



Provincial Advisory Council
on the Status of Women
NEWFOUNDLAND & LABRADOR

**Jurisdictional Scan
of Human Trafficking Legislation**

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Executive Summary

Human trafficking is a serious crime and a violation of human rights, recognized as such by the international community. The majority of victims of trafficking at the global level are women. Trafficking for sexual exploitation is the most common form of trafficking; women again represent the vast majority of victims. Sex trafficking is thus recognized as a gender-based crime and a severe form of violence against women.

There are important distinctions between sex trafficking, sexual exploitation, and sex work, but there are also clear connections between them, which both influence, and are influenced by legislation. While the international community generally agrees that anti-trafficking laws and policies must also support international human rights, countries vary in the extent to which their legislation and its implementation emphasizes border security and prosecution over victim assistance and support.

In Canada, the “jurisdiction” (authority) to make laws is divided between the Parliament of Canada and the provincial and territorial legislatures. Criminal law falls under federal jurisdiction and laws concerning poverty and the “administration of justice” falls under provincial jurisdiction. Victim needs, however, is an area of shared jurisdiction between the federal and provincial governments (Barrett & Shaw, 2013). Canada’s approach to human trafficking has been guided by the *UN Convention against Transnational Organized Crime And its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children*. At the federal level, human trafficking is an offence under the **Criminal Code of Canada** and the **Immigration and Refugee Protection Act**. Section 153(1) of the *Criminal Code* addresses sexual exploitation. **Bill C-75**, passed in 2019, includes amendments to the *Criminal Code* that will facilitate human trafficking prosecutions. With regards to human trafficking, Bill C-75 merged reforms introduced in other bills, which brings into force new provisions to facilitate the prosecution of human trafficking offences.

In 2019, The Government of Canada announced its new **National Strategy to Combat Human Trafficking 2019-2024**. The strategy builds on and complements the efforts of **It’s Time: Canada’s Strategy to Prevent and Address Gender-Based Violence** and advances the implementation of the National Inquiry into Missing and Murdered Indigenous Women and Girls’ *Calls for Justice*. The new strategy introduces a new focus area, “empowerment” to enhance support and services to victims and survivors of human trafficking, and also includes measures aligned with the internationally recognized pillars of prevention, protection, prosecution and partnership. The *National Strategy* aims to enhance, consolidate, and coordinate Canada’s actions and initiatives to combat human trafficking domestically and internationally through a victim-centred, survivor-informed and gender-responsive lens.

Canada’s provinces vary in their efforts to control trafficking, sexual exploitation and prostitution. Ontario and Nova Scotia have been overrepresented in the number of police-reported incidents of human trafficking in Canada to date. Alberta, Manitoba, Ontario, and Saskatchewan are currently the only provinces with anti-trafficking legislation. This report highlights approaches taken by these and other select provinces with noteworthy initiatives.

The **UN Convention against Transnational Organized Crime (Palermo Convention) And its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children (2000)** are the main international legal documents to address human trafficking.

This report reviews anti-trafficking legislation at the international level by examining initiatives at the continental or regional level, including Europe and the European Union, as well as ‘best practices’ in a select number of countries in the western world, based on the rankings of Tier 1 countries (the highest ranking given) in the latest edition (2021) of the **Trafficking in Persons Report**, published by the United States Department of State, with the exception of Ireland, with a ranking of ‘Tier 2 watchlist’, which is included as a comparison against Tier 1 countries.

This report concludes with recommendations for the development of effective anti-trafficking initiatives and legislation. In summary, jurisdictions with ‘ideal’ approaches to human trafficking can be classified by the following features: national and/or regional anti-trafficking legislation; ratification of the UN Protocol, and, where applicable, other anti-trafficking conventions and/or directives; national and/or regional strategies or action plans; and a Tier 1 ranking in the Trafficking in Persons Report.

Introduction

Human trafficking, also referred to as trafficking in human beings and trafficking in persons, is a serious crime and a violation of human rights, recognized as such by the international community. While there is no universal definition of human trafficking, attempts have been made at the international level to agree on one, leading to the adoption of a *Protocol to the 2000 UN Convention against Transnational Organised Crime*, referred to as the *Palermo Protocol*. The Protocol’s descriptive definition – having served as the basis for the definition included in the *EU Anti-trafficking Directive of 2011* – is composed of three distinct elements:

- The activity: the recruitment, transport, harbouring or receipt of persons;
- The means: including the threat or use of force, deception, coercion or abuse of power, or of a position of vulnerability; and
- The purpose: the exploitation of trafficked persons.

Under this widely recognized definition, a criminal activity does not qualify as trafficking unless all these elements are present (Bakowski & Voronova, 2021). Where the victim is a child – defined as a person under 18 years old – no means is required to find human trafficking – only one of the acts carried out for the purpose of exploiting another (Barrett & Shaw, 2013).

The recognized forms of trafficking in persons, in accordance with Article 3(a) of [the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children](#), supplementing the [United Nations Convention against Transnational Organized Crime](#), are as follows: exploitation of the prostitution of others; other forms of sexual exploitation; forced labour or services; slavery; practices similar to slavery; servitude; and the removal of organs. It is important to note that a legal system may recognize other forms of trafficking in persons.

The International Labour Organization (ILO) estimates that the number of victims of trafficking worldwide varies from 24 to 40 million (Public Safety Canada, 2019).

In their most recent report, the Canadian Centre to End Human Trafficking (2021b) identified that sex and labour trafficking were the most common forms of human trafficking in Canada in 2019-2020.

There is currently no national definition of human sex trafficking in Canada. Reports and policies typically refer to the definition developed by the United Nations and in the Canadian *Criminal Code*. The latter defines human sex trafficking as the “recruitment, transportation, transfer, harbouring, or receipt of persons; and exercising of control/coercion, fraud, force or threat of force, abuse of vulnerability; to a person...in order to exploit that person.” Trafficked persons are exploited when they are coerced by an individual, or group of people, to commit sexual acts (Coplan, Noble, & Cornelius, 2021).

Canada’s criminal law prohibits trafficking in persons, regardless of whether the trafficking occurs within Canada or whether it involves the bringing of persons into Canada. The *Criminal Code* contains six specific human trafficking offences, including trafficking in adults, child trafficking, materially benefitting from human trafficking and withholding or destroying identity documents to facilitate this crime. The *Immigration and Refugee Protection Act* also includes a human trafficking-specific offence.

Canadian adult criminal courts have been processing more human trafficking cases since the addition of human trafficking offences into the *Criminal Code* in 2005 (Cotter, 2020). Two out of three (67%) human trafficking incidents reported by police in 2019 were *Criminal Code* violations, and a third (33%) were violations against the *Immigration and Refugee Protection Act*. Several factors may contribute to this increase, including strengthened efforts to combat this crime such as improved law enforcement capacities and victim protection efforts (UNODC, 2018).

Human trafficking is not only a serious and borderless crime, but also a lucrative business, driven by demand for sexual (and other) services. Criminals exploit vulnerable people (increasingly children), making high profits and taking relatively low risks. Vulnerability can result from a range of factors, including socio-economic ones, and migrants are a particularly vulnerable group (Bakowski & Voronova, 2021). Factors contributing to human trafficking can be categorized as ‘push’ and ‘pull’ factors. Push factors may include poverty, unemployment, a lack of social security and education, gender inequalities, conflict and violence. Pull factors may include deceptive promises of better living conditions and demand for cheap unskilled labour and sexual services. Victimization and exploitation often result from a combination of these factors (Bakowski & Voronova, 2021).

Gender also plays an important role. Women and girls represent a disproportionately high number of victims, both globally and at the EU level, especially in terms of sexual exploitation (Bakowski & Voronova, 2021). According to the United Nations Office on Drugs and Crime (UNODC) Global Trafficking Persons report 2020, in 2018, 65% of all victims of trafficking in persons detected globally were women and girls (46% and 19%) (UNODC, 2020).

The Canadian Centre to End Human Trafficking (2021b) acknowledges that sex trafficking is primarily a gender-based crime, with recent data showing that 90% of victims/survivors in Canada are women or girls. The Centre argues that human trafficking, particularly sex trafficking, needs to be understood and addressed as gender-based violence.

Trafficking for sexual exploitation remains the most prevalent form of human trafficking. According to the UNODC, 50% of victims are trafficked for this purpose worldwide (92% of them female) (cited in Bakowski & Voronova, 2021).

Trafficking for sexual exploitation is recognized at the global and EU level as a severe form of violence against women, deeply rooted in gender inequalities (Bakowski & Voronova, 2021). According to a

report by the European Institute for Gender Equality (EIGE), ‘it is crucial to differentiate victims of trafficking for sexual exploitation from victims of other forms of trafficking (such as forced labour), and to contextualize the former as victims of violence against women’.

The COVID-19 pandemic has brought new risks and challenges for victims and opportunities for traffickers; exacerbating the socio-economic problems that add to the vulnerabilities exploited by traffickers. Sex trafficking victims in particular are becoming more difficult to detect, made worse by the closures of sex establishments and the prohibition of street prostitution during lockdowns (Bakowski & Voronova, 2021).

Links to Crimes Related to the Sex Trade

It is important to both distinguish between sex trafficking, sexual exploitation, and sex work, and to acknowledge the connections between them. According to the [Trafficking and Exploitation Services System \(TESS\)](#), sex trafficking is when someone is manipulated, coerced, or forced by a third party to sell or trade sex for money. Sexual exploitation is when someone is economically dependent on selling or trading sex for money, substances, shelter, or basic needs. They may or may not be in control of their working conditions or money. Sex work is when someone is independently selling or trading sex for money or material gain. The individual providing the services is in control of their working conditions.

The [Coalition Against the Sexual Exploitation of Youth \(CASEY\)](#) notes that a key aspect of sexual exploitation is the abuse of positions of vulnerability, power, trust, and dependency to profit monetarily, materially, socially, or politically off the exploits of another person. According to the United Nations High Commissioner for Refugees (UNHCR), sexual exploitation includes trafficking and prostitution.

TESS also defines the Commercial Sexual Exploitation of Children (CSEC), which refers to: any action which treated someone under the age of 18 as a commercial sexual object; any adult who paid for or collected money for the sale of the sexual services of someone under the age of 18 is a perpetrator of CSEC. CSEC happens in the context of the adult commercial sex industry. It is often confused with sex work, human trafficking or sexual exploitation, when it can in fact look like, and be, all three of those things. The commercial sex trade includes: in and out calls (pre-arranged dates for money); street walking (soliciting dates in public places); pornography (amateur or professional production of sexual acts); intimate images (selling sexually explicit images online); camming (stripping or sexually performing online); stripping, in a club or privately; and sugaring (commercial relationship between a “sugar daddy/mama” and a “sugar baby”).

The term “prostitution” refers to any act that involves the trade of sexual service for money or some other form of payment. Not all prostitution is trafficking. However, all sex trafficking intersects with prostitution, with the same activities, same venues and the same buyers (Canadian Women’s Foundation, 2014).

The Center for Health and Gender Equity write that “conflating human trafficking with prostitution results in ineffective anti-trafficking efforts and human rights violations because domestic policing efforts focus on shutting down brothels and arresting sex workers, rather than targeting the more elusive traffickers.” (cited in Canadian Public Health Association, 2014). It is becoming more difficult to differentiate between consensual and exploitative sex work, as many sex workers may be forced into the trade due to the effects of social determinants or structural violence or as a means of survival (ibid).

This issue is particularly salient for Indigenous peoples: the domestic trafficking of First Nations, Inuit and Metis women and girls from Northern and remote communities is often misinterpreted as consensual participation in the sex trade. Poverty, lack of social assistance, and isolation often leads to sexual exploitation by family members, traffickers posing as boyfriends, and traffickers enticing girls to urban areas (cited in Canadian Public Health Association, 2014).

While prostitution itself was not illegal in Canada until 2014, the *Criminal Code* prohibited essentially every other activity related to prostitution in public and private spheres, including engaging in sex work in a public place (“communicating”), being in a brothel or similar establishment; and earning a living from sex work (“living on the avails”). The new 2014 legislation made the act of purchasing a sexual service from another person illegal (Tavcer, 2018). The revised laws no longer use the term prostitution, but the term continues to be used in some contexts.

Human trafficking can only happen if supply meets demand. With regards to trafficking for sexual exploitation, the way demand for the services of trafficked persons is addressed by legislation differs across Europe. The Nordic model penalizes buyers of sexual services while decriminalizing prostitutes and providing them with social support and help if they want to leave the exploitative situation. France has taken the same approach, penalizing sex clients while exempting those who sell sex. Some other countries, such as Germany and the Netherlands, have legalized prostitution, enabling prostitutes to work as service providers (regulatory approach). This approach draws a line between legal prostitution, and illegal activities involving sexual exploitation. However, according to Europol, the fact that prostitution is legal facilitates the exploitation of victims within a legal environment (Bakowski & Voronova, 2021).

According to Barrett and Shaw (2013), prostitution legislation can be broadly classified into a number of different groups representing their overall aims¹:

- **Prohibition** – criminalizes supply and demand all aspects of prostitution trade. Example: most U.S. states.
- **Abolitionism** (legal but immoral) – a middle ground – prostitution or sex work is seen as a trade but to be controlled to limit and protect public order and safety, for example by criminalizing soliciting and other related activities. Example: United Kingdom.
- **Legalization** – regulation through criminal law and other legislation (e.g., health, welfare, labour, zoning, licensing...). Example: The Netherlands.
- **Neo-abolitionism** (criminalizing demand) – prostitution is a violation of human rights and free choice is never applicable – decriminalize prostitutes but criminalizes customers and procurers. Example: Sweden.

¹ The terms abolitionism and neo-abolitionism are derived from the movement to abolish slavery and the civil rights movement, which sought to end oppression and promote human rights by making legal practices illegal. In relation to prostitution neo-abolitionism aims to eradicate the practice itself, rather than just regulating it through the law. (Barrett & Shaw, 2013)

- **Decriminalization** – repeal of all criminal laws relating to prostitution (e.g., communicating, bawdy houses, living off the avails...) but usually accompanied by regulation. Example: New Zealand.

In several countries, unlike Canada, prostitution is largely a state or provincial issue, and states themselves can vary widely in terms of their legislative responses. There is some evidence to suggest that legalizing prostitution attracts human trafficking operations as law enforcement is no longer focused on the sex industry (Barrett & Shaw, 2013).

In December, 2014, Canada introduced new legislation with the main objective to reduce the demand for sexual services in order to protect women and girls who are disproportionately negatively impacted by the sex trade. Former Bill C-36, the [Protection of Communities and Exploited Persons Act](#) (PCEPA), which came into force on December 6, 2014, changed the laws related to the sex trade, shifting the focus of criminalization from those who sell their own sexual services onto the ‘demand side’ - those who purchase sexual services and those who benefit financially from others’ sexual services (Department of Justice Canada, 2014, as cited in Allen & Rotenberg, 2021).

Other countries have taken a similar legislative approach that views the sex trade as negatively impacting women and girls, and the practice of capitalizing on the demand for sexual services posing too high a risk of exploitation (Allen & Rotenberg, 2021). Referred to as the “Nordic Model”, as it is based on the implementation of similar legislation in Sweden and other Nordic countries, this approach targets purchasers of sexual services and third parties who develop economic interests in others’ sexual services, while providers of their own sexual services are not criminalized (Allen & Rotenberg, 2021).

Former Bill C-36 responded to the Supreme Court of Canada’s 2013 Bedford decision which found that three now repealed *Criminal Code* “prostitution” offences violated life, liberty and security of the person rights under the Charter on the basis that they prevented those who work in the sex trade from taking steps to protect themselves when engaged in risky, but legal activity (*Canada (Attorney General) v. Bedford* 2013). Most pre-existing *Criminal Code* offences related to the sex trade were subsequently repealed and new related offences were created (Allen & Rotenberg, 2021).

Under the PCEPA, changes were made to the *Criminal Code* specifically aimed at targeting the purchasers of sexual services in addition to third parties who profit off the sale of others’ sexual services. New laws made it illegal to purchase sexual services from an adult, communicate in any place for that purpose, or to advertise sexual services. An immunity provision was also introduced, which ensured that individuals selling their own sexual services cannot be held criminally liable for their role in purchasing and third party offences. As a result of these reforms, for the first time in Canada, purchasing sexual services from adults and advertising others’ sexual services became criminal offences (Allen & Rotenberg, 2021).

The *Canadian Criminal Code* in sections 286.1 to 286.3 makes exchanging money for sexual services punishable by up to five years in prison while providing provisions for fines, imprisonment, and either summary or indictable offences. However, in the case of people who pay for sex from someone under the age of 18, the *Criminal Code* dictates a mandatory minimum sentence of six months for a first offence and one year for subsequent offences (Noble, Coplan, Neal, Suleiman, & McIntyre, 2020).

Tavcer (2018) writes that to “criminalize aspects of prostitution is to make it illegal to sell or purchase sex or both. This approach is rooted in the philosophy of abolition, with a moral ethos that buying and selling sex is wrong and deserves punishment. Criminalizing prostitution means that society agrees there is inherent harm in sex work and aims to prevent people from engaging in it by making all related behaviours illegal. However, criminalizing all aspects of it does not address or eradicate its causes.”

Canada has partially adopted this approach. Yet, the PCEPA also takes the approach that views all sex workers as victims and deserving of protection; decriminalizing their behaviour. This is contradictory.

Decriminalization tries to find a balance between supporting sex workers and minimizing or eliminating exploitation and forced prostitution. While criminalizing sex work marginalizes and isolates sex workers and fosters violence, decriminalization does not ensure that buyers of sex are protected either. Legalization excludes the most vulnerable and would not address the causes of prostitution, pushing it further underground and enhancing vulnerability.

Tavcer (2018) argues that a practical response to prostitution in Canada through decriminalization requires social acceptance that adults who freely choose prostitution deserve employment rights, respect and human rights protection, while also requiring legislation like Alberta’s [Protection of Sexually Exploited Children Act](#) be adopted in every province and territory along with support and communication, and federal-level coordination of responses to sex trafficking within and across borders.

Many human trafficking incidents may also involve sex-trade-related crimes. Although human trafficking crimes reported to the Uniform Crime Reporting Survey cannot be analyzed by type of trafficking, it is estimated that half of human trafficking globally is sex trafficking (UNODC, 2020), whereby victims are sexually exploited and coerced into providing sexual services to financially benefit their trafficker. Sex trafficking disproportionately affects women and youth, as well as vulnerable populations including Indigenous women, immigrants, and those of low socioeconomic status (Public Safety Canada, 2019).

The PCEPA also amended the *Criminal Code* with respect to human trafficking, including by imposing mandatory minimum penalties for section 279.01, as well as all other human trafficking offences involving a child victim (Allen & Rotenberg, 2021).

Rates of police-reported human trafficking in Canada have been increasing since 2010. After PCEPA, rates more than tripled. Human trafficking and sex-trade-related offences have historically been inter-related with overlap at the charge level (Ibrahim, 2021). Coinciding with a dramatic increase in the number of police-reported incidents of human trafficking in the past decade, the number of sex-trade-related court cases involving a human trafficking offence increased sharply after the introduction of the PCEPA (Allen & Rotenberg, 2021).

As of this writing, the PCEPA is under parliamentary review.

Overview of Anti-Trafficking Legislation

The international community is largely in agreement that anti-trafficking laws and policies must also support international human rights. A human-rights based approach identifies rights-holders (including both those trafficked and those accused of trafficking) and their entitlements as well as duty-bearers (typically states) and their responsibilities (Barrett & Shaw, 2013). Countries vary in the extent to which their legislation and its implementation emphasizes border security and prosecution over victim

assistance and support. Criminalization and detention of trafficking victims is incompatible with a human rights-based approach to combatting trafficking because it both compounds the harms already experienced by trafficked persons and denies them rights to which they are entitled. These basic rights include, among others, freedom of movement, and the prohibitions against gender discrimination and arbitrary detention. A shift in thinking is required by law enforcement to consider trafficked people as victims of crime and victims of human rights violations rather than criminals (Barrett & Shaw, 2013).

Violations of human rights are both a cause and a consequence of trafficking in persons. Accordingly, it is essential to place the protection of all human rights at the centre of any measures taken to prevent and end trafficking. Anti-trafficking measures should not adversely affect the human rights and dignity of persons and, in particular, the rights of those who have been trafficked, migrants, internally displaced persons, refugees and asylum seekers.

[- Recommended Principles on Human Rights and Human Trafficking – Office of the United Nations High Commissioner for Human Rights \(OHCHR\)](#)

The Office of the United Nations High Commissioner for Human Rights (OHCHR) outline the links between human rights and human trafficking in their [fact sheet](#).

Anupam (2018) divides human trafficking international and domestic legal regimes into three categories: the rescue model, quasi-curative model, and curative model.

The Rescue Model

The approach of the legal regime under this model is to save the trafficked victims from the control of traffickers and to punish the latter. Trafficking is defined in this model as trafficking for the purpose of sexual exploitation of women and children. As the author notes, such a definition is one-dimensional, as it takes into account only one aspect of the complex and evolving world of human trafficking. Trafficking for purposes other than sex constitutes more than half of the total number of trafficked people; unless the definition of human trafficking takes into account trafficking for the exploitation of labour, it will not be successful in addressing the problem comprehensively.

Examples of the rescue approach on trafficking in persons include the United Nations Conventions on human trafficking prior to 2000; Russia and China's old-model domestic law, which do not recognize forced labour as a form of trafficking, although they are Party to the Palermo Protocol and ILO Conventions; India, which does not possess special law on human trafficking; Japan, which does not have comprehensive anti-trafficking law and has not ratified Palermo Protocol, although party to three ILO Conventions; and the United Arab Emirates, which does not have a comprehensive law on the matter.

The rescue model does not recognize possible linkages between human trafficking and organized crime, or the transnational nature of the business of human trafficking. The human rights perspective is not built into this legal model, although it might be found in the constitutions of many of the countries that adopt this model. Victims are not considered as independent actors with rights and reason; they are viewed as vulnerable beings in need of protection. Ironically, under this approach, women involved in soliciting clients for sex are almost always charged and prosecuted by law enforcement officers.

The rescue model holds a limited number of entities accountable; resulting in a low rate of prosecution and conviction of the offenders of the law against human trafficking.

The Quasi-Curative Model

In this model, the legal regime aims to provide curative approaches to curb trafficking in persons. Victims are given protection from trafficking by prosecuting offenders, and also state assistance in protecting human dignity. Four major characteristic features of this model are as follows: (a) a wider definition of human trafficking to include trafficking for labour; (b) recognition that human trafficking is closely linked with transnational organized crime; (c) attempts to incorporate a human rights regime into the special law on human trafficking; and (d) more focus on prosecution and protection, and less on placing responsibility on corporations, states, and other legal entities.

The quasi-curative model started incorporating the human rights approach, which would give victims and witnesses much-needed protection. The rationale for providing human rights to the victims of human trafficking does not end at the point of identification and protection. A closely related reason is the co-operation of the victim in the prosecution of the offender. Protection of the victims may not last if the victim is not willing to co-operate with the prosecution. The protection of victims of human trafficking should not stop once the offenders have been prosecuted; protection should go on further as there might be several circumstances where the victim has a genuine fear of retribution by members of the offender's gang, or when there is a possibility of social exclusion after the victim's return to the country of origin.

The protection of victims would not be complete unless some mechanism to monitor human rights is built into the legal model. According to Mattar (2006), reporting by states is an essential element of monitoring the status of human trafficking, but this has not received adequate attention. In the quasi-curative model, such monitoring by a treaty body is absent. This absence minimizes the effectiveness of the protection regime, which has been incorporated into this legal model to protect the survivor's human rights.

The focus of those countries that apply the quasi-curative model is more on prosecution and less on placing responsibility on states, corporations, and other legal entities. No positive legal duties on states are present in this legal model to take up any specific preventive steps, except the obligation to discourage the demand for trafficked persons.

Examples of the quasi-curative model are in France, which ratified the *UN Protocol* and ILO Conventions, but does not have robust domestic law to prevent trafficking; Australia, which ratified the Palermo Protocol and three ILO Conventions, but likewise does not have robust domestic law to prevent trafficking; Canada, of which the domestic law (*Criminal Code; Immigration and Refugee Protection Act*) lacks effective identification and protection services, but is Party to Palermo Protocol and three ILO Conventions (29, 105, 182).

The Curative Model

The curative model is an improved version of the quasi-curative model, in which the focus of the legal regime, *inter alia*, shifts to protecting the human rights of the trafficked victim from the earlier focus on prosecution. This model widens the definition of human trafficking by including trafficking for forced

begging, the worst kind of exploitation for labour, and the majority of victims are children and the disabled.

Prominent examples of this model are: the Council of *Europe Convention on Action against Trafficking in Human Beings 2005*; the *EU Council Framework Decision on Preventing and Combating Trafficking in Human Beings 2011*, and the *Victims of Trafficking and Violence Protection Act 2000* in the U.S.

This model also recognizes that human trafficking may also occur without the involvement of transnational organized crime groups. There are also provisions on the legal accountability of companies, firms, and other legal persons in this model. The EU and the US have taken the lead in regulating the supply chains of multinational business organizations by stipulating important provisions.

This model contains almost all of the major features of the human rights regime; a monitoring mechanism for the implementation of human rights is also present in this legal model. The prevention regime undertaken by the states in this model is also more structured, finite, and developed than that of any other legal model previously discussed. Apart from making legal persons liable for the offence of human trafficking, this legal model specifically criminalizes the users of services exacted from trafficked persons, if done with the knowledge that the person is a victim of human trafficking. This measure may discourage the demand that fosters all forms of exploitation, as has been envisaged in the quasi-curative model, but expanded in the curative model.

Despite its many specific provisions on prevention, this legal model does not have enough ability to hold states accountable for the failure to protect the victims of trafficking-in-persons and for the failure to enact laws to prosecute the traffickers. Thus, even though the curative legal model has been adopted by a number of countries, the rate of success of prosecution and conviction is very low. There is a need to develop an effective legal model which may lead to the successful prosecution of offenders and better protection of victims, which may be achieved if the principle of state responsibility is enshrined in anti-trafficking legislation.

Examples of the curative model include the following: the United States, which has ratified the UN *Protocol*, two ILO Conventions (105, 182), and enacted domestic law *TVPRA 2000*, which identifies and protects victims more effectively than the other countries' law, and is party to all relevant international instruments; the European Union (EU), which is party to the Palermo Protocol, has a robust monitoring system, and has measures for identification and protection through its Acts, Regulations, Directives, and Decisions; the United Kingdom (UK), which has robust domestic law (*Sexual Offences Act, Asylum and Immigration Act, Coroners and Justice Act*) to identify and protect victims, and monitoring system, and is party to all international instruments; Finland, which has robust domestic law (Penal Code) and monitoring system (National Rapporteur), and is party to all relevant international instruments.

In each of these legal models, the protection of victims is not a primary aim. State responsibility in the cases of trafficking in persons is also not the primary aim, but is one aspect in other related Conventions. Protection and state responsibility are rather secondary or even tertiary aims of the earlier models. The weaknesses in these models result in less prosecution, less protection, and less prevention. A balance of all three aspects of any such law on human trafficking is required, as Anupam (2018) argues.

Anupam (2018) advocates for what he has called the "twin-pillars model". First, there would be a fixation of legal responsibility on the part not only of natural and other legal person, but also of the state

and international organizations. In this case, if the state fails to enact special legislation according to the *UN Protocol* and/or fails to investigate and prosecute any reported incident of human trafficking, it can be held legally accountable. Furthermore, if the state fails to protect the victim by taking special care of the needs of the victim vis-à-vis traffickers, it can again be held liable.

The second aspect of an effective model comprises the long-term employment, health, and educational rights of the trafficked victim. Protection of victims should not only be made dependent upon an offer of co-operation during the prosecution period.

Canadian Landscape

Under Canada's federal system, the "jurisdiction" (authority) to make laws is divided between the Parliament of Canada and the provincial and territorial legislatures. Criminal law falls under federal jurisdiction and laws concerning poverty and the "administration of justice" falls under provincial jurisdiction. Victim needs, however, is an area of shared jurisdiction between the federal and provincial governments (Barrett & Shaw, 2013).

Canada's approach to human trafficking has been guided by the *UN Convention against Transnational Organized Crime And its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children*, and has been organized around four broad pillars (4Ps): the prevention of trafficking; the protection of victims; the prosecution of offenders; and working in partnership with others (Public Safety Canada, 2019).

In June 2012 the Federal Government announced its ***National Action Plan to Combat Human Trafficking***, coordinated by Public Safety Canada and a Task Force of 18 federal departments and agencies. The Federal Government allocated \$25M over four years to support the plan. The National Action Plan was based on the Palermo Protocol's "four Ps:" Prevention, Protection, Prosecution and Partnerships. It supported awareness-raising and research: victim assistance and training for service providers; training for criminal justice officials; enhanced law enforcement co-ordination; data collection and knowledge exchange; and domestic and international partnerships (Canadian Women's Foundation, 2014).

In 2013, the *National Task Force on Sex Trafficking of Women and Girls in Canada* launched an investigation, undertaking an 18-month review that resulted in a call to action through the release of the report, [***"No More" Ending Sex Trafficking in Canada***](#).

The ***Federal Human Trafficking Taskforce*** (HTT), led by Public Safety Canada, and comprised of officials from multiple federal departments and agencies, provided a dedicated focal point for federal anti-trafficking efforts. The HTT worked with provincial and territorial stakeholders to support information sharing and collaboration (Public Safety Canada, 2018).

The National Action Plan concluded in 2017 and there is very limited evidence to indicate that the Plan contributed to increased prosecution - the enhancement of intelligence collection and coordination or to the disruption of criminal groups. The results of the evaluation of the Plan also indicated there is room to strengthen the collaboration between the federal government, provinces/territories and non-governmental organizations, as well as with international partners. It also identified several key issues

and gaps: further focus on labour trafficking; a centralized data collection mechanism; a national referral mechanism; and greater support for victims and vulnerable populations (Public Safety Canada, 2018).

Since the conclusion of the evaluation, the federal government announced in February 2018 \$14.51 million over five years, beginning in 2018-19, and \$2.89 million per year ongoing, to establish the National Human Trafficking Hotline (Public Safety Canada, 2018).

The **Canadian Centre to End Human Trafficking** was established in 2016 to facilitate innovative policy development and knowledge-sharing to eliminate human trafficking in Canada. The Centre launched the **Canadian Human Trafficking Hotline** in 2019, as part of the new *National Strategy to Combat Human Trafficking*, to provide local, trauma-informed support and referrals to those impacted by this crime. The establishment of the hotline has also enabled the collection of trafficking statistics that previously went unreported. It is also the first national dataset on human trafficking in the country that does not rely on police-reported cases. Data collected indicates that the most common type of trafficking in 2019-20 was sex trafficking (71%), followed by labour trafficking (7%). 90% of victims/survivors during this time period were women or girls (Canadian Centre to End Human Trafficking, 2021b).

In 2019, The Government of Canada announced its new [National Strategy to Combat Human Trafficking 2019-2024](#), supported by \$75 million in funding. The strategy builds on and complements the efforts of [It's Time: Canada's Strategy to Prevent and Address Gender-Based Violence](#) and advances the implementation of the National Inquiry into Missing and Murdered Indigenous Women and Girls' *Calls for Justice* (Government of Canada, 2020).

The new strategy introduces a new focus area, "empowerment" to enhance support and services to victims and survivors of human trafficking, and also includes measures aligned with the internationally recognized pillars of prevention, protection, prosecution and partnership. The *National Strategy* aims to enhance, consolidate, and coordinate Canada's actions and initiatives to combat human trafficking domestically and internationally through a victim-centred, survivor-informed and gender-responsive lens (Public Safety Canada, 2019).

In 2020, the Government of Canada announced its investment of \$22.4 million in 63 organizations working to prevent and address human trafficking and support at-risk populations and survivors (Government of Canada, 2020).

Canada holds a Tier 1 ranking in the [2021 Trafficking in Persons Report](#). According to this categorization, the Government of Canada fully meets the minimum standards for the elimination of trafficking. Recommended areas for improvement include the following:

- increased trafficking data collection;
- increased efforts to identify victims and provide protection;
- vigorously investigate and prosecute trafficking crimes and impose strong sentences on convicted traffickers;
- significantly increase trauma-informed specialized services and shelters for victims;
- increase coordination and communication among federal, provincial, and territorial actors and strengthen interagency efforts;

- establish a survivor-led advocacy council to assist in policy development;
- amend the Criminal Code and Immigration and Refugee Protection Act to include definitions of trafficking that are consistent with international law;
- increase training for government officials, particularly for prosecutors and judges
- increase partnerships with the private sector, including financial institutions, to prevent trafficking;
- implement laws and policies to address trafficking in the federal supply chain

Indigenous Perspective

While it is estimated that Indigenous women and girls are disproportionately affected by human trafficking, this over-representation is not reflected in national conversations or in many anti-trafficking initiatives (Canadian Centre to End Human Trafficking, 2021b). There is a disconnect between dominant anti-trafficking responses and the colonial context in Canada, exemplified by anti-trafficking laws and definitions that echo colonial processes of dispossession, forced relocation, the abduction of children, and coercive exploitation. Indigenous victims are alienated by anti-trafficking discourses that not only fail to acknowledge their experiences, but which also reinforce the processes by which they are victimized. As a result, Indigenous victims may be less likely to seek support because their experiences will not be understood. They also may not be able to recognize their experiences as trafficking, or they may be blamed or criminalized instead of being helped (Canadian Centre to End Human Trafficking, 2021b).

A lack of disaggregated and cross-jurisdictional data has proved to be a barrier in identifying and assisting Indigenous victims and survivors of human trafficking and exploitation (Roudometkina, 2018).

According to Roudometkina (2018), there are several factors that contribute to Indigenous youth being vulnerable to human trafficking, including a lack of supports, precarious housing and employment situations. These issues are also experienced by queer, non-binary, trans, and Two-Spirit people, who often experience isolation from family, community, and mainstream society, and are impacted even further by this violence.

As a result of colonialism and discrimination, Indigenous women and girls have less access to social supports and services, putting them at a greater risk of being recruited into human trafficking. Victims and survivors of human trafficking often have histories of sexual abuse, trauma and violence.

The Native Women's Association of Canada's interviews with survivors of human trafficking indicate a strong correlation between intergenerational violence and trauma stemming from the Indian Residential School System.

While policies and laws against the trafficking of people contribute to the prevention of future cases of human trafficking and supports for victims, the issue cannot be properly addressed without examining the root causes of violence against Indigenous women and girls, and the colonial legacy. Indigenous women and girls in Canada need access to supports and resources to assist in easing vulnerabilities. Communities need culturally appropriate and relevant education on healthy relationships and awareness of the problem of human trafficking and sexual exploitation (Roudometkina, 2018).

Testimony from the National Inquiry into Missing and Murdered Indigenous Women and Girls has highlighted that human trafficking is strongly linked to the disproportionately high rates of violence against Indigenous women and girls and that the extent of human trafficking and victimization of Indigenous women is largely under-reported (Public Safety Canada, 2019).

Domestic sex trafficking has recently been gaining attention in Canada. Many Indigenous women and girls are victims and survivors of domestic sex trafficking. The misinterpretations and misconceptions on the definition regarding cross-border movement and coercion leaves many trafficked Indigenous women and girls unprotected and neglected (Native Women's Association of Canada, 2014).

The *National Strategy to Combat Human Trafficking* aims to help advance gender equality and provide support to marginalized and vulnerable groups, including Indigenous women and girls. It will: support the development of culturally-relevant support services for Indigenous survivors; develop awareness and training tools for targeted groups in key sectors to help them better identify human trafficking victims; and promote culturally-sensitive training and awareness for law enforcement (Public Safety Canada, 2019).

The [UN Declaration on the Rights of Indigenous Peoples](#) (UNDRIP), which addresses the trafficking, prostitution and commercial sexual exploitation of Aboriginal women and children, was recognized by Canada in 2000 (Native Women's Association of Canada, 2014).

Federal Legislation

Human trafficking is an offence under the [Criminal Code of Canada](#) and the [Immigration and Refugee Protection Act](#). Section 153(1) of the *Criminal Code* addresses sexual exploitation.

Following the ratification in Canada of the *UN Protocol*, Parliament passed legislation to amend the Criminal Code with [Bill C-49, An Act to amend the Criminal Code](#) (trafficking in persons), which came into force on November 25, 2005. Bill C-49 created three new additional indictable offences specifically to address human trafficking and which can be used by law enforcement to address this crime. Bill C-49 amended the *Criminal Code* to specifically prohibit trafficking in persons in Canada. Previously, the *Criminal Code* contained no provisions to specifically prohibit trafficking in persons, although a number of offences – including kidnapping, uttering threats, and extortion – played a role in targeting this crime. In 2002, the *Immigration and Refugee Protection Act* brought Canada's first anti-trafficking legislation into force. Section 118 prohibits bringing anyone into Canada by means of abduction, fraud, deception, or use or threat of force or coercion (Native Women's Association of Canada, 2014).

Bill C-49 added to this legislation by going beyond the focus on immigration and making trafficking in persons a criminal offence. The bill contains three prohibitions. The first contains the global prohibition on trafficking in persons, defined as the recruitment, transport, transfer, receipt, concealment or harbouring of a person, or the exercise of control, direction or influence over the movements of a person, for the purpose of exploitation. The second prohibits a person from benefitting economically from trafficking. The third prohibits the withholding or destroying of identity, immigration, or travel documents to facilitate trafficking in persons (Native Women's Association of Canada, 2014).

Bill C-49 also ensured that trafficking may form the basis of a warrant to intercept private communications and to take bodily samples for DNA analysis, and permits inclusion of the offender in

the sex offender registry, and expands the ability to seek restitution to victims who are subjected to bodily or psychological harm (Native Women's Association of Canada, 2014).

Ibrahim (2021) outlines the evolution of the criminal offence of trafficking in persons under Canadian legislation since the enactment of Bill C-49:

In 2005, a number of trafficking-specific offences were added to the *Criminal Code*:

- Section 279.01: trafficking in persons
- Section 279.02: receiving a financial or other material benefit from trafficking in persons
- Section 279.03: withholding or destroying a person's identity documents to facilitate trafficking in persons
- Section 279.04: includes a specific definition of "exploitation" for the purpose of human trafficking offences

In 2010, a specific offence prohibiting trafficking in persons under 18 years of age was added to the *Criminal Code* (Section 279.011), through the adoption of **Bill C-268**.

In 2012, an amendment was made to the *Criminal Code* through the passing of **Bill C-310**, to allow for the prosecution of Canadians and permanent residents of Canada for human trafficking offences committed abroad; and, as a provision that assists courts in interpreting the meaning of exploitation for the purposes of the trafficking offences.

In 2014, new offences were added:

- Subsection 279.02(2): receiving a material benefit from trafficking of persons under 18 years
- Subsection 279.03(2): withholding or destroying documents to facilitate trafficking of persons under 18 years

Mandatory minimum penalties were also imposed on all child trafficking offences, as well as the main trafficking offence (section 279.01) in 2014.

In addition to the *Criminal Code* offences listed above, section 118 of the *Immigration and Refugee Protection Act* (IRPA) makes cross-border human trafficking a criminal offence.

Former Private Member's [**Bill C-452, An Act to amend the Criminal Code \(exploitation and trafficking in persons\)**](#) received Royal Assent in 2015 but has yet to be proclaimed into force. The proposed legislation's approach would strengthen Canada's criminal law response to trafficking in persons in a manner that is consistent with the [**Canadian Charter of Rights and Freedoms**](#). There are *Charter* concerns related to former Bill C-452 – the mandatory consecutive-sentencing provision (section 3) requires the imposition of consecutive sentences in a situation where an offender is sentenced at the same time for trafficking-in-persons offences and any other offence arising out of the same event(s). This provision, when combined with the mandatory minimum penalties for human trafficking offences enacted by former [**Bill C-36 \(the Protection of Communities and Exploited Persons Act\)**](#), could lead to grossly disproportionate cumulative sentences, which could result in cruel and unusual punishment

under section 12 of the *Charter*. When Bill C-452 and Bill C-36 were both before Parliament, the cumulative impact if the two bills was not initially considered (Government of Canada, 2021).

The new evidentiary presumption (section 1 of Bill C-452) would make it easier to prove human trafficking offences (sections 279.01 and 279.011 of the *Criminal Code*).

[Bill C-75](#), passed in 2019, includes amendments to the *Criminal Code* that will facilitate human trafficking prosecutions. With regards to human trafficking, Bill C-75 merged reforms introduced in other bills, namely, Bill C-38, an Act to amend the *Criminal Code* (exploitation and trafficking in people), which brings into force new provisions to facilitate the prosecution of human trafficking offences (Government of Canada, 2019).

Provincial Legislation and Initiatives

Canada's provinces vary in their efforts to control trafficking, sexual exploitation and prostitution. Generally, the provinces can pass and enforce laws as long as they do not conflict with national laws (Barrett & Shaw, 2013). Alberta, Manitoba, Ontario, and Saskatchewan are currently the only provinces with anti-trafficking legislation. Below, approaches taken by these and other select provinces with noteworthy initiatives are profiled.

Between 2010 and 2020, Ontario and Nova Scotia have been overrepresented in the number of police-reported incidents of human trafficking in Canada (Cotter, 2020). In a recent research project looking at human trafficking corridors in Canada conducted by the Canadian Centre to End Human Trafficking, almost half (45%) of law enforcement participants indicated working with survivors originating from a different province (Canadian Centre to End Human Trafficking, 2021a).

Alberta

The [2000 Protection of Sexually Exploited Children Act](#) (PSECA) authorizes the apprehension of children engaged in prostitution. After apprehension, the Act provides for time-limited confinement of a child in a protective safe house to assist the child in ceasing their involvement in prostitution (Government of Alberta, 2020a).

The Act overlaps with general child welfare legislation with regards to protection against sexual abuse and only covers a portion of trafficked individuals, i.e., those under 18. It ensures that victims are treated as victims rather than "prostitutes" or criminals. The arrest-without-warrant provision raises constitutional issues, however, particularly section 7 of the Canadian Charter of Rights and Freedoms.

In 2020, the province announced the appointment of a [Human Trafficking Task Force](#) to prevent trafficking and to empower survivors (Government of Alberta, 2020b). This was actioned as part of a nine-point [Action Plan to Combat Human Trafficking](#) (Government of Alberta, 2022b).

Bill 8, the [Protecting Survivors of Human Trafficking Act](#), which came into force on May 12, 2020, enables new measures to help prevent and address human trafficking, and better protect survivors.

According to the Alberta government, the act will adopt internationally-recognized definitions of human trafficking regarding: forced labour; sexual exploitation, and trafficking of organs and tissues; make it easier for survivors to get protection orders; enable police to take quicker action to rescue survivors; allows survivors to sue traffickers; and create a human trafficking awareness day in Alberta. The act also

contains innovative measures unique to Alberta: adding a warrant permitting entry to help remove trafficking victims from unsafe situations; including pet provisions in human trafficking protection orders (Government of Alberta, 2022a).

British Columbia

BC's [Office to Combat Trafficking in Persons \(OCTIP\)](#) was founded in 2007 as an office of the Ministry of Justice (Canadian Women's Foundation, 2014). It develops and coordinates British Columbia's strategy to combat human trafficking.

In 2012 the OCTIP undertook public consultations to develop its 2013-2016 Action Plan. The plan had five priorities: awareness raising, training and education; supporting community-led responses; service co-ordination; research, policy and legislation. The plan was rooted in a human rights approach, focusing on the sexual exploitation of youth, vulnerable foreign workers and Aboriginal communities (Canadian Women's Foundation, 2014).

On June 9, 2021, the Government of Canada announced an investment of \$2.8 million to support eight organizations that prevent and address human trafficking in British Columbia. The funding comes from the Human Trafficking Call for Proposals launched in 2020 (Women and Gender Equality of Canada, 2021).

Manitoba

Manitoba's Sexual Exploitation Strategy was formally launched by the Manitoba government in 2002, Canada's first provincial strategy to prevent sexual exploitation. Phase one focused on children exploited through prostitution (Canadian Women's Foundation, 2014). [Tracia's Trust: Manitoba's Strategy to Prevent Sexual Exploitation and Sex Trafficking](#), is phase two of this strategy. It is known as Tracia's Trust in honour of Tracia Owen, who tragically died of suicide after she was sexually exploited. Each year, Tracia's Trust provides approximately \$10 million to fund initiatives in the areas of prevention, intervention, legislation, coordination, research and evaluation. Manitoba Families is the lead department responsible for coordinating the implementation of the strategy via its Sexual Exploitation Unit, which works with government departments, agencies, the community and non-governmental organizations leading specific initiatives under the strategy (Government of Manitoba, 2019).

On April 15, 2009, Manitoba became the first Canadian province to make it mandatory for all citizens to report child pornography. The [Child and Family Services Act](#) was amended to include child pornography in the definition of child abuse.

Manitoba was the first province to pass a specific human trafficking law. It's 2012 [Child Sexual Exploitation and Human Trafficking Act](#) includes several victim-focused provisions, including access to renewable protection orders (Barrett & Shaw, 2013) for victims of human trafficking, requiring that the perpetrator has no contact with the victim, as well as the ability to sue the trafficker for damages in Tort Law over the harm caused by their actions (Native Women's Association of Canada, 2014). These provisions are helpful because they address the perplexing difficulty of victims not wanting to come forward and/or testify in prosecutions against their traffickers (Barrett & Shaw, 2013).

The most common form of human trafficking in Manitoba is trafficking for the purpose of commercial sexual exploitation, followed by cases of forced labour and forced marriage (Government of Manitoba, 2019). Winnipeg in particular, is known internationally for the sex trafficking of children and youth.

Nova Scotia

In 2019, Tory MLA Karla MacFarlane proposed amendments to three pieces of legislation as a way to combat human trafficking. These amendments include making the subject a consistent part of the curriculum for grades 7-9, establishing a specialized team of lawyers with knowledge about human trafficking and making it mandatory for a court support worker to attend court with survivors of human trafficking (Gorman, 2019).

In 2020, it was announced by the Nova Scotia government that the province would provide an additional \$1.4 million a year over the next five years to support new and current initiatives to address human trafficking and sexual exploitation. Added supports include the following: the hiring of family and victim support navigators to provide additional support to African Nova Scotian and Indigenous victims and survivors; funding to hire a new Crown prosecutor dedicated to prosecuting human trafficking cases and for specialized training for Crown prosecutors (Government of Nova Scotia, 2020).

Nova Scotia has the highest rate of human trafficking incidents in the country with 2.1 in 100,000 people. A free online training course, Supporting Survivors of Sexual Violence is available to anyone (Government of Nova Scotia, 2020).

According to Statistics Canada (Ibrahim, 2021), in 2019 Halifax had the highest rate of police-reported human trafficking in the country; at more than 10 incidents per 100,000 people, it's 7.5 times higher than the national average (Murphy, 2021a).

The [YWCA Halifax](#) launched [TESS, the Trafficking and Exploitation Services System](#); its goal is to increase awareness of human trafficking in the province, and coordinate better support for survivors. It is a multi-agency provincial partnership of over 600 community leaders and professionals working with children and youth engaged in the sex trade across Nova Scotia. TESS is the extension of groundwork laid through Canadian Women's Foundation funding from 2016 to 2021 and is currently funded by the Department of Community Services through until 2025.

Ontario

Ontario is a hub for human trafficking, with the most police-reported incidents in the country occurring within the province in 2019, accounting for approximately 55% of all police-reported incidents of human trafficking nationally (Government of Ontario, 2021c). The majority of reported cases involve sexual exploitation (Government of Ontario, 2021b).

In June 2021, the Ontario government passed new legislation, the [Combatting Human Trafficking Act](#) and amendments to existing legislation to build upon the province's \$307 million Anti-Human Trafficking Strategy. The new legislation includes two new acts – the [Anti-Human Trafficking Strategy Act, 2021](#) and the [Accommodation Sector Registration of Guests Act, 2021](#) – as well as amendments to the [Child, Youth and Family Services Act, 2017](#) and the [Prevention of and Remedies for Human Trafficking Act, 2017](#) (Government of Ontario, 2021c).

The *Combatting Human Trafficking Act* also requires companies that advertise sexual services to have a dedicated contract to support investigations into suspected human trafficking (Government of Ontario, 2021c).

The *Accommodation Sector Registration of Guests Act, 2021* works to deter human trafficking in hotels, motels and resorts by enhancing awareness of human trafficking, and supporting police investigations and enforcement (Government of Ontario, 2021a).

Ontario's [Anti-Human Trafficking Strategy 2020-2025](#) represents the largest total investment in dedicated anti-human trafficking supports and services in Canada. It reflects valuable input from survivors of human trafficking, Indigenous communities and organizations, law enforcement and frontline service providers.

Ontario's anti-human trafficking strategy aims to raise awareness of the issue through training and public awareness campaigns, empowering frontline service providers to prevent human trafficking before it occurs and take action early, supporting survivors through specialized services, and give law enforcement the tools and resources they need to hold offenders accountable.

The strategy takes a proactive approach, focused on:

- Raising awareness of the issue
- Protecting victims and intervening early
- Supporting survivors
- Holding offenders accountable

The strategy is specifically designed to protect children and youth, providing enhanced supports to address a critical gap in Ontario's approach to date. Indigenous-specific services and supports are also embedded throughout (Government of Ontario, 2021b).

Saskatchewan

In late 2020, Saskatchewan announced it would be introducing new human trafficking legislation. The [Protection From Human Trafficking Act](#), which received Royal Assent on May 13, 2021, creates a streamlined process for victims to seek a protection order against their traffickers. This will prohibit traffickers from contacting them in any way, directly or indirectly. Significant penalties to deter violations of a protection order, including fines, drivers license suspensions, and jail terms are built into the legislation, which also enables victims to start a lawsuit against their traffickers to seek compensation for harm suffered. Other measures will make it easier for law enforcement to search residences or vehicles in which a victim might be held. This approach is consistent with legislation implemented in Ontario, Manitoba and Alberta (Government of Saskatchewan, 2020).

The survivor-focused legislation has been criticized for only promoting a justice-based remedy, which is not effective, to the problem of human trafficking. Front line workers say a successful anti-trafficking framework needs to listen to, and provide services to people with lived experience (Short, 2021).

In late 2021, the provincial government introduced a new policing initiative to target gang-related criminal activity entering the province through trafficking corridors. The Saskatchewan Trafficking

Response Team (STRT) is a specialized intelligence-led enforcement team dedicated to addressing illegal weapons, drugs and human trafficking (Government of Saskatchewan, 2021).

International Landscape

The ***UN Convention against Transnational Organized Crime (Palermo Convention) And its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children (2000)*** – the latter, hereafter referred to as the *UN Protocol*, was the first international legal instrument that addressed trafficking in persons. Before its implementation, there was no internationally recognized definition of sex trafficking. The *UN Protocol* itself did not give legal effect to the definition, and countries were required to adopt legislative and other measures to establish criminal offences (Native Women’s Association of Canada, 2014).

According to the *UN protocol*, sex trafficking does not require cross border movements of humans. Yet, many people continue to confuse or use the terms human trafficking and human smuggling interchangeably (Native Women’s Association of Canada, 2014). As Mattar (2006) explains, smuggling is a crime against the state and constitutes a threat to national security, whereas trafficking is a crime against the individual and endangers human security. Furthermore, smuggling is always transnational in nature; it requires crossing borders illegally, while trafficking may occur domestically or internationally. Smuggled persons consent to illegally enter the receiving state; trafficked persons are vulnerable victims who have no choice but to submit to exploitation. Victims of trafficking should be entitled to a residency status.

The *UN Protocol* also extended the scope of trafficking to include various non-sexual forms of exploitation, such as forced labour. However, it took a crime-based approach towards trafficking, and considered it solely from a law enforcement perspective. This has changed recently, with more of a focus on victims’ human rights. The 2005 Council of Europe *Convention on Action against Trafficking in Human Beings* played an important role in this shift, as it placed the human rights of victims at its heart and demanded that states offer them satisfactory protection and services. Both global and EU policies on combating trafficking now follow a multi-disciplinary approach that goes beyond law enforcement and includes a wide range of prevention, protection and victim-support measures (Bakowski & Voronova, 2021).

A number of other internationally adopted norms and standards are also relevant to sexual exploitation and trafficking (Barrett & Shaw, 2013):

Convention on Elimination of All Forms of Discrimination against Women (CEDAW) (1979) – states that States must take appropriate measures to suppress trafficking in women and the exploitation of prostitution of women.

UN Convention on the Rights of the Child (1989) – states that States must protect all children from sexual abuse and exploitation by taking measures to prevent them from being forced into unlawful sexual activity and from being exploited through prostitution.

The Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography (2000) – prohibits child prostitution and requires criminal law penalties for offering, obtaining or providing a child for prostitution (ratified 2005).

ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst forms of Child Labour (1999) – makes child prostitution a fundamental violation of international law and directs states to take measures to eliminate the use, procurement and offering of children for prostitution by focusing on procurers and the demand for sex, not children.

There are currently nine ILO Conventions against forced labour and human trafficking worldwide.

In September 2018, Canada, along with Australia, New Zealand, the United Kingdom, and the United States, launched the [Principles to Guide Government Action to Combat Human Trafficking in Global Supply Chains](#), which provides a framework through which all countries can build a strategy to take effective action to prevent and eradicate human trafficking from all supply chains (Public Safety Canada, 2019).

In response to the report of the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development, [A Call to Action: Ending the Use of All Forms of Child Labour in Supply Chains](#), the Canadian Government acknowledged the importance of collaborating with businesses, civil society and provincial and territorial governments to eliminate child labour from global supply chains. The government subsequently initiated consultations in spring 2019 on possible supply chain legislation (Public Safety Canada, 2019).

Below, anti-trafficking legislation at the international level is reviewed by examining ‘best practices’ in a select number of countries in the western world, based on the rankings of Tier 1 countries (the highest ranking given) in the latest edition (2021) of the **Trafficking in Persons Report**, published by the United States Department of State, with the exception of Ireland, with a ranking of ‘Tier 2 watchlist’, which is included as a comparison against Tier 1 countries.

Australia

Australia is primarily a destination country for people trafficked from Asia, particularly Thailand, Korea, the Philippines and Malaysia. Slavery, slavery-like and human trafficking offences are set out in Division 270 and 271 of the Commonwealth [Criminal Code Act 1995](#) (Australian Federal Police, n.d.). The Australian Government (2021) outlines its efforts to criminalize human trafficking and legislative amendments. In 2013, the Australian Parliament passed two Acts that enhanced Australia’s legislative frameworks around human trafficking and slavery. The [Crimes Legislation Amendment \(Slavery, Slavery-like Conditions and People Trafficking\) Act 2013](#) (Slavery Act) and the [Crimes Legislation Amendment \(Law Enforcement Integrity, Vulnerable Witness Protection and Other Measures\) Act 2013](#) (Vulnerable Witness Act) amended the Criminal Code and the Crimes Act.

The Slavery Act amended Divisions 270 and 271 of the Criminal Code to make sure the broadest range of exploitative conduct is criminalized. Among other things, the Act introduced new offences of forced marriage and harbouring a victim and standalone offences of forced labour and organ trafficking into the Criminal Code. The Act also broadened the existing offences of sexual servitude and deceptive recruiting for sexual services so that they now apply to exploitation in any industry.

The Vulnerable Witness Act amended the [Crimes Act](#) to provide protections for vulnerable witnesses giving evidence in Commonwealth criminal proceedings, including victims of human trafficking and slavery. Following the passage of the Vulnerable Witness Act, trafficked people can give evidence by

closed-circuit television, video-link or video-recording, have their contact with the defendant or members of the public limited, and have a support person with them while they give evidence. The Vulnerable Witness Act also amended the Crimes Act to make it an offence to publish material identifying a trafficked person, and allow trafficked people to make victim impact statements to the court outlining the harm they have experienced (Australian Government, 2021).

The amendments made by the **Slavery Act** and the **Vulnerable Witness Act** ensure Australia's law enforcement authorities are well-equipped to investigate and prosecute human trafficking and slavery-related offences, and that trafficked people are afforded appropriate support and protection when engaging with the criminal justice system.

On February 23, 2015, the Australian Parliament passed the **Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Act 2015**, which amended Division 270 of the Criminal Code to make clear that the slavery offences have universal jurisdiction. On November 27, 2015, Parliament passed the **Crimes Legislation Amendment (Powers, Offences and Other Measures) Act 2015**, which amended the Criminal Code to strengthen Australia's legislative response to forced marriage.

Australia has ratified the UN Protocol and works collaboratively with other countries to combat human trafficking, and support a number of projects in the Asia region, including the Australia-Asia Program to Combat Trafficking in Persons.

The [National Action Plan to Combat Modern Slavery 2020-25](#) provides the strategic framework for Australia's response to modern slavery; is guided by five national strategic priorities: 1) Prevent, 2) Disrupt, Investigate and Prosecute, 3) Support and Protect, 4) Partner and 5) Research. The new action plan builds on efforts and initiatives under the [National Action Plan to Combat Human Trafficking and Slavery 2015-19](#).

Australia maintained its position as a Tier 1 country in the [2021 Trafficking in Persons Report](#). Efforts that won them accolades include more than doubling funding for victim protection services; updating, adopting, and funding a new five-year national action plan; and creating a publicly available registry of annual modern slavery statements from more than 250 businesses on their efforts to reduce the risk of forced labour in their supply chains. Despite this, trafficking convictions remain low in comparison to the number of trafficking cases identified and the overall broader scope of the crime. Lenient sentences may weaken deterrence and the government did not adequately screen vulnerable groups traffickers may target, including domestic workers, international students, and migrant workers, which may have resulted in the detention and deportation of unidentified victims (United States of America Department of State, 2021).

Europe

In 2005, the Council of Europe adopted a [Convention on Action against Trafficking in Human Beings](#). It entered into force in 2008 and has been ratified by the 27 EU Member States. Its scope of application is broader than that of the *UN Protocol* as it applies to transnational as well as domestic trafficking in human beings, whether or not it is linked to organized crime (Bakowski & Voronova, 2021).

[GRETA – the Group of Experts on Action against Trafficking in Human Beings](#), is an independent body responsible for monitoring the implementation of the *Convention on Action against Trafficking in Human Beings* by the parties. GRETA meets in plenary sessions three times a year. It carries out visits and publishes country reports evaluating legislative and other measures taken by parties to give effect to the provisions of the Convention.

Trafficking in human beings is a priority of the EU policy cycle for organized and serious international crime. The European Parliament plays a major role, not only in designing policies but also in evaluating their implementation (Bakowski & Voronova, 2021).

At the EU level, human trafficking is recognized as a violation of fundamental rights, explicitly prohibited by Article 5 of the [EU Charter of Fundamental Rights](#). The main EU instrument addressing human trafficking is [Directive 2011/36/EU – the Anti-trafficking Directive](#) -adopted in 2011. The directive builds on the *UN Protocol* and the Council of Europe's *Convention on Action against Trafficking in Human Beings*. The directive adopts a victim-centred approach and, in addition to prosecution of offenders, addresses prevention and support, which must be gender-specific and child-sensitive. It recognizes that women and men are often trafficked for different purposes, and that assistance and support measures should also be gender-specific. It also seeks to undermine demand for services provided by victims of trafficking, by requiring Member States to consider criminalizing the knowing use of services resulting from the exploitation of trafficking victims (Bakowski & Voronova, 2021).

Directive 2009/52/EC (the Employers' Sanction Directive) already criminalizes demand for the labour of trafficked persons. It provides for minimum standards on sanctions and measures against employers who use the work or services of illegally staying third-country nationals knowing that they are victims of human trafficking. In addition, *Directive 2011/93/EU* (the Child Sexual Abuse Directive) defines as a criminal offence the fact of engaging in sexual activity with children in the context of child prostitution, contributing indirectly to combating child trafficking for sexual exploitation (in this case, the conduct is punishable independently of the awareness of the client about the trafficking condition of the victim) (Bakowski & Voronova, 2021).

Protection of victims is another important element of the EU's anti-trafficking efforts. According to EU law, victims of human trafficking have a number of rights, including the right to assistance and health care, labour rights, access to justice, legal defence and compensation. With respect to protecting and assisting victims, *Directive 2012/29/EU* (the Victims' Rights Directive) obliges Member States to ensure that victims of crime – including victims of human trafficking, who often require special support and protection because of the high risk of secondary and repeat victimization, intimidation and retaliation – receive appropriate information, support and protection. *Directive 2004/81/EU* defines the conditions for granting residence permits to third-party victims of human trafficking who cooperate with the competent authorities. It also states that it is for Member States to lay down the rules on victims' access to the labour market (Bakowski & Voronova, 2021).

While Member States hold primary responsibility for eradicating human trafficking, the European Commission coordinates their efforts and sets priorities through dedicated policy documents and mechanisms. The first EU dedicated strategy was adopted in 2012. It provided guidelines on how to transpose and implement *Directive 2011/36/EU* and defined a series of measures to address the gender dimension of trafficking. The Commission updated the strategy in 2017 (Bakowski & Voronova, 2021).

On April 14, 2021, the European Commission presented its new [EU Strategy on Combating Trafficking in Human Beings, 2021-2025](#) – 10 years after the adoption of *Directive 2011/36/EU*, the core EU instrument addressing this phenomenon and protecting its victims. The strategy adopts a comprehensive approach, encompassing prevention, protection of victims, and prosecution of offenders. Implementation of the EU strategy is monitored by the EU anti-trafficking coordinator (EU ATC). The role of the relevant EU agencies has been significantly stepped up since 2011, when seven of them signed a joint statement, committing to work closely together to address human trafficking (Bakowski & Voronova, 2021).

The fight against human trafficking for all forms of exploitation was also a priority of the 2018-2021 EU policy cycle for organized and serious international crime (EMPACT), the four-year plan to combat crime adopted by the Council in 2017. It has been identified once again as one of the 10 EU crime priorities agreed by the Council for the coming 2022-2025 policy cycle, based on recommendations from Europol's Serious and Organised Crime Threat Assessment (SOCTA, 2021) (Bakowski & Voronova, 2021).

The European Parliament has played a major role in developing anti-trafficking policies at the EU level. In 2016, Parliament assessed the implementation of the EU Anti-trafficking Directive from a gender perspective, emphasizing that trafficking is a gendered phenomenon and calling on Member States to adopt gender-specific prevention, assistance and support measures in line with the directive. In February 2021, Parliament adopted a comprehensive resolution on the implementation of *Directive 2011/36/EU*, based on an own-initiative report adopted jointly by the Committees on Civil Liberties, Justice and Home Affairs (LIBE) and Women's Rights and Gender Equality (FEMM) (Bakowski & Voronova, 2021).

Finland

The [European Commission](#) outlines the national legislation in Finland developed to address trafficking in human beings. Penal provisions on trafficking in human beings were added to the **Criminal Code of Finland** (39/1889) in 2004, specifically to chapter 25 concerning offences against personal liberty. Further amendments made to the Criminal Code's provisions on human trafficking and pandering entered into force in 2015.

Provisions on assistance to victims of trafficking in human beings were incorporated into the **Act on the Integration of Immigrants and Reception of Asylum Seekers** (Integration Act, 493/1999). The amendments to the Act entered into force in 2007. The provisions on assistance to victims of human trafficking were, for the most part, transferred 'as is' into the so-called **Reception Act** (Act on the Reception of Persons Applying for International Protection and on the Identification of and Assistance to Victims of Trafficking in Human Beings, 746/2011). The provisions on assistance to victims of human trafficking were subsequently changed by amendments entering into force in 2015.

In 2006, provisions on the residence permit to be issued to victims of human trafficking and on the reflection and recovery periods were added to the **Aliens Act** (302/2004). Also in 2006, abuse of a victim of sex trade, that is a victim of human trafficking or pandering, was established as a punishable criminal offence. The amendments to this effect entered into force in 2015 and their aim was to further enhance the protection under criminal law of victims of human trafficking and pandering.

Under the [Act on the Non-Discrimination Ombudsman \(1326/2014\)](#) (in Finnish), the [Non-Discrimination Ombudsman](#) is nominated as Finland's [National Rapporteur on Trafficking in Human Beings](#). The Ombudsman, previously known as the Ombudsman for Minorities, was appointed as the National Rapporteur on human trafficking on January 1, 2009. The Non-Discrimination Ombudsman monitors human trafficking and related phenomena, Finland's compliance with international human rights obligations, and the effectiveness of national legislation. The Ombudsman reports to the Finnish Parliament.

In Finland, the two actors responsible for the steering of action against human trafficking are the Ministerial working Group on Internal Security and the Administration of Justice and the Meeting of Permanent Secretaries. In addition, the coordination structure involves the Secretariat Coordinating Government Action against Human Trafficking and the Government anti-trafficking network. The former consists of representatives from all key ministries that are engaged in anti-trafficking efforts, and is chaired by the Government Anti-Trafficking Coordinator. When necessary, the Secretariat consults experts such as the National Rapporteur on Trafficking in Human Beings. The Government anti-trafficking network has a wide range of members from various authorities and civil society and labour market organisations.

The **Government Anti-Trafficking Coordinator**, established in 2014, is responsible for the coordination of the action against trafficking in human beings, including organizing the work of the anti-trafficking network. The Coordinator also attends meetings of the Finnish Civil Society Platform against Trafficking in Human Beings.

GRETA published its [second evaluation report](#) on Finland in 2019. They report that progress has been made in a number of areas, such as developing the legislative framework for combatting trafficking in human beings, conducting research, raising awareness and providing training to a range of professionals, including health-care staff and social workers. Finland was praised for its successful use of existing legislation for prosecution of offences related to human trafficking committed by legal entities; their support of projects in countries of origin of victims of trafficking. Several areas in need of improvement were highlighted. Of note, GRETA called on the Finnish authorities to take steps to improve the proactive identification of victims and the sharing of information between relevant actors; to ensure that assistance is adapted to the victims' specific needs and is guaranteed to all victims of trafficking across the country, regardless of the service provider and place of residence (Council of Europe, 2019).

The Council of Europe (2019) notes that the number of victims of trafficking in human beings in Finland has more than tripled since 2015. The most common form is labour exploitation, followed by sexual exploitation, forced criminality and forced marriage.

The Government of Finland continued to demonstrate serious and sustained efforts while considering the impact of the COVID-19 pandemic on its anti-trafficking capacity; remaining on Tier 1 in the U.S. [Trafficking in Persons report 2021](#). These efforts included identifying more trafficking victims; investigating more trafficking cases; and establishing anti-trafficking units in the police and prosecutor's office. Although the government meets the minimum standards, courts convicted fewer traffickers and reports persisted that police penalized trafficking victims for crimes their traffickers compelled them to commit. Municipalities continued to lack the capabilities to address the needs of victims, and

implementation of the national referral mechanism was stalled (United States of America Department of State, 2021).

The number of child human trafficking victims more than doubled in 2021 compared to previous years, according to statistics provided in the [2021 Annual Review of the Assistance System for Victims of Human Trafficking](#).

Finland's most recent action plan, [Finland fights human trafficking: Action Plan against Trafficking in Human Beings](#) was released in 2021. It is based on five strategic objectives and 55 actions. The plan will promote the detection of human trafficking, improve the standing of victims and enhance the establishment of criminal liability. The plan will also strengthen the mainstreaming of antitrafficking into the wider activities of the Government and intensify cooperation with civil society. The plan links anti-trafficking closely with analysis, assessment and research activities; seeks to prevent and reduce trafficking in human beings. The plan will be implemented in 2021-2023. Its implementation will be monitored and reported by a working group. An external assessment of the implementation of the action plan will also be carried out.

France

France prohibits all forms of trafficking through Article 225 of its **Penal Code**.

France remains primarily a country of destination for victims of human trafficking, but it is also a country of origin and transit. In its **third evaluation report** on France's implementation of the Council of Europe Anti-Trafficking Convention, GRETA urges France to take additional measures to facilitate and ensure access to justice for all victims of trafficking, and to establish a national mechanism for the identification and referral of victims of trafficking. GRETA is concerned about the low amounts awarded as compensation for the damages of victims; although the number of investigations and prosecutions in human trafficking cases has increased since 2016, the number of convictions remains low. GRETA has also called on the authorities to strengthen their cooperation with the private sector and ensure that the law on corporate accountability is fully implemented (Council of Europe, 2021b).

It is recommended that efforts to raise public awareness of trafficking be intensified, and demand for services provided by trafficked persons be discouraged. GRETA calls for the establishment of a national mechanism for the identification and referral of victims of trafficking; the introduction of specific procedures for children and to develop reintegration programs for child victims of trafficking (Council of Europe, 2021b).

France is currently implementing its **second national action plan against trafficking in human beings for the period 2019-2022**, which aims to strengthen action at European and international levels. France participates in the [Blue Heart Campaign](#) led by the UNODC, encouraging both States and individuals to get involved and support the fight against human trafficking. The French and Swedish Foreign Ministers have committed to strengthening cooperation between the two countries to fight human trafficking for sexual exploitation. This bilateral commitment includes active promotion worldwide of legislation and the abolitionist model for addressing prostitution (France Diplomacy, 2021).

France has retained its position as a Tier 1 country in the [Trafficking in Persons report 2021](#). Although the country meets the minimum standards for the elimination of trafficking, the report highlighted

several areas for improvement. France prosecuted fewer suspects and convicted fewer traffickers compared to the previous year, which could not be attributed to the pandemic. For the second year, the government did not report investigating any traffickers, and it did not report sufficiently disaggregated data on the number of trafficking victims it identified. The government continued to lack a national victim identification and referral mechanism to ensure proactive referral to care; it lacked coordinated and comprehensive data on trafficking (United States of America Department of State, 2021).

Ireland

The [Criminal Law \(Human Trafficking\) Act 2008](#) and the [Criminal Law \(Human Trafficking\) \(Amendment\) Act 2013](#) are the primary legislation that deal with human trafficking in Ireland.

The *Anti-Human Trafficking Unit* in the Department of Justice and Equality was established in 2008 and has overall responsibility for co-ordinating anti-trafficking policies in Ireland.

The [Second National Action Plan to Prevent and Combat Human Trafficking in Ireland](#) was released in 2016 and builds on international and domestic experience and provides for new initiatives in order to address human trafficking in all its forms. According to the [Blue Blindfold campaign](#), it takes a victim-centred and human rights based approach and An Garda Síochána (Ireland's National Police and Security Service) has a specialist unit dedicated to anti-human trafficking. A review has been undertaken of the current Action Plan and an inter-agency working group is not developing the Third National Action Plan to launch in 2022.

The Immigrant Council led a transnational EU-funded project focusing on the gender-specific legal assistance and integration support to trafficked migrant women, the [ASSIST project](#). Joining forces with five feminist organizations across Europe, they worked to develop improved approaches to integration for trafficked women recovering from sexual exploitation, resulting in the guide, [Best Practice Principles of Gender-Specific Assistance](#), applicable to Ireland and the other EU Member States.

The [Coalesce project](#) is a 2-year-long initiative started in October 2020 between 9 organizations across the EU. It builds on the ASSIST project, adding a new economic dimension to the research and service provision of supports for trafficked women. Coalesce works to support victims of trafficking, providing gender-specific psycho-social, legal and economic support and assistance to third-country national women victims of sex trafficking. The project also aims to develop synergies and best practices for frontline professionals and practitioners in swiftly identifying victims and allocating supports, as well as improving cooperation between countries in these areas. Coalesce has recently developed a [Gender-Specific Integration Model \(GESIM\)](#) for victims of trafficking for sexual exploitation and abuse.

[STOP Traffick! Tackling Demand for Sexual Services of Trafficked women and girls](#) was a EU-funded transnational project led by the Immigrant Council of Ireland from 2012-2014. It focused on the prevention of human trafficking by reduction in demand that fosters the exploitation of female victims of trafficking through prostitution.

[Disrupt Demand: Examining campaign strategies in EU Member States to introduce legislative measures to discourage demand for sex trafficking](#) was an EU-funded transnational project led by the Immigrant Council of Ireland over 2 years (2017-2018). The aim of the project was to prevent human trafficking for

sexual exploitation through demand reduction that uses legal measures. The project was a follow-up initiative to STOP Traffick.

[Beyond Exploitation](#) is Ireland's civil society campaign for equality and freedom from sexual exploitation. Led by the National Women's Council, with partner organization [Ruhama](#) and the Immigrant Council of Ireland, the campaign supports the most vulnerable and silenced people in prostitution to have a voice. The campaign is an evolution of the Immigrant Council's previous Turn Off the Red Light campaign, which successfully campaigned to introduce the 2017 Sexual Offences Act which aimed to decriminalize those exploited in the sex trade and instead target pimps and buyers.

In the EU project, TRACKS, Ireland partnered with other international specialist organizations to identify the special needs of female asylum seeking victims of trafficking. In February 2020 a new trans-European project [TRIPS \(Trafficked International Protection beneficiaries' Special needs\)](#), was launched, bringing together organizations from France, Italy, the Czech Republic and Ireland. The TRIPS initiative explores the unique needs of victims of human trafficking who are recipients of international protection in Ireland.

In October 2021, the International Organisation for Migration (IOM) and the Minister of State for Civil and Criminal Justice, Hildegard Naughton launched a public awareness initiative on human trafficking. Earlier in the year, Minister Naughton received government approval to revise the National Referral Mechanism to make it easier for victims of trafficking to come forward, be identified and access advice, accommodation and support (Government of Ireland, 2021).

Yet, as of late 2020, these revisions to the national referral mechanism had yet to be made, drawing criticism from the Irish Human Rights and Equality Commission (IHREC), Ireland's rapporteur for human trafficking, which warned that data is likely to underestimate the scale of the issue due to limitations in the system used to identify victims (Phelan, 2021).

Despite its involvement in these and numerous other initiatives, GRETA has urged Ireland to improve on investigations, prosecutions and convictions. From a victim perspective, Ireland has been asked to consider the enhancement of victim protection measures, co-operation with civil society, the granting of temporary residence permits and the process of safe return and repatriation to the victim's home country (Murphy, 2021b).

Ireland has been ranked as a "tier two watchlist" – the third lowest of four rankings, in the U.S. State Department's latest annual [Trafficking in Persons \(TIP\) report](#). Ireland joins Romania as two of the weakest EU states. Such states do not meet minimum standards and their estimated number of victims of "severe" forms of trafficking is "very significant or is significantly increasing and the country is not taking proportional concrete actions." (Holland, 2021).

Netherlands

The Netherlands signed the UN Protocol in 2000 and ratified it in 2005. It granted rights to trafficking victims under Immigration law in 2000. The government appointed an independent *National Rapporteur on Trafficking in Human Beings* (NRHT) in 2000 to report on progress on an annual basis. It established a *National Action Plan on Human Trafficking* in 2004, and a *National Task Force on Human Trafficking* in 2008. In 2009 in response to increasing concerns about child sexual exploitation and the increasing

circulation of digital images, the mandate of the [National Rapporteur](#) was expanded to include child pornography (Barrett & Shaw, 2013).

The prostitution industry has been legal in the Netherlands since 2000. Once it was legalized the demand for services increased but the supply did not. Human traffickers bring in international women to meet the demand.

In 2018 the Dutch government implemented its new anti-trafficking plan, [Together Against Human Trafficking](#). It focuses on identifying victims, strengthening communication between shareholders, encouraging governments to take anti-trafficking action at a local level and amping up the work done to prevent labour trafficking. Since then, the task force has moved into inspecting brothels, training community leaders to identify human trafficking in order to safely intervene and has increased efforts against child trafficking.

The [government](#) takes a comprehensive approach to combatting human trafficking. The [Centre for Crime Prevention and Safety](#) (CCV) provides guidance on how to deal with signs of human trafficking. The national [Coordination Centre against Human Trafficking](#) has organized a Human Trafficking Academy, with training and educational courses on recognizing human trafficking, with free e-learning modules, factsheets and tool kits. The National Referral Site for Human Trafficking helps victims, providing assistance and support.

Since the early 2000s, the [Not for Sale campaign](#), based in Amsterdam, has worked with victims of human trafficking, especially with those victimized by sexual exploitation.

GRETA published its second [report](#) on the Netherlands in 2018. The Council of Europe (2018a) notes that positive steps taken include the setting up of a national network of regional co-ordinators of assistance provided to victims of trafficking and the increased funding for police and prosecution services dealing with trafficking cases, as well as for the labour inspectorate SZW which detects and investigates cases of trafficking for the purpose of labour exploitation. They note also the creation of the Victim Identification Board, an independent multidisciplinary body tasked with the identification of victims of human trafficking; awareness-raising campaigns concerning trafficking for different forms of exploitation; compensation for victims of trafficking. GRETA did urge the Dutch authorities to ensure that assistance is provided to foreign victims of trafficking is not dependent on investigations or prosecutions carried out. There has been a decreasing number of prosecutions and convictions for human trafficking offences in recent years and further efforts should be made to improve the identification of and assistance to child victims of trafficking.

The Netherlands is ranked as a Tier 1 country in the [2021 Trafficking in Persons Report](#). Efforts for which it was praised include: doubling the number of trafficking victims it identified, passing legislation to criminalize knowingly soliciting a sex trafficking victim, more than doubling its funding for NGO-managed shelters for trafficking victims, and increasing efforts to combat labour trafficking. There were, however, fewer convictions for the third consecutive year and anti-trafficking efforts on the Dutch Caribbean islands remained weak. The government did not provide support services for foreign victims who did not cooperate with law enforcement investigations and revoked these victims' residence permits. Children remained vulnerable to trafficking in the protection system, and the government did not report complete victim statistics for the reporting period (United States of America Department of State, 2021).

Sweden

According to the [European Commission](#), Sweden is mainly a country of destination for victims of sexual exploitation, forced labour, forced criminality and forced begging. In 2016 Sweden established a National Referral Mechanism to improve referral as well as increase the protection and assistance of victims of trafficking. In 1998, a **National Rapporteur on Trafficking in Human Beings** (the National Police Board) was appointed by the Government – the first in Europe. The [Gender Equality Agency](#), in Gothenburg, opened in 2018. As part of its role, the agency coordinates the work to prevent and eliminate prostitution and trafficking in human beings for sexual purposes, and the national Victim Voluntary Return Project for victims of all forms of human trafficking.

The [National Method Support Team](#) (NMT) is led by the Gender Equality Authority and consists of authorities working against prostitution and all forms of human trafficking. In June 2021, new online education training on sexual exploitation of children, prostitution and human trafficking was launched by the Gender Equality Authority.

Trafficking in human beings is addressed in Ch.4 of the **Swedish Penal Code**, on crimes against liberty and peace. In cases where the victim is under 18, the perpetrator will be convicted of trafficking in human beings even if no improper means have been used in order to carry out the crime. Under Ch.6 of the Penal Code, anyone who encourages or improperly economically exploits a person having casual sexual relations in return for payment is sentenced for procuring to a term of imprisonment of at most four years. The maximum punishment for aggravated procuring has been increased to a term of between six and eight years. This was done to make it possible for the people who plan and organize procuring in the nature of trafficking in human beings to be punished, but where it has been impossible to prove the requirement of undue influence. Ch.6 also addressed purchases of sexual services, including the purchase of a sexual act from a child.

In order to make it easier for perpetrators to be brought to trial, a provision granting temporary residence permits for foreign witnesses and victims was introduced into the **Aliens' Act** in 2005 where this is considered justified, in order to carry out a preliminary investigation and main hearing in the criminal case.

In 2018, the Government released a new **national action plan**, which incorporates as central the principles of gender equality, ending violence against women, ensuring equal opportunities for women and men, and their right to bodily integrity, international human rights value including those of the Convention on the Rights of the Child with a focus on the best interest of the child in the development and implementation of the action plan.

Also in 2018, GRETA released its [second evaluation report](#) on Sweden. The report indicates that Sweden has made progress in a number of areas, including the development of the legal framework for combating human trafficking, the setting up of specialized anti-trafficking police units and the establishment of the National Support Programme which allows presumed victims of trafficking to receive assistance through the Platform Swedish Society against Human Trafficking. While acknowledging the adoption of a new National Plan to protect children from human trafficking, exploitation and sexual abuse, as well as a new National Action Plan against prostitution and trafficking in human beings, the report notes that they focus on sexual exploitation and not all forms of human

trafficking are addressed. GRETA has requested that the new Gender Equality Agency address all forms of trafficking in human beings, both in terms of combating them and assisting victims. It is also recommended that a more proactive approach be taken and that work is increased to identify potential victims of trafficking. The report notes that the number of investigations, prosecutions and convictions in human trafficking cases remains low; GRETA has urged the Swedish authorities to take measures to ensure that all human trafficking offences are investigated and prosecuted effectively (Council of Europe, 2018b).

Sweden has maintained its position as a Tier 1 country in the [2021 Trafficking in Person report](#) published by the U.S. Department of State. The report notes that the Swedish government continued to demonstrate serious and sustained efforts, considering the impact of the COVID-19 pandemic on its anti-trafficking capacity, including prosecuting and convicting more traffickers and increasing the minimum penalty for the purchase of commercial sex acts from children following the enactment of a 2020 amendment to the penal code. The authorities did investigate fewer trafficking cases and identified fewer trafficking victims. The government delayed funding the national support program (NSP) for victim assistance; did not provide overall consistent and sufficient funding for victim services, and assistance to victims was conditional on their cooperation with investigations and prosecutions. It is recommended that authorities proactively identify trafficking victims by providing clear procedures for identifying victims and training relevant workers to recognize trafficking indicators; ensure adequate financial support for victim services; investigate, prosecute, and convict traffickers under the trafficking statute and punish them with significant prison terms (United States of America Department of State, 2021).

In 1999 Sweden became the first country in the world to prohibit the purchase of sexual services.

United Kingdom

The [Modern Slavery Act 2015](#) (the Act), applicable in England and Wales, with a small number of provisions that have UK-wide application (ATMG, 2018), effectively consolidates all existing offences of human trafficking and modern slavery. Although the Act has increased policy activity surrounding slavery and trafficking, the problem remains underestimated in the UK. According to the National Crime Agency (NCA), human trafficking in the UK is a rapidly growing issue and increased by more than 80% in 2016-17. Many of those trafficked are overseas, but others are UK-born. Sexual exploitation in the UK also increased significantly from 2017-20 (Shojaei, 2021).

The [Human Trafficking and Exploitation \(Criminal Justice and Victim Support\) \(Northern Ireland\) Act 2015](#) applies in Northern Ireland, while the [Human Trafficking and Exploitation \(Scotland\) Act 2015](#) applies in Scotland.

None of the three Acts in the UK contain mandatory prevention provisions, other than within a criminal framework: The Scotland Act includes the Trafficking and Exploitation Prevention Order (TEPO) and the Trafficking and Exploitation Risk Order (TERO) and the Modern Slavery Act includes the Slavery and Trafficking Prevention Order (STPO) and the Slavery and Trafficking Risk Order (STRO). The Northern Ireland Act did not introduce a risk order, including only a Slavery and Trafficking Prevention Order (STPO) (ATMG, 2018).

In Scotland and Northern Ireland there is a legal requirement to develop an anti-trafficking strategy, while the Modern Slavery Act does not require the UK government to develop a strategy (it only requires the Independent Anti-Slavery Commissioner to develop one). [Scotland's Trafficking and Exploitation Strategy \(2017\)](#) released its third annual progress report in 2020. [Northern Ireland's Modern Slavery Strategy 2021-2022](#) has been published.

The [Human Trafficking Foundation](#) grew out of the All-party parliamentary group on human trafficking and modern slavery.

The [Anti-Trafficking Monitoring Group \(ATMG\)](#) is a coalition established in 2009 to monitor the UK's implementation of European anti-trafficking legislation. The ATMG played an important role in the development of the *Modern Slavery Act*, including introduction of Independent Child Trafficking Guardians (ICTG), measures to protect victims from being prosecuted and the introduction of an Independent Anti-Slavery Commissioner. The findings of their 2018 [report](#) indicate that the UK has no overall strategy to prevent trafficking in adults and children; this leads to an inconsistent and fragmented approach to the prevention of trafficking. Coordination across agencies in the UK is not consistent; gaps identified at the national level impact on local responses to trafficking. They conclude that a strong governance framework is required at national, regional and local levels to monitor and evaluate performance of government authorities. Concerns were raised over the lack of assessment of the impact of immigration and social policies on prevention of trafficking and re-trafficking, and the potential contribution of current immigration policies to migrants' vulnerability to exploitation.

The [Independent Anti-Slavery Commissioner](#) encourages good practice in the prevention, detection, investigation and prosecution of slavery and human trafficking offences, as well as in the identification of victims. The Commissioner is accountable through her strategic plan and annual reports.

Since 2015, the term "modern slavery" has been referred to by the UK government as "an umbrella term that covers the offences of human trafficking, slavery, servitude and forced labour" (ATMG, 2018). Legislation in Scotland and Northern Ireland retains reference to human trafficking, rather than the term modern slavery. In 2020, the UK became the first country in the world to publish a modern slavery statement, outlining how the government is tackling the crime in its own supply chains. But the document does not mention girls and women forced into prostitution, which modern slavery covers, nor is any reference made to people trafficked domestically. A representative from the Home Office stated that "modern slavery statements are about measures taken to prevent labour exploitation in supply chains specifically, so they wouldn't cover other forms of exploitation such as forced prostitution." A fact sheet updated in January 2021 indicated that a new five-year contract for victim care was awarded to the Salvation Army. However, the document does not distinguish between domestic and international trafficking (Ong, 2021).

The [Tackling Organised Exploitation \(TOEX\) programme](#), a national project between the National Police Chiefs' Council (NPCC) and the National Crime Agency (NCA) began to be rolled out in 2021. The TOEX response will support UK law enforcement and intelligence community by providing an enhanced intelligence picture of organised exploitation.

In late 2021, GRETA urged the UK to take further action in response to human trafficking. GRETA has stressed that the UK government's Plan for Immigration, announced in March 2021, must be

implemented in line with the UK's commitments under the anti-trafficking convention – notably the obligation to identify victims of trafficking, including among asylum seekers, and provide them with assistance (Council of Europe, 2021a).

The *Joint Slavery and Trafficking Analysis Centre (JSTAC)* was created “in order to deliver a single, authoritative picture of the threat posed by modern slavery and human trafficking to the UK and its interests overseas.”

The United Kingdom is ranked as a Tier 1 country in the [2021 Trafficking in Persons Report](#). Praised efforts include an increase in the number of referrals of trafficking suspects to the Crown Prosecution Service (CPS) and the introduction of minimum standards of care and an inspection regime for government-commissioned victim support services. The government also increased support payments to potential victims and their child dependents and introduced new payments for pregnant and young child victims; announced measures to strengthen reporting requirements under the Modern Slavery Act of 2015 (MSA) to ensure organizations' operations and supply chains were free of trafficking, and it launched an assessment tool to assist public-sector organizations in coordinating with suppliers to improve protections for workers and reduce the risk of exploitation in supply chains. However, the government prosecuted fewer traffickers, and inadequate long-term care and reintegration support for victims has been reported. Many potential victims continued to face long wait times to enter the National Referral Mechanism (NRM) and begin receiving support, and children in the protection system remained vulnerable to trafficking. Some victims were penalized for unlawful acts traffickers forced them to commit; foreign victims experience difficulties in obtaining residence permits; and workers from the European Economic Area (EEA) became more vulnerable to trafficking due to confusion around changes to the UK's immigration standards (United States of America Department of State, 2021).

United States

Modern prohibitions of human trafficking in the United States have their roots in the 13th Amendment to the U.S. Constitution, which barred slavery and involuntary servitude in 1865. The [Trafficking Victims Protection Act 2000](#) (TVPA) established the framework for the “3 P's” of the fight against human trafficking: protection, prevention, and prosecution. The TVPA also created the [Office to Monitor and Combat Trafficking in Persons](#) in the State Department, making that office responsible for publishing an annual [Trafficking in Persons \(TIP\) report](#) that describes and ranks the efforts of countries to combat human trafficking. The TIP Report is the U.S. Government's principal diplomatic tool to engage foreign governments on human trafficking. The TVPA also required the President to establish an [Interagency Task Force to Monitor and Combat Trafficking](#) (PITF), a coordinating task force comprising cabinet-level officers chaired by the Secretary of State, and directed it to carry out activities that included measuring and evaluating the progress of the United States and other countries in preventing human trafficking, protecting its victims, and prosecuting its perpetrators (United States Department of Justice, 2017).

The Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA 2003) refined federal criminal provisions against trafficking, to include adding human trafficking crimes as a Racketeer Influenced and Corrupt Organizations Act (RICO) predicate, and created a civil remedy enabling trafficking victims to file lawsuits against their traffickers in federal district court. The TVPRA 2003 established a Senior Policy Operating Group (SPOG) within the executive branch; mandated an [annual report from the Attorney](#)

[General to the U.S. Congress](#) regarding U.S. governmental efforts to implement the TVPA (United States Department of Justice, 2017).

The Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA 2005) provided extraterritorial jurisdiction over trafficking offenses committed overseas by persons employed by or accompanying the federal government. The TVPRA 2005 also established a grant program for state and local law enforcement agencies to combat trafficking; expanded the reporting requirements of the TVPRA 2003. The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008) featured new measures to prevent and deter trafficking; directed the government to provide information about workers' rights to all people applying for work and education-based visas; expanded the protections available with the T visa (temporary nonimmigrant status), and required that all unaccompanied alien children be screened as potential victims of human trafficking. The Trafficking Victims Protection Reauthorization Act of 2013 (TVPRA 2013) focuses in part on the elimination of human trafficking from the supply chain of goods (United States Department of Justice, 2017).

The Justice for Victims of Trafficking Act of 2015 (JVTA) provides restitution and justice for victims of human trafficking and child pornography by imposing fines and penalties against offenders. The Act also provides law enforcement across the country with resources to establish or enhance task forces against human trafficking, fund prosecution, and create trafficking victim services. Producers of child pornography are now classified as human traffickers under the Act.

The [National Action Plan to Combat Human Trafficking](#) was released in December 2021. The Plan outlines a three-year comprehensive approach to combat human trafficking, including actions to strengthen prosecution of traffickers, enhance victim protections, and prevent the crime from occurring within our borders and abroad. First launched in 2020, the Plan's updates build on the foundational pillars of U.S. and global anti-trafficking efforts – prevention, protection, prosecution, and partnership.

The United States has maintained its ranking of a Tier 1 country in the [2021 Trafficking in Person Report](#). Recent efforts highlighted include: increasing the number of investigations for the second year in a row; increasing the number of victims served by federal grantees; granting T nonimmigrant status to more victims; increasing enforcement of the prohibition of imports made wholly or part by forced labour; and issuing its first national action plan to combat human trafficking. Despite these efforts, the government implemented policies that placed greater limits on access to immigration options for trafficking victims for most of the reporting period prior to repealing them. These policies further increased some foreign national victims' distrust in authorities and caused them to fear for their safety if they came forward to assist law enforcement, pursue these immigration options, or access services. The government enforced policies that further marginalized communities overrepresented among trafficking victims, increasing their risk to human trafficking (United States of America Department of State, 2021).

Developing Effective Initiatives and Legislation

In summary, jurisdictions with ‘model’ approaches to human trafficking can be classified by the following features:

- National and/or regional anti-trafficking legislation
- Ratification of the UN Protocol and ILO Conventions, and, where applicable, other anti-trafficking conventions and/or directives
- National and/or regional strategies or action plans
- A Tier 1 ranking in the Trafficking in Persons Report.

Broad Strategies

The Canadian Women’s Foundation (2014) offers the following lessons that could inform strategies to end sex trafficking in every province and municipality:

- Every level of government has the power to act – Every jurisdiction can leverage resources within its control to help end sex trafficking.
- Co-ordinate within. Co-ordinate without – Enlist the support of a range of government ministries, divisions and departments; partnerships with community-based services, local leaders and stakeholders.
- You get what you pay for – At a time of fiscal restraint, the first priority is to find ways to make the best use of existing resources.

Three principles should underpin any recommendations:

- Any reforms must advance the equality of women and men, especially the equality rights of Indigenous, racialized, migrant and low-income women and girls who are disproportionately affected by sex trafficking.
- Our laws and policies must recognize the harms sustained by trafficked women and girls. Law enforcement must have the resources to make trafficking investigations a priority. Those who sexually exploit women, and especially children, must be held accountable for their actions.
- The law is not enough. Real change comes with strong, confident girls; women who have real economic security; and a broad public consensus that any form of sexual exploitation is just plain wrong.

We must make the laws work for trafficking victims. Although Canada has strong laws with tough penalties, prosecutions have been few. The Canadian Women’s Foundation (2014) notes that there are a number of reasons for this:

- Women don’t come forward – some may not recognize themselves as victims of a crime; others may still be under the trafficker’s control.

- Cases are difficult to prosecute. The *Criminal Code's* definition of exploitation depends on a victim showing she believed, or a reasonable person would believe, her safety or the safety of others was threatened. It is not always easy for victims to come forward or provide testimony.
- The legal process is demanding for both victims and prosecutors. A case can take over two years to prosecute.

In response, they offer the following recommendations:

- Give victims a reason to come forward
 - o Reduce the dependence on victim testimony
 - o Support victims throughout the legal process
 - o Recover assets from traffickers
 - o Compensate victims for their losses
 - o Recognize when victims have been compelled to commit crimes
 - o Increase police capacity to provide victim-centred services
- Protect migrant women and girls
- Use technology to combat trafficking
- Create a trafficking-proof child welfare system
 - o Increase the age for protective care
 - o Adopt provincial legislation on sexual exploitation
 - o Increase accountability of child welfare agencies
 - o Improve risk assessment
 - o Extend supports to help youth transition into adulthood
- Use municipal regulation to protect trafficked women
- Use prostitution laws to advance women's equity

Anti-Trafficking Legislation

Mattar (2006) argued that five basic elements should be incorporated into any antitrafficking legislation. First, laws must recognize all forms of trafficking as specific crimes that are subject to serious sanctions. Second, these laws must identify the trafficked persons as a victim of a crime who is entitled to basic human rights, while considering not only the victim already identified as such, but also the derivative victim, the vulnerable victim, the potential victim, and the presumed victim. Third, countries should adopt a comprehensive Five P's approach to combating trafficking in persons, including prevention, protection, provision, prosecution, and participation. Fourth, laws must target all actors in the trafficking enterprise, including the natural person, the legal person, the private person, and the public person.

Finally, countries should acknowledge trafficking in persons as a transnational crime that warrants transnational policies. These should especially cover extraterritoriality, extradition, and the exchange of information.

Anupam (2018) proposes the development of an effective legal model, which may rest on the twin pillars of shared state responsibility and long-term assistance to trafficking victims. It is argued that the principles of prosecution, protection, and prevention should be addressed in combination with the concepts of state responsibility and international financial co-operation to provide long-term assistance to the victims. Anupam (2018) also identifies three themes on which the present legal structure on trafficking in persons is based: the substantial links between human trafficking and organized crime, the protection of the victim's human rights in the destination country and the state of origin, and the responsibilities of states, companies, and business firms.

As Anupam (2018) notes, "laws devised to control trafficking in persons have often met with failure as evidenced by the data on the actual prosecution of human traffickers. This failure exists even in those countries where the legal system is advanced" (p.226). He discusses the "problem-solving approach", in which:

governments, the private sector, and individuals must undertake to share the burden or responsibility to solve the problem of human trafficking. To promote equitable development in the world, the wide differences amongst the nations and the nationals have to be bridged. This is possible only when the nation-states resolve to take all necessary measures to protect, prosecute, and punish traffickers, when the private sector makes promises to include anti-human trafficking policies in their corporate affairs, and when individuals decide not to buy trafficked sex and labour (p.227).

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