



CANADA

Legal System	Constitution	Bill of Rights	Country Structure	Form of Government
Common Law Civil Law Statutory Law	Written	Yes	Federation	Monarchy Republic

1. INTRODUCTION

1.1. Canada and Modern Slavery (Human Trafficking)

Canada is a constitutional monarchy and parliamentary democracy. It is a federation of 10 Provinces and three Territories. The common law applies throughout Canada, except in Quebec, where civil law applies.

The Constitution of Canada — which is comprised of the Constitution Act 1867,¹ Constitution Act 1982,² and Canada Act 1982³ — provides for One Parliament, consisting of the Queen, an Upper House called the Senate, and the House of Commons.⁴ The Parliament of Canada has exclusive legislative authority over all matters coming within enumerated subjects, including Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.⁵ Parliament's authority encompasses crimes for trafficking in persons.

The Constitution Act 1982 includes the Canadian Charter of Rights and Freedoms.⁶ This Charter guarantees certain rights and freedoms, subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.⁷ The Charter gives every individual the right to life, liberty, and security of the person and the right not to be deprived of those rights except in accordance with the principles of fundamental justice.⁸

The Canada Criminal Code⁹ and the Immigration and Refugee Protection Act¹⁰ provide for trafficking in persons offences.

According to the 2021 U.S. Department of State Trafficking In Persons Report:

- Canada is ranked as a Tier 1 country:

¹ Constitution Act 1867, available at: https://laws-lois.justice.gc.ca/PDF/CONST_TRD.pdf.

² Constitution Act 1982, available at: https://laws-lois.justice.gc.ca/PDF/CONST_TRD.pdf.

³ Canada Act 1982, available at: https://laws-lois.justice.gc.ca/PDF/CONST_TRD.pdf.

⁴ Constitution Act 1867, section 17, available at: https://laws-lois.justice.gc.ca/PDF/CONST_TRD.pdf.

⁵ *Id.*, article 91.

⁶ Constitution Act 1982, Part I, available at: https://laws-lois.justice.gc.ca/PDF/CONST_TRD.pdf.

⁷ *Id.*, article 1.

⁸ *Id.*, article 7.

⁹ Criminal Code 1985, available at: <https://laws-lois.justice.gc.ca/PDF/C-46.pdf>.

¹⁰ Immigration and Refugee Protection Act 2001, available at: <https://laws.justice.gc.ca/PDF/I-2.5.pdf>.

The Government fully meets the minimum standards for the elimination of trafficking. The Government continued to demonstrate serious and sustained efforts during the reporting period, considering the impact of the COVID-19 pandemic on its anti-trafficking capacity; therefore Canada remained on Tier 1. These efforts included increasing funding for victim services; amending the Customs Tariff to prohibit the importation of goods produced by forced labor; and launching a five-year public awareness campaign informed by research on public awareness and attitudes on trafficking. Although the Government meets the minimum standards, it did not provide comprehensive data on investigations, prosecutions, and convictions during the reporting period or on victims provided with services nationwide.

The Government’s efforts to identify victims, provide protections to all victims — particularly forced labor victims, and investigate and prosecute forced labor crimes could improve. The range, quality, and timely delivery of trafficking-specific services varied nationwide, and service providers reported a shortage of victim services, including emergency shelters and longer-term housing.¹¹

- The following types of human trafficking are prevalent in Canada:
 - “Human traffickers exploit domestic and foreign victims in Canada, and traffickers exploit victims from Canada abroad. Women and children from indigenous communities, migrants, new immigrants, LGBTQI+ persons, persons with disabilities, at-risk youth, runaway youth, and youth in the child welfare system are at high risk for trafficking.”¹²
 - “Traffickers lure girls and young women, including some who are not socially or economically disadvantaged, into deceptive romantic relationships and exploit them in sex trafficking.”¹³
 - “Traffickers exploit Canadian victims within and across the country, and sometimes abroad, mainly in the United States.”¹⁴
 - “Traffickers exploit foreign women, primarily from Asia and Eastern Europe, in sex trafficking in Canada. Traffickers exploit legal foreign workers from Eastern Europe, Asia, Latin America, the Caribbean, and Africa in forced labor in a variety of sectors, including agriculture, construction, food processing, restaurants, and hospitality, or as domestic workers, including isolated reports of incidents in diplomatic households.”¹⁵
 - “Migrant workers in the caregiving and agricultural sectors were at the highest risk of forced labor due to language barriers, isolated worksites, and limited access to protections. Media reports indicated some employers confined migrant workers to employer premises during the pandemic, including through the use of armed guards to restrict workers from departing farm grounds, and some imposed wage deductions to obtain food and supplies on workers’ behalf at high rates.”¹⁶

¹¹ U.S. Dep’t of State, Trafficking in Persons Report 164 (2021), available at: <https://www.hsdl.org/?abstract&did=855864>. The U.S. Department of State rankings are based on the minimum standards specified in the U.S. Trafficking Victims Protection Act of 2000, “which are generally consistent with the [UN] Palermo Protocol.” *Id.* at 51.

¹² *Id.*, p. 167.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

- Traffickers with ties to organized crime networks in victims’ home countries exploit some foreign nationals.¹⁷
- “Canadians travel abroad to purchase sex acts from child victims in other countries, and foreign nationals purchase sex acts from child victims in Canada.”¹⁸
- “Traffickers in Canada operate individually and via family-based connections; some are affiliated with street gangs and transnational organized crime.”¹⁹

1.2. Canada’s Policy and Legal Position

The Constitution of Canada is the supreme law of Canada, and any inconsistent law has no force or effect. The Constitution’s Charter of Rights and Freedoms provides for fundamental rights and freedoms. It permits anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied to seek a judicial remedy.²⁰ Domestic laws and, in the case of trafficking in persons, the Criminal Code and immigration law supplement the Charter.

Canada has ratified or acceded to United Nations and other conventions that safeguard fundamental human rights.

2. OVERVIEW OF CANADA’S LEGAL APPROACH TO COMBATING MODERN SLAVERY AND HUMAN TRAFFICKING

2.1. Canada’s Regional and International Law Obligations

2.1.1. *Fundamental human rights*

Canada is a member of the Organization of American States (**OAS**), a multilateral organization of the Americas and is represented by the Permanent Mission of Canada. The American Declaration of the Rights and Duties of Man is a non-binding treaty adopted by member states of OAS.²¹ However, Canada has not ratified the American Convention on Human Rights promoted by the OAS, because the Convention has an anti-abortion provision that conflicts with Canadian domestic law permitting abortions.²² That Convention also established the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.²³ Canada is not part of that system.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Constitution Act 1982, section 24(1), available at: https://laws-lois.justice.gc.ca/PDF/CONST_TRD.pdf.

²¹ American Declaration of the Rights and Duties of Man, available at: <https://www.globalhealthrights.org/wp-content/uploads/2013/10/American-Declaration-of-the-Rights-and-Duties-of-Man.pdf>.

²² American Convention on Human Rights: Signatories, United Nations Treaty Collection, available at: <https://treaties.un.org/pages/showdetails.aspx?objid=08000002800f10e1>.

²³ American Convention on Human Rights, Chapter VII, available at: <https://treaties.un.org/doc/publication/unts/volume%201144/volume-1144-i-17955-english.pdf>.

Canada is a party to the UN conventions protecting fundamental human rights. It has ratified or acceded to the International Covenant on Civil and Political Rights²⁴ and its Optional Protocol on complaint mechanism (1976),²⁵ the International Covenant on Economic, Social and Cultural Rights (1976),²⁶ the Convention on the Elimination of All Forms of Discrimination against Women (1981)²⁷ and its Optional Protocol (2002)²⁸ and Inquiry Procedure (2002),²⁹ and the Convention on the Rights of the Child (1991)³⁰ and its Optional Protocols on the Involvement of Children in Armed Conflict (2000)³¹ and on the Sale of Children, Child Prostitution, and Child Pornography (2005).³²

Canada has also ratified 25 ILO Conventions, which are currently in force, including the Minimum Age Convention (No. 138)³³ and the Worst Forms of Child Labour Convention (No. 182).³⁴

²⁴ International Covenant on Civil and Political Rights: Signatories, United Nations Treaty Collection, available at: https://treaties.un.org/pages/ViewDetails.aspx?src=treaty&mtdsg_no=iv-4&chapter=4&clang=en.

²⁵ Optional Protocol to the International Covenant on Civil and Political Rights: Signatories, United Nations Treaty Collection, available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-5&chapter=4.

²⁶ International Covenant on Economic, Social and Cultural Rights: Signatories, United Nations Treaty Collection, available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4.

²⁷ Convention on the Elimination of All Forms of Discrimination against Women: Signatories, United Nations Treaty Collection, available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4.

²⁸ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women: Signatories, United Nations Treaty Protocol, available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&clang=en.

²⁹ *Inquiry Procedure*, United Nations Human Rights: Office of the High Commissioner, available at: <https://www.ohchr.org/en/hrbodies/cedaw/pages/inquiryprocedure.aspx>.

³⁰ United Nations Convention on the Rights of the Child: Signatories, United Nations Treaty Collection, available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4.

³¹ Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict: Signatories, United Nations Treaty Collection, available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&clang=en.

³² Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography: Signatories, United Nations Treaty Collection, available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&clang=en.

³³ C138 — Minimum Age Convention, 1973 (No. 138), available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ilo_code:C138.

³⁴ C182 — Worst Forms of Child Labour Convention, 1999 (No. 182), available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182.

2.1.2. Slavery and trafficking

In 2002, Canada ratified the UN Convention against Transnational Organized Crime³⁵ and the related Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (**Palermo Protocol**)³⁶ and the related Protocol Against the Smuggling of Migrants by Land, Sea and Air.³⁷

2.1.3. Effect under Canada's law

Canada has acceded to the Vienna Convention on the Law of Treaties of 1969.³⁸ Article 26 of that Convention provides that every treaty in force is binding upon its parties, which must perform the treaties in good faith.³⁹ Article 27 provides that a party may not invoke its internal law to justify its failure to perform a treaty.⁴⁰

While the ratification of a treaty creates international obligations on Canada, the treaty obligations do not have the force of law until the Parliament of Canada passes an Act, to which the Governor General assents on behalf of the Queen, to incorporate the treaty into domestic law.⁴¹

2.2. Human Rights Protections Under Canada's Law

Canada protects human rights through its Charter of Rights and Freedoms, which is the first part of the Constitution Act 1982.⁴² The Criminal Code and immigration laws supplement these protections.

2.3. Criminalization of Modern Slavery

The Criminal Code and the Immigration and Refugee Protection Act make trafficking in persons a crime.⁴³

³⁵ United Nations Convention against Transnational Organized Crime: Signatories, United Nations Treaty Collection, available at: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&clang=en.

³⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime: Signatories, United Nations Treaty Collection, available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18.

³⁷ Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, United Nations Treaty Collection, available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-b&chapter=18.

³⁸ Vienna Convention on the Law of Treaties of 1969: Signatories, United Nations Treaty Collection, available at: https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXIII-1&chapter=23&Temp=mtdsg3&clang=en.

³⁹ Vienna Convention on the Law of Treaties, article 26, available at: https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.

⁴⁰ *Id.*, Article 27.

⁴¹ Constitution Act 1867, sections 55 and 132, available at: https://laws-lois.justice.gc.ca/PDF/CONST_TRD.pdf.

⁴² Constitution Act 1982, Part 1, available at: https://laws-lois.justice.gc.ca/PDF/CONST_TRD.pdf.

⁴³ Criminal Code 1985, sections 279.01 and 279.011, available at: <https://laws-lois.justice.gc.ca/PDF/C-46.pdf>; Immigration and Refugee Protection Act 2001, section 118, available at: <https://laws.justice.gc.ca/PDF/I-2.5.pdf>.

2.4. Supply Chain Reporting

Canada does not have legislation to require businesses to monitor and report human trafficking or forced labour in their supply chains. However, the Parliament has before it a modern slavery bill that would impose those reporting obligations on major corporations.⁴⁴

2.5. Investigation, Prosecution, and Enforcement

2.5.1. *Investigation and prosecution of criminal offenses*

Federal, provincial, and municipal police are responsible for investigating crimes. The Royal Canadian Mounted Police (**RCMP**) is the federal police service. Most provinces and territories contract out their law enforcement responsibilities to the RCMP.

The Canada Border Services Agency is also responsible for enforcement of migration, customs, and related laws. It facilitates the flow of legitimate travelers and trade.

The Public Prosecution Service of Canada led by the Director of Public Prosecutions is the national prosecuting authority responsible for prosecuting federal criminal offences.

A victim can bring a private prosecution for a human trafficking offence with the consent of the Attorney General of Canada or the judge of the court in which the case is commenced.⁴⁵

Investigatory and prosecutorial functions with respect to the crime of trafficking in persons are generally the same as for other crimes under the Criminal Code, except the National Strategy calls for various government departments and agencies to work together on combating human trafficking.⁴⁶

Investigators have search and seizure powers, as well as the power to require persons to attend examinations and to produce all required documents.⁴⁷

2.5.2. *Mutual assistance/international cooperation*

As a whole-of-government approach, the National Strategy to Combat Human Trafficking 2019–2024 sets out a comprehensive way forward to address human trafficking.⁴⁸ It brings together all federal efforts that aim to address human trafficking in Canada and abroad. It frames federal activities under the internationally recognized pillars of prevention, protection, prosecution, and partnerships and adds a new pillar of “empowerment.” Canada has added this new focus area to enhance support and services to victims affected by this crime. With the addition of the new empowerment pillar, the National Strategy enhances, consolidates, and coordinates Canada’s actions and initiatives to combat human trafficking domestically and internationally through a victim-centered, survivor-informed, and gender-responsive lens. The Government supports anti-human trafficking efforts abroad through the Anti-Crime Capacity Building

⁴⁴ Bill S-216: An Act to enact the Modern Slavery Act and to amend the Customs Tariff, available at: <https://parl.ca/DocumentViewer/en/43-2/bill/S-216/first-reading>.

⁴⁵ Criminal Code 1985, section 574(3), available at: <https://laws-lois.justice.gc.ca/PDF/C-46.pdf>; Immigration and Refugee Protection Act 2001, section 117, available at: <https://laws.justice.gc.ca/PDF/I-2.5.pdf>.

⁴⁶ *National Strategy To Combat Human Trafficking 2019-2024*, Government of Canada, available at: <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2019-ntnl-strtyg-hmnn-trffc/2019-ntnl-strtyg-hmnn-trffc-en.pdf>.

⁴⁷ Criminal Code 1985, sections 117.02 and 488.1, available at: <https://laws-lois.justice.gc.ca/PDF/C-46.pdf>.

⁴⁸ *National Strategy To Combat Human Trafficking 2019-2024*, Government of Canada, available at: <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2019-ntnl-strtyg-hmnn-trffc/2019-ntnl-strtyg-hmnn-trffc-en.pdf>.

Program, which has a mandate to enhance the capacity of beneficiary states to prevent and respond to threats posed by international criminal activity.⁴⁹

Canada has reinforced its human trafficking efforts through global commitments, including the 2030 Agenda for Sustainable Development⁵⁰ and the Global Compact for Safe, Orderly and Regular Migration.⁵¹ Both include targets for countering the human trafficking crime.

The Canadian Government has established Project PROTECT, a public-private sector partnership that targets human trafficking for the purposes of sexual exploitation by focusing on the money laundering aspect of the crime.⁵² Financial Transactions and Reports Analysis Centre of Canada sends actionable financial intelligence to Canada’s municipal, provincial, and federal police forces for further investigation. By following the money, investigators have been able to identify perpetrators and protect their victims.

3. CANADA’S FEDERAL CRIMINAL OFFENSES RELATING TO SLAVERY, SLAVERY-LIKE CONDITIONS, AND HUMAN TRAFFICKING

3.1. Overview of Criminal Offenses

The Criminal Code and the Immigration and Refugee Protection Act provide human trafficking offences.⁵³

3.1.1. Criminal Code

Section 279.01 establishes the terms for the criminal offence of human trafficking:

- (1) Every person who recruits, transports, transfers, receives, holds, conceals, or harbours a person, or exercises control, direction or influence over the movements of a person, for the purpose of exploiting them or facilitating their exploitation is guilty of an indictable offence and liable (a) to imprisonment for life and to a minimum punishment of imprisonment for a term of five years if they kidnap, commit an aggravated assault or aggravated sexual assault against, or cause death to, the victim during the commission of the offence; or (b) to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of four years in any other case.
- (2) No consent to the activity that forms the subject-matter of a charge under subsection (1) is valid.
- (3) For the purposes of subsections (1) and 279.011(1), evidence that a person who is not exploited lives with or is habitually in the company of a person who is exploited is proof, in the absence of

⁴⁹ *Security capacity-building programs*, Government of Canada, available at: https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/peace_security-paix_securite/capacity_building-renforcement_capacites.aspx?lang=eng.

⁵⁰ *Transforming our World: The 2030 Agenda for Sustainable Development*, United Nations Department of Economic and Social Affairs, available at: <https://sdgs.un.org/publications/transforming-our-world-2030-agenda-sustainable-development-17981>.

⁵¹ Global Compact for Safe, Orderly and Regular Migration, available at: https://refugeesmigrants.un.org/sites/default/files/180711_final_draft_0.pdf.

⁵² *Project PROTECT Public Service Renewal in Action*, Financial Transactions and Reports Analysis Centre of Canada, available at: <https://www.fintrac-canafe.gc.ca/emplo/psr-eng.pdf>.

⁵³ Criminal Code 1985, sections 279.01 and 279.011, available at: <https://laws-lois.justice.gc.ca/PDF/C-46.pdf>; Immigration and Refugee Protection Act 2001, section 118, available at: <https://laws.justice.gc.ca/PDF/I-2.5.pdf>.

evidence to the contrary, that the person exercises control, direction, or influence over the movements of that person for the purpose of exploiting them or facilitating their exploitation.⁵⁴

Section 279.02 provides that every person who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence under subsection 279.01(1), is guilty of (a) an indictable offence and liable to imprisonment for a term of not more than 10 years; or (b) an offence punishable on summary conviction.⁵⁵

Section 279.03 provides that every person who, for the purpose of committing or facilitating an offence under subsection 279.01(1), conceals, removes, withholds, or destroys any travel document that belongs to another person or an document that establishes or purports to establish another person's identity or immigration status, whether or not the document is of Canadian origin or is authentic, is guilty of (a) an indictable offence and liable to imprisonment for a term of not more than five years; or (b) an offence punishable on summary conviction.⁵⁶

Section 279.04 provides that:

(1) For the purposes of sections 279.01 to 279.03, a person exploits another person if they cause them to provide, or offer to provide, labour or a service by engaging in conduct that, in the circumstances, a person could reasonably expect to cause the other person to believe would threaten their safety or the safety of a person known to them if they failed to provide, or offer to provide, the labour or service.

(2) In determining whether an accused exploits another person under subsection (1), the Court may consider, among other factors, whether the accused (a) used or threatened to use force or another form of coercion; (b) used deception; or (c) abused a position of trust, power, or authority.⁵⁷

Section 787 provides that unless otherwise provided by law, every person who is convicted of an offence punishable on summary conviction is liable to a fine of not more than CAD 5,000, to a term of imprisonment of not more than two years less a day, or to both.⁵⁸

Section 279.04 adds a requirement for exploitation that the Palermo Protocol does not have. The additional requirement is conduct that, in the circumstances, a person could reasonably expect to cause other persons to believe threatens their safety (**Safety Threatened Requirement**).⁵⁹ Also unlike the Palermo Convention, the exploitation definition does not name prostitution and other forms of sexual exploitation, slavery, practices similar to slavery, forced labour, and servitude.⁶⁰ But the Criminal Code has separate offences for sexual exploitation.

Section 153 of the Criminal Code provides for the offence of young person sexual exploitation:

(1) Every person commits an offence who is in a position of trust or authority towards a young person, who is a person with whom the young person is in a relationship of dependency, or who

⁵⁴ Criminal Code 1985, section 279.01, available at: <https://laws-lois.justice.gc.ca/PDF/C-46.pdf>.

⁵⁵ *Id.*, section 279.02.

⁵⁶ *Id.*, section 279.03.

⁵⁷ *Id.*, section 279.04.

⁵⁸ *Id.*, section 787.

⁵⁹ *Id.*, section 279.04(1).

⁶⁰ *Id.*

is in a relationship with a young person that is exploitative of the young person, and who (a) for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the young person's body; or (b) for a sexual purpose, invites, counsels, or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person.

(1.1) Every person who commits an offence under subsection (1) (a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year; or (b) is guilty of an offence punishable on summary conviction and is liable to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of 90 days.

(1.2) A judge may infer that a person is in a relationship with a young person that is exploitative of the young person from the nature and circumstances of the relationship, including (a) the age of the young person; (b) the age difference between the person and the young person; (c) the evolution of the relationship; and (d) the degree of control or influence by the person over the young person.

(2) In this section, young person means a person 16 years of age or more but under the age of 18 years.⁶¹

Section 286 of the Criminal Code provides an offence for sexual services for consideration:

Section 286.1 provides:

(1) Everyone who, in any place, obtains for consideration, or communicates with anyone for the purpose of obtaining for consideration, the sexual services of a person is guilty of:

(a) an indictable offence and liable to imprisonment for a term of not more than five years and a minimum punishment of, (i) in the case where the offence is committed in a public place, or in any place open to public view, that is or is next to a park or the grounds of a school or religious institution or that is or is next to any other place where persons under the age of 18 can reasonably be expected to be present, (A) for a first offence, a fine of CAD 2,000, and (B) for each subsequent offence, a fine of CAD 4,000, or (ii) in any other case, (A) for a first offence, a fine of CAD 1,000, and (B) for each subsequent offence, a fine of CAD 2,000; or

(b) an offence punishable on summary conviction and liable to a fine of not more than CAD 5,000, to imprisonment for a term of not more than two years less a day, or to both, and to a minimum punishment of, (i) in the case referred to in subparagraph (a)(i), (A) for a first offence, a fine of CAD 1,000, and (B) for each subsequent offence, a fine of CAD 2,000, or (ii) in any other case, (A) for a first offence, a fine of CAD 500, and (B) for each subsequent offence, a fine of CAD 1,000.

(2) Everyone who, in any place, obtains for consideration, or communicates with anyone for the purpose of obtaining for consideration, the sexual services of a person under the age of 18 years is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years and to a minimum

⁶¹ Criminal Code 1985, section 153, available at: <https://laws-lois.justice.gc.ca/PDF/C-46.pdf>.

punishment of imprisonment for a term of (a) for a first offence, six months; and (b) for each subsequent offence, one year.

Section 286.2 states:

(1) Every person who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence under subsection 286.1(1), is guilty of (a) an indictable offence and liable to imprisonment for a term of not more than 10 years; or (b) an offence punishable on summary conviction.

(2) Everyone who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence under subsection 286.1(2), is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of two years.

(3) For the purposes of subsections (1) and (2), evidence that a person lives with or is habitually in the company of a person who offers or provides sexual services for consideration is proof, in the absence of evidence to the contrary, that the person received a financial or other material benefit from those services.

(4) Subject to subsection (5), subsections (1) and (2) do not apply to a person who receives the benefit (a) in the context of a legitimate living arrangement with the person from whose sexual services the benefit is derived; (b) as a result of a legal or moral obligation of the person from whose sexual services the benefit is derived; (c) in consideration for a service or good that they offer, on the same terms and conditions, to the general public; or (d) in consideration for a service or good that they do not offer to the general public but that they offered or provided to the person from whose sexual services the benefit is derived, if they did not counsel or encourage that person to provide sexual services and the benefit is proportionate to the value of the service or good.

(5) Subsection (4) does not apply to a person who commits an offence under subsection (1) or (2) if that person (a) used, threatened to use, or attempted to use violence, intimidation, or coercion in relation to the person from whose sexual services the benefit is derived; (b) abused a position of trust, power, or authority in relation to the person from whose sexual services the benefit is derived; (c) provided a drug, alcohol, or any other intoxicating substance to the person from whose sexual services the benefit is derived for the purpose of aiding or abetting that person to offer or provide sexual services for consideration; (d) engaged in conduct, in relation to any person, that would constitute an offence under section 286.3; or (e) received the benefit in the context of a commercial enterprise that offers sexual services for consideration.

(6) If a person is convicted of an offence under this section, the sentencing court shall consider as an aggravating factor the fact that the person received the benefit in the context of a commercial enterprise that offers sexual services for consideration.

Section 286.3 states:

(1) Everyone who procures a person to offer or provide sexual services for consideration or, for the purpose of facilitating an offence under subsection 286.1(1), recruits, holds, conceals, or harbours a person who offers or provides sexual services for consideration, or exercises control, direction, or influence over the movements of that person, is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years.

(2) Everyone who procures a person under the age of 18 years to offer or provide sexual services for consideration or, for the purpose of facilitating an offence under subsection 286.1(2), recruits, holds, conceals, or harbours a person under the age of 18 who offers or provides sexual services for consideration, or exercises control, direction, or influence over the movements of that person, is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of five years.⁶²

Victims may be excused for an offence. Section 17 of the Criminal Code provides that a person who commits an offence under compulsion by threats of immediate death or bodily harm from a person who is present when the offence is committed is excused for committing the offence if the person believes that the threats will be carried out and if the person is not a party to a conspiracy or association whereby the person is subject to compulsion.⁶³ However, this section does not apply where the offence is high treason or treason, murder, piracy, attempted murder, sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm, aggravated sexual assault, forcible abduction, hostage taking, robbery, assault with a weapon or causing bodily harm, aggravated assault, unlawfully causing bodily harm, arson, or an offence under sections 280 to 283 (abduction and detention of young persons).⁶⁴ This provision may excuse offences committed by certain victims because of compulsion from traffickers.

3.1.2. *Immigration and Refugee Protection Act (IRP Act)*

Section 118 provides that:

(1) no person shall knowingly organize the coming into Canada of one or more persons by means of abduction, fraud, deception, or use or threat of force or coercion.

(2) For the purpose of subsection (1), organize, with respect to persons, includes their recruitment or transportation and, after their entry into Canada, the receipt or harbouring of those persons.⁶⁵

Section 119 provides that a person shall not disembark a person or group of persons at sea for the purpose of inducing, aiding, or abetting them to come into Canada in contravention of this Act.⁶⁶

Section 120 provides that a person who contravenes section 118 or 119 is guilty of an offence and liable after conviction by way of indictment to a fine of not more than CAD 1 million to life imprisonment, or to both.⁶⁷

Section 121 provides that the court, in determining the penalty to be imposed under section 120, shall take into account whether (a) bodily harm or death occurred, or the life or safety of any person was endangered, as a result of the commission of the offence; (b) the commission of the offence was for the benefit of, at the direction of, or in association with a criminal organization; (c) the commission of the offence was for profit, whether or not any profit was realized; and (d) a person was subjected to humiliating or degrading

⁶² *Id.*, section 286.

⁶³ *Id.*, section 17.

⁶⁴ *Id.*

⁶⁵ Immigration and Refugee Protection Act 2001, section 118, available at: <https://laws.justice.gc.ca/PDF/I-2.5.pdf>.

⁶⁶ *Id.*, section 119.

⁶⁷ *Id.*, section 120.

treatment, including with respect to work or health conditions or sexual exploitation as a result of the commission of the offence.⁶⁸

Section 122(1) states that no person shall, in order to contravene this Act, (a) possess a passport, visa, or other document, of Canadian or foreign origin, that purports to establish or that could be used to establish a person’s identity; (b) use such a document, including for the purpose of entering or remaining in Canada; or (c) import, export, or deal in such a document.⁶⁹

Section 123(1) provides that every person who contravenes: (a) paragraph 122(1)(a) is guilty of an offence and liable on conviction on indictment to a term of imprisonment of up to five years; and (b) paragraph 122(1)(b) or 122(1)(c) is guilty of an offence and liable after conviction by way of indictment to a term of imprisonment of up to 14 years.⁷⁰

Under Section 123(2), in determining the penalty to be imposed, the court shall take into account whether (a) the commission of the offence was for the benefit of, at the direction of, or in association with a criminal organization; and (b) the commission of the offence was for profit, whether or not any profit was realized.⁷¹



3.2. Slavery Offenses Under the Criminal Code

3.2.1. General

The Criminal Code does not make slavery a separate offence, but slavery may fall within the trafficking in persons offence if the Safety Threatened Requirement is met.⁷²

⁶⁸ *Id.*, section 121(1).

⁶⁹ *Id.*, section 122(1).

⁷⁰ *Id.*, section 123(1).

⁷¹ *Id.*, section 123(2).

⁷² *Id.*, section 279.04(1).

3.2.2. Extraterritorial application

Section 4.11 of the Criminal Code provides that, notwithstanding anything in any Act, every Canadian citizen or permanent resident who, outside Canada, commits an act or omission that would be an offence against sections 279.01, 279.011, 279.02, or 279.03 if committed in Canada shall be deemed to commit that act or omission in Canada.⁷³

3.3. Slavery-Like Offenses in Canada’s Legal Order

3.3.1. Servitude

The Criminal Code does not have a separate offence for servitude, but it may fall within the trafficking in persons offence if the Safety Threatened Requirement is met.⁷⁴

3.3.2. Forced labor

The Criminal Code does not have a separate offence for forced labour, but it may fall within the trafficking in persons offence if the Safety Threatened Requirement is met.⁷⁵

3.3.3. Deceptive recruiting for labor or services

Deceptive recruiting for labour or services is not part of the trafficking in persons offence. Courts consider deception as one factor in determining whether there is exploitation.⁷⁶

However, deceptive recruiting for labour or services is part of the trafficking offence under section 118 of the IRP Act for victims coming into Canada.⁷⁷

3.3.4. Early and forced marriage

Section 293 of the Criminal Code provides criminal offences for forced marriage and early marriage.⁷⁸

Section 293.1 provides that every person who celebrates, aids, or participates in a marriage rite or ceremony knowing that persons are marrying against their will is guilty of: (a) an indictable offence and liable to imprisonment for a term of not more than five years; or (b) an offence punishable on summary conviction.⁷⁹

Section 293.2 provides that every person who celebrates, aids, or participates in a marriage rite or ceremony knowing that one of the persons being married is under the age of 16 years is guilty of: (a) an indictable offence and liable to imprisonment for a term of not more than five years; or (b) an offence punishable on summary conviction.⁸⁰

⁷³ *Id.*, section 4.11.

⁷⁴ *Id.*, section 279.04(1).

⁷⁵ *Id.*

⁷⁶ *Id.*, section 279.04(2)(b).

⁷⁷ Immigration and Refugee Protection Act 2001, section 118, available at: <https://laws.justice.gc.ca/PDF/I-2.5.pdf>.

⁷⁸ Criminal Code 1985, section 293, available at: <https://laws-lois.justice.gc.ca/PDF/C-46.pdf>.

⁷⁹ *Id.*, section 293.1.

⁸⁰ *Id.*, section 293.2.

3.3.5. *Debt bondage*

The Criminal Code does not have a separate offense for debt bondage, but it may fall within the trafficking in persons offence if the Safety Threatened Requirement is met.⁸¹

3.3.6. *Any other relevant offenses*

Canada has no other relevant slavery-like offences.

3.3.7. *Extraterritorial application of the offenses*

Refer to Section 3.2.2.

3.4. Human Trafficking/Smuggling-Related Criminal Offenses

3.4.1. *International and domestic trafficking/smuggling of people*

Refer to Section 3.1 for human trafficking offences.

Smuggling of persons is an offence under section 117 of the IRP Act. It provides:

(1) No person shall organize, induce, aid, or abet the coming into Canada of one or more persons knowing that, or being reckless as to whether, their coming into Canada is or would be in contravention of this Act.

(2) A person who contravenes subsection (1) with respect to fewer than 10 persons is guilty of an offence and liable (a) on conviction on indictment (i) for a first offence, to a fine of not more than CAD 500,000, to a term of imprisonment of not more than 10 years, or to both, or (ii) for a subsequent offence, to a fine of not more than CAD 1,000,000, to a term of imprisonment of not more than 14 years, or to both; and (b) on summary conviction, to a fine of not more than CAD 100,000, to a term of imprisonment of not more than two years, or to both.

(3) A person who contravenes subsection (1) with respect to a group of 10 persons or more is guilty of an offence and liable on conviction by way of indictment to a fine of not more than CAD 1,000,000, to life imprisonment, or to both.

(3.1) A person who is convicted on indictment of an offence under subsection (2) or (3) with respect to fewer than 50 persons is also liable to a minimum punishment of imprisonment for a term of (a) three years, if either (i) the person, in committing the offence, endangered the life or safety of, or caused bodily harm or death to, any of the persons with respect to whom the offence was committed, or (ii) the commission of the offence was for profit, or was for the benefit of, at the direction of, or in association with a criminal organization or terrorist group; or (b) five years, if both (i) the person, in committing the offence, endangered the life or safety of, or caused bodily harm or death to, any of the persons with respect to whom the offence was committed, and (ii) the commission of the offence was for profit, or was for the benefit of, at the direction of, or in association with a criminal organization or terrorist group.

(3.2) A person who is convicted of an offence under subsection (3) with respect to a group of 50 persons or more is also liable to a minimum punishment of imprisonment for a term of (a) five years, if either (i) the person, in committing the offence, endangered the life or safety of, or caused bodily harm or death to, any of the persons with respect to whom the offence was committed, or

⁸¹ *Id.*, section 279.04(1).

(ii) the commission of the offence was for profit, or was for the benefit of, at the direction of, or in association with a criminal organization or terrorist group; or (b) 10 years, if both (i) the person, in committing the offence, endangered the life or safety of, or caused bodily harm or death to, any of the persons with respect to whom the offence was committed, and (ii) the commission of the offence was for profit, or was for the benefit of, at the direction of, or in association with a criminal organization or terrorist group.

(4) No proceedings for an offence under this section may be instituted except by or with the consent of the Attorney General of Canada.⁸²

3.4.2. *International and domestic trafficking in children*

Section 279.011 of the Criminal Code provides that:

(1) Every person who recruits, transports, transfers, receives, holds, conceals, or harbours a person under the age of 18 years, or exercises control, direction, or influence over the movements of a person under the age of 18 years, for the purpose of exploiting them or facilitating their exploitation is guilty of an indictable offence and liable (a) to imprisonment for life and to a minimum punishment of imprisonment for a term of six years if they kidnap, commit an aggravated assault or aggravated sexual assault against, or cause death to the victim during the commission of the offence; or (b) to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of five years in any other case.

(2) No consent to the activity that forms the subject-matter of a charge under subsection (1) is valid.⁸³

Section 279.02 (2) provides that everyone who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence under subsection 279.011(1) is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of two years.⁸⁴

Section 279.03 (2) provides that everyone who, for the purpose of committing or facilitating an offence under subsection 279.011(1), 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 — whether or not the document is of Canadian origin or is authentic — is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years and to a minimum punishment of imprisonment for a term of one year.⁸⁵

3.4.3. *Victim harboring*

The Criminal Code does not have an offense for victim harbouring, but it may fall within the trafficking in persons offence if the Safety Threatened Requirement is met.⁸⁶

⁸² Immigration and Refugee Protection Act 2001, section 118, available at: <https://laws.justice.gc.ca/PDF/I-2.5.pdf>.

⁸³ Criminal Code 1985, section 279.011, available at: <https://laws-lois.justice.gc.ca/PDF/C-46.pdf>.

⁸⁴ *Id.*, section 279.02(2).

⁸⁵ *Id.*, section 279.03(2).

⁸⁶ *Id.*, section 279.04(1).

Victim harbouring is part of the trafficking offence under section 118 of the IRP Act for victims coming into Canada.⁸⁷ Refer to Section 3.1.2.

3.4.4. Extraterritorial application of human trafficking and smuggling offenses

Refer to Section 3.2.2.

3.5. Online Exploitation of Children Offenses

Section 163 of the Criminal Code makes child pornography, including online exploitation, a criminal offence:

Section 163.1 provides:

(1) In this section, child pornography means (a) a photographic, film, video, or other visual representation, whether or not it was made by electronic or mechanical means, (i) that shows a person who is or is depicted as being under the age of 18 years and is engaged in or is depicted as engaged in explicit sexual activity, or (ii) the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of 18 years; (b) any written material, visual representation, or audio recording that advocates or counsels sexual activity with a person under the age of 18 years that would be an offence under this Act; (c) any written material whose dominant characteristic is the description, for a sexual purpose, of sexual activity with a person under the age of 18 years that would be an offence under this Act; or (d) any audio recording that has as its dominant characteristic the description, presentation, or representation, for a sexual purpose, of sexual activity with a person under the age of 18 years that would be an offence under this Act.

(2) Every person who makes, prints, publishes, or possesses for the purpose of publication any child pornography is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year.

(3) Every person who transmits, makes available, distributes, sells, advertises, imports, exports, or possesses for the purpose of transmission, making available, distribution, sale, advertising, or exportation any child pornography is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year.

(4) Every person who possesses any child pornography is guilty of (a) an indictable offence and is liable to imprisonment for a term of not more than 10 years and to a minimum punishment of imprisonment for a term of one year; or (b) an offence punishable on summary conviction and is liable to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of six months.

(4.1) Every person who accesses any child pornography is guilty of (a) an indictable offence and is liable to imprisonment for a term of not more than 10 years and to a minimum punishment of imprisonment for a term of one year; or (b) an offence punishable on summary conviction and is liable to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of six months.

⁸⁷ Immigration and Refugee Protection Act 2001, section 118, available at: <https://laws.justice.gc.ca/PDF/I-2.5.pdf>.

(4.2) For the purposes of subsection (4.1), persons access child pornography when they knowingly cause child pornography to be viewed by, or transmitted to, themselves.

(4.3) If a person is convicted of an offence under this section, the sentencing court shall consider as an aggravating factor the fact that the person committed the offence with intent to make a profit.

(5) It is not a defence to a charge under subsection (2) in respect of a visual representation that the accused believed that a person shown in the representation that is alleged to constitute child pornography was or was depicted as being 18 years of age or more unless the accused took all reasonable steps to ascertain the age of that person and took all reasonable steps to ensure that, where the person was 18 years of age or more, the representation did not depict that person as being under the age of 18 years.

(6) No person shall be convicted of an offence under this section if the act that is alleged to constitute the offence (a) has a legitimate purpose related to the administration of justice or to science, medicine, education, or art; and (b) does not pose an undue risk of harm to persons under the age of 18 years.⁸⁸

3.6. Child Sex Tourism Offenses

Refer to the discussion regarding section 286 of the Criminal Code in Section 3.1.1.

4. CANADA'S SUPPLY CHAIN REPORTING LEGISLATION

In March 2020, Parliament passed implementing legislation for a trade agreement that requires the parties to prohibit the importation of goods produced by forced labour.⁸⁹ That agreement entered into force in July 2020, and in the same month, Canada amended its Customs Tariff to include the forced labour prohibition.⁹⁰ Trade analysts reported the slow implementation of these measures as the Government coordinated internally. Public Services and Procurement Canada has a team focused on ethical sourcing in federal procurement supply chains. An apparel sector initiative requires suppliers to certify their products are free from forced labour, and beginning in July 2020, the Government added an ethical employment clause, which prohibited forced labour, to its contracts for personal protective equipment. Officials drafted revisions to Canada's Code of Conduct for Procurement to include labour and human rights standards, including a prohibition on forced labor for all suppliers, and launched a consultative process with suppliers, NGOs, and experts to validate and finalize these changes.⁹¹

Bill S-216 An Act to enact the Modern Slavery Act and to amend the Customs Tariff was introduced into the Senate on 29 October 2020.⁹² This is the second bill on this subject. The first bill died on the Order Paper

⁸⁸ Criminal Code 1985, section 163.1, available at: <https://laws-lois.justice.gc.ca/PDF/C-46.pdf>.

⁸⁹ Canada–United States–Mexico Agreement Implementation Act 2020, available at: <https://laws-lois.justice.gc.ca/PDF/C-10.65.pdf>.

⁹⁰ Customs Tariff 1997, section 132(1)(m), available at: <https://www.cbsa-asfc.gc.ca/publications/dm-md/d9/d9-1-6-eng.html>; Prison Manufactured or Produced Goods Regulations 1998, section 1, available at: <https://laws-lois.justice.gc.ca/PDF/SOR-98-41.pdf>.

⁹¹ Code of Conduct for Procurement, section 10, available at: <https://www.tpsgc-pwgsc.gc.ca/app-acq/cndt-cndct/cca-ccp-eng.html>.

⁹² Bill S-216: An Act to enact the Modern Slavery Act and to amend the Customs Tariff, available at: <https://parl.ca/DocumentViewer/en/43-2/bill/S-216/first-reading>.

when Parliament was prorogued in August 2020.⁹³ The second reading speech for Bill S-216 took place on 30 March 2021, and the Bill was referred to the Standing Senate Committee on Banking Trade and Commerce for consideration. It is not known when that Committee will report back or whether the Senate and the House of Commons will pass the Bill.

The Bill's main provisions as introduced into the Senate are:

- The Bill if enacted would obligate certain entities to report their measures taken to prevent and reduce the risk that forced labour or child labour is used at any step in the entity's production of goods in Canada or elsewhere or in the production of goods imported into Canada.⁹⁴
- It would apply to any entity that: (a) produces or sells goods in Canada or elsewhere; (b) imports goods into Canada; or (c) controls an entity engaged in any activity described in paragraph (a) or (b).⁹⁵ "Entity" is defined as a corporation, trust, partnership, or other unincorporated organization that: (1) is listed on a Canadian stock exchange; (2) has a place of business in Canada, does business in Canada, or has assets in Canada and that, based on its consolidated financial statements, meets at least two of the following conditions for at least one of its two most recent financial years: (i) it has at least CAD 20 million in assets, (ii) it has generated at least CAD 40 million in revenue, or (iii) it employs an average of at least 250 employees; or (3) is prescribed by regulations.⁹⁶
- The Bill would require those "entities" to provide the Minister of Public Safety and Emergency Preparedness with an annual modern slavery report, no later than 180 days after the end of each entity's financial year.⁹⁷ The annual report must address: (1) the structure of the business and the goods that it produces or imports into Canada; (2) its policies in relation to forced labour and child labour; (3) its activities that carry the risk of using forced labour or child labour and the steps it takes to assess and manage that risk; (4) any measures taken by the business to remediate any forced labour or child labour situations; and (5) any training provided to employees of the business on forced labour and child labour.⁹⁸ A director or officer of the business must attest that the information in the report is true, accurate, and complete.⁹⁹ Additionally, the entity must make the report available to the public and must post the report in a prominent place on its website.¹⁰⁰
- The Minister may order any reasonable measures to bring an entity into compliance.¹⁰¹ Any entity found guilty of an offence is liable to a fine of up to CAD 250,000 per offence.¹⁰² A director, officer,

⁹³ Bill S-211: An Act to enact the Modern Slavery Act and to amend the Customs Tariff, available at: <https://www.parl.ca/DocumentViewer/en/43-1/bill/S-211/first-reading>.

⁹⁴ Bill S-216: An Act to enact the Modern Slavery Act and to amend the Customs Tariff, section 7, available at: <https://parl.ca/DocumentViewer/en/43-2/bill/S-216/first-reading>.

⁹⁵ *Id.*, section 5.

⁹⁶ *Id.*, section 2.

⁹⁷ *Id.*, section 7(1).

⁹⁸ *Id.*, section 7(2).

⁹⁹ *Id.*, section 7(3).

¹⁰⁰ *Id.*, section 8.

¹⁰¹ *Id.*, section 13.

¹⁰² *Id.*, section 15(1).

or agent who has any role in directing, authorizing, participating, or acquiescing in the business’s contravention of its statutory requirements also is liable for the offence.¹⁰³

5. FORCED LABOR: OVERVIEW OF CANADA’S APPLICABLE EMPLOYMENT AND MIGRATION LAWS

5.1. Employment Law Rights for Victims of Human Trafficking and Forced Labor

Victims of forced labour and trafficking can seek civil remedies pursuant to employment law if they are “employees” under that law.

The Labour Code only applies to persons who meet its definition of an “employee” and who “are employed on or in connection with the operation of any federal work, undertaking or business.”¹⁰⁴ Those employees must receive the established minimum wage.¹⁰⁵ The employee can complain to the Head of Compliance and Enforcement for nonpayment of that minimum wage, and the Head can order the employer to pay that wage.¹⁰⁶

5.2. Applicability of Employment Legislation in the Context of Forced Labor or Trafficking

An employee means any person employed by an employer.¹⁰⁷ Employer means any person who employs one or more employees.¹⁰⁸ The Labour Code applies to federal work, undertaking, or business, which means any work, undertaking, or business that is within Parliament’s legislative authority.¹⁰⁹

A trafficker must “employ” a victim for the victim to qualify as an “employee” under the Labour Code. Common law rules govern whether the victim is an employee, including whether the trafficker controls the victim’s work, owns all required tools, and has the chance of profit and the risk of loss; and whether the work is an integral part of the business. Payment is an expected entitlement but does not feature in these common law rules.

5.3. Statutory Rights

The Labour Code’s rights apply to employees who are employed in or in connection with federal work, undertaking, or business.¹¹⁰

¹⁰³ *Id.*, section 16.

¹⁰⁴ Canada Labour Code 1985, sections 3 and 4, available at: <https://laws-lois.justice.gc.ca/PDF/L-2.pdf>.

¹⁰⁵ *Id.*, section 178(1).

¹⁰⁶ *Id.*, section 127.1(8) and 127.1(10).

¹⁰⁷ *Id.*, section 3.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*, section 4.

5.3.1. *Rights to minimum wages, entitlements, and other applicable minimum standards*

The Labour Code sets out employees' rights to minimum wages, entitlements, and other applicable minimum standards, including:

1. An employer shall pay each employee a wage at a rate (a) not less than the minimum hourly rate that, from time to time, an Act of the legislature of the province where the employee is usually employed sets and that is generally applicable regardless of occupation, status, or work experience; or (b) where the wages of the employee are paid on any basis of time other than hourly, not less than the equivalent of the rate under paragraph (a) for the time worked by the employee.¹¹¹
2. No employer shall cause or permit an employee to work longer than eight hours in any day or 45 hours in any week.¹¹²
3. Every employee is entitled to and shall be granted an unpaid break of at least 30 minutes during every period of five consecutive hours of work.¹¹³ If the employer requires the employee to be at its disposal during the break period, the employer must pay the employee for the break time.¹¹⁴
4. Every employee is entitled to and shall be granted a rest period of at least eight consecutive hours between work periods or shifts, subject to certain exceptions.¹¹⁵
5. An employee may not work more than 45 hours in any week.¹¹⁶
6. When an employer requires or permits an employee to work overtime, the employer must pay the employee for the overtime at a rate of wages not less than one-and-one-half times the employee's regular rate of wages; or grant not less than one-and-one-half hours of time off with pay for each hour of overtime worked, subject to certain exceptions.¹¹⁷
7. Every employee is entitled to and shall be granted any unpaid breaks that are necessary for medical reasons.¹¹⁸
8. For every year of employment by an employer, every employee is entitled to and shall be granted a vacation with vacation pay of (a) at least two weeks if the employee has completed at least one year of employment; (b) at least three weeks if the employee has completed at least five consecutive years of employment with the same employer; and (c) at least four weeks if the employee has completed at least 10 consecutive years of employment with the same employer.¹¹⁹ An employee is entitled to vacation pay equal to: (1) 4% of the employee's wages during the year of employment for which the employee is entitled to the vacation; (2) 6% of the employee's wages during the year of employment for which the employee is entitled to the vacation, if the employee has completed at least five consecutive years of employment with the same employer; and (3) 8%

¹¹¹ *Id.*, section 178(1).

¹¹² *Id.*, section 169(1)(b).

¹¹³ *Id.*, section 169.1(1).

¹¹⁴ *Id.*

¹¹⁵ *Id.*, section 169.2(1).

¹¹⁶ *Id.*, section 171(1).

¹¹⁷ *Id.*, section 174(1).

¹¹⁸ *Id.*, section 181.1(1).

¹¹⁹ *Id.*, section 184.

of the employee's wages during the year of employment for which the employee is entitled to the vacation, if the employee has completed at least 10 consecutive years of employment with the same employer.¹²⁰

9. Every employee is entitled to and shall be granted a holiday with pay on each of the general holidays falling within any period of the employee's employment.¹²¹ An employer shall, for each general holiday, pay an employee holiday pay equal to at least one twentieth of the wages, excluding overtime pay, that the employee earned with the employer in the four-week period immediately preceding the week in which the general holiday occurs.¹²²

10. An employee who is pregnant or nursing is entitled to and shall be granted a leave of absence during the period from the beginning of the pregnancy to the end of the twenty-fourth week following the birth, if she provides the employer with a certificate issued by a health care practitioner of her choice indicating that she is unable to work by reason of the pregnancy or nursing and indicating the duration of that inability.¹²³

11. Every employee is entitled to and shall be granted a leave of absence from employment of up to 17 weeks, which leave may begin not earlier than 13 weeks prior to the estimated date of her confinement and end not later than 17 weeks following the actual date of her confinement, if the employee provides her employer with a certificate of a health care practitioner certifying that she is pregnant.¹²⁴ If, during the period of 17 weeks following the date of confinement, the child who was born is hospitalized, the period is extended by the number of weeks during which the child is hospitalized.¹²⁵

12. Every employee is entitled to and shall be granted a leave of absence from employment of up to 63 weeks to care for a newborn child of the employee or a child who is in the care of the employee for the purpose of adoption under the laws governing adoption in the province in which the employee resides.¹²⁶

13. Every employee is entitled to and shall be granted a leave of absence from employment of up to 28 weeks to provide care or support to an employee's family member if a health care practitioner issues a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks from (a) the day the certificate is issued; or (b) if the leave began before the certificate was issued, the day the leave began.¹²⁷

14. Every employee who is a family member of a critically ill child is entitled to and shall be granted a leave of absence from employment of up to 37 weeks to care for or support that child if a health care practitioner has issued a certificate that (a) states that the child is a critically ill child and

¹²⁰ *Id.*, section 184.01.

¹²¹ *Id.*, section 192.

¹²² *Id.*, section 196(1).

¹²³ *Id.*, section 205.1.

¹²⁴ *Id.*, section 206(1).

¹²⁵ *Id.*, section 206(2).

¹²⁶ *Id.*, section 206.1(1).

¹²⁷ *Id.*, section 206.3(2).

requires the care or support of one or more family members; and (b) sets out the period during which the child requires that care or support.¹²⁸

15. Every employee who is a family member of a critically ill adult is entitled to and shall be granted a leave of absence from employment of up to 17 weeks to care or support that adult if a health care practitioner has issued a certificate that (a) states that the adult is a critically ill adult and requires the care or support of one or more family members; and (b) sets out the period during which the adult requires that care or support.¹²⁹

16. Every employee is entitled to and shall be granted a leave of absence from employment of up to 104 weeks if the employee is the parent of a child who has died and it is probable, considering the circumstances, that the child died as a result of a crime.¹³⁰

17. Every employee is entitled to and shall be granted a leave of absence from employment of up to 104 weeks if the employee is the parent of a child who has disappeared and it is probable, considering the circumstances, that the child disappeared as a result of a crime.¹³¹ An employee is not entitled to a leave of absence if (a) the employee is charged with the crime; or (b) the child was 14 years of age or older at the time of the crime and it is probable, considering the circumstances, that the child was a party to the crime.¹³²

18. Every employee is entitled to and shall be granted a leave of absence from employment of up to five days in every calendar year for (a) treating the employee's illness or injury; (b) carrying out responsibilities related to the health or care of any family member; (c) carrying out responsibilities related to the education of family members who are under 18 years of age; (d) addressing any urgent matter concerning themselves or their family members; (e) attending their citizenship ceremony under the Citizenship Act; and (f) any other reason prescribed by regulation. If the employee has completed three consecutive months of continuous employment with the employer, the employee is entitled to the first three days of the leave with pay at the employee's regular rate of wages for normal work hours.¹³³

19. Every employee who is a victim of family violence or who is the parent of a child who is a victim of family violence is entitled to and shall be granted a leave of absence from employment of up to 10 days in every calendar year, to enable the employee, in respect of such violence, (a) to seek medical attention for themselves or their child in respect of a physical or psychological injury or disability; (b) to obtain services from an organization that provides services to victims of family violence; (c) to obtain psychological or other professional counselling; (d) to relocate temporarily or permanently; (e) to seek legal or law enforcement assistance or to prepare for or participate in any civil or criminal legal proceeding; or (f) to take any measures prescribed by regulation.¹³⁴ If the employee has completed three consecutive months of continuous employment with the employer, the employee is entitled to the first five days of the leave with pay at the employee's regular rate of wages for normal work hours.¹³⁵ An employee is not entitled to a leave of absence with respect

¹²⁸ *Id.*, section 206.4(2).

¹²⁹ *Id.*, section 206.4(2.1).

¹³⁰ *Id.*, section 206.5(2).

¹³¹ *Id.*, section 206.5(3).

¹³² *Id.*, section 206.5(4).

¹³³ *Id.*, section 206.6(1).

¹³⁴ *Id.*, section 206.7(2).

¹³⁵ *Id.*, section 206.7(2.1).

to any act of family violence if the employee is charged with an offence related to that act or if it is probable, considering the circumstances, that the employee committed that act.¹³⁶

20. Every employee who is an Aboriginal person and who has completed three consecutive months of continuous employment with an employer is entitled to and shall be granted a leave of absence from employment of up to five days in every calendar year, to enable the employee to engage in traditional Aboriginal practices, including (a) hunting; (b) fishing; (c) harvesting; and (d) any practice prescribed by regulation.¹³⁷

21. Every employee is entitled to and shall be granted a leave of absence from employment to attend court to (a) act as a witness in a proceeding; (b) act as a juror in a proceeding; or (c) participate in a jury selection process.¹³⁸

22. Every employee is entitled to and shall be granted, in the event of the death of an immediate family member, a leave of absence from employment of up to five days that the employee may take during the period that begins on the day on which the death occurs and ends six weeks after the latest of the days on which any funeral, burial, or memorial service of that immediate family member occurs.¹³⁹ If the employee has completed three consecutive months of continuous employment with the employer, the employee is entitled to the first three days of the leave with pay at the employee's regular rate of wages for normal work hours.¹⁴⁰

5.3.2. Claims available in relation to misrepresentations and “sham” arrangements

Canada has no applicable laws.

5.3.3. Claims available in relation to unlawful deductions, loans, and debt bondage

Section 254.1 of the Labour Code regulates deductions from employees' pay:

(1) No employer shall make deductions from wages or other amounts due to an employee, except as permitted by or under this section.

(2) The permitted deductions are (a) those required by a federal or provincial Act or regulations made pursuant to an Act; (b) those authorized by a court order or a collective agreement or other document signed by a trade union on behalf of the employee; (c) amounts authorized in writing by the employee; (d) overpayments of wages by the employer; and e) other amounts prescribed by regulation.

(3) Notwithstanding paragraph (2)(c), no employer shall make, pursuant to that paragraph, a deduction for damage to property, or loss of money or property, if any person other than the employee had access to that property or money.¹⁴¹

¹³⁶ *Id.*, section 206.7(3).

¹³⁷ *Id.*, section 206.8(1).

¹³⁸ *Id.*, section 206.9.

¹³⁹ *Id.*, section 206.10(1).

¹⁴⁰ *Id.*, section 206.10(2).

¹⁴¹ *Id.*, section 254.1.

5.3.4. Remedies

The employee can complain to the Head of Compliance and Enforcement under the Labour Code for nonpayment of minimum wages and entitlements.¹⁴² The Head can order the employer to pay those wages or entitlements.¹⁴³ An employee instead also can bring a civil action for payment of wages.¹⁴⁴

5.4. Rights to a Safe Workplace and Compensation Associated With Injuries or Illness

Every employer has the duty to protect employees' health and safety at work.¹⁴⁵

Section 125 of the Labour Code lists specific duties for employers, including ensuring that all permanent and temporary buildings and structures meet the prescribed standards; installing guards, guard-rails, barricades, and fences in accordance with prescribed standards; investigating, recording, and reporting, in accordance with regulations, all accidents, occurrences of harassment and violence, occupational illnesses, and other hazardous occurrences known to the employer; providing prescribed first-aid facilities and health services; providing prescribed sanitary and personal facilities; providing, in accordance with prescribed standards, potable water; and ensuring that the use, operation, and maintenance of all equipment and facilities meet prescribed standards.¹⁴⁶

The Labour Code imposes offences for breach of section 124 or 125. Section 148 provides:

(1) Subject to this section, every person who contravenes a provision of this Part is guilty of an offence and liable (a) on conviction by way of indictment, to a fine of not more than CAD 1,000,000, to imprisonment for a term of not more than two years, or to both; or (b) on summary conviction, to a fine of not more than CAD 100,000.

(2) Every person whose contravention of this Part directly results in the death of, serious illness of, or serious injury to an employee is guilty of an offence and liable (a) on conviction by way of indictment, to a fine of not more than CAD 1,000,000, to imprisonment for a term of not more than two years, or to both; or (b) on summary conviction, to a fine of not more than CAD 1,000,000.

(3) Every person who willfully contravenes a provision of this Part knowing that the contravention is likely to cause the death of, serious illness of, or serious injury to an employee is guilty of an offence and liable (a) on conviction by way of indictment, to a fine of not more than CAD 1,000,000, to imprisonment for a term of not more than two years, or to both; or (b) on summary conviction, to a fine of not more than CAD 1,000,000.¹⁴⁷

Workers are entitled to compensation from a compensation fund for personal injury or death arising out of and in the course of a worker's employment under the various workers compensation legislation applicable at the federal level for federal government workers and at the provincial level for other workers. A worker is defined to include a person who has entered into or works under a contract of service. Employers make contributions to the fund. A compensation board administers the fund and determines worker claims.

¹⁴² *Id.*, section 127.1(8).

¹⁴³ *Id.*, section 127.1(10).

¹⁴⁴ *Id.*, section 246(1).

¹⁴⁵ *Id.*, section 124.

¹⁴⁶ *Id.*, section 125.

¹⁴⁷ *Id.*, section 148.

5.5. Access to Justice and Practical Issues Associated With Enforcing Social Legislation

Trafficked victims rarely report the trafficking crime to police due to threats from traffickers, fear, shame, and mistrust of authorities.

Barriers to justice arise from victims' ignorance of their rights, remedies, and available protection, notwithstanding increased funding for awareness campaigns, and from the need for more funding and assistance for victims to make claims and seek protection.

Although there have been some prosecutions, prosecution is not a major deterrent.

Federal departments, such as Child Safety Canada, Employment and Social Development Canada, and Immigration, Refugee and Citizenship Canada, the federal and provincial police forces, and various NGOs assist victims in their access to justice.

5.6. Interaction Between Employment Law and Migration

5.6.1. *Employment rights affected where employment is unlawful under migration law*

Employees who are victims of human trafficking or exploitation are not disqualified because of their immigration status or breach of migration law from bringing employment law claims.

5.6.2. *Rights/remedies available under applicable migration law and regulations*

Canada has a program that issues special temporary resident permits under the migration law to foreign victims.¹⁴⁸ This program allows victims to receive health care and to apply for an open work permit. The victim does not need to testify against the trafficker or pay a fee for this permit.

5.7. Employment Laws and Child Labor

The Labour Code permits employers to employ persons under the age of 17 years only: (a) in an occupation specified by the regulations; and (b) subject to the conditions fixed by the regulations for that occupation.¹⁴⁹

The Labour Standards Regulations allow individuals under 17 years old to work in most job positions as long as: (a) they are not provincially mandated to be in school; (b) the work is unlikely to put their health or safety at risk; (c) they do not have to work underground in a mine or in positions prohibited for young workers under the Explosives Regulations,¹⁵⁰ Nuclear Safety and Control Act¹⁵¹ and Regulations,¹⁵² or the Canada Shipping Act,¹⁵³ and (d) their work hours are not between 11 pm and 6 am.¹⁵⁴

¹⁴⁸ *Protection and assistance for victims of human trafficking*, Government of Canada, available at: <https://www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/protection-assistance-victims-human-trafficking.html>.

¹⁴⁹ Canada Labour Code 1985, section 179, available at: <https://laws-lois.justice.gc.ca/PDF/L-2.pdf>.

¹⁵⁰ Explosives Regulations 2013, available at: <https://laws-lois.justice.gc.ca/PDF/SOR-2013-211.pdf>.

¹⁵¹ Nuclear Safety and Control Act 1997, available at: <https://laws-lois.justice.gc.ca/PDF/N-28.3.pdf>.

¹⁵² General Nuclear Safety and Control Regulations, available at: <https://laws-lois.justice.gc.ca/PDF/SOR-2000-202.pdf>.

¹⁵³ Canada Shipping Act 2001, available at: <https://laws-lois.justice.gc.ca/PDF/C-10.15.pdf>.

¹⁵⁴ Canada Labour Standards Regulations, section 10, available at: https://laws-lois.justice.gc.ca/PDF/C.R.C.,_c._986.pdf.

The minimum age for employment is dictated by the various employment standards legislation applicable at the provincial level. For example, in New Brunswick, employers cannot employ persons under 14 years of age: (a) in any industrial undertaking; (b) in the forest industry; (c) in the construction industry; (d) in a garage or automotive service station; (e) in a hotel or restaurant; (f) in a theatre, dance hall, or shooting gallery; or (g) as an elevator operator, unless a relevant exception is satisfied.¹⁵⁵

6. GOVERNMENT PROCUREMENT RULES

Public Works and Government Services Canada has published the Code of Conduct for Procurement of goods or services for the Government of Canada.¹⁵⁶ The Code covers human trafficking issues.

6.1. Overview

The Government of Canada has a responsibility to maintain the confidence of the vendor community and the Canadian public when acquiring goods and services in support of government programs by conducting procurement activities in an open, fair, and transparent manner. Fairness, openness, and transparency are assured through compliance with various acts, regulations, policies, international instruments adopted by Canada; Canada's international and domestic trade agreements; and labour cooperation agreements.

The Government is committed, and expects vendors and their sub-contractors to be committed, to upholding and promoting international human and labour rights, including fundamental principles and rights at work protected by the International Labour Organization's (ILO) eight fundamental conventions¹⁵⁷ and the United Nations Universal Declaration of Human Rights,¹⁵⁸ the United Nations Guiding Principles on Business and Human Rights,¹⁵⁹ and the Organization for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises.¹⁶⁰

¹⁵⁵ Employment Standards Act, section 40, available at: https://www.canlii.org/en/nb/laws/stat/snb-1982-c-e-7.2/latest/snb-1982-c-e-7.2.html#sec41_smooth.

¹⁵⁶ Code of Conduct for Procurement, section 10, available at: <https://www.tpsgc-pwgsc.gc.ca/app-acq/cndt-cndct/cca-ccp-eng.html>.

¹⁵⁷ C029 — Forced Labour Convention, 1930 (No. 29), available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029; C105 — Abolition of Forced Labour Convention, 1957 (No. 105), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105; 087 — Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C087; C098 — Right to Organise and Collective Bargaining Convention, 1949 (No. 98), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C098; C100 — Equal Remuneration Convention, 1951 (No. 100), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C100; C111 — Discrimination (Employment and Occupation) Convention, 1958 (No. 111), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C111; C138 — Minimum Age Convention, 1973 (No. 138), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C138; C182 — Worst Forms of Child Labour Convention, 1999 (No. 182), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C182.

¹⁵⁸ United Nations Universal Declaration of Human Rights, available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

¹⁵⁹ *United Nations Guiding Principles on Business and Human Rights*, United Nations Human Rights Office of the High Commissioner, available at: https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

¹⁶⁰ *Guidelines for Multinational Enterprises*, Organization for Economic Co-operation and Development, available at: <https://www.oecd.org/daf/inv/mne/48004323.pdf>.

Public Works and Government Services Canada (**PWGSC**) is Canada’s main procurement authority and the central purchasing agent of federal departments and agencies. PWGSC expects vendors and their sub-contractors to operate lawfully and conduct their activities in a socially and environmentally responsible manner by, at a minimum, meeting the expectations set forth in the Code of Conduct for Procurement.

The Code is a statement of expectations for PWGSC vendors and their sub-contractors.

6.2. Scope of Procurement Code.

The Code applies to all vendors and their sub-contractors who respond to bid solicitations or provide goods and services to the Government, where PWGSC is the procurement authority.¹⁶¹

6.3. Human Rights and Labor Standards

The Government is committed to upholding and promoting international human and labour rights, including fundamental principles and rights at work protected by the ILO’s eight fundamental conventions and the United Nations Universal Declaration of Human Rights. PWGSC expects vendors to guarantee workers’ labour and human rights in their main operations and supply chains.¹⁶²

The Government also is committed to upholding the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.¹⁶³ PWGSC expects its vendors and their sub-contractors to respect their workers’ workplace rights, and to take steps to mitigate human trafficking risks and monitor compliance of labour and human rights in their supply chains.

Appendix A to the Code sets out a glossary of terms, which include:

Human trafficking -- involves recruiting, transporting, harbouring, or exercising control, direction, or influence over a person’s movements to exploit that person, typically through sexual exploitation or forced labour.

Forced labour -- is all work extracted from persons under the threat of a penalty and for which persons have not offered themselves voluntarily.

Child labour -- means any work that deprives young persons of their childhood, their potential, and their dignity, that is harmful to physical and mental development, and that interferes with their schooling.¹⁶⁴

6.3.1. Human trafficking

All vendors’ workers will work voluntarily and not be subjected to any form of exploitation, such as human trafficking for the purpose of forced labour or sexual exploitation. Vendors and their sub-contractors will not engage in any form of human trafficking activities.¹⁶⁵

¹⁶¹ Code of Conduct for Procurement, section 3, available at: <https://www.tpsgc-pwgsc.gc.ca/app-acq/cndt-cndct/cca-ccp-eng.html>.

¹⁶² *Id.*, section 8.

¹⁶³ *Id.*, section 10.

¹⁶⁴ *Id.*, Appendix A.

¹⁶⁵ *Id.*, section 10.1.

6.3.2. Forced labor

Vendors and their sub-contractors will comply with Canada’s prohibition of forced labour and importation of goods produced, in whole or in part, by forced or compulsory labour. This includes forced or compulsory child labour and applies to all goods, regardless of their country of origin.¹⁶⁶

6.3.3. Child labor

All workers must be at least the legal minimum age based on applicable laws and regulations. Workers under 18 years old shall not perform hazardous work that may jeopardize their health or safety. Hazardous work includes, but is not limited to, work exposing children to physical, psychological, or sexual abuse; work underground, under water, at dangerous heights, or in confined spaces; work with dangerous machinery, equipment, and tools, or involving the manual handling or transport of heavy loads; work exposing children to an unhealthy environment; work under difficult conditions, including working long hours or unreasonably confining children to employers’ premises.¹⁶⁷

7. RESTITUTION AND VICTIM COMPENSATION

The Victims Bill of Rights Act gives certain protections to victims of human trafficking. Every victim has the right to have the appropriate authorities in the criminal justice system consider their security, take reasonable and necessary measures to protect victims from intimidation and retaliation, and safeguard their privacy; the right to request that their identity be protected if they are a complainant or a witness; and the right to have the court consider making a restitution order against the offender.¹⁶⁸ Every victim has the right to have a restitution order entered as an enforceable civil court judgment if the offender does not comply with an order to compensate the victims.¹⁶⁹

Victims are entitled to exercise their rights under this Act only if they are present in Canada or they are a Canadian citizen or permanent resident.¹⁷⁰ Victims are to exercise their rights under this Act through the mechanisms provided by law.¹⁷¹

The Office of the Federal Ombudsman for Victims of Crime receives complaints from victims for violation of their rights and ensures that victims’ rights are respected and upheld. Its Progress Report on this Act in November 2020 recommended several changes to the Act, including direct enforcement of rights by victims.¹⁷²

Sections 738 to 741 of the Criminal Code set out a regime for victim compensation by court order.

Section 738(1) states: Where an offender is convicted or discharged of an offence, the court imposing sentence on or discharging the offender may order, on application of the Attorney General or on its own

¹⁶⁶ *Id.*, section 10.2.

¹⁶⁷ *Id.*, section 10.

¹⁶⁸ Canadian Victims Bill of Rights Act 2015, sections 9–17, available at: <https://laws-lois.justice.gc.ca/PDF/C-23.7.pdf>.

¹⁶⁹ *Id.*, section 17.

¹⁷⁰ *Id.*, section 19(2).

¹⁷¹ *Id.*, section 19(1).

¹⁷² *Progress Report: The Canadian Victims Bill of Rights*, Office of the Federal Ombudsman for Victims of Crime, available at: <https://www.victimfirst.gc.ca/res/pub/prcvbr-reccdv/index.html>.

motion, in addition to any other measure imposed on the offender, that the offender make restitution to another person in several circumstances:

(a) in the case of damage to, or the loss or destruction of, the property of any person as a result of the commission of the offence or the arrest or attempted arrest of the offender, by paying to the person an amount not exceeding the replacement value of the property as of the date the order is imposed, less the value of any part of the property that is returned to that person as of the date it is returned, where the amount is readily ascertainable;

(b) in the case of bodily or psychological harm to any person as a result of the commission of the offence or the arrest or attempted arrest of the offender, by paying to the person an amount not exceeding all pecuniary damages incurred as a result of the harm, including loss of income or support, if the amount is readily ascertainable;

(c) in the case of bodily harm or threat of bodily harm to the offender's intimate partner or child, or any other person, as a result of the commission of the offence or the arrest or attempted arrest of the offender, where the intimate partner, child, or other person was a member of the offender's household at the relevant time, by paying to that person, independently of any amount ordered to be paid under paragraphs (a) and (b), an amount not exceeding actual and reasonable expenses incurred by that person, as a result of moving out of the offender's household, for temporary housing, food, child care, and transportation, where the amount is readily ascertainable;

(d) in the case of an offence under section 402.2 or 403, by paying to persons who, as a result of the offence, incur expenses to re-establish their identity, including expenses to replace their identity documents and to correct their credit history and credit rating, an amount that is not more than the amount of those expenses, to the extent that they are reasonable, if the amount is readily ascertainable; and

(e) in the case of an offence under subsection 162.1(1), by paying to a person who, as a result of the offence, incurs expenses to remove the intimate image from the Internet or other digital network, an amount that is not more than the amount of those expenses, to the extent that they are reasonable, if the amount is readily ascertainable.¹⁷³

Section 739.2 provides that the court, in making an order under section 738 or 739, shall require the offender to pay the full amount specified in the order by the day specified in the order, unless the court is of the opinion that the offender should pay the amount in instalments, in which case the court shall set out a periodic payment scheme in the order.¹⁷⁴

Section 739.3 further states that an order under section 738 or 739 requiring the offender to pay restitution to more than one person must specify the amount payable to each person.¹⁷⁵ The order may also specify the order of priority in which the offender must pay those persons.

Section 740 provides that, in cases in which the offender does not have the means to pay both a fine and restitution or in which a forfeiture would involve the same property as an order of restitution, the court shall first make the order of restitution and shall then consider whether and to what extent an order of forfeiture or payment of a fine is appropriate in the circumstances.¹⁷⁶

¹⁷³ Criminal Code 1985, section 738(1), available at: <https://laws-lois.justice.gc.ca/PDF/C-46.pdf>.

¹⁷⁴ *Id.*, section 739.2.

¹⁷⁵ *Id.*, section 739.3.

¹⁷⁶ *Id.*, section 740.

Section 741(1) states: An offender who fails to pay all of the amount that is ordered to be paid under section 732.1, 738, 739, or 742.3 by the day specified in the order or who fails to make a periodic payment required under the order is in default of the order, and the person to whom the amount, or the periodic payment, as the case may be, was to be made may, by filing the order, enter as a judgment any amount ordered to be paid that remains unpaid under the order in any civil court in Canada that has jurisdiction to enter a judgment for that amount, and that judgment is enforceable against the offender in the same manner as if it were a judgment rendered against the offender in that court in civil proceedings.¹⁷⁷

Section 741(2) permits the court to order all or any part of an amount that it orders the offender to pay the victims under section 738 or 739 to be taken out of moneys found in the offender’s possession at the time of the offender’s arrest if the court is satisfied that no other persons claim ownership or right to possession of those moneys.¹⁷⁸

Section 741.1 requires a court making an order of restitution under section 738 or 739 to notify the victims who are to be paid of the content of the order, or to give them a copy of the order.¹⁷⁹

Section 741.2 states that a restitution order under section 738 or 739 does not affect a victim’s civil remedy for the same act or omission.¹⁸⁰

Justice Canada administers a federal Victims Fund. It provides grants and contributions to support the development of new approaches, promote access to justice, improve the capacity of service providers, foster referral networks, or increase awareness of services available to victims of crime and their families. The Fund does not compensate victims of crime for their injuries.

Provincial victims funding programs also provide financial assistance to victims.

8. CANADA’S MULTIDISCIPLINARY/INTERAGENCY COOPERATION APPROACH

The Canadian National Strategy to Combat Human Trafficking 2019-2024 calls on all stakeholders to become involved in combating human trafficking.¹⁸¹

Public Safety Canada leads the Government’s federal Human Trafficking Task Force to combat trafficking and implement the National Strategy. Other federal agencies involved include Global Affairs Canada; Women and Gender Equality Canada; the Department of Justice Canada; Indigenous Services Canada; Immigration, Refugees and Citizenship Canada; the Royal Canadian Mounted Police; Employment and Social Development Canada; Public Services and Procurement Canada; Financial Transactions and Reports Analysis Centre of Canada; the Canada Border Services Agency; and Statistics Canada.

The Royal Canadian Mounted Police’s Human Trafficking National Coordination Centre provides a focal point for law enforcement efforts to combat and disrupt individuals and criminal organizations involved in human trafficking. Its mandate is to develop and coordinate human trafficking initiatives — related to the four pillars of prevention, protection, prosecution, and partnership — with domestic and international partner agencies, non-governmental organizations, and the community at large. The Centre plays an

¹⁷⁷ *Id.*, section 741(1).

¹⁷⁸ *Id.*, section 741(2).

¹⁷⁹ *Id.*, section 741.1.

¹⁸⁰ *Id.*, section 741.2.

¹⁸¹ *National Strategy To Combat Human Trafficking 2019-2024*, Government of Canada available at: <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2019-ntnl-strtgvy-hmnn-trffc/2019-ntnl-strtgvy-hmnn-trffc-en.pdf>.

integral role on the Government’s Human Trafficking Task Force and regularly reports to Government and other agencies on the scope of human trafficking in Canada.

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