recession in Alberta, have contributed to a context in which migrant workers face precarious financial and immigration situations. Illicit recruiters prey upon this pool of workers, some of whom are willing to pay high fees to remain in Alberta.

Recruiters will reportedly blatantly misinform or lie to potential migrant workers in a form of a "bait-and-switch" scheme, in the words of one participant. They lure workers with promises of eight-hour workdays, decent pay, English-language training, and full benefit packages for long-term, secure positions. Workers are assured that they and their loved ones will be eligible for permanent residence status in Canada, despite the fact that the only possible route to permanent residency for the vast majority of low-wage temporary foreign workers is the severely strained and restrictive Alberta Immigrant Nominee Program. Recruiters and employers may in fact charge extra fees to complete and submit imaginary applications for permanent residence status, while in reality not submitting any paperwork at all. In some cases, recruiters were reported to avoid the topic of payment until after the migrant worker had arrived in Alberta (or is on the verge of boarding his or her plane), and then providing the worker with a bill for thousands of dollars.

## OTHER FORMS OF RECRUITMENT

*In the vast majority of labour trafficking cases reported by participants, traffickers recruited workers through the Temporary Foreign Worker Program. However, a small number of participants also reported victims of labour trafficking entering through the family sponsorship program. In these cases, spouses, siblings, parents, or children sponsored family members to come into Canada and then forced them to labour as cleaners, live-in caregivers, agricultural workers, or in various family-run businesses. These cases did not involve immigration consultants and often contained strong elements of elder abuse and family violence.*

In one common scenario, workers find upon arrival that the job listed on their work permit does not exist, or in other words, that they have been employed by a “ghost employer.” These workers thus find themselves in a position where they have no legal right to work for anyone besides the (nonexistent) employer listed on their work permit. Participants noted that while some workers may be aware beforehand that they will have no job upon arrival and come despite this knowledge, in most cases, migrant workers have no foreknowledge. They are left stranded and are forced to either return home empty-handed, find a new employer willing to go through the arduous and expensive process of applying for and receiving an LMIA and work permit, or, more commonly, find unauthorized work. These migrants are highly vulnerable to being further taken advantage of by recruiters and employers who prey on their desperation to remain in Canada and their precarious immigration status.

In cases where migrant workers are recruited for positions that do actually exist, recruiters often pick them up at the airport and provide them with all the information they will receive about their new home and job. Thus, the recruiter acts not only as the worker’s first and only point of contact, but as the lens through which he sees his situation, his rights, and his responsibilities in Canada. As one trafficked person recounted, “I didn’t know the rules and the policy and the conditions here. I didn’t know anything. So I followed him [the recruiter]. Whatever he said, I followed him. Because I didn’t know anything. He’s the one who got me here, so I had to trust him.”



*He’s the one who  
got me here, so  
I had to trust him.*



## **VICTIM CHARACTERISTICS**

Participants described victims in Edmonton as exclusively foreign-born. The most commonly reported geographic areas of recruitment outside of Canada included South Asia (especially India and Pakistan), the Philippines, and Eastern Europe, with Central America and Africa also noted by a number of participants.

According to participants, recruiters and employers frequently target individuals that are more vulnerable to exploitation and are less able or willing to complain to authorities. In particular, traffickers will target individuals with minimal English skills, those who are less educated or less knowledgeable about Canadian customs and laws, those with precarious migration status, and individuals who suffer from economic need.

There is a large pool of individuals that embody these vulnerabilities. Many low-wage temporary foreign workers in Canada migrate because they face unemployment, limited job opportunities, and conflict in their home countries. Previous research done in Canada and internationally supports this finding, identifying that inadequate social and economic opportunities, political instability, and discriminatory social practices “push” individuals to emigrate from resource-poor countries (see for example Global Programme against Trafficking in Human Beings, 2008). Many migrants are also responsible for providing for sick or aging parents, young children, or other family members back in their home countries, to whom they send remittances. The pressure to send remittance payments is particularly acute if they or their families have borrowed money for recruitment fees, creating a vicious circle. As one service provider identified, “People come because they

feel that they need to better their life, to take care of their family, to get away from a dangerous situation ... They need a way to make a living in a legal fashion, so they can send money home."

Additionally, many migrant workers have the sometimes-false perception that Canada is a country where they will be protected and will be able to find lucrative job opportunities; these high expectations "pull" them in. One service provider remarked on the mindset of many newcomers who are eventually trafficked: "You think you're coming to Canada and that means that everything is going to be wonderful. So people ... when they land at the airport probably have rose coloured glasses on, and everything's going to be wonderful when they come here." A previously trafficked person affirmed this, noting, "I was thinking okay, I'm now in Canada. That is like a good country, good laws, everything should be good." This mindset can be difficult to challenge. "It's so common to find etched so deeply into the hearts and minds of these workers that they have to be here," noted one service provider. "They have to come, they have to be here."

As a result of these push and pull factors, jobs in Canada are often so highly valued that migrant workers are more willing to endure abuse than risk losing them. As one participant noted,

[Migrant workers] value these jobs a great deal because they do not have opportunities where they live. So they will put up with far more. They also don't know the legal regime that governs their rights in terms of immigration, in terms of employment, in terms of human rights. And so when an employer overcharges them or underpays them or sexually abuses them, many will not speak out because they know that their livelihood is at risk and the livelihood of their family is at risk.

Due to these factors, many migrant workers in Canada are more likely to continue to suffer abusive employer practices than risk being out of work and thereby having their immigration status and financial livelihood threatened by complaining (Beatson & Hanley, 2015; Hanley, Oxman-Martinez, Lacroix & Gal, 2006; Kaye, 2013). Traffickers target these individuals, knowing that many will choose to endure abuse rather than risk job loss and deportation.

Notably, participants from nearly every sector consulted reported certain cultural differences that predatory recruiters and employers exploit. Many trafficked individuals come from cultures that have great respect for authority and hierarchy; it goes against cultural norms to question an employer or seem ungrateful for a favour. These cultural norms can be turned against the trafficked person by manipulative traffickers and used as a mechanism of control.

Participant responses did not indicate any perceived gender dynamics at play. Although some reported that women were disproportionately victimized, others reported that men made up the majority of trafficked people; most participants did not note any particular gender bias. The only unequivocal gender bias found related to individuals victimized within the Caregiver Program, reportedly exclusively female.



*Many will not speak out because they know that their livelihood is at risk.*



## WORK CONDITIONS

Participants identified victims of labour trafficking in a wide variety of sectors in Alberta, most commonly in construction and renovation, retail, food services, hotels, meatpacking, and private homes (caregivers). Tellingly, these are all sectors that tend to rely heavily on low-wage temporary foreign workers to meet labour needs. The majority of employers were reportedly either small, family-run businesses or franchises of larger companies. This may be because smaller companies struggle to afford the high fees associated with hiring low-wage temporary foreign workers and exploit labour in order to maintain a competitive edge. Interestingly, several of the reported businesses are very popular amongst Edmontonians and some owners have won commendations for their community service and civic mindedness.



*The majority of employers were reportedly either small, family-run businesses or franchises of larger companies.*

Upon commencement of their employment, workers are confronted with the reality of their work conditions – the “switch” of the so-called bait-and-switch tactic discussed above. They are provided with minimal compensation (if any) and unreasonably long hours of work (often 12-18 hours per day with few or no days off), with no benefits or overtime pay.



In a common scenario, trafficked workers will arrive to find that the job they are doing is not what they had expected and agreed to do. The employer listed on the work permit profits by “renting” or “farming” the migrant worker out to other businesses. While some victims are coerced into comparable work, participants reported that some jobs are completely unrelated to the work listed on the worker’s documentation (for example, a worker might be forced to labour in a greenhouse rather than as a cleaner as listed on her permit). Because of migrant workers’ sunk costs, they often feel they have no choice but to take the offered work, putting them in immediate violation of their work permits.

In another frequent scenario, workers do the work listed on their permits but are also forced to provide a wide variety of other forms of unauthorized labour. One trafficked individual recounted how, in addition to working as a server in a restaurant as stated on his permit, he was also expected to cook, clean, and do maintenance work around the restaurant. Frequently, unauthorized labour includes personal servant tasks; this particular worker’s employer also forced him to provide maintenance to his personal and rental properties, including mowing lawns, shovelling driveways, and extensive housekeeping duties. This individual eventually suffered medical harm from these long hours of labour. Unfortunately, while extreme, this situation is not an isolated case. Many participants, including previously trafficked workers, reported that in cases of labour trafficking, workers are frequently coerced into providing personal servant duties to their employers.

In many cases, workers are given verbal promises that the work they will be doing will be higher paying or higher skilled than what is listed on their work permits and that the permits will be changed upon arrival to reflect this higher wage and skill level. However, this promise rarely materializes. One trafficked person recounted being promised a high-

wage position, which he was amply qualified for, despite a low-wage position being listed on his work permit. His employer repeatedly assured him that changing the permit was a formality and would be quickly done upon arrival. He did work the high-wage position, but was paid the low-wage rate listed on his permit. Thus, he was baited with false promises that the recruiter and employer never had any intention of following through on.

In all of these situations, despite having come through legal channels, workers are in violation of their permits. These migrants are thus rendered unauthorized or illegal and no longer have the right to work according to Canadian policies. As a law enforcement representative affirmed, "the minute they're working illegally, they're vulnerable for exploitation." According to Hannah, Bauder, & Shields (2016), "their lack of formal legal status strips them of basic rights, exposing such workers to extreme exploitation by their employers." Recruiters and employers intentionally force migrants into this precarious situation as it makes it easier to control and exploit them. As a legal representative noted, "it's another reason why someone would be very reluctant to go and complain about their treatment, because they know they're in violation of their work permit." A participant described the situation of a worker who was intentionally tricked by his employer into working illegally: "[The employer] knew his weakness and [was] blackmailing him all the time for that. And he was stressed out. Then, he will do everything he will say. He had no choice."

In addition to lacking legal status and being subject to arrest and deportation, illegalized workers are also seen with suspicion by criminal justice practitioners and have diminished credibility in any future potential criminal proceedings against the employer, providing an additional level of protection to traffickers.

Notably, despite official restrictions stating that a maximum of 10 percent of any given low-wage workforce can be temporary foreign workers, participants reported that the types of employers that charge illegal fees and contravene workers' LMIA's often do not feel the need to adhere to this restriction either. Many of the specific labour trafficking cases participants described involved workforces made up of a majority, or even exclusively, of temporary foreign workers. Without Canadian workers to contrast their working conditions to, traffickers are more easily able to abuse and control migrant workers.

## CONTROL AND ABUSE

Elements of control are inherent in the process of human trafficking. As one service provider noted, "human trafficking is an extreme violation of a person's rights and in order to do that you need to have a lot of control." However, what forms that control may take varies widely. Participants discussed a range of control tactics that explicitly or implicitly prevent trafficked workers from leaving exploitative employment situations. Interestingly, it appears traffickers tailor the level of abuse and control to the individual. One service provider noted that in a group of trafficked individuals, the conditions of control and abuse varied in extremity from person to person, with some individuals being abused



*Elements of control are inherent in the process of human trafficking.*



more, paid less, monitored more closely, or expected to do different types of work. The following is a list of the most commonly reported mechanisms of control relied on by traffickers:

■ **MISPRESENTING OR WITHHOLDING OFFICIAL DOCUMENTS**

Recruiters or employers may seize migrants' documents (including work permits, passports, drivers' licenses, etc.) and either refuse to return them or destroy them, making it difficult for the migrant to prove his or her identity. In other cases, employers may lie to workers about the existence of a work permit or a work permit application, resulting in trafficked people unknowingly working illegally.

■ **MONITORING AND ISOLATION**

Employers often keep workers isolated and monitored from the time they are picked up from the airport onwards. In situations where the employer has access to the trafficked workers' accommodation (for example, when the worker is renting from the employer), employers may enter the premises unannounced and lead the workers to believe that they are under constant surveillance. In one reported case, the employer even left recording devices around the rental unit and ensured the workers were aware of this fact. Another trafficked person recounted how his employer would strictly monitor his phone calls both at work at home, making it nearly impossible for him to talk to anyone without his conversation being overheard by those exploiting him.

One service provider participant described the results of this level of monitoring:

"A migrant worker arrives at the airport. The employer picks them up from the airport, and from that moment until they fly home again, the employer controls every aspect of their life. They provide their housing, they provide any kind of training or materials... There's complete control over the life of the migrant worker."

Trafficked workers are also reportedly kept intentionally isolated from community members and friends, with some being restricted from going to places of worship or fraternizing with anyone outside of work. One individual recounted how his employer refused to allow him to bring any friends into his rental unit. In some cases, the employer or the employer's associates may drive the trafficked worker to and from work daily, ensuring the worker is unable to speak to anyone outside of his or her circle. One victim of labour trafficking recalled his employer telling him, "Canada is a jail. You cannot talk to anybody. Canada is a cold jail."

This monitoring and isolation has serious implications for the freedom of the trafficked person. As one service provider reported, "Even things as basic as your ability to integrate into the community and be part of the broader community is undermined by your status and by people wanting to keep you isolated." One legal representative noted, "that isolation really compounds, in my opinion, the ability for an employer to manipulate, take advantage of, exploit, etc." Reportedly, this isolation and monitoring is oftentimes exacerbated in rural areas, due to fewer services, weaker ethno-cultural community ties, and increased geographic isolation.



*There's complete control over the life of the migrant worker.*





#### ■ FALSE PROMISES

Traffickers will often control workers with false promises. They may tell workers that, although they cannot be paid right now, they will be paid – in one month, or maybe two. Or that their promised work permit is coming – but it will take a bit longer than expected. The clock never winds down and the promises never materialize. Perhaps most frequently, trafficked workers are falsely told that they will be (or are) eligible for permanent residence status, and they will be (or have been) nominated through the Alberta Immigrant Nominee Program. They just need to be patient and continue to work for the employer until their status comes through. In the words of one legal representative, “they’ll put up with a lot of abuse, as long as they believe there’s still that ability, that chance to get the permanent residency card.”

The power of these false promises can be considerable. In one case described by a government representative, a group of trafficked temporary foreign workers came forward for assistance, but a smaller number had been promised permanent residence status and would not risk their applications by complaining. Those individuals never received assistance and their fates remain unknown.

#### ■ THREATS OF JOB LOSS AND DEPORTATION

If promises fail to control the worker, traffickers will resort to threats. Typically, the first threats used are those of dismissal, loss of status, and deportation. “For temporary foreign workers or those that are not permanent residents or not citizens, that’s the first thing,” reported one frontline service provider. “The fear of being sent back. The fear of not being a permanent resident. That’s number one.” Employers will falsely tell trafficked workers that they cannot remain in Canada unless they are actively working for the employer listed on their work permits and that they have the power to deport them. Threats are particularly credible when trafficked people are working in violation of their work permits (which they often are) and fear denunciation to authorities.

Employers often can and do follow through on these threats. One trafficked person recounted that his employer vindictively tried to sabotage his efforts of finding new employment by calling a potential employer to smear his name. Another trafficked person recounted how his employer reported him to CBSA, where he narrowly avoided a deportation order. There are also documented cases in which employers have bought plane tickets for workers and have physically sent them home, sending a strong message to their colleagues to tow the line (*O.P.T & M.P.T v. Presteve Foods Ltd. & Pratas*, 2015). Migrant workers, in these cases, comply because they believe they have no other choice.

The threats of job loss and deportation are particularly coercive when considering the precarious financial situation of many migrant workers, who may have paid or owe thousands of dollars to recruiters and employers with additional financial obligations back home. Participants reported that debts can sometimes cross into debt bondage, in which no amount of money repaid to the recruiter and/or employer diminishes the owed amount. Any potential job loss is extremely threatening in light of this financial vulnerability.

”

*Canada is a jail.  
You cannot talk to  
anybody. Canada  
is a cold jail.*

”



*I was here,  
totally broken.  
No chance to  
help them.*



#### ■ REAL AND INTENDED HARM

In many reported cases, employers and recruiters will verbally, emotionally, and physically abuse workers and threaten physical violence to them and their loved ones. Threats to family are often extremely credible because of the close connections many recruiters and employers have in the trafficked persons' home countries. One trafficked person described his feelings of helplessness when his family back home was harassed and threatened after he complained to his employer about his work conditions: "I was here, totally broken. No chance to help them... I was in a really bad position. You know, when you don't have anything to eat today, it's hard. But harder for me was that treatment my family had." Another previously trafficked person described how his employers would walk with guns openly displayed on their bodies; to make the threat even more explicit, one of his employers told him he would be shipped home in a coffin if he persisted with his complaints. As he noted, "they are not bad. They are more than bad... I'm scared. I can't face these people. I am not a Canadian. I have no power. I'm just a poor guy. I have nothing."

Participants reported that female victims of labour trafficking also frequently experience sexual assaults and harassment, particularly if they are present in the home of their employer as in cases of live-in caregivers. This was spoken to by participants in nearly every sector consulted and has been publically established in court cases and various Canadian reports. As one legal representative noted, "With live-in caregivers, when things go bad, it seems like they go so bad." A law enforcement participant bluntly stated that, "The nanny program is probably the most exploitative program I've ever seen in my life."

#### ■ LACK OF KNOWLEDGE OF RIGHTS, STRUCTURES, AND SERVICES IN CANADA

It is challenging for trafficked workers to actualize their rights and privileges in Canada when they have limited or no knowledge of Canadian laws and regulations. Oftentimes the recruiter and employer are the only points of contact they have in the country and it is in the traffickers' interest to keep victims in a state of ignorance. Traffickers are well positioned to do this, since from the time workers arrive they often must rely on the recruiter or employer for all their information about Canada. Oftentimes, they are not even aware that employers are contravening any laws or that they are entitled to lodge a complaint. In the words of one government participant, "the most common thing I hear is that they didn't know they had those rights and are too scared to come forward." Being the first point of contact for workers' gives traffickers enormous advantages in terms of ensuring ignorance. The misinformation that they have received may become so entrenched in their minds that it can be difficult to correct it; as one service provider noted, "When the right information comes, it's kind of too late sometimes."

Even when trafficked workers do know that their rights are being infringed upon, participants noted that they might not know where to turn for help nor understand how Canadian support structures work. Trafficked people may fear that if they talk to a service provider or community member that this will somehow get back to their employer, be registered as an official complaint, or diminish their chances of receiving permanent residence status. "They don't have deep knowledge about how immigration

processes take place," said one service provider. If they talk to law enforcement or government, "they're scared that this record might reflect their [AINP] application."

However, solving this is more complex than simply providing an education session. As one service provider participant argued, "this concept of going out and educating the workers is not very helpful, because it doesn't address the context that they are working in. It doesn't address the need to work and the fear of their employers that they operate under."

Furthermore, many low-wage migrant workers may be unfamiliar with highly formalized bureaucratic systems like those found in Canada. They may come from countries with weak rule of law or loose bureaucratic structures relative to Canada where they may be used to being able to tap into informal ways of cutting through red tape. Compounding this challenge, migrant workers are ineligible for any pre-migration or settlement services that would ease the transition to a new state structure. Recruiters and employers exploit this lack of knowledge and use it to their advantage. For example, a trafficked person may wait interminably for an updated work permit or permanent residence status, trusting that their contacts possess shortcuts to official processes. These attempts to subvert formal systems can also work to damage trafficked individuals' credibility in the eyes of government and law enforcement officials.

Traffickers use these various control mechanisms in order to force migrant workers to labour under exploitative conditions. However, it is critical to consider the migrant's context when reflecting on these elements of control and determining whether a case meets the definition of human trafficking. For example, as one service provider noted, "If you just want to look at the spectrum, there's simple employment standards violations, things like not paying overtime. Which seems like a simple employment standards violation until you look at the status of the person ... If they complain, the ultimate end result can be deportation." In other words, control mechanisms are more coercive when exerted in the context of precarious financial and immigration status and other vulnerabilities. When workers are fully empowered to exercise their rights, these control tactics will not hold the same weight. This may partially explain why this study found no Canadians being trafficked for their labour in legal businesses.

One service provider referred to this as "holding tight to a double-edged sword." As he explained, "there's nothing else for them in their country of origin. They would rather subject themselves to become a victim or a trafficked person and make five dollars an hour, as opposed to going hungry [back home]." These control mechanisms, when seen in the context of individual vulnerability, result in situations of exploitation from which individuals cannot escape – in other words, in human trafficking.

## LIVING CONDITIONS

While employers have to ensure that affordable accommodations are available for low-wage temporary foreign workers, they do not have to provide them with a place to live unless they are hired through the agricultural or caregiver streams. Nonetheless, many participants reported that employers often do supply accommodations at a steep cost



*I'm scared.  
I can't face these  
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Canadian. I have  
no power*



to workers. Employers thus assume an added layer of control by asserting a landlord-tenant relationship in addition to the existent employer-employee relationship. Participants overwhelmingly described employer provided housing in labour trafficking situations as poor and inadequate. Conditions are often cramped, with three or four workers commonly expected to share a room. Other participants variously reported six workers per room, ten to a basement (sharing a single bathroom), and fifteen in a small condo. One service provider described a situation where there were only half as many beds provided as workers, and workers had to swap out mattresses with each other at the end of shifts. Another service provider reported assisting a group of trafficked workers who were forced to stay in (and pay rent for) an un-insulated basement through the frigid Albertan winter.

As these accommodations are commonly homes or apartments owned by the employer, rent paid by migrant workers is an additional – and lucrative – source of income for employers. Workers are commonly charged \$400 to \$500 dollars each per month for poor, shared accommodations. One previously trafficked person reported paying over \$400 per month for accommodation with a number of other workers in a basement not even designed as a living space. In most situations, employers take rent right off the workers' paycheques, leaving them with few alternate options. In some cases, workers are reportedly forced to sign rental contracts under duress, and are then sued when they attempt to leave the living situation.

In one particularly extreme case, a trafficked person described being forced to live in the basement of his employer's personal home and was only provided with a broken bed. Water use was monitored and would be shut off if the trafficked person showered for too long. In light of his limited allotment of water, he was only able to wash his clothes once per month. He was treated as an alien in the home and was not welcome in the main living areas, which created great mental anguish. "He had a very, very bad environment where he was living, because they were all family members. They wouldn't accept him living there ... He was stressed out emotionally, physically, all the time. He had no touch of life when he was among them."



*He was stressed out emotionally, physically, all the time. He had no touch of life when he was among them.*

Oftentimes, the provided accommodations are remote and far from the place of employment. One previously trafficked person reported that the rental suite he was provided was 25 kilometres from the jobsite, and there were no transit options available. A service provider described a case in which trafficked workers had to walk over an hour to get home at the end of their shifts, even throughout the winter. Another service provider reported a case where workers had to rely on the employer to pick them up and drop them off every day, as there were no other transportation options available.

Living conditions were generally noted to be particularly egregious for live-in caregivers. Reportedly, for most caregivers, the live-in condition, while no longer officially a requirement, is still effectively in place. As one service provider argued, "When a caregiver looks for an employer, the employer says 'I'm not looking for a live-out nanny, I'm looking for a live-in nanny. Therefore, I cannot accept you.' It's not as easy as just



saying that you have a choice. In reality you don't have a choice." Participants widely reported live-in caregivers to be subjected to exceptionally poor treatment and abuse, particularly long workdays, and sexual assault. One was only provided a mattress on the floor of the basement next to the furnace. Other live-in caregivers were reportedly not provided a bed at all and were forced to sleep with the children, or, in one reported case, with the male employer.

## EXPLOITATION

Traffickers reap immense profits off the backs of trafficked workers who receive minimal to no payment for their labour and who are rarely, if ever, paid overtime, holiday pay, or benefits. The lack of overtime pay tends to be a particularly flagrant form of exploitation, as trafficked workers are regularly expected to work 12 to 18 hours per day, with few, if any, days off. In one example, a trafficked worker was reportedly paid \$100 per month for working 18-hour days. Almost all of her wages were then spent on gas expended for work purposes, which she was not reimbursed for. Another trafficked worker was paid on average \$500 per month for 14-16 hour days with no days off. A service provider recounted assisting a victim of trafficking who, once overtime hours were accounted for, was paid on average \$2 per hour.

In some cases, workers are not paid at all. For example, one group of trafficked workers was not paid any wages and only survived by sleeping in a suite owned by their employer and buying groceries with sparsely pre-loaded grocery cards. Another trafficked person was not paid any wages for the first 18 months of his employment and described being forced to take out personal loans from friends and rack up high-interest credit card debts so that he could survive from day-to-day. He also had no choice but to sleep in the basement of his employer's house. In such a context, low or non-existent pay makes it difficult to leave the trafficking situation, as the individual is entirely dependent on his or her employer for food and shelter.

This exploitation results in immense profits for employers. For example, in the 2012 Kihew Energy case in St. Paul, Alberta, investigators estimated that the company profited by approximately \$1,000,000 through the exploitation of 63 Polish and Ukrainian workers. The eventual fine of \$215,000 was only a minor dent in the company's overall profits (Alberta Police Report, 2012). The gains made by employers make trafficking an immensely lucrative and attractive business model.

However, traffickers, whether they be recruiters or employers, are often careful about the manner in which they pursue this financial exploitation. Workers are frequently paid in cash and receive no paystubs, contracts or receipts, leaving a minimal paper trail. In situations where wages are paid via cheque, the trafficked workers may be paid appropriately but are then forced to return money in cash to the employer. One participant reported a group of high-wage temporary foreign workers who were paid the wage stated on their work permits (\$30 per hour) via cheque, but were then forced to return more than half of the wages in cash. In some cases, workers are physically driven



*Traffickers reap immense profits off the backs of trafficked workers.*



to the bank by the employer and forced to hand over cash immediately. This practice has been previously documented and reported on in the media (Carman & Meissner, 2014). In other situations, workers are forced to falsify records that indicate the number of hours they have worked, making it seem they worked far fewer hours than they have in reality. In another case, a trafficked person reported that he meticulously filed his taxes every year through his employer's accountant – it was not until much later that he realized that his employer and his employer's accountant were fraudulently collecting his taxes and falsifying his tax records. In light of the ubiquity of these practices, it is clear that government and law enforcement agencies that investigate fraud and tax evasion such as the Canada Revenue Agency would be well positioned to uncover potential cases of labour trafficking.

## THE ROLE OF ETHNO-CULTURAL COMMUNITIES



*Ethno-cultural communities often play a dual role in the labour trafficking dynamic.*



Research participants repeatedly emphasized their perception that traffickers will often target individuals within their own ethno-cultural communities, whether they be family members, friends, neighbours, or simply those who share the same ethno-cultural background. Whether the recruitment happens in the country of origin or in Canada, traffickers will often rely on pre-existing ties and networks to lure, and ultimately, exploit. One government participant noted, "If the employer is not a community fellow, then the agent is. So that's kind of a bridge." Community ties may also serve to bind the trafficked person to the situation through feelings of loyalty and obligation.

However, ethno-cultural communities often play a dual role in the labour trafficking dynamic. Participants noted that while some individuals may target and exploit fellow community members, others can and do play the role of protector and supporter to community members in need. Migrant workers – exploited or not – have often established and organized strong communities that buoy each other up in times of hardship. Community members, such as fellow temporary foreign workers, friends, members of religious communities, and community and settlement agencies, spread information via both formal and informal networks. Through these networks, workers can learn where to find work, where (and where not) to find a place to live, which healthcare providers will provide services without asking about immigration status, and which resources and supports they can access. Community members will also support each other through bouts of unemployment and will give fellow members a place to stay in times of need. These networks become particularly crucial if workers have precarious or no immigration status. As one participant reported, "Their existence is very much an informal one. They survive through informal networks of people, from everything as basic as house surfing, to finding informal ways to get healthcare, to finding sources of potential underground jobs, and all the time trying to figure out how to re-regularize their status."

Participants described how communities have often proven to be instrumental in supporting trafficked workers and in connecting them with supports. One group of trafficked workers was put in touch with service providers and law enforcement after

disclosing details of their situation to a fellow churchgoer, who advocated on their behalf. A previously trafficked person recounted how a community friend supported him throughout the process of leaving his employer and finding assistance. The friend acted as a translator and advocate, and accompanied him to a large number of support agencies. He also provided him with a network through which the trafficked worker found a place to live. In the words of one service provider, "the most powerful support comes from the network of community members in your ethno-cultural community."

One issue pointed out by several service provider participants is that community members do not always have accurate information. Despite having good intentions, they may provide the trafficked person with flawed information about the chances of receiving permanent residence status or, alternately, being deported. As one service provider stated, "oftentimes they're so influenced by their friends and colleagues who might have very inaccurate understanding of what is possible, what is not. Sometimes we have to compete with that." Misinformation can result in either false hope or misplaced fear, both of which make it more difficult to adequately and appropriately respond to cases of labour trafficking.

Notwithstanding the benefits of belonging to an organized ethno-cultural community group, participants also emphasized the importance of coming into contact with Canadians and integrating into Canadian society. One service provider with many years of experience working with newcomers to Canada maintained that,

The ones that are successful, we find, have a great sort of positive and open-minded attitude towards intercultural adjustment and adaptation. Those ones ... don't sort of either ghettoize themselves or cloister themselves within their own communities. They actually reach out and are able to be open to, you know, the discovery of the new culture.

Canadian citizens are also arguably more willing to report labour trafficking to authorities and feel more confident in navigating formalized Canadian systems. In several reported cases of labour trafficking, participants noted that Canadian advocates played a critical role in encouraging and accompanying trafficked workers in finding assistance. Many traffickers understand that integration into Canadian society can weaken their hold on trafficked workers and strive to make it difficult or impossible for workers to integrate and connect with Canadians.

## **SYSTEMIC ABUSE IN THE TEMPORARY FOREIGN WORKER PROGRAM (TFWP)**

Migrating to a new country can be a challenging experience for any newcomer. Canada often differs significantly from newcomers' home countries, from freezing winter temperatures to the high price of groceries to differences in Canadian workplace culture. Even permanent residents who are able to access pre-migration supports and a full range of governmental and nongovernmental services often require years to adjust to their



*Participants clearly indicated that the low-wage stream of the TFWP is the primary vehicle by which various forms of labour exploitation occurs in Alberta.*



new environments. However, participants clearly indicated that the low-wage stream of the TFWP is the primary vehicle by which various forms of labour exploitation occurs in Alberta due to entrenched systemic vulnerabilities. As one participant proclaimed,

I have heard so many people say that the problem in the system is really exaggerated. That the problem isn't the Temporary Foreign Worker Program itself, that it's one or two bad employers. But that's not true. When you set up a system that has the potential to be exploitative in this way, it's going to happen. And so certainly there are going to be outliers that are extreme ... But there's a whole range, from that point on down, in terms of labour rights, employment rights, human rights, and other legal rights that are systemically violated.

### SPOUSAL SPONSORSHIP

*Several participants also identified vulnerabilities embedded in the family sponsorship program. According to federal government policies, spouses and common-law partners in a relationship of two years or less with the person sponsoring them who have no children in common at the time they submit their sponsorship application must cohabit for two years from the day on which they receive their permanent residence status in Canada. If they leave the relationship before this period has ended, Immigration, Refugees and Citizenship Canada (IRCC) will revoke their permanent residence status (CIC, 2012). While IRCC officers are able to use their discretion to remove this condition in cases of abuse, service providers reported that they rarely do, due to a lack of training and/or lack of evidence of abuse. This results in cases of domestic violence and trafficking of spouses in which the partner feels unable to leave without forfeiting her permanent residence status. As one service provider stated, "it brings this person to a place of helplessness."*

Researchers, labour unions, migrant workers' rights groups, the media, and provincial and federal government bodies have documented abuse and exploitation within the TFWP for many years. Provincial federations of unions such as the Alberta Federation of Labour have vociferously criticized the federal government for continuing to expand the TFWP without adequate monitoring and protective controls in place. Even Jason Kenney, previous federal Employment Minister and architect behind many of the most recent changes to the TFWP, has openly and repeatedly referred to temporary foreign workers as being subject to a form of indentured servitude (Bell, 2014; Tencer, 2014).

Temporary foreign workers have the same rights as Canadians under law and in Alberta are fully covered by *Alberta's Employment Standards Code*, *Occupational Health and Safety Act* and *Labour Code*. However, researchers on this issue and participants in this study argued that focusing exclusively on these legal protections ignores the realities of the daily lives of migrant workers. As Faraday has argued, "while they are legally entitled to the same workplace rights as Canadian citizens and permanent residents, there is a significant gap between their rights on paper and their treatment in reality" (Faraday, 2012).

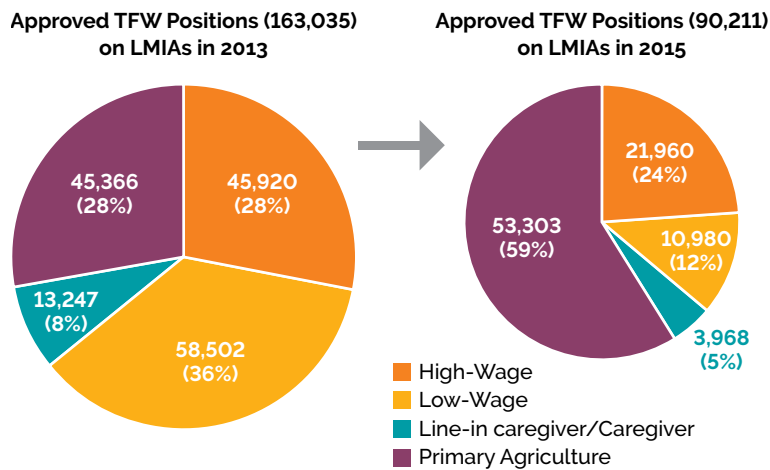
Perhaps the main concern is the nature of the tied work permit system, which limits temporary foreign workers to working for the named employer, at the named location, doing the named work. "The fundamental problem is the work permits," said one service provider.



"You cannot tie a worker to an employer, because then they absolutely cannot speak out." As one government worker put it, "the reality is, being tied to one employer does really increase the chance of being trafficked. Because this person knows, 'I can't go anywhere else.'" One trafficked person spoke from his personal experience: "a worker is totally dependent on the mood of the owner ... When you don't have that opportunity [to change jobs], you just need to keep your mouth shut, you know, and work whatever they tell you. If that's 10, 15 hours per day, okay, you work it. Because what else? You can go home." The Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities reiterated this concern: "Employer-specific work permits can place migrant workers in a vulnerable position with negative implications for their physical and mental well-being" (2016).

If temporary foreign workers desire to change jobs, they are entitled to look for other work but can only work for an employer with a positive Labour Market Impact Assessment (LMIA). Before employers can even submit the non-refundable \$1,000 LMIA application, they are required to undertake advertisement efforts for at least four weeks and use recruitment methods that go beyond posting on jobsites. Current wait times after submission for LMIA's can range from weeks to months, and employers of low-wage temporary foreign workers must reapply for the LMIA annually (CIC, July 2016; Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, 2016). If ESDC issues a positive LMIA (by no means guaranteed), the worker must then obtain a work permit, which takes additional time. One service provider reported that this process could take many months. As she asked, "who can afford to be without work for that kind of time?"

**Figure 3: Approved Temporary Foreign Worker Positions 2013 and 2015**



*The challenges of finding alternate employment for low-wage workers are very real. LMIA's are being approved increasingly rarely, dropping by almost 50,000 in two years.*

Source: Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, 2016. Reproduced with permission.

Another service provider noted with frustration that tied work permits create vulnerability even when the employee is not being exploited. For example, if a temporary foreign worker arrives in Edmonton but his hours are cut from full-time to part-time due to an economic slowdown, “well, he can’t just go and pick up a part-time job somewhere else. So the only income he’s allowed to have is that 20 or 25 hours a week. That’s not really a situation of exploitation, but that can put someone in a pretty vulnerable spot.” This service provider went on: “It’s pretty devastating, these stories that you come across. And there are no options for them. And what are they going to do, go home? Yeah, maybe. But they don’t even have money for the plane ticket.” Participants reported that even non-trafficked migrant workers will often stay in problematic and exploitative workplaces rather than attempt to go through the exhausting and uncertain process of finding alternative employment. In the words of one service provider, “People who are desperate will allow things that people who are not desperate would never allow.”



*People who are desperate will allow things that people who are not desperate would never allow.*



Another vulnerability to being lured into exploitative labour situations that low-wage temporary foreign workers encounter is the lack of routes to permanent residency that are not employer dependent. In fact, for low-wage temporary foreign workers (excluding caregivers), the only route to permanent residence status is through the severely strained and restrictive Alberta Immigrant Nominee Program (AINP), which has remained capped at 5,500 annual nominees for both high- and low-wage applicants for over five years. AINP applications can be jeopardized or even cancelled if there is a conflict with the employer, and nominees must continue to work for the employer throughout the duration of the processing time, which, even when applications are successful, can stretch for years. As a result of this situation, migrant workers, trafficked or not, will often refuse to complain about mistreatment because they do not want to risk any possible chances of receiving permanent residence status. One service provider reported a case where an employer forced his female workers to provide sexual services upon threats of him rescinding their AINP applications. While not a case of labour trafficking, this is clearly a form of severe exploitation. One participant stated bluntly, “As long as we keep permitting employers to have the kind of control they have in the system, we’re going to have situations of exploitative labour.”

Workplace inspections conducted by provincial government bodies confirm trends of abuse and rule breaking. For example, according to data from January 2010, 74 percent of employers of temporary foreign workers were found to have breached employment standards during a targeted campaign in Alberta (Foster 2012). According to one participant, “those cases where people are not being abused are the minority.”

The federal government has attempted to curtail the use of the TFWP, both in response to these allegations of widespread worker abuse and in response to the general unpopularity of the program amongst voters concerned about “an influx of foreign workers stealing jobs from Canadians” (Foster, 2012). As an example of the effects of some of these measures, the 2011 introduction of the “four in, four out” rule and the 2014 overhaul have resulted in significantly lower numbers of temporary foreign workers in Canada. However, as one participant noted,

The government had the intention of saying, “we’ll just have fewer temporary foreign workers in Canada,” and they thought that’d be a great thing. Except what they didn’t do the math on is that we already have 300,000 temporary foreign workers here and what’s happening is the number of potential employers for them and the number of legal jobs for them is shrinking, but they’re still here.

In particular, participants repeatedly reported that the “four in, four out” restriction places severe stresses on temporary foreign workers who desire to stay in Canada long-term, particularly when they have pending AINP applications. Some participants noted that this rule has diminished the incentive to work legally, as temporary foreign workers at the end of their four-year term know that they will be restricted from re-entering the country for a minimum of four years upon their departure. According to several participants, migrant workers are going underground in large numbers and/or paying high fees to immigration and employment consultants in a desperate bid to stay and work in Canada. As noted above, once migrant workers are working illegally and have precarious status, they become “highly vulnerable to exploitation because they have no way to be able to assert their employment rights.” Attempts to reform the program in the name of exploited workers appears to some extent to have had a perverse counter-effect.



*Migrant workers  
are going  
underground in  
large numbers.*



## *Responding to Labour Trafficking in Edmonton*

### **NEEDS OF VICTIMS OF LABOUR TRAFFICKING**

Overwhelmingly, participants noted that the two most pressing needs for individuals trafficked for the purposes of labour exploitation are: (1) stabilization of their immigration status; and (2) immediate job placement or income support. These are the two pillars of support upon which all other supports must be built, according to many participants. The lack of these was widely reported to be the major barrier to coming forward for assistance; without a source of income and some security in their immigration status, trafficked people have no stability. Notably, this was part of the rationale behind the creation of the Temporary Resident Permit (TRP) for victims of human trafficking. Although an imperfect mechanism, the TRP is intended to provide a reflection period in which victims can determine their next steps without the stress of immediate repatriation and lack of income – if they are able to access it.

These and other common needs discussed by participants can be broken down into immediate, short- to medium-term, and longer-term needs, with some needs beginning in the short-term and stretching into the longer-term. The following table incorporates research participant responses and previous research. Note that the needs of trafficked people overlap and resemble the needs of many other populations experiencing abuse and exploitation.

**Table 4: Needs of Labour Trafficked People**

<p><b>IMMEDIATE</b> (within one week)</p>	<ul style="list-style-type: none"> <li>▪ Security and protection from traffickers</li> <li>▪ Emergency shelter</li> <li>▪ Food</li> <li>▪ Emergency healthcare</li> <li>▪ Transportation and accompaniment</li> <li>▪ Interpretation and translation services</li> </ul>
<p><b>SHORT- TO MEDIUM-TERM</b></p>	<ul style="list-style-type: none"> <li>▪ Stabilization of immigration status (e.g. TRP or work permit)</li> <li>▪ Immediate job placement and/or income support</li> <li>▪ Security and protection from traffickers, including assistance for protection and security of family in country of origin</li> <li>▪ Advice and information about Canadian laws, rights, and responsibilities</li> <li>▪ Continued healthcare, including mental healthcare support</li> <li>▪ Transportation and accompaniment</li> <li>▪ Interpretation and translation services</li> <li>▪ Language courses</li> <li>▪ Criminal prosecution of traffickers</li> <li>▪ Remuneration of lost wages</li> <li>▪ Legal support</li> <li>▪ Court preparation</li> </ul>
<p><b>LONGER-TERM</b> (2 years+)</p>	<ul style="list-style-type: none"> <li>▪ Legal support</li> <li>▪ Court preparation</li> <li>▪ Assistance to return to country of origin or regularization of immigration status</li> </ul>

*References: Hanley, Oxman-Martinez, Lacroix, & Gal, 2006; Ricard-Guay and Hanley, 2015*

Clearly, these needs are wide ranging and cannot be met by any one organization. Below is a table listing the organizations that are currently typically involved in responding to situations of labour trafficking in Edmonton. Trafficked individuals may need to contact and coordinate with several or even all of these organizations throughout the course of receiving the full spectrum of support after a trafficking incident.

**Table 5: Primary Organizations Involved in Responding to Labour Trafficking in Edmonton**

SECTOR	ORGANIZATION	ROLE IN RESPONDING TO LABOUR TRAFFICKING
GOVERNMENT – FEDERAL	Immigration, Refugees and Citizenship Canada (IRCC)	<ul style="list-style-type: none"> <li>Assesses applications for Temporary Resident Permits (TRPs) for victims of human trafficking.</li> <li>Assesses applications for work permits.</li> <li>Administering Interim Federal Health Program.</li> </ul>
	Employment and Social Development Canada (ESDC)	<ul style="list-style-type: none"> <li>Issues Labour Market Impact Assessments (LMIA's).</li> <li>Responsible for monitoring the Temporary Foreign Worker Program (TFWP).</li> </ul>
	Canada Revenue Agency (CRA)	<ul style="list-style-type: none"> <li>Identifies and investigates cases of fraud and tax evasion.</li> </ul>
GOVERNMENT – PROVINCIAL	Temporary Foreign Worker Advisory Office (TFWAO)	<ul style="list-style-type: none"> <li>Provides information and referrals to temporary foreign workers in Alberta facing challenges such as abuse and exploitation.</li> </ul>
	Employment Standards, Special Investigations Unit	<ul style="list-style-type: none"> <li>Identifies and investigates possible violations of the <i>Employment Standards Code and Regulation</i>.</li> </ul>
	Occupational Health and Safety	<ul style="list-style-type: none"> <li>Enforces the <i>Occupational Health and Safety Act, Regulation and Code</i> and related legislation.</li> </ul>
	Service Alberta, Consumer Investigations Unit	<ul style="list-style-type: none"> <li>Investigates breaches of Alberta's consumer protection legislation (e.g. <i>Fair Trading Act</i> and related legislation) and takes regulatory actions against deceptive and fraudulent employment agencies and immigration consultants.</li> </ul>
	Alberta Works, Human Services	<ul style="list-style-type: none"> <li>Arranges for income support for trafficked individuals who are Canadian citizens, permanent residents, or have received the TRP for victims of human trafficking.</li> </ul>
LAW ENFORCEMENT	Edmonton Police Service (EPS)	<ul style="list-style-type: none"> <li>Investigates <i>Criminal Code</i> violations and enforces the law within the boundaries of Edmonton.</li> </ul>
	Royal Canadian Mounted Police (RCMP)	<ul style="list-style-type: none"> <li>Investigates <i>Criminal Code</i> violations and enforces the law.</li> </ul>
	Canada Border Services Agency (CBSA) – Investigations	<ul style="list-style-type: none"> <li>Investigates violations of the <i>Immigration and Refugee Protection Act (IRPA)</i> and enforces the law.</li> </ul>
LEGAL	Public Prosecution Service of Canada – Crown Prosecutors	<ul style="list-style-type: none"> <li>Prosecutes labour trafficking cases under IRPA and when appropriate, the <i>Criminal Code</i>.</li> </ul>
	Alberta Justice and Solicitor General – Crown Prosecutors	<ul style="list-style-type: none"> <li>Prosecutes labour trafficking cases under the <i>Criminal Code</i> and when appropriate, IRPA.</li> </ul>
	Civil, immigration, and criminal lawyers	<ul style="list-style-type: none"> <li>Provide legal advice and advocacy on behalf of clients.</li> </ul>
COMMUNITY SUPPORT SERVICES	Various nongovernmental service providers	<ul style="list-style-type: none"> <li>Provide a wide variety of service supports and coordination to individuals victimized by labour trafficking and related issues. Services may include immigration support, advice and referrals, provision of basic needs, mental healthcare support, and advocacy.</li> </ul>
FOR-PROFIT	Immigration consultants	<ul style="list-style-type: none"> <li>Assist with immigration needs.</li> </ul>
	Employment agencies	<ul style="list-style-type: none"> <li>Assist with finding employment.</li> </ul>



*There remains a clear need for more and better streamlining and communication.*



This large number of stakeholders makes collaboration and information sharing between organizations critical, particularly when multiple cross-sectoral agencies are investigating a single case. For example, if Employment Standards begins investigating an employer, it may be important to inform CBSA or the RCMP so the agencies can coordinate and avoid alerting the employer and potentially spoiling a long-term criminal investigation.

While participants reported a strong appetite for collaboration on labour trafficking cases in Edmonton, there remains a clear need for more and better streamlining and communication. Collaborative efforts are reportedly relatively new in Edmonton and have not yet been structurally entrenched. Organizational participation in labour trafficking collaboration efforts is voluntary and each organization involved in the response to labour trafficking has a distinct mandate. While stakeholders do tend to work well together, this is almost entirely dependent on organizational goodwill and the individual interest and efforts of staff members.

A barrier to streamlining that participants, particularly those in government and law enforcement, repeatedly noted is that legislative information sharing restrictions such as provincial and federal privacy laws make it difficult to collaborate on cases. In the absence of information sharing protocols, organizations must file written requests, consent forms, and production orders before information can be shared. This can slow down the response on a particular case by days or even weeks. "That's a huge impediment to being more efficient in going after these kinds of cases," reported one government participant. "The criminals work a lot faster than us, that's the bottom line."

Participants discussed creative solutions to reducing this barrier, such as speaking about cases in the abstract and relying on relationships to ease bureaucratic red tape. Additionally, information sharing meetings and collaborative groups have been convened to ease the flow of information. One of the most commonly noted information sharing venues on this issue in Alberta is the Temporary Foreign Worker Enforcement Group, a working group comprised of provincial and federal staff<sup>12</sup> that meets regularly to share information and discuss issues around the Temporary Foreign Worker Program. This group focuses on enforcing federal legislation and provincial law and participants praised it as a critical venue for building relationships and sharing knowledge. Additionally, as of March 2016, ACT Alberta has begun convening regular labour trafficking collaboration meetings with key government and law enforcement stakeholders to facilitate information exchange. Several participants praised these collaboration meetings as an innovative and effective venue for information exchange and training on human trafficking.

However, despite these creative and meaningful efforts, privacy concerns remained among the most noted cross-sectoral impediments to responding efficiently to cases of labour trafficking. This inability to share information was also seen to contribute to situations where victims of labour trafficking are interviewed multiple times by various

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<sup>12</sup> Members include CBSA - Inland and Border Enforcement, CBSA - Investigations, RCMP, ESDC, AINP, Alberta Immigration, Alberta Occupational Health and Safety, Alberta Employment Standards, Service Alberta, Agriculture Alberta, and the TFWAO.

law enforcement, government, and nongovernment organizations, with each agency conducting a separate interview. In addition to being potentially traumatizing to victims, conducting multiple interviews may also damage victim credibility. Victims of crime often suffer from cognitive changes based upon victimization and their stories may change in key details as they repeatedly retell them (Hill, 2003).

Participants also noted a ubiquitous, cross-sectoral lack of knowledge and training on human trafficking. In the words of one service provider, "there is no systemic knowledge of human trafficking ... People are charged with responsibility and bodies and agencies have police and administrative action, but nobody knows how to use them." Participants reported that when training on human trafficking is provided, there is generally an emphasis (sometimes an exclusive emphasis) on sex trafficking. This gap in training and education will be addressed at further length below.

## IDENTIFYING LABOUR TRAFFICKING

Identifying human trafficking in general and labour trafficking in particular has long been recognized as a serious challenge. In part, this is because most response structures established in Canada are complaint-driven – in other words, remedies are only considered once a complaint has been lodged. This poses obvious problems. As one service provider noted, "The complainant is usually the person who is the most vulnerable in the entire dynamic." Trafficked people, as discussed above, are restricted from complaining because of control tactics and precarious financial and immigration situations. Indeed, in most cases of labour trafficking where the trafficked worker came forward, he or she only did so after being dismissed or finding another job. In these scenarios, the trafficked worker is no longer dependent on his or her employer. For many trafficked workers, the fact that they only hold temporary status in Canada is a virtually insurmountable barrier to coming forward. As one participant expressed, "For us [service providers], we have all these things in mind to help. But when the victim is not ready and is not willing and is scared ... we cannot do anything."

Identification challenges in Alberta are heightened in complex cases when trafficked individuals have limited English language skills. It is difficult for trafficked people to come forward, because as one law enforcement participant pointed out, "If you can't speak English, then who do you talk to? All you know are the people you're working with that are all experiencing the same thing you are." Labour trafficking cases are highly complex, and it can be challenging and time-consuming to explain the full story even when trafficked people are fluent in English. As one participant noted, "Even in your own language it's already difficult to explain about what got you here, [LMIA], high-skilled, low-skilled, semi-skilled, whatever. Even in your own language, this is already so complicated."

Therefore, practically speaking it is unrealistic to expect victims of labour trafficking to be responsible for self-identifying and lodging labour trafficking complaints. Service providers, government, law enforcement, legal services, and other well-positioned



*Most response structures established in Canada are complaint-driven.*



stakeholders must be tasked with identifying potential cases and pressing forward with a response, while minimizing potential harms to workers that may flow from such identification (such as deportation). This is achievable, as trafficked workers often live and work in plain sight in society and frequently come to the attention of responders for a wide variety reasons. Participants reported that trafficked people are regularly involved in issues of family violence, fraud, threats, assaults, landlord/tenant disputes, and labour standards and contractual violations. Some wish to pursue civil remedies for unpaid wages or hire an immigration lawyer for assistance in staying in Canada. All of these situations present opportunities for identification.

However, many organizations do not screen or probe for labour trafficking due to siloed mandates and limited resources and training. Simply put, in the words of one participant, "a lot of places don't stop to ask the questions." As a result, many cases of labour trafficking go unrecognized, sometimes for years. For example, at one point in the midst of his trafficking experience, a trafficked person reported going to police after his landlord evicted him in the middle of winter. Law enforcement told him it was a landlord/tenant dispute and not a police matter, and he went unidentified as a victim of trafficking until several years had passed. A law enforcement participant confirmed that victims of labour trafficking are likely presenting at law enforcement detachments but are not being identified:



*These people don't necessarily see themselves as victims.*

I have to seriously believe that these people don't necessarily see themselves as victims. They don't show up to the police service with the language of "I've been trafficked, I'm being exploited," you know, like a person shows up and says "I've been assaulted," or "I've been robbed" ... Probably a policeman listens and hears it and doesn't quite get it, you know? "What are you telling me, I don't really know what you're telling me, I think it just sounds like a contractual issue or a civil issue," you know? And it's missed. I have no doubt that's happened.



Further compounding this challenge is the persistent (and arguably increasing) conflation of human trafficking with slavery. In the words of one service provider,

If we understand trafficking as – and certainly this happens in different parts of the world – where let's say somebody is kept in a cage on a fishing boat. Well, if someone is staying in a cage, there's a pretty big red flag there that there's something wrong happening. But if someone is walking around town and is working at the mall serving me food, I'm not necessarily going to think, "hey, that person's trafficked."

In the words of one counter-trafficking researcher, "slavery imagery help[s] implicitly raise the trafficking threshold by obscuring the core of what trafficking laws are intended to address" (Chuang 2014). Popular conflation of human trafficking with slavery results in situations where cases of labour trafficking are overlooked because of assumptions that trafficking only includes the most violent and horrific cases. Accurately identifying labour trafficking requires comprehensive, cross-sectoral training on what labour trafficking actually is, rather than how it is popularly imagined and portrayed.



Notably, in several reported cases that came to the attention of participants, Canadian advocates were critical in encouraging a trafficked person to come forward and report her experiences. Advocates may be friends that a trafficked person has come to trust, work colleagues who have noticed something amiss, or community members whom the trafficked person has confided in. Advocates can work to bridge the gap of fear and mistrust between trafficked people and authorities. However, it can often take a long time for a trafficked person to build up enough trust to disclose. One participant noted that it took two years to gain the trust of exploited workers and others noted similarly long timelines. This is further supported by existing research in Canadian counter-trafficking literature (see for example Ricard-Guay & Hanley, 2014).

## GOVERNMENT RESPONSE TO LABOUR TRAFFICKING

### Current Monitoring and Oversight of the TFWP

Both the federal and provincial governments have taken certain measures to protect temporary foreign workers and enforce compliance by employers, such as the requirement of an employer-employee contract, restrictions on recruitment agencies, and certain monitoring and oversight mechanisms. In 2014, the federal government increased the rigour of these measures by launching a tip line and complaints webpage to enable confidential reporting of abuse and mandating stronger enforcement, tougher penalties for non-compliance, and increased protections of workers. In addition, since 2011, the Integrity Services Branch of Employment and Social Development Canada (ESDC) has been conducting compliance checks of companies who employ temporary foreign workers and in the summer of 2015, they began conducting onsite inspections. In 2016, ESDC also began publishing the list of companies that have received positive LMIAs – a critical step toward increasing transparency and information flow (ESDC, 2016).

However, despite signs of improvement, monitoring of employers is widely reported to be extremely lax or nonexistent, creating a situation comparable to “the Wild West” in the words of one participant. For example, according to ESDC statistics, there were only 586 onsite employer inspections across Canada in 2015 and 830 between January and May 2016 (ESDC, 2016). In light of the fact that IRCC reports that there were 90,211 temporary foreign workers positions on positive LMIAs across Canada in 2015 (ESDC, 2016), it is clear that only a very small minority of employers are being actively monitored. While this marks an improvement from the previous number of onsite inspections (zero), it is not sufficient oversight to ensure that traffickers do not ignore the legal and regulatory protections of workers. One government participant reported that, “Over the years I’ve seen employers that are prolifically non-compliant with the Employment Standards legislation be issued [LMIAs]” – an oft reiterated assertion among participants.

In addition to lax oversight, evidence also suggests that some of the current monitoring measures are ineffective. For example, migrant workers are documented to be unlikely to report abuse through the tip line, as employers often become aware that a tip has been submitted and take steps to silence or dismiss workers prior to any potential inspection.



*Migrant workers are documented to be unlikely to report abuse through the tip line.*



Should employers be found noncompliant and be banned from the use of the TFWP, migrant workers will lose their jobs, making them unwilling to issue any complaints to begin with (Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, 2016).

One trafficked person experienced the effects of this lax and ineffective oversight first-hand: "These people, they think like nobody is watching them. Nobody can catch them, nobody will defend other poor people that don't have the power." Another trafficked worker recounted being granted a work permit to work as a server at a restaurant, despite the fact that the establishment he was working in had no restaurant attached to it. No one ever checked to see if the restaurant existed or if he was actually doing the work listed on his permit. This lack of oversight also explains how LMIA's and work permits can be issued for non-existent jobs at non-existent companies owned by the "ghost employers" referred to above.

### **Temporary Resident Permits for Victims of Human Trafficking**

As discussed above, the Temporary Resident Permit (TRP) for victims of human trafficking is a critical protective measure for trafficked persons in Canada with precarious immigration status. A TRP provides victims of trafficking with a minimum of a 6-month cushion of time during which they can reflect on their options, begin to recover from trauma, and potentially participate in law enforcement investigations. The TRP also entitles holders to an open work permit and, in Alberta, to income support through Alberta Works. This provides trafficked individuals with enough income to leave their exploitative employers and living conditions. As one service provider expressed, "That's enough to really give someone the ability to stabilize. So this is really critical, to get this tool for these people, because if they don't have immigration status, or if they [are a] temporary foreign worker, then they're only able to work for the exploitative employer that brought them to Canada."

Participants reported several cases in which TRPs enabled trafficked people to find safety and critical supports. In one case, a group of trafficked workers were unable to leave their situation prior to receiving TRPs because they were unpaid and lived in a closely monitored rental unit provided by their employer, who also provided them with all their food. In the words of a service provider who worked on the case,

Getting that TRP to give them the opportunity to leave was essential in that case. If we didn't have access to TRPs to allow them to get open work permits and get access to some income support to get them stabilized, then I don't know where these guys would be at this point ... It was at that point that they felt safe enough to be able to leave that apartment and not go to work for this exploiter.

However, getting a TRP can be an arduous process with uncertain outcomes. A consistently reported challenge by both participants and researchers is the discretionary nature of the permit issuance process. While IRCC, the federal body responsible for issuing TRPs, does set out parameters to guide officers in the TRP



*Getting a TRP can be an arduous process with uncertain outcomes.*



Manual (namely IP1 Temporary Resident Permits, 2007), officers retain a significant amount of discretion in determining whether the permit will be issued. This, combined in a lack of systemic training on human trafficking amongst IRCC officers, results in a reported inconsistency in decision-making.

In addition, concerns were raised about a perceived but unspoken requirement for the existence of an open criminal investigation, despite explicit statements in the TRP Manual that this is unnecessary. In the words of one service provider with lengthy experience in advocating for TRPs on behalf of victims of human trafficking, "Technically in the legislation, [trafficked people] are not required to report what's happened to them to law enforcement, but in practice, most of the TRPs that we are able to get for these individuals involve law enforcement."

Another issue raised by participants was the lengthy application process for TRPs. Sometimes weeks or even months can pass between IRCC being made aware of a potential victim of trafficking and the interview and eventual issuance of a permit. This is clearly problematic, as individuals may be unable to access services such as healthcare and income support without the permit. This delay was noted to be particularly painful if the TRP is ultimately denied, as individuals are kept in limbo with an eventual letdown.

Several participants also raised concerns around the interviewing process, which was noted to be often stressful and intrusive to trafficked workers, many of whom have already been interviewed several times previously by various other agencies. It was also reported that IRCC officers, though trained in interviewing techniques, may not take into account cultural differences and may come across as cold and unsympathetic. One participant reported that interview questions are sometimes worded in a way that is not intuitive to an interviewee unfamiliar with Canadian ways of speaking. Interviewees may only answer questions directly as asked, leaving out key pieces of information. Extending TRPs is equally, if not more onerous, as victims must again be re-interviewed and interview exemptions are reportedly difficult to acquire.

Interestingly, even law enforcement and government participants expressed frustration with the TRP issuance and extension process, noting that IRCC will not issue a TRP solely upon their recommendation. One government representative reported a case where a potential witness in a criminal proceeding was informed that his TRP application was expected to be denied despite advocacy on his behalf by a law enforcement body; later the individual was, in fact, provided with the TRP, causing unnecessary mental anguish. A law enforcement participant expressed dissatisfaction with cases where TRPs were not issued and individuals were issued departure orders: "If you start deporting these people, good luck on any further criminal investigations in Edmonton. Nobody will come forward."

TRP denials can have dramatic effects on the lives of trafficked or potentially trafficked people. For example, after IRCC denied her TRP application, one trafficked person was forced to work underground as an undocumented worker in a rural area in order to make ends meet – an extremely precarious and vulnerable position to be in. TRP denials may also result in workers being unable to leave their trafficking situation indefinitely.



*If you start deporting these people, good luck on any further criminal investigations in Edmonton. Nobody will come forward.*





*They might be exploited for their labour but they might not be trafficked. And so we can't help them.*



However, despite these various barriers and challenges, several participants noted that the process for acquiring TRPs has recently improved through strengthened relationships with IRCC officers, increased training and expertise amongst officers, and streamlined communication. TRPs are still considered by many participants to be an invaluable tool and protective measure for victims of human trafficking.

Participants identified that the TRP is not an option for those who may have experienced labour exploitation but do not meet the threshold of labour trafficking. For these individuals, there are very few options. As one service provider reported,

They might be exploited for their labour but they might not be trafficked. And so we can't help them with a TRP and they can't get an open work permit very easily otherwise. There's so many systems set up to put barriers and keep people in exploitative situations, when there should be systems in place to help people easily get an open work permit if they're being exploited.

Another service provider reported, "There are so many heartbreaking stories about people who are experiencing labour exploitation but not necessarily human trafficking, and there are no supports for them to be able to exit that situation."

In situations of exploitation where TRPs are not an option, open work permits (i.e. work permits not tied to an LMIA or a specific employer) can be a critical protective measure for exploited migrants. An open work permit can enable an individual to leave her exploitative situation by providing an income without the need to go through the arduous and time-consuming process of applying for and receiving an LMIA and tied work permit. In particular, participants spoke favourably of the effectiveness of the Agreement for Canada-Alberta Cooperation between the federal and provincial governments, notably section 6.7 of Annex B. In this 2009 agreement, the federal government agreed to implement a pilot project whereby the government would issue open work permits to temporary foreign workers upon recommendation from the Temporary Foreign Worker Advisory Office (TFWAO). Participants, particularly those in government, law enforcement, and the legal sector, repeatedly referenced the utility and effectiveness of this agreement, which lapsed in 2015. While in existence, participants described it as a highly useful tool for assisting and protecting temporary foreign workers who did not meet the threshold of human trafficking at relatively little economic cost. As one legal representative noted,

I think that in cases where it's clear that there is exploitation, where people are already indebted and they come and then the job falls apart, not only are they starting at zero, they're starting in the hole. I mean, is it going to have this huge negative impact on the economy for certain people to access an open work permit, to be able to feed themselves and get back financially a little bit, to where they want to be for their future? I don't think it will.

Participants provided recommendations that this pilot project be reinstated and expanded; the status of the lapsed project is currently uncertain.

Under exceptional circumstances, IRCC is also able to issue an open work permit through an exception provided for under *Immigration and Refugee Protection Regulation* 205(a). This exception is intended to provide IRCC officers with the flexibility to respond to cases where “the social, cultural, or economic benefits to Canada of issuing the work permit are so clear and compelling that the importance of the LMIA can be overcome” (CIC, 2014). CBSA has reportedly successfully recommended that IRCC officers use this exception in extraordinary cases, such as to allow witnesses in human trafficking investigations with precarious status to remain in Canada. This arguably stretches the intent of R205(a) and is not a comprehensive solution; as one participant noted, “to me it's still not directly dealing with this issue.” However, it is an adept method used on occasion by CBSA to overcome the limited options available for exploited individuals who are not eligible for human trafficking specific TRPs.

### Provincial Bodies

Provincial bodies frequently play a critical role in identifying and responding to cases of labour trafficking. Certain agencies, such as Employment Standards and Occupational Health and Safety, are strategically positioned to identify potential situations due to their regulatory nature and unique access to workplaces. While these bodies are not specifically mandated to respond to labour trafficking and work to protect all workers in Alberta, they are strategically positioned to identify severe exploitation. “Employer violations of basic obligations, such as building codes, may not only portend greater offences occurring in the work place, such as egregious exploitation and coercive environments, but may also provide an intervention point for authorities” (Sikka, 2013). In particular, the Special Investigations Unit of Employment Standards, tasked with addressing violations against vulnerable people such as temporary foreign workers, is reported to have begun developing invaluable expertise on labour trafficking.

In addition to identifying potential cases, Employment Standards can support trafficked workers by issuing and enforcing orders to employers to pay up to six months' unpaid wages and overtime and up to two years vacation pay.<sup>13</sup> Unfortunately, it may take six months or more to issue an order, and timelines can be significantly longer if employers appeal and/or if collection of funds must be enforced. Employers will often intentionally extend timelines in the hopes that employees' work permits will lapse and they will be forced to depart Canada without the employer having to pay the mandated funds.

The Consumer Investigations Unit within Service Alberta is also a critical player in the response to labour trafficking. This unit investigates breaches of Alberta's consumer protection legislation and takes regulatory actions against deceptive and fraudulent employment agencies and immigration consultants. Violations under the consumer protection legislation include forcing workers to pay recruitment fees, operating unregistered, or deceiving workers about the nature of work, pay, or living conditions.

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<sup>13</sup> Any worker in Alberta is eligible to apply for unpaid wages, overtime, and vacation pay within two years of the occurrence; this provision is not unique to trafficked workers. Employees in Alberta are entitled to time-and-a-half for any hours worked over 44 hours a week. The minimum vacation pay is four percent of earnings or paid vacation time off (minimum of two weeks per one year worked).



*Provincial bodies frequently play a critical role in identifying and responding to cases of labour trafficking.*



Although many participants praised the efforts of this unit, it is reportedly severely under-resourced in comparison to the enormous number of active illicit agents and consultants. Despite the commendable efforts of the overstretched unit, participants reported that many recruiters in Alberta continue to operate freely in a context of virtually no oversight.

## MANITOBA'S WORKER RECRUITMENT AND PROTECTION ACT (WRAPA)

*Manitoba's worker protection legislation is among the most rigorous in the country and was referenced by many participants in this study as a best practice. WRAPA, adopted in 2009, provides three levels of protection to temporary foreign workers. Firstly, it created a provincial registry of all employers of temporary foreign workers in the province, enabling Manitoba Employment Standards to know where all foreign workers are working. Secondly, it establishes built-in mechanisms to prevent exploitation by recruiters, in part by prohibiting the charging of recruitment fees to workers and mandating heavy penalties for violations. Lastly, it allows for both the proactive collection of data regarding foreign workers' living and working conditions and pay and the proactive investigation of workplace and employer records. This model has been praised as a best practice by the Institute for Research on Public Policy, the Canadian Centre for Policy Alternatives, and the Canadian Council for Refugees; even former federal Employment Minister Jason Kenney has urged other provinces to follow Manitoba's lead (CCPA, 2015; Friesen, 2014).*

One of the most integral provincial government bodies involved in the response to labour trafficking is the Temporary Foreign Worker Advisory Office (TFWAO). The TFWAO was established in 2007 and is a unique body in Canada. In addition to running a Temporary Foreign Worker Helpline, this organization assists exploited migrant workers in learning about their rights and provides them with information and referrals. Several participants reported the TFWAO to be a crucial asset in the response to labour trafficking in Alberta. In the words of one service provider, "we have a government-embedded office responsible for identifying the exploitation of people who are here under the temporary foreign worker program and I believe that's an extraordinarily important aspect of this response." However, due to strict privacy legislation and limited resources, the TFWAO is typically confined to providing referrals and advice to exploited workers. TFWAO staff members cannot accompany trafficked workers to various agencies and enforcement bodies nor can they disclose the situation of the trafficked worker to other agencies and bodies without the explicit consent of the trafficked worker.<sup>14</sup> Various participants expressed dissatisfaction with the level of service that the TFWAO can provide in light of these limitations. However, these challenges are not unique to the TFWAO and were noted to affect many government agencies involved in responding to labour trafficking cases.

<sup>14</sup> Unless there has been an information sharing protocol established with a given organization.

## LAW ENFORCEMENT RESPONSE

Participants discussed the current law enforcement response at length and provided particularly warm praise to the efforts of CBSA – Investigations. This law enforcement body, tasked with responding to *Immigration and Refugee Protection Act* (IRPA) violations, was repeatedly referenced as a dedicated and responsive law enforcement body that many participants rely on to investigate labour trafficking offences. Despite limited resources, CBSA – Investigations was reported to prioritize potential labour trafficking cases and to be a trustworthy body focused on bringing employers (rather than out-of-status employees) to justice.

Participants also reported the RCMP to be responsive and eager to work on labour trafficking investigations, although the body is reportedly hampered by a severe lack of resources dedicated to this issue and an unclear mandate. This was not always the case. In 2007, RCMP and CBSA signed a Memorandum of Understanding assigning primary responsibility of investigating IRPA human trafficking offenses to the RCMP. However, several participants noted that in recent years the bulk of the RCMP's resources have gone to national defence, leaving limited investigative capacity for other issues such as human trafficking. Although the RCMP used to have a specialized unit that dealt exclusively with human trafficking and human smuggling offences (namely the Immigration and Passport Section), this was disbanded in Alberta in the major RCMP reorganization of 2013.

Since that time, Serious and Organized Crime Section has come to take the lead role in the RCMP in responding to human trafficking in the province, despite having no explicit human trafficking mandate. Limited resources continue to restrict the amount of support they can provide. "I've been told quite explicitly that human trafficking isn't a huge priority for them and I think the biggest thing is just the amount of manpower they have," reported one service provider participant. Another service provider reported a case where RCMP did not have the resources to interview several victims of trafficking until four months had passed after the issuance of their TRPs, which is particularly concerning in light of the limited time allotted on these permits. However, despite these resource and mandate limitations, participants generally had a positive perception of the RCMP's efforts, particularly the efforts of individual officers.

Municipal law enforcement, namely the Edmonton Police Services (EPS), also lacks the mandate and resources required to respond adequately to labour trafficking. EPS reportedly has neither a specialized unit that can investigate labour trafficking nor the resources to devote to creating one. Any labour trafficking investigation in Edmonton would currently be assigned to EPS Vice Unit, which is primarily focused on responding to prostitution-related offences and has limited expertise on labour trafficking. As of the writing of this report, there has yet to have been a single human trafficking charge for the purposes of labour exploitation laid under the *Criminal Code* in Edmonton. Part of this challenge rests with competing priorities for city police. As one participant noted, there is "A battleground of things that are considered by other people more important, like

terrorism, like homicides, like commercial robberies or armed robberies ... Property crime could be more important to people than human trafficking, because people's garages are getting broken into."

The challenges associated with the overarching lack of human trafficking mandates and resources for law enforcement are worsened by the nonexistence of any mandatory human trafficking training for investigators. Participants reported that there is currently no required training on human trafficking for any law enforcement officers in Alberta. While some law enforcement bodies do offer limited online and in-person training courses, these are entirely voluntary and dependent on law enforcement personnel taking the initiative to learn more. In the words of one participant, "There are only a handful of [law enforcement] who really have expertise and experience in dealing with these types of cases."

### **Proving Labour Trafficking**

A variety of participants emphasized the challenges of proving that human trafficking has actually occurred to law enforcement. As noted, employers and recruiters often rely on cash payments, keep few hard records, and regularly falsify employment documents. Additionally, migrant workers may not feel empowered to ask for records or might not understand the importance of retaining these documents. This lack of evidence frequently makes it challenging for law enforcement to pursue an investigation or lay charges. As one participant noted, "you can help as much as you can, but if you want to see these people come to prosecution or face the justice system but there's been no evidence gathered, well, there's not much more that our justice system can do."

Additionally, participants noted misconceptions and limited knowledge in the community about what level of evidence is required for law enforcement to take a complaint seriously. Reporting to law enforcement can be a highly risky endeavour for trafficked workers at the best of times and the lack of knowledge about evidence requirements rightly intensifies these concerns. As one service provider noted, "Everything is put on your shoulders when you file a complaint. You have to prove that you are trafficked." If a trafficked person does not have adequate proof, then he has put himself at risk of dismissal or other repercussions for nothing. Even when trafficked workers do possess hard evidence such as contracts, paystubs, receipts, text messages, and emails from recruiters and traffickers, law enforcement may not have the training to spot trafficking indicators or the resources to investigate. One trafficked worker reported putting himself and his family at risk from his violent employer by sending evidence of his labour exploitation to a wide variety of government and law enforcement agencies; few of these organizations even replied to his overtures.

### **Lack of Crime Data**

Compounding these challenges, data available to law enforcement on the scale and prevalence of labour trafficking across Canada is limited. For example, there is still no national mechanism to collect and share data on trafficking across the different provinces (Ricard-Guay, 2016), making it challenging to create a coordinated law enforcement



*Reporting to law enforcement can be a highly risky endeavour for trafficked workers.*





response. However, since 2015, Criminal Intelligence Service Alberta, along with other provincial intelligence bureaus across Canada, has been addressing this by making human trafficking a priority criminal market for data collection. The collected data is provided to law enforcement agencies across Alberta in the form of an annual strategic provincial assessment, which assists law enforcement agencies in better targeting human traffickers. While a positive step, data remains sparse, due in part to underreporting of labour trafficking incidents by law enforcement personnel. This is concerning, as law enforcement agencies require intelligence in order to create an effective, cohesive, and robust response to this issue.

## LEGAL RESPONSE

### Civil and Immigration Lawyers

Trafficked individuals often approach the legal sector for help with a wide variety of concerns, such as immigration-related issues, civil action against employers, and landlord/tenant disputes. Civil and immigration lawyers may be able to assist victims of labour trafficking in finding some justice for lost wages and immigration-related challenges they have faced as a result of their trafficking experiences.

Unfortunately, retaining a lawyer is financially impossible for many migrant workers. One previously trafficked worker described borrowing heavily from friends to pay his lawyer's fees after he launched a civil lawsuit against his previous employer; another trafficked worker reported that he considered hiring a lawyer to sue for his unpaid wages but abandoned the idea when he saw the likely cost. While there are options for free or reduced legal rates in Edmonton, these are often difficult to access. For example, in order to access Legal Aid Alberta, a free legal service for low-wage individuals, an individual must make less than \$20,000 per year (Legal Aid Alberta, n.d.); even many temporary foreign workers are not eligible to receive services with such a low-income requirement. The Edmonton Community Legal Centre (ECLC), which provides free legal information and advice to low- to moderate-income people, is reportedly more accessible, but despite commendable efforts, ECLC is under-resourced and has minimal capacity to comprehensively assist the numerous individuals who request their services. Although ECLC will prioritize trafficked clients, this is dependent on the accurate identification of the trafficked individual, which, as discussed above, can be challenging.

Even when migrant workers are able to retain a lawyer, they are almost always limited by the time restrictions on their work permits. One legal representative reported, "There is a clock that's ticking. One of the first questions that I ask a temporary foreign worker when they come and see me is, 'when does your work permit expire?' Because if it's a month from now, then that's going to severely limit some of the options that we have in terms of what remedies we can get."

If a trafficked worker files a civil lawsuit, they can sue for unpaid wages and overtime for the previous two years – significantly longer than the six months they are entitled to receive from Employment Standards. However, legal participants noted that it might take



*There is a clock  
that's ticking.*



two years or more of legal action before a trial even begins and plaintiffs are required to be present at their own trials. In light of the time restrictions on work permits, it is unlikely that the worker would be allowed to remain in the country for that length of time. Employers understand this and will intentionally prolong the legal process for as long as possible in the hopes that the employee will be forced to leave the country before a trial is set. In the words of one legal participant:

It's like barrier after barrier. There's a barrier to making a complaint in the first place, because there's a disincentive to do that – you don't want to lose your job. Even if you do lose your job, there are various barriers to accessing the system because ... as a temporary foreign worker, you might not speak the language, you don't know the system, you don't know what your options are. So even if you are able to identify what your options are and make a complaint or come and see [a lawyer] and we open the file and file a claim on your behalf, there's the final barrier, which is that there's a clock that's ticking and we need to get a resolution sooner rather than later.

### **Crown Prosecutors**

As discussed above, criminal charges for labour trafficking are rarely laid anywhere in Canada due to high evidentiary thresholds, interpretational challenges, and a lack of resources and mandate from law enforcement. *Criminal Code* charges are particularly difficult to lay as labour traffickers often force compliance through debt bondage and threats of denunciation rather than real and intended violence, and IRPA charges are only applicable to international cases in which individuals are trafficked into Canada from across the border (see Section I above for more details).

However, several participants noted that there has recently been a push from crown prosecutors at the Public Prosecution Service of Canada to hold traffickers to account in Alberta. In light of the numerous barriers to laying human trafficking specific charges, crown prosecutors have begun working on creative ways to press alternate charges that still reflect the seriousness of labour trafficking offences. For example, participants noted that there have recently been charges laid under Section 127 of IRPA, which prohibits the hiring of foreign nationals using deception. While not human trafficking per se, this reflects the intent of crown prosecutors in Alberta to find ways to ensure traffickers are held to some level of account for their actions. However, as one legal participant reflected, "Everybody fights it out one case at a time ... Until the government takes steps to rebalance the legislation so that workers are protected, we're never going to resolve the legal issues that are created by the system itself."

### **COMMUNITY SERVICE PROVIDER RESPONSE**

Most of the participants consulted for this project were service providers working on a variety of social and community issues. The vast majority of these participants reported that migrant workers, visitors, and foreign students are unable to access most services and supports in Canada, putting them at risk of exploitation. For example, temporary foreign workers are unable to access any settlement services, income support, or English language



*Crown prosecutors have begun working on creative ways to press alternate charges.*



training, and although they are eligible for a minimal level of healthcare services, this is entirely dependent on their work permits. Precarious status individuals are ineligible for any services whatsoever, and many are often simply unable to support themselves.

Shelter, when leaving an exploitative employer, is a real and pressing need. One participant reported the case of a live-in caregiver who fled her trafficking situation and, lacking other options, moved in with her abusive boyfriend. She eventually found a bed at a domestic violence shelter but IRCC denied her TRP application. Shelters for men are even more limited; aside from homeless shelters, there are no emergency shelters for men available anywhere in Edmonton or the surrounding area. One minimally paid trafficked worker was unable to pay his rent and was evicted from his apartment in the middle of winter. He had no options aside from a mat at a downtown homeless shelter and ended up relying on personal networks until he found another employer willing to apply for an LMIA. A service provider reported how a concerned Canadian sheltered an elderly and traumatized trafficked man who spoke no English and had no alternate options when he had nowhere safe to sleep. For both men and women, second stage shelters are unavailable unless they have access to either income support or a job. If they are denied a human-trafficking specific TRP and an open work permit, this leaves them with very few options.

While some trafficked people are able to rely on their communities to support them, many others are unable to do so. This may result in them remaining in their trafficking situations indefinitely or sleeping on the streets or in a car until (or if) they find another job.

Participants also spoke to the need for healthcare for labour trafficked individuals. One service provider reported the case of a pregnant woman who did not seek any pre-natal care for herself or her unborn baby out of fear of deportation, and another described the case of an individual with cancer who was too afraid of immigration authorities to seek any treatment. One trafficked worker described a serious medical condition that resulted from his long hours of labour; he did not seek medical attention until his condition had progressed significantly. Fears of deportation are often legitimate; participants reported multiple cases of undocumented workers being reported to CBSA – Inland Enforcement after receiving medical care and thereafter receiving departure orders.

Participants identified that labour trafficking can result in depression, anxiety, suicidal ideation, and other long-term mental health concerns. As one participant, an advocate for a trafficked person, stressed, "I cannot tell you his emotional and his psychological suffering. Wherever he goes, he is very upset at the way they treated him. It's not going out of his system." Without access to a TRP, temporary foreign workers and those with precarious status have no access to affordable mental health supports in Edmonton and other options are prohibitively expensive.

In addition to these immediate needs, trafficked migrants also have limited access to case management services in Edmonton. Currently, they must find their own way to various bodies and must report their situation anew each time. This is particularly challenging for individuals who have poor or nonexistent English skills. As a government



*Labour trafficking can result in depression, anxiety, suicidal ideation, and other long-term mental health concerns.*



participant noted, "If English is not their first language or if they're not very proficient in the English language, it's tough to navigate the different systems." As a service provider recognized, "If they don't speak English then they're going to need support at absolutely every step along the way. Just not knowing where to go and even how to ask questions on how to get there. So if they get lost in the mall on the way, they're not going to make it to that appointment." This participant continued, "At what point would that person give up? It's pretty clumsy and it's a lot of expectation on this vulnerable person to report in all these different places. And that's not effective."



*Every case is a new challenge for us to create miracles.*



Many participants across a wide variety of sectors noted that these barriers to trafficked people could be mitigated through case management and accompaniment services. When a trafficked person is still in a precarious employment situation, case managers could help to create exit and safety plans, and upon exit from the trafficking situation, a case manager could assist in determining the various organizations and agencies to report to, provide advice and advocacy, and accompany her to various appointments. Case managers could also assist in explaining the response process and helping the trafficked person feel more comfortable and supported. While there are organizations currently in existence that would be well-positioned to fill this case management role (such as the TFWAO or ACT Alberta), resource and mandate limitations in these organizations do not allow for the kind of intensive case management needed for a full range of client support.

Notably, cases of exploitation and trafficking, while devastating for those most directly affected, also put immense strains on the service providers involved. One service provider participant reported, "Every case is a new challenge for us to create miracles." Participants reported that service providers often do not turn anyone away, even if they are not funded to provide assistance. They provide ad hoc services under different program names, work with churches and other community groups, and squeeze their limited resources. Much of this work goes unreported to funders, who frequently specify that funding cannot be spent assisting individuals with precarious status or temporary foreign workers. However, these informal solutions only go so far, and service providers oftentimes can only recommend that individuals return home with nothing. These stories can be overwhelming and emotionally draining, leading to burnout and exhaustion in the service providing sector.

In spite of these challenges, participants noted considerable strength in the informal community response to migrant worker exploitation. One focal point of this grassroots movement has been a growing interest in exploring Access without Fear<sup>15</sup> policies in Edmonton. This idea, which has been implemented in various forms in Vancouver, Toronto, and Hamilton, would bar municipal authorities (including schools, hospitals, transit authorities, local law enforcement, and government workers) from questioning an individual's immigration status. Many participants in various sectors supported the

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<sup>15</sup> Other related concepts are "Sanctuary Cities" and "don't ask, don't tell." These terms broadly overlap and are often used synonymously.

idea and thought it could contribute to a safer environment for migrant workers. However, concerns were raised over funding for the expected increased volume of services, and some wondered how effective such policies would be when provincial or federal bodies implement many of the needed services for trafficked workers rather than municipal authorities. Studies and research should be undertaken to investigate this further.

## *Challenges Posed by Societal Attitudes*

Participants reported that improving the response to labour trafficking and increasing available supports to trafficked workers is often complicated by dismissive or hostile societal attitudes towards immigrants in Alberta. In the words of one participant:

There is this idea in the public that people are lucky to come here to work. And that, yeah so they might not make minimum wage or they might not have basic protections, but it's sure better than what they get at home. There is almost a xenophobia that underlies our view. So it's okay that they get treated "less than," because it's still better than what they would receive elsewhere. So to me, I think there's a struggle that's going to have to go on to get a shared understanding of what is exploitive labour and why is it not okay to treat human beings as "less than" just because they don't happen to reside here, they don't happen to have status here, they don't happen to be permanent residents or citizens. There has to be a shared understanding that we have core, common values that apply to everybody. I think we have forgiven situations of exploitive labour because we haven't chosen to view them with that lens.

Another participant also identified this challenge, remarking:

I think we need to ask the hard question of whether we're really serious about tackling this issue. Do we really care about these people who aren't Canadian citizens, who aren't Caucasian, who maybe don't speak our language? Because I don't think anything is going to dramatically change unless we see them as equally human and deserving of respect and dignity.

Ultimately, an effective response to labour trafficking must be centered on concepts of fundamental human rights and receive broad public support in order to be successful. Our society must continue to have these conversations in order to move forward with preventing and addressing labour trafficking in Edmonton.



*I don't think anything is going to dramatically change unless we see them as equally human and deserving of respect and dignity.*



## SECTION III:

# Recommendations

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Solving the issue of labour trafficking will likely require systemic change and deep societal shifts; providing insight into what those shifts might be is outside of the scope of this study. However, this should not hinder taking immediate action that can have positive impacts on countering labour trafficking in the short-, medium-, and long-term. The following recommendations have incorporated participant responses with an emphasis on being practical and implementable:

### **IMMIGRATION**

1. Provide work permits to temporary foreign workers that enable increased labour mobility, such as work permits that are sectoral- or regional-specific.
2. Provide pathways to permanent residence status that are not dependent on skill level classification or the goodwill and nomination of an employer.
3. Allow temporary foreign workers to access similar supports as permanent residents and Canadian citizens. In particular, allow access to pre-migration supports such as the Canadian Immigrant Integration Program.
4. Reduce processing times for AINP and caregiver applications for permanent residence status.
5. Reduce processing times for human trafficking specific TRP and open work permit applications.
6. Renew and expand the lapsed pilot project described in the Agreement for Canada-Alberta Cooperation, Annex B, Section 6.7, whereby the federal government agrees to provide open work permits to temporary foreign workers upon recommendation from the TFWAO.

### **ENFORCEMENT AND REGULATORY BODIES**

7. Increase the resources available for monitoring recruiters and employers of low-wage temporary foreign workers to ensure compliance with federal and provincial legislation and policies. The Manitoba *Worker Recruitment and Protection Act* should be reviewed as a possible model.

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8. Explore the possibility of instituting a labour trafficking investigative and enforcement taskforce made up of various labour trafficking stakeholders that have received extensive training on this issue, including law enforcement and regulatory bodies.
  9. Strengthen current information sharing agreements or implement new information sharing agreements where none currently exist regarding labour trafficking cases between IRCC, CBSA, ESDC, RCMP, Alberta Employment Standards, Alberta Occupational Health and Safety, Service Alberta, and the TFWAO.

## **TRAINING AND EDUCATION**

10. Implement mandatory training on human trafficking for personnel in a strategic position to identify labour trafficking in Alberta. Relevant sectors requiring training include government, law enforcement, legal, community support services, and for-profit.
11. Provide information packages to all temporary foreign workers upon entry to Canada that outline their rights and responsibilities and provide information on who to contact should they believe their rights are being violated in their primary language, as promised by ESDC in 2014 (ESDC, 2014).
12. Provide a mandatory in-person training session to temporary foreign workers within one month of their arrival on their rights and responsibilities in Canada.
13. Implement an evidence-based public awareness raising campaign on the rights of foreign workers and the realities of labour trafficking.

## **COMMUNITY**

14. Provide increased and ongoing support to service providing organizations working with temporary foreign workers, individuals with precarious status, and labour trafficked people.
15. Reach out to and engage with temporary foreign worker communities to build trust and partnerships.
16. Investigate the potential of implementing Access without Fear policies in Edmonton.
17. Make case managers and advocates available for labour trafficking cases.

## SECTION IV:

# Conclusion

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Human trafficking is among the most heinous of crimes and remains a rampant problem across Canada. By documenting and contextualizing the modalities of labour trafficking and the response to this issue in Edmonton, this study will hopefully enable a more robust, evidence-based, and effective approach to this issue.

This study confirms previous research done on the topic of labour exploitation in Canada and identifies that predominately low-wage temporary foreign workers are being exploited for their labour along a spectrum of control and abuse. Recruiters and employers engage in a series of control tactics, including deceit and misinformation, monitoring and isolation, threats of dismissal and deportation, and real and intended harm to workers and their families. Trafficked individuals in Edmonton are forced to work long hours for little or no pay while employers and recruiters reap immense profits. Trafficking occurs within a context of vulnerability, in which workers are poised precariously in terms of their financial and immigration status and are at an absolute power disadvantage to employers. Despite fairly stringent legal and regulatory protections for low-wage migrant workers, the lack of oversight and monitoring of both recruiting agencies and the Temporary Foreign Worker Program as a whole enables recruiters and employers to operate largely with impunity.

Human trafficking is a complex crime in which the whole is greater than the sum of its parts. A wide variety of individuals and organizations that work on diverse mandates and issues regularly come into contact with trafficked people in Edmonton; without wide and deep training and collaboration on labour trafficking amongst these stakeholders, the overarching stories of labour trafficking can and do get lost in the minutiae of responses. However, by working together on this issue, we can achieve more than any one organization could do alone. A complex crime requires a complex, collaborative response.

Edmonton is in the midst of a watershed moment in the history of the response to labour trafficking and is positioned to lead the national response on this issue. It is vital to capitalize on the current atmosphere of enthusiasm and energy in the city and across the province. As one participant put it, “until we say it’s not okay, until we have pressure put on the government to say it’s not okay, then nobody’s going to do anything about it.”

By taking action now, we can end labour trafficking in its current form in Alberta. The destruction of one life by labour trafficking is far too many.



## SECTION V:

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## APPENDIX A:

# Information Sheet

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You are invited to participate in a research project entitled *Labour Trafficking in Edmonton*. Please read this form carefully, and feel free to ask questions you might have.

### **PURPOSE OF STUDY**

This study aims to develop in-depth knowledge of the extent, nature, and existing response to labour trafficking in Edmonton. The goal of this study is to deepen our understanding of labour trafficking, to collect and share knowledge about labour trafficking, to document and contextualize experiences of labour trafficking, and to critically examine labour trafficking and anti-trafficking responses to identify best practices.

Responses will be critically analyzed to determine if there are common or significant themes. Themes will be compared with existing human trafficking literature in order to explore the strengths and limitations of current responses to trafficking. In addition to academic insights, the knowledge generated as a result of this project will be synthesized into a concise report which will be widely disseminated upon completion of the project later this year.

### **WHAT YOU WILL BE ASKED TO DO**

As a participant, you will be asked to take part in one of several focus group meetings that will include [insert type of focus group] and/or an interview to collect more in-depth knowledge about your understanding of labour trafficking and the work you and/or your organization do in relation to labour trafficking.

On [date] we will be holding a focus group meeting with frontline workers who work for agencies that aim to address human trafficking in Edmonton. As a participant, you will be asked to take part in a focus group that will last approximately one hour. The focus group will include approximately 4-6 other frontline workers involved in agencies addressing human trafficking. Focus groups will be at [location], where respect for privacy and confidentiality can be maintained. The focus group will be audio-recorded; however, you may request to have the recording device turned off at any time. Your participation in the study is completely voluntary; therefore, it is your right to end your participation at any time or to refuse participation altogether. The study is intended to allow you to



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openly describe your opinions, working knowledge, and perceptions of anti-trafficking initiatives and policies in Canada. The researchers will make every effort to ensure that all those who choose to participate in focus group discussions are treated with respect, consideration, and patience.

If you are interested in participating or have any questions, please contact:

**Primary Researcher:**

DR. JULIE KAYE  
Assistant Professor of Sociology  
Director of Community Engaged Research  
The King's University  
Phone: 780-465-3500  
Email: julie.kaye@kingsu.ca

**Co-Investigator:**

KAREN MCCRAE, MA  
Project Manager &  
Manager of Communications and Development  
ACT Alberta  
Phone: 780-474-1104  
Email: karenmccrae@actalberta.org

## APPENDIX B:

# Interview Consent Form

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[Date]

Dear [Participant's Name],

Our names are Dr. Julie Kaye, Assistant Professor of Sociology and Director of Community Engaged Research at The King's University and Karen McCrae, Project Manager & Manager of Communications and Development at the Action Coalition on Human Trafficking. This information consent letter, a copy of which has been given to you, outlines the details of research that we are conducting and what your participation entails.

This study aims to develop in-depth knowledge of the extent, nature, and existing response to labour trafficking in Edmonton. The goal of this study is to deepen our understanding of labour trafficking, to collect and share knowledge about labour trafficking, to document and contextualize experiences of labour trafficking, and to critically examine anti-trafficking responses, and to identify potential best practices.

We are holding interviews with participants who work for agencies that aim to address human trafficking. As a participant, you will be asked to take part in an interview that will last approximately one hour. Interviews will be held in secure location where respect for privacy and confidentiality can be maintained. The interview will be audio-recorded; however, you may request to have the recording device turned off at any time. Your participation in the study is completely voluntary; therefore, it is your right to end your participation at any time or to refuse participation altogether. The study is intended to allow you to openly describe your opinions, working knowledge, and perceptions of anti-trafficking initiatives and policies in Edmonton. The researchers will make every effort to ensure that all those who choose to participate in an interview are treated with respect, consideration, and confidentiality.

If you have any questions about this study, or would like to discuss the study before reaching a decision to participate, please feel free to contact Julie at 780-465-3500 ext. 8139 or [julie.kaye@kingsu.ca](mailto:julie.kaye@kingsu.ca), or Karen at 780-474-1104 or [karenmccrae@actalberta.org](mailto:karenmccrae@actalberta.org).

This project has been reviewed by, and received ethics clearance through the Research Ethics Board at The King's University. Any comments or concerns about your participation in this study can be directed to Dr. Henry Schuurman, chair of the Research Ethics Board, at 780-465-3500 Ext. 8045 or email at [Henry.Schuurman@kingsu.ca](mailto:Henry.Schuurman@kingsu.ca).

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Please indicate below your willingness to participate in this study. Thank you in advance for your co-operation in this research.

Yours sincerely,

Dr. Julie Kaye and Karen McCrae, MA

Please read the following statements, tick the boxes to indicate that you have read and understood them, and provide your name, signature and date:

- I understand that I will be asked to participate in an interview that will be audio recorded, transcribed and de-identified for later analysis.
- I understand that all hardcopy documents and electronic documents will be saved on password protected USB devices and stored in a locked filing cabinet at the ACT Alberta offices and the King's University for a period of five years. Only the Lead Investigator, Co-Investigator, and the transcribers will have access to the documents and audiotapes.
- I understand that information gained during the study may be published but my organization and I will only be identified based on organization type. All personal information will remain confidential.
- I understand that I may withdraw from the research project at any stage without consequence.
- I understand that I can review my interview transcripts and a summary of project findings.
- I understand that there will be no direct benefit to me from my participation in this research
- I have read the attached Information Sheet and the nature and purpose of the research project has been explained to me. I understand and voluntarily agree to take part.

Name of participant \_\_\_\_\_

Organization \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

## APPENDIX C:

# Focus Group Consent Form

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[Date]

Dear [Participant's Name]:

Our names are Dr. Julie Kaye, Assistant Professor of Sociology and Director of Community Engaged Research at The King's University and Karen McCrae, Project Manager & Manager of Communications and Development at the Action Coalition on Human Trafficking. This information consent letter, a copy of which has been given to you, outlines the details of research that we are conducting and what your participation entails.

This study aims to develop in-depth knowledge of the extent, nature, and existing response to labour trafficking in Edmonton. The goal of this study is to deepen our understanding of labour trafficking, to collect and share knowledge about labour trafficking, to document and contextualize experiences of labour trafficking, and to critically examine anti-trafficking responses, and to identify potential best practices.

On [date] we will be holding a focus group meeting with frontline workers who work for agencies that aim to address human trafficking. As a participant, you will be asked to take part in a focus group that will last approximately two hours. The focus group will include approximately four to six other frontline workers involved in agencies addressing human trafficking. Focus groups will be held in a conference room at [location] where respect for privacy and confidentiality can be maintained. The focus group will be audio-recorded; however, you may request to have the recording device turned off at any time. Your participation in the study is completely voluntary; therefore, it is your right to end your participation at any time or to refuse participation altogether. The study is intended to allow you to openly describe your opinions, working knowledge, and perceptions of anti-trafficking initiatives and policies in Edmonton. The researchers will make every effort to ensure that all those who choose to participate in focus group discussions are treated with respect, consideration, and patience.

If you have any questions about this study, or would like to discuss the study before reaching a decision to participate, please feel free to contact Julie at 780-465-3500 ext. 8139 or [julie.kaye@kingsu.ca](mailto:julie.kaye@kingsu.ca), or Karen at 780-474-1104 or [karenmccrae@actalberta.org](mailto:karenmccrae@actalberta.org).

This project has been reviewed by, and received ethics clearance through the Research Ethics Board at The King's University. Any comments or concerns about your participation in this study can be directed to Dr. Henry Schuurman, chair of the Research Ethics Board, at 780-465-3500 Ext. 8045 or email at [Henry.Schuurman@kingsu.ca](mailto:Henry.Schuurman@kingsu.ca).

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Please indicate below your willingness to participate in this study. Thank you in advance for your co-operation in this research.

Yours sincerely,  
Dr. Julie Kaye and Karen McCrae, MA

Please read the following statements, tick the boxes to indicate that you have read and understood them, and provide your name, signature and date:

- I understand that I will be asked to participate in a focus group that will be audio recorded, transcribed and de-identified for later analysis.
- I understand that all hardcopy documents and electronic documents will be saved on password protected USB devices and stored in a locked filing cabinet at the ACT Alberta offices and the King's University for a period of five years. Only the Lead Investigator, Co-Investigator, and the transcribers will have access to the documents and audiotapes.
- I understand that information gained during the study may be published but I, and my organization, will not be identified and all personal information will remain confidential.
- I understand that I may withdraw from the research project at any stage without consequence.
- I understand that I can review my focus group transcripts and a summary of project findings.
- I understand that there will be no direct benefit to me from my participation in this research
- I have read the attached Information Sheet and the nature and purpose of the research project has been explained to me. I understand and voluntarily agree to take part.

Name of participant \_\_\_\_\_

Organization \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

## APPENDIX D:

# Guiding Questions

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### BACKGROUND QUESTIONS

1. In your opinion and experience, how do you define labour trafficking?  
Have you ever received any training or information on it?
2. Do you respond to labour trafficking in your work, or have you in the past? If so, how?
3. In your opinion and experience, what are the trends of labour trafficking in Edmonton?
  - a. What makes individuals vulnerable to being trafficked? What are the barriers to coming forward?
  - b. How many confirmed or suspected cases have you seen?
  - c. If you don't see trafficking, why do you think that is?

### PRIMARY QUESTIONS

4. Is labour trafficking related to other forms of exploitation (e.g. sexual exploitation, labour exploitation, domestic violence) in Edmonton? In what ways?
5. What are the needs/most requested services of trafficked people?
6. What are the strengths and limitations of responses to labour trafficking in Edmonton?
7. Has the trafficking framework affected your work? Has it been beneficial or harmful?
8. Legislation on human trafficking:
  - a. [Law enforcement] Do the Criminal Code and/or IRPA provisions effectively apply to cases of labour trafficking?
  - b. [INGOs/Advocates] From your perspective, is the criminal justice response to trafficking useful and/or effective?
9. Are there government or nongovernment policies or programs that facilitate labour trafficking? If so, please describe.
10. Are you familiar with the concepts of Sanctuary Cities or Access without Fear?  
How do you think this would affect your work, if implemented?
11. What do you think needs to be done in order to prevent labour trafficking? How could we improve policies and services to better assist victims of labour trafficking?

### CLOSING QUESTIONS

12. Can your agency offer support in responding to labour trafficking?
13. What kind of support and/or training in the area of labour trafficking, if any, would benefit you?
14. Is there anything else you would like to add?





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