

Canada's Human Trafficking Legislation

In 2002, the introduction of new legislation against human trafficking was added into the *Immigration and Refugee Protection Act* and into the *Criminal Code of Canada* in 2005.

Criminal Code of Canada (CCC)

The Criminal Code of Canada (CCC) established the following to combat human trafficking:

- Sections 279.01 “Trafficking in Persons”
 - A maximum penalty of 14 years imprisonment, or life in prison if:
 - Kidnapping, aggravated assault, aggravated sexual assault or exploitation causing a victim’s death is involved.
- Sections 279.011 “Trafficking of a person under eighteen years of age”
 - In 2010, the minimum penalty is 5 years imprisonment for victims under the age of 18; or a minimum of 6 years if:
 - Kidnapping, aggravated assault, aggravated sexual assault or exploitation causing a victim’s death is involved.
- Section 279.04 defines exploitation further:
 - “causing a person to provide, or offer to provide, labour or a service by engaging in conduct that, in all the circumstances, could reasonably be expected to cause the other person to believe that their safety of someone they know would be threatened if they did not provide or offer to provide that labour or service”
 - This also applies to forcing a person to have an organ or tissue removed.
- Section 279.02 “material benefits”
 - Receiving material or financial benefit that results from human trafficking can result in a maximum penalty of 10 years imprisonment.
- Section 279.03 “withholding of documents”
 - Concealing, removing, withholding or destroying a person’s identity documents for the purpose of committing or facilitating human trafficking is punishable by up to 5 years imprisonment.

To convict an individual for human trafficking under the CCC all three elements need to be present: *control, exploitation and fear for the safety of those involved*.

Immigration & Refugee Protection Act (IRPA)

The Immigration & Refugee Protection Act (IRPA) established the following to combat human trafficking, but only in regards to international trafficking cases:

- Section 118:
 - “a person who knowingly organizes the entry into Canada of one or more persons by means of abduction, fraud, deception or use or threat of force or coercion is guilty of an indictable offence and liable to a fine of up to 1 million dollars, life imprisonment or both”

The IRPA distinguishes between human trafficking and smuggling:

- Section 117:
 - Smuggling is defined as “organizing, inducing, aiding or abetting the coming into Canada of one or more persons in contravention to the Act”

The law defines organizing in the context of human trafficking as “the recruitment, transportation, receipt and harbouring of persons”.

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Immigration & Refugee Protection Act vs. Criminal Code of Canada

IRPA	CCC
<u>ONLY</u> international human trafficking cases	<u>BOTH</u> international and domestic human trafficking cases
No provision on exploitation	Exploitation is an essential element in prosecuting human trafficking cases
<u>ONLY</u> the Royal Canadian Mounted Police (RCMP), Citizenship & Immigration Canada (CIC) and Canadian Border Service Agency (CBSA) can use this piece of legislation	<u>ONLY</u> the Royal Canadian Mounted Police (RCMP), provincial, regional and local police can use this piece of legislation