

# Critical Perspectives on Canadian Anti-Trafficking Discourse and Policy

## Cluster Editors

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This special cluster brings together critical scholarship on the subject of human trafficking in Canada, authored by a range of researchers and advocates from across the country. The topic of human trafficking has experienced a resurgence in the new millennium, particularly with the introduction of the United Nations' *Protocol to Prevent, Suppress and Punish Human Trafficking, Especially Women and Children* (more commonly known as the *Trafficking Protocol*) in 2000. In response to the *Trafficking Protocol* and pressures from the United States, Canada amended its *Immigration and Refugee Protection Act* to include the offence of human trafficking (s. 118) in 2002 and added trafficking sections to the *Criminal Code* (ss. 279.01 to 279.04) in 2005. These efforts have served to legitimize the international outcry against human trafficking and to call Canadians to action.

Notwithstanding the certainty implied by legislation, however, critical research has found that current conceptualizations of human trafficking are based on largely unsubstantiated claims, much international conjecture, and wildly divergent estimates as to its actual existence. Jo Doezema (2010) and Ronald Weitzer (2012), for example, argue that beliefs about human trafficking are based largely on myth and exist as a discourse that constructs knowledge and action in very particular ways. This is true in international contexts, but also in Canada where the anti-trafficking movement has been criticized by numerous sex workers, migrant workers, and Indigenous communities, in addition to allied academics, lawyers, and policy researchers. Many theorists have likewise moved away from identifying "real" accounts of how human trafficking is manifested, who its victims and perpetrators are, and how common it is, to instead interrogating the meanings that we assign to human trafficking and the impacts of those meanings on the everyday lives of the people most affected by them, namely sex workers, migrants, and Indigenous peoples (Kempadoo, Sanghera, and Pattanaik 2005; Sharma 2005; Agustín 2007; Doezema 2010; Hunt

2013). Through such interrogation, the anti-trafficking discourse, which informs governmental and non-governmental action and policy, has been deemed repressive because of its outcomes, including heightened securitization, surveillance, and criminalization.

Despite arguments against the anti-trafficking movement and the relatively few human trafficking specific convictions in Canada to date, most of which resemble procurement or labour exploitation rather than human trafficking as defined by the United Nations (Roots 2013), the public and moral panic against trafficking, and along with it panics around sex work, certain forms of migration, and Indigenous sovereignty, continues to grow. These panics fuel and are fueled by mainstream media (Agustín 2003; Soderlund 2005; Lepp 2013; Peters 2013) and federal funding allocated toward anti-trafficking efforts that echo government messaging (GAATW 2011; De Shalit, Heynen, and van der Meulen 2014). Images of women and children in need of saving are rampant and the emotive appeal is difficult to deny (Small, Loewenstein, and Slovic 2007; Stanley 2009; Doezema 2010). Critical debate on human trafficking is, therefore, easily silenced or misplaced, but it is one that must be had.

Given this social, legal, and political context, the editors of this cluster, along with several organizing committee members and with support from the Law Research Centre at Ryerson University and the Centre for Feminist Research at York University, organized a networking workshop to explore and advance alternative frameworks on human trafficking. Held at Ryerson University from 30 November to 2 December 2012, the workshop served as a platform for critical thinkers and activists to formulate a concerted counter-narrative to the anti-trafficking discourse in a way that captures lived experience. Ranging from sex work to migration to Indigenous self-determination, the workshop's areas of focus encouraged an array of stories and analyses and was situated in the knowledge that the anti-trafficking movement tends to make unconfirmed and harmful claims about victims, traffickers, and trafficking itself, while doing little to address broader concerns about systemic exploitation and violence.

The workshop had several objectives. It aimed to place the emerging Canadian legal and policy landscape within its international context and to produce strategies of engagement for community activists,

building on current connections with and between organizations while simultaneously forging new relationships through a collaborative knowledge production process. We aimed to bridge migrant justice with sex workers' and Indigenous rights activism through a conversation on human trafficking discourse and policy because we recognized that, while trafficking is commonly constructed through the lens of sex trafficking, other types of migrants and Indigenous peoples are just as impacted by the anti-trafficking movement, albeit in different ways. This undertaking was likewise designed to advance new questions and directions for future research on human trafficking in Canada, in particular those that stimulate critical perspectives on this emotionally laden and contentious topic. Based on these objectives, the workshop was successful in bringing together an interdisciplinary group of community-based and academic experts whose work considers anti-trafficking policy in Canada and abroad, outlining future directions for research and advocacy in areas affected by the anti-trafficking movement.

It was important for our purposes to create an environment where activists and academics could come together to share their work and discuss how it has been impacted by anti-trafficking rhetoric, whether it be their advocacy with migrant farm workers, their fight against deportations of non-status peoples, their campaigning for sex workers' rights, their defence of Indigenous sovereignty, or their research and writing on these topics. It is a rare occasion when such a diversity of people can be in the same room; instead, we too often work in what can feel like isolated realms. This joining and sharing of interests moved our dialogue from the more common focus on the conflation of sex work and trafficking to a range of implications for people on the ground, including increased discrimination and vulnerability to human rights abuses as perpetuated by the state and its laws.

Due to the timeliness and relevance of debates on and policy surrounding human trafficking, we did not want the workshop to be solely a closed affair. Rather, we wanted to reach a broader public audience with diverse interests in the politics of human trafficking. For this reason, we opened with an evening panel for the general public, featuring four keynote speakers. The first to present was Melissa Ditmore of the Sex Workers Project, New York City, who situated the traffick-

ing debates within larger emotive appeals used by the anti-trafficking movement to raise funds for possibly well-meaning, but also potentially ineffective and even harmful, campaigns. Annalee Lepp of the Global Alliance Against Traffic in Women Canada and the University of Victoria, British Columbia, contextualized the conversation within an overview of global and North American responses to human trafficking over the past twenty years. Nandita Sharma of the University of Hawai'i at Mānoa, Honolulu, addressed the audience with an inquiry into the role of governments and international bodies, such as the United Nations, in legitimizing the repressive criminalization of the undocumented movement of migrants and avoiding recognition of their own complicity in creating the conditions that contribute to international migration pressures. To conclude the panel, Harsha Walia, anticolonial migrant justice activist and author from Vancouver and member of No One Is Illegal—Coast Salish Territories, expanded on many of the preceding points, suggesting that the construction of “trafficked women” disempowers migrant women and conveniently co-opts their experiences as an immigration control measure. The panel was attended by over 200 interested audience members, including students, service providers, sex workers, activists, policy analysts, academics, and others.

Following the panel, thirty-one specifically invited workshop attendees met over two days of closed meetings to share their vast knowledge and experience. Participants included sex workers, Indigenous rights and migrant justice advocates, researchers, and academics from various cities across Canada, the United States, and Europe. Each prepared a brief presentation on a particular theme related to trafficking; for example, migration, labour and smuggling, the conflation of sex work with trafficking, legal and policy responses to trafficking, resistance and agency, and future directions in policy and advocacy. Discussions were lively and contentious, and participants were not always in agreement with one another. The information and knowledge generated was later developed into a brief summary report, which was shared with the participants. Key themes and topics in the report included: the gendered dynamics of human trafficking, where women are almost always rendered victims, especially when sex work is involved, denying them agency and mobility; both law and the state as sources of violence and exploitation,

and vulnerabilities that are created through restrictive immigration policy and legislation; the inability of policing and securitization strategies to address the needs of migrants and non-status peoples; the ways in which victims are defined based on their bodies rather than their labour conditions; the role of funding in the state's anti-trafficking activities; and the positioning of certain government-supported researchers as “experts” in human trafficking debates while ignoring or sidelining the work of critical scholars.

Workshop participants also considered the ways in which tightening immigration structures produce the type of human rights violations that anti-trafficking activists fight against and have little to do with addressing the conditions associated with “human trafficking.” As Bridget Anderson and Rutvica Andrijasevic (2008) and other scholars have pointed out, while stricter immigration controls might appear inevitable to anti-trafficking measures, there remains a question of whether or not the movement of bodies, in fact, matters in cases of exploitation and degradation. Participants instead felt that resistance through counter-narratives was a vital element in the fight for justice for sex workers, migrants, and Indigenous peoples. Perhaps the most significant thread that ran through the workshop, and which united all participants, was the importance of challenging law, government, policy, and dominant discourse in an effort to collaboratively and collectively resist harms caused under the guise of anti-trafficking efforts.

These discussions also serve as the basis of the papers included in this cluster. All participants were invited to modify their brief presentations into articles for subsequent submission, peer-review, and publication. We received several submissions, five of which are published here. In line with our workshop aims, our group of contributors has created a space that bridges academia with community initiatives in order to explore research and diverse lived experiences. Occupying various locations, the contributors herein reflect the diversity of participants who partook in the workshop. As scholars, students, migrant justice advocates, Indigenous rights activists, and sex workers, none of which are mutually exclusive, our contributors display a breadth and depth of experience in their critical engagement with anti-trafficking discourse and policy in Canada.

Elya M. Durisin and Robert Heynen open the cluster with a look at the emergence of contemporary trafficking discourse in Canada in the 1990s through newspaper articles on Central and East European women and a work permit exemption that migrant dancers could access. In their article, Durisin and Heynen link the ethnosexualization of Central and East European exotic dancers who entered Canada in the 1990s to a newly developing mass media victimization discourse that later became interchangeable with human trafficking. With increased flows of Eastern European women, news reports began to reframe exotic dancing away from a labour conceptualization and towards victimization perspectives. Such representations paved the way for exotic dancing to be seen as a threat to national security, legitimizing strengthened state securitization and policing efforts. Since then, the exotic dancer work permit exemption has undergone various changes, most often tied to anti-trafficking efforts, until it was cancelled in 2012.

Sarah Hunt also examines the emergence of the human trafficking discourse as she explores the shift in language from “child and youth sexual exploitation” to “human trafficking” within Indigenous and anti-violence organizing. Drawing on her experience in community education and her academic research on violence against Indigenous girls and women in British Columbia, Hunt argues that the shift toward the language and framework of trafficking is one of many efforts to recategorize violence against Indigenous women as worthy of legal response in the context of ongoing colonial legal violence. Hunt, therefore, reframes the issue of human trafficking as an existing condition of exploitation and criminalization facilitated by the state and processes of colonization. She resists the silencing of Indigenous women through their hypervisibilization as either victims or criminals, calling on researchers to prioritize the voices of Indigenous women who trade or sell sex in their work.

Robyn Maynard next explores migrant labour exploitation and other forms of systemic violence suffered by individuals and communities at the hands of the state. Similar to Hunt, Maynard implicates the state in the perpetuation of the conditions associated with the phenomenon recognized as human trafficking, a thread common to all of our papers. Rooting her analysis in her community-based activism for migrant and sex work-

er rights, Maynard examines state programs, criminal laws, and policies that re-label a number of exploitative and otherwise abusive situations as human trafficking, discounting and often entirely dismissing the nuances that make such experiences distinct, complicated, and in need of socially just responses. Maynard’s analysis of human trafficking serves as an important departure from the traditional anti-trafficking discourse that positions sex workers, migrant workers, and Indigenous women as trafficking victims or, alternately, criminals.

Our collection of papers then moves from an examination of discourse, policy, and programs to lived experience. Ava Rose provides a personal account of the implications of the anti-trafficking movement on her work and daily life. As a former youth sex worker, Rose did not and does not identify as a victim of trafficking, yet she would have been labeled a trafficking victim had the contemporary trafficking discourse existed at the time. Challenging the confining and often damaging construction of human trafficking, Rose navigates multiple identities and resists simplified narratives that paint her as a victim. “Human trafficking” leaves us with absolutes—sex working bodies that represent enslaved and agency-less victims or criminals, and free and moral agents that represent their rescuers. Like our other papers, Rose’s article reminds us of the importance of producing counter-knowledge by prioritizing the voices of those who are directly impacted by anti-trafficking policy.

Katrin Roots and Ann De Shalit close the cluster with an exploration of the relationship between current Canadian legal practices in the area of human trafficking and historical anti-prostitution and anti-white slavery efforts. They suggest that human trafficking convictions reveal a number of contradictions in Canada’s anti-trafficking mandate, not unlike the historic moral panic against white slavery and the current panic around sex work. In line with international critical theorists (Doezema 2001; Soderlund 2005; Bernstein 2007), Roots and De Shalit demonstrate that human trafficking and sex work continue to be conflated in the Canadian context, with most convictions reminiscent of procurement. This appears to be the product of what they describe as the anti-trafficking subject position, which allows states to locate themselves as anti-traffickers with limited evidence. On the ground, the anti-trafficking subject position facilitates increased sur-

veillance of and punitive measures against sex workers, migrants, and Indigenous peoples.

The five articles that make up this cluster represent distinct, yet interconnected and nuanced, viewpoints. The contributors engage in a fruitful discussion on migration, labour, violence, exploitation, and colonization, contextualizing the issue of human trafficking in a way that the contemporary (and historical) anti-trafficking movement neglects to do. Thus, this collection of articles is dedicated to furthering a critical conversation on these issues, moving away from prohibitionist and criminal justice narratives and toward critical praxis grounded in lived experience.

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