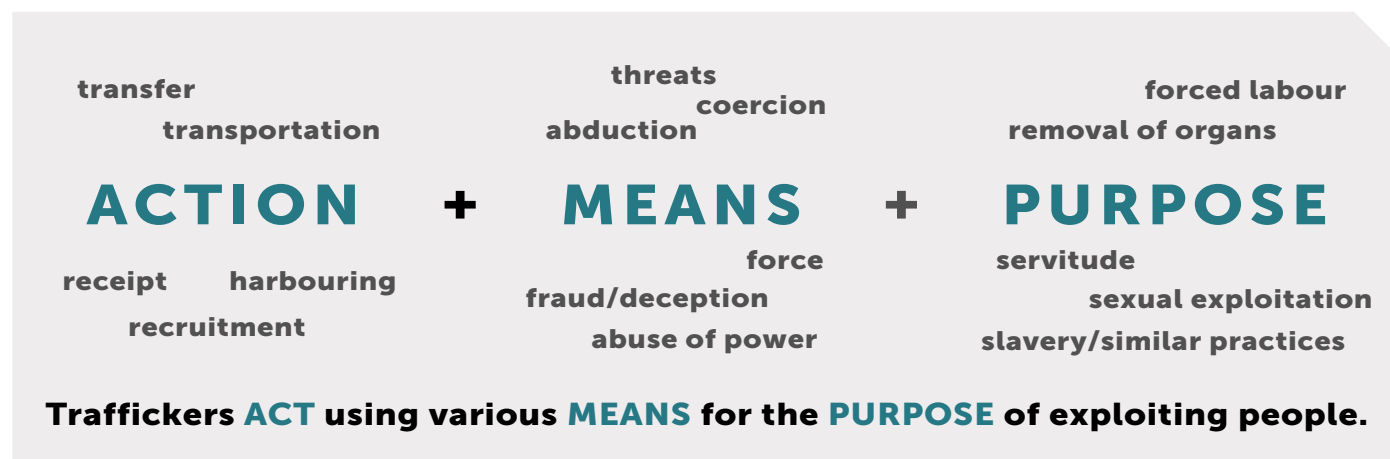


Key Elements of Trafficking



Spectrum of Exploitation

Trafficking occurs along a spectrum of exploitation. Gradations can occur concurrently, at different times, and may not necessarily follow a linear path. For example, someone facing labour law violations may return to decent work yet may find themselves facing human rights violations at another point in time. People need protection and access to justice throughout the spectrum.




Different legal remedies are available depending on the exploitation situation. Is there a case for human trafficking under the Criminal Code, or the Immigration and Refugee Protection Act (IRPA)? Or are there remedies under labour law, human rights law, or even a combination of approaches? (See over)

FOR MORE INFORMATION, read the complete version of *Human Trafficking & the Law: How to Protect Trafficked Persons – A guide for legal practitioners*: <http://ccrweb.ca/en/human-trafficking-and-the-law>

The intention of the Guide is to help legal practitioners, especially immigration and refugee lawyers to:

- Recognize the signs of human trafficking
- Understand the provisions against human trafficking in Canadian law and the various legal remedies for supporting trafficking survivors
- Understand best practices for respecting professional ethics.

Legal Remedies Along the Spectrum of Exploitation

	VIOLATION	LEGAL REMEDIES AND POSSIBLE OUTCOMES
 <p>Labour violations</p> <p>Human rights violations</p> <p>Criminal code violations</p> <p>Human trafficking</p>	<p>Worker safety violations: Unsafe working conditions (e.g. dangerous work conditions, exposure to violence, sexual harassment or exploitation)</p> <p>Employment violations: Unjust working conditions (e.g. excessive hours, pay below minimum wage, lack of vacation, lack of privacy, discrimination)</p>	<ul style="list-style-type: none"> File labour standards complaint Direct action such as pressuring employer can sometimes be very effective May call for labour justice response Remedy will depend on provincial legislation <p>Outcome</p> <ul style="list-style-type: none"> May lead to civil or administrative sanctions and redress May support immigration claims Follow-up on direct action to prevent further abuses (is other direct action required?)
	<ul style="list-style-type: none"> Discrimination or harassment based on the codes' grounds (e.g. firing for pregnancy, bathrooms/housing based on race or country of origin) Unequal treatment (e.g. racism, sexual harassment) 	<ul style="list-style-type: none"> File human rights complaint, usually at Human Rights Commission (not all provinces have Commissions) May lead to Human Rights Tribunal response <p>Outcome</p> <ul style="list-style-type: none"> May lead to civil or administrative sanctions and redress May lead to ensuring equal treatment May support immigration claims
	<ul style="list-style-type: none"> Taking of passport/identification – s. 279.03(1) Fraud – s. 380(1) Extortion – s. 346(1) Workplace violence/harassment – s. 217.1 (duty of persons directing work) Threats – s. 425.1(1) 	<ul style="list-style-type: none"> Usually calls for a criminal justice response <p>Outcome</p> <ul style="list-style-type: none"> Damages Prosecution May support immigration claims
	<p>Indicators of exploitation and coercion:</p> <ul style="list-style-type: none"> Punishment – s. 279.04(2)(a) Threats (of deportation, risk to families) – s. 425.1(1) Degrading working conditions No remuneration (and other forms of financial control) Restricted movement (physical control) Forced prostitution – s. 286.1 Withholding documents (administrative control) – s. 279.03 Psychological control (creating emotional dependence) – s. 279.04(2)(c) All sex workers under 18 are considered trafficked – s. 286.1(2) <p>Coercion can be direct (as indicated above) and indirect (systemic coercion as a result of policy or law).</p>	<ul style="list-style-type: none"> Calls for a criminal justice response Calls for IRPA response <p>Outcome</p> <ul style="list-style-type: none"> Damages Prosecution May support immigration claims

