

Anti-trafficking Laws

BACKGROUND & ANALYSIS

In 2005, the Canadian government enacted criminal laws against human trafficking. To this day, despite amendments, these anti-trafficking laws lack a substantive basis in empirical evidence and often have the effect of harming those in marginalized positions—such as people engaged in sex work.¹

The Criminal Code provisions prohibiting human trafficking are as follows:

S. 279.01 - TRAFFICKING IN PERSONS

Trafficking in persons is committed by anyone 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”².

S. 279.011 - TRAFFICKING OF A PERSON UNDER THE AGE OF EIGHTEEN YEARS

This offence is identical to the above, except that it is specific to trafficking minors. It carries a slightly higher mandatory minimum sentence under specific circumstances.

Subsection 279.02(1) - RECEIVING A FINANCIAL OR OTHER MATERIAL BENEFIT (ADULT VICTIM)

This provision makes it an offence to knowingly receive any monetary or other material benefit if the benefit was obtained - directly or indirectly - via human trafficking.

Subsection 279.02(2) - RECEIVING A FINANCIAL OR OTHER MATERIAL BENEFIT (CHILD VICTIM)

This provision is the same as the above, but pertaining specifically to minors. Similar to s. 279.011, it carries a slightly elevated sentencing range.

¹ Millar, H., O'Doherty, T., & Roots, K. (2017). [A Formidable Task: Reflections on Obtaining Legal Empirical Evidence on Human Trafficking in Canada](#). *Anti-Trafficking Review*, 8, 34-49.

² Criminal Code of Canada, [S. 279.01](#): Trafficking in Persons.

Subsection 279.03(1) - WITHHOLDING OR DESTROYING A PERSON'S IDENTITY DOCUMENTS (ADULT VICTIM)

This offence criminalizes anyone who “conceals, removes, withholds or destroys any travel document that belongs to another person or any document that establishes or purports to establish another person’s identity or immigration status”³. The documents in question do not have to be Canadian issued or authentic for the provision to apply.

Subsection 279.03(2) - WITHHOLDING OR DESTROYING A PERSON'S IDENTITY DOCUMENTS (CHILD VICTIM)

This offence is the same as the above, but pertains specifically to minors and carries a slightly elevated sentencing range.

Other criminal code offences are often applied to human trafficking related charges, including⁴:

- Kidnapping
- Forcible confinement
- Uttering threats
- Extortion
- Assault
- Sexual assault
- Aggravated sexual assault
- Prostitution-related offences
- Criminal organization offences

It is important to note that any of the above offences may be recorded as ‘trafficking related’ in police statistics, artificially inflating the true number of human trafficking charges and convictions in Canada.⁵

³ Criminal Code of Canada, [Subsection 279.03\(1\)](#): Withholding or Destroying Documents

⁴ Government of Canada. (2021). [Human Trafficking: Legislation](#).

⁵ Millar, H., O’Doherty, T., & Roots, K. (2017). [A Formidable Task: Reflections on Obtaining Legal Empirical Evidence on Human Trafficking in Canada](#). Anti-Trafficking Review, (8).

When reporting on stories about trafficking...

- Be concise and clarify your definition of human trafficking when writing or reporting on the topic
- Be sure not to conflate human trafficking with other offences
- Do not conflate human trafficking with sex work
- Be critical of anti-trafficking statistics - ask yourself “where does this statistic come from?”, “how was the data collected and interpreted?” and “is there a reliable source provided to back up this statistic?”

For a look at how Canada’s laws conflate sex work with human trafficking, see SWAN's [backgrounder](#) & [analysis](#) that cover this topic.

See here for a [backgrounder](#) on the Immigration and Refugee Protection Regulations (IRPR) that criminalize im/migrant sex work in the name of anti-trafficking.

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