



# Human Trafficking or Migrant Labour Exploitation?

**Bridging the Knowledge Gap**

# KNOWLEDGE SYNTHESIS GRANT REPORT: FEBRUARY 2024

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# EXECUTIVE SUMMARY

## Background

While there is by now substantial research examining human trafficking, migrant labour exploitation, and related conditions, questions remain about how these conditions are understood and propelled in literature across a range of disciplines, and their actual or potential impacts on marginalized workers. In this study, we set out to investigate some of these questions by asking: Are framings of exploitative practices in Canada's Temporary Foreign Worker Program (TFWP) distinguished from framings of human trafficking? And if so, how is this distinction rationalized? When we say 'framings,' we are referring to definitions, constructions, and usages of various terminology, whereas 'rationalizations' refers to the justifications, explanations, and assumptions being proposed. To this end, we conducted an in-depth examination of Canadian academic and grey literature on human trafficking, labour trafficking, the TFWP, and migrant labour to explore how the following terms are framed and rationalized: human trafficking; exploitation; forced labour; unfree labour; precarity; abuse; violence; control; and coercion.

Examining framings and rationalizations is particularly important given the global attention directed at human trafficking since the enactment in 2000 of the *Protocol to Suppress, Prevent and Punish Trafficking in Persons* by the United Nations. Canada ratified the Protocol in 2002, which was immediately followed by a number of legislative, policy, and enforcement actions. Over the past decade, different levels of government have allocated significant amounts of funding to police, NGOs, and others for anti-trafficking initiatives. These activities, legislative and policy reforms, and funding have been almost entirely focused on domestic sex trafficking, ignoring the well documented exploitative labour conditions in other industries, including in the government established and operated TFWP.

## Objectives

Our study fills important gaps in existing research on human/labour trafficking and migrant work. First, it allows us to compare and contrast how trafficking, exploitation, and related conditions are defined, distinguished, constructed, justified, and/or explained, the assumptions that underlie them, and how they are mobilized in Canadian academic and grey

sources. Second, it offers insights into the relationships amongst and across the framings, rationalities, fields, and literature under investigation. And third, it allows us to identify research gaps and trajectories for academics, community organizations, and governments, and offer recommendations to various actors working on issues related to trafficking and migrant labour.

## Methodology and Data Analysis

Our research team included three professors, a post-doctoral fellow, a PhD student, and a Master's student from five universities. Together, we conducted a scoping review, synthesis, and analysis of data across three bodies of Canadian literature:

- 1 **academic publications on human trafficking;**
- 2 **academic publications on the TFWP and migrant labour more generally; and**
- 3 **grey literature on human and/or labour trafficking and on the TFWP.**

Data were collected using the following search terms: human trafficking; sex trafficking; labour trafficking; migrant trafficking; migrant labour exploitation; migrant labour abuse; TFWP; SAWP [Seasonal Agricultural Worker Program]; Care-giver Program; temporary migration; and coerced labour.

In total, we collected 217 distinct data sources including academic journal articles, books, Master's theses and Doctoral dissertations, technical reports, NGO documents and reports, migrant advocacy toolkits and other sources, and government websites and reports. Guided by our research questions, our key search terms, and a qualitative thematic analysis (Saunders et al., 2018), we identified three other focus areas: unfree labour; forced labour; and precarity. We then explored in further detail how each of these was being framed and rationalized. In line with a poststructural approach (Bacchi, 2012), we examined specific terms, not to establish greater accuracy of them but to identify their variations across different literary contexts, assess their assumptions and impacts, and consider alternative framings and rationalizations where existing ones were ineffective or harmful.

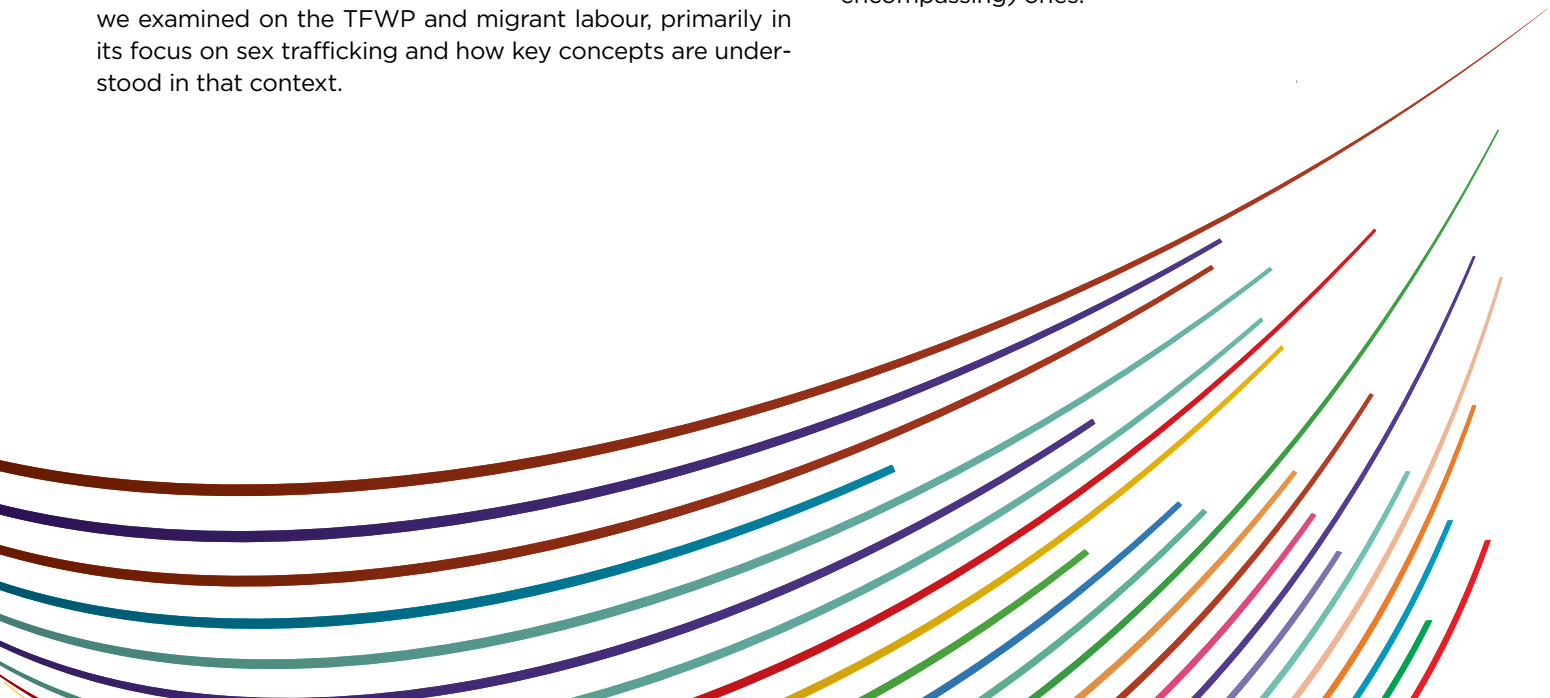
## Results

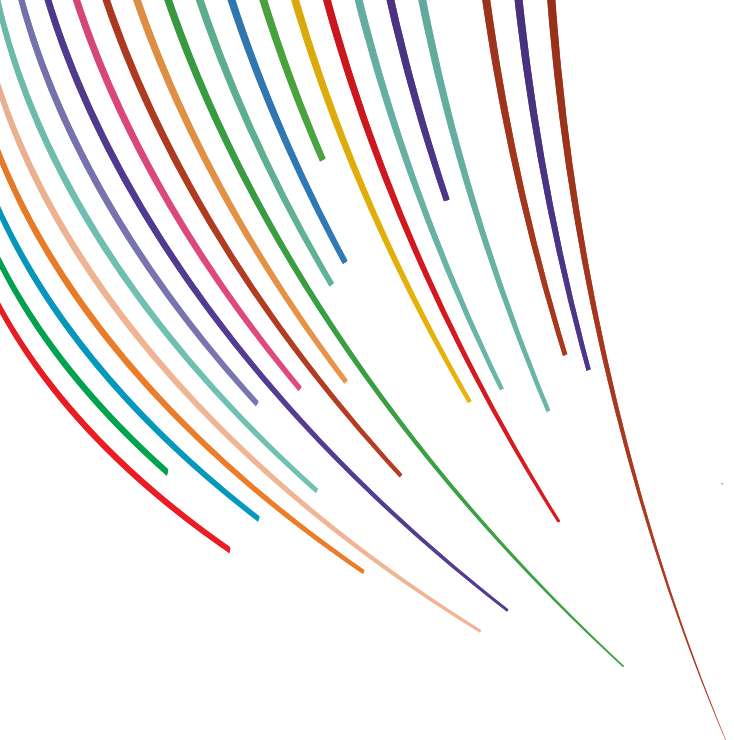
Our findings underscore a lack of clarity and consistency across the three bodies of literature, with markedly few attempts to define key concepts and/or to draw a distinction amongst them. When attempts are made, sources often rely on references to what we call 'secondary' key terms that are likewise under- or undefined. While some sources attempt to introduce distinctions, these clarifications are isolated, at times contradictory, with diffuse boundaries, and explanations that rely on a wide variety of other sources (e.g., legislation versus typologies). There are, however, some sites of overlap across the bodies of literature, including, for instance, reference to the United Nations Trafficking Protocol in defining the key concept of trafficking. Yet, how this international legislation is interpreted differs, resulting in varied framings and rationalizations of trafficking.

Overlaps in key thematic areas are primarily traced in grey literature and academic publications on the TFWP and migrant labour. These overlaps emerge with respect to discussions of the following concepts: exploitation; coercion; forced labour; unfree labour; abuse; and precarity. However, the repetition of secondary key terms (namely exploitation, precarity, force, and coercion) within the sources that define primary thematic areas does not offer further clarity. Academic publications on human trafficking diverge substantially from the focus, findings, use, and definitions of terms in the sources we examined on the TFWP and migrant labour, primarily in its focus on sex trafficking and how key concepts are understood in that context.

## Key Messages

Analysis of framings and rationalizations offers a few important insights, not the least of which is the lack of uniform understanding of human trafficking and migrant labour exploitation (and related conditions) in research or practice. This suggests that assumptions of clarity should not be made about the conditions being addressed, and that further efforts are necessary to ascertain and clarify which conditions are indeed being captured and why, and equally, which are not and why. The lack of agreement or uniformity, in other words, highlights the fact that we cannot assume we are all referring to the same phenomenon when evoking the language of trafficking or labour exploitation. These concepts have been widely deployed in social media, NGO, police, and government campaigns but they are neither neutral nor inevitable, and even a detailed reading of how they are used does not immediately bring us to a better or more common understanding, as our study highlights. It can, then, be argued that critical, specific, and unified framings and rationalizations can strengthen collective action against some of the conditions these terms aim to encompass. At the same time, it is also important not to reduce a study like ours to the quest for more 'accurate' definitions. It is instead about identifying the mechanisms and impacts of current framings and rationalizations in order to offer alternative, less harmful (though not necessarily more accurate or all encompassing) ones.





**We are concerned with understanding how experiences of migrant labour exploitation and human trafficking are being framed and rationalized across Canadian academic and grey literature on human trafficking, the TFWP, and migrant labour broadly.**

## Research Report and Findings

# BACKGROUND

Human trafficking has garnered significant global attention since the year 2000 when the United Nations enacted the *Protocol to Suppress, Prevent and Punish Trafficking in Persons* (hereafter 'Trafficking Protocol'). Canada ratified the document two years later in 2002, which led to the implementation of expansive provisions in both the *Immigration and Refugee Protection Act* and the *Criminal Code*, as well as various policies and government mandates. A massive increase in anti-trafficking funding by federal and provincial governments followed shortly after. For example, the 2012 National Action Plan to Combat Human Trafficking was accompanied by \$25 million in federal anti-trafficking funding over a four year period (Public Safety Canada, 2012; see also De Shalit et al. 2014), and the 2019-2024 national anti-trafficking strategy invests \$75 million over six years (Public Safety Canada, 2019). British Columbia, Manitoba, and Ontario provincial governments have also budgeted major resources for the effort, with Ontario allotting \$72 million in June 2016 and then \$307 million over five years beginning in 2020. Calls to do more to eradicate human trafficking continue with much talk about the need to implement stricter laws, provide additional funds, dedicate increased criminal justice and community resources, and so on.

Enforcement and other strategies have been almost entirely focused on domestic trafficking, and specifically sex trafficking. As a result, the experiences of exploitation, abuse, force, coercion, and related conditions in labour sectors outside of

the sex trade have largely been ignored. This includes migrant experiences of labour exploitation within the Temporary Foreign Worker Program (TFWP), which is one of Canada's immigration programs that supports access to low wage migrant labour. This form of work is frequently referred to as 'low skilled,' though we follow others who critique that notion given that much of the labour performed requires a high degree of dexterity, proficiency, knowledge, and indeed skills (for example, see Connelly, 2023).

The TFWP allows employers to hire workers under a variety of streams, including the Seasonal Agricultural Worker Program (SAWP) and the former Live-In Caregiver program.<sup>1</sup> Fudge and MacPhail (2009) explain that the Canadian government promotes the TFWP to fuel the country's economic growth and fulfill the needs of its employers, and is far less concerned with protecting the safety of migrant labourers. For instance, Canada has failed to ratify the international conventions that specifically safeguard the rights of migrant workers, including the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (2003), and the International Labour Organization's Migration for Employment Convention (1949) and its Migrant Workers Convention (1975). In contrast, Canada was one of the first countries internationally to ratify the UN Trafficking Protocol, yet this only creates an illusion of human rights guarantees for migrants while promoting a criminalizing framework (Gallagher 2010).

Worryingly, and demonstrating the need for legislative and other forms of protection, reports of exploitation, abuse, and related conditions within the TFWP have only increased in recent years (Fudge & MacPhail, 2009; MWAC, 2020). Grass-roots and critical academic investigations have specifically identified that the provision of closed work permits within this program exposes migrants to harm, as workers are tied to their employers (Canadian Agricultural Human Resources, 2017; Hennebry & McLaughlin, 2012; MWAC, 2020; Weiler & Cohen, 2018). According to Sharma (2012), since migrants' legal status in Canada is dependent on employment, their lack of status outside of their workplaces contributes to their overall unfreedom (see also Basok, 2002; LeBaron & Phillips, 2019; Lenard & Straehle, 2012). These structural conditions of dependency have been demonstrated by academics and advocates to reinforce experiences of unfavourable labour conditions for migrants (Canadian Agricultural Human Resources, 2017; Hennebry & McLaughlin, 2012; Weiler & Cohen, 2018). A call for comprehensive investigations of migrant, marginalized, and precarious labour has thus been sounded, including into the role of the federal government in facilitating 'trafficking' by sanctioning 'unfree' labour (Anderson & Andrijasevic, 2008; LeBaron & Phillips, 2019).

Our study provides a preliminary step towards addressing this call. We are concerned with understanding how experiences of migrant labour exploitation and human trafficking are being framed and rationalized across Canadian academic and grey literature on human trafficking, the TFWP, and migrant labour broadly. In undertaking this research, our team is specifically interested in examining framings of migrant labour exploitation and related conditions of abuse, coercion, force, and so on, and considering if, when, and how these experiences are rationalized as 'trafficking.' This focus emerges from the recognition that while academic and grassroots research exists on problematic practices in the TFWP (see, for example, Bhuyan et al., 2018; Fudge & MacPhail 2009; Strauss & McGrath, 2017; Vosko 2022), it does not often make connections to human trafficking, despite such practices meeting the international threshold.

Where trafficking is discussed in academic publications on the TFWP and migrant labour more generally, it appears to be connected to *illegality* (i.e., forced labour practices that are not state-sanctioned but are imposed by recruiters and employers after migrant arrival) (Hennebry & Preibisch, 2012; LeBaron & Phillips, 2019; Oxman-Martinez et al., 2001), though some exceptions to this narrative exist (Beatson et al. 2017; Hastie 2015). Whether the experiences of exploitation and other related conditions of migrants whose movement *is* sanctioned by the state could be considered 'trafficking' appears to be otherwise under-examined. Importantly, our inclination is to learn more about the seeming discrepancies or tensions in framings and rationalizations than to suggest that the aforementioned conditions should be more widely labelled trafficking. Indeed, the labelling of migrant labour exploitation as trafficking has normalized exploitation, coercion, threat, force, and deplorable living conditions migrant workers regularly face. Further, it has prevented migrant workers from attaining meaningful supports and protections, and undermined the efforts of migrant justice advocates (MWAC, 2023).

## The Research Team

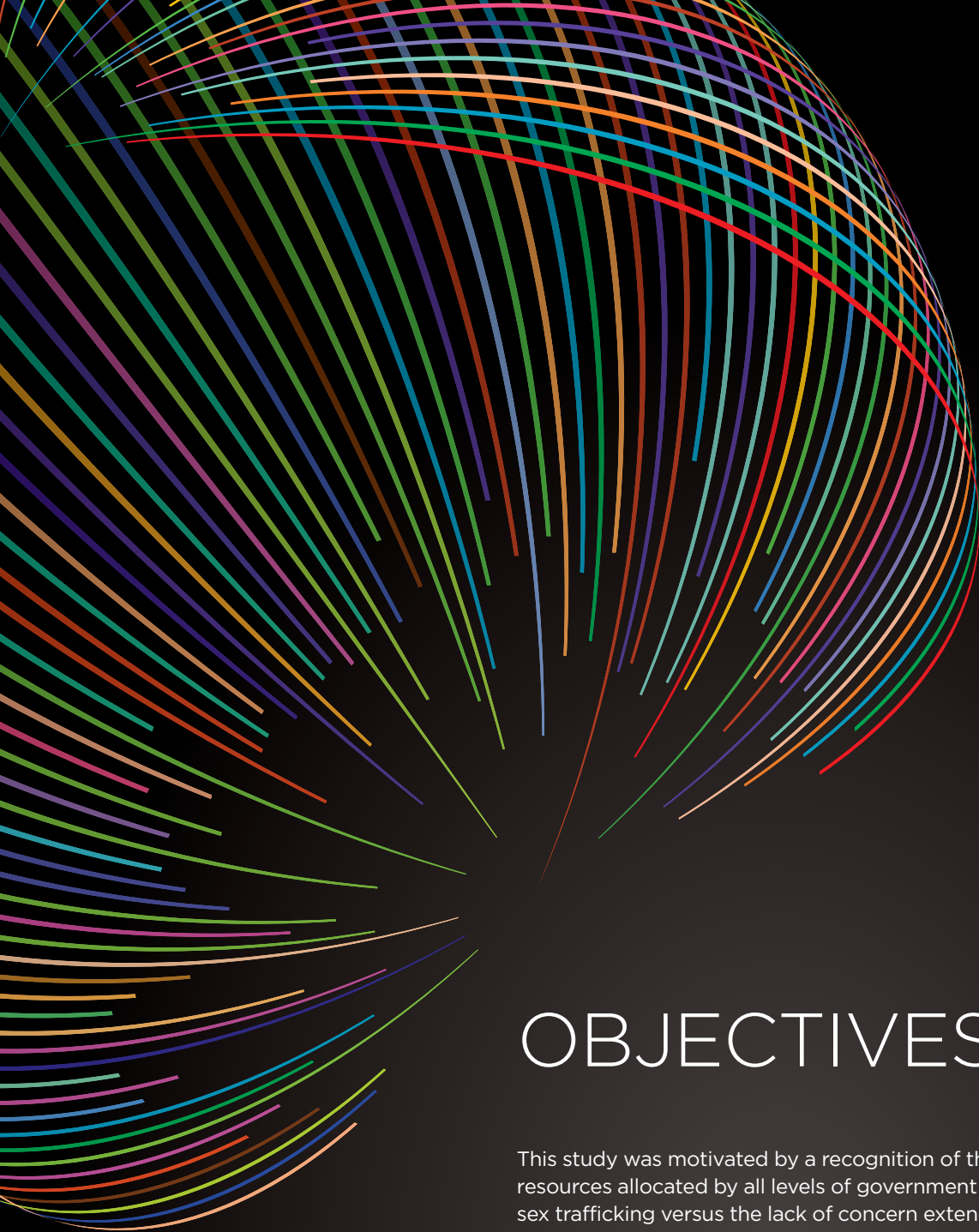
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**Co-Investigators:** Ann De Shalit and Emily van der Meulen

**Collaborator:** Jessica Templeman

**Research Assistants:** Julie Murray and Bridget Collrin

<sup>1</sup> The Live-in Caregiver Program is now closed to new applicants and can only be accessed if the worker agrees to live in the employer's home, has an existing Live-In Caregiver Program permit, and is looking for a replacement. Otherwise, employers can hire migrant caregivers through the Home Child Care Provider and Home Support Worker pilot programs without a Labour Market Impact Assessment (LMIA) or via the TFWP with a LMIA.



# OBJECTIVES

This study was motivated by a recognition of the glaring disconnect between the resources allocated by all levels of government in Canada to combating domestic sex trafficking versus the lack of concern extended to the conditions experienced by migrant labourers under the TFWP. Migrant experiences are seldom defined as human trafficking despite aligning with definitions of this offence pursuant to the UN Trafficking Protocol and arguably Canadian law. The federal government has also actively failed to adopt international law that requires state protection to be extended to migrant workers, further confirming the lack of attention to migrant labour exploitation and related conditions. As a first step in addressing this disconnect, our core objective is to understand how migrant labour exploitation and human trafficking are being framed and rationalized. By exploring these dynamics, we aim to contribute to future research and practice for academics, community organizations, advocates, and governments.



# METHODS

To achieve our key objectives, we conducted a systematic literature review, which, according to Fink (2005), is an “explicit, and reproducible method for identifying, evaluating, and synthesizing the existing body of completed and recorded work produced by researchers, scholars, and practitioners” (as cited in Okoli, 2015, p. 880). This method allowed us to comprehensively collect and interpret materials relevant to the framings and rationalizations of human trafficking and migrant labour exploitation (and related concepts) from across three identified bodies of Canadian literature:

- 1 academic publications on human trafficking;**
- 2 academic publications on the TFWP and migrant labour more generally; and**
- 3 grey literature on human and/or labour trafficking and on the TFWP.**

Materials were restricted to those with a Canadian focus that were published in English between 2013 and 2023. To conduct the in-depth review, we began by finding and identifying sources that included our search terms and abided by our restrictions. We then evaluated the literature and extracted relevant information related to the key terms, with three additional key concepts emerging, namely, unfree labour; forced labour; and precarity. Finally, we synthesized and analyzed the results. Each of the steps are explained in further detail below.

## Three steps: Searching, Evaluating, and Synthesizing

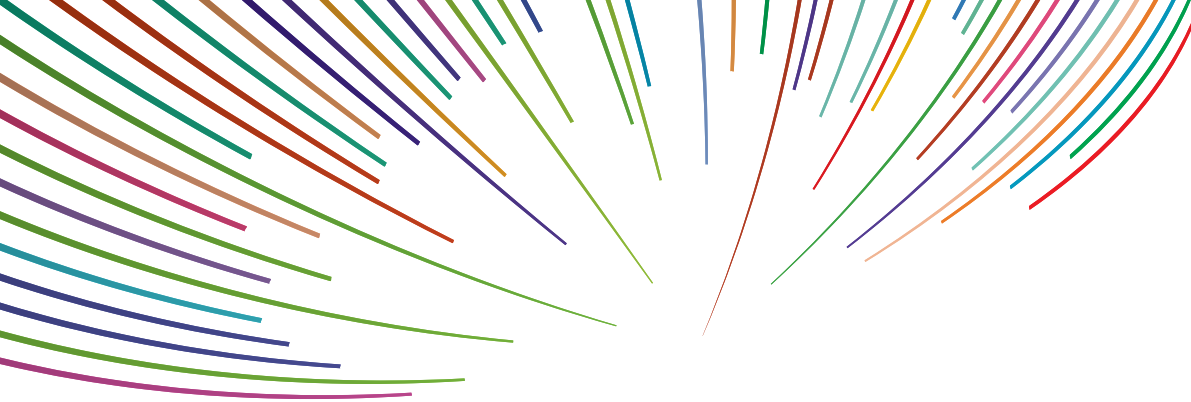
### Step 1 Literature Search

Our team employed a multi-pronged approach to search and gather materials from the three identified bodies of literature. First, two Research Assistants were trained on ways to effectively access databases and journals through the university library system. Relevant legal and criminology databases were identified to help find academic journal articles. The RAs were also given instructions on how to refine searches to better access materials and were provided additional resources on conducting literature reviews. They then used this guidance to undertake the next step of the literature search, namely the gathering of relevant academic publications.

Library databases offered by the University of Ottawa and Toronto Metropolitan University were used in support of this effort. The academic search engine *Omni* (which gives access to 18 university libraries) was also explored to find dissertations, journal articles, books, and book chapters on human trafficking and migrant labour. Several key criteria for inclusion were employed in support of these searches. As per Okoli (2015), the use of “criterion for inclusion” offers a “practical screen” that is essential for conducting a rigorous, systematic literature review (p. 891). The search was conducted using the following keywords as criterion for inclusion: human trafficking; sex trafficking; labour trafficking; migrant trafficking; migrant labour exploitation; migrant labour abuse; TFWP; SAWP; Caregiver Program; temporary migration; and coerced labour.

After gathering all relevant sources from the noted university libraries, the RAs supplemented the initial collection of materials by searching widely recognized public databases, such as Google Scholar, the Directory of Open Access Journals, ProQuest, and Scopus. The same criterion of inclusion guided this secondary exploration. The Google search engine was the primary tool for accessing grey literature from the Government of Canada, non-governmental organizations (NGOs), and migrant advocacy groups, including research reports, policy briefs and recommendations, technical papers, and website content.

Finally, to complete the extensive search process, we employed a strategy referred to as citation chaining. After engaging in a preliminary examination of the literature gathered thus far, the RAs performed both forward (reviewing in-text citations) and backward (reviewing bibliographies) chaining techniques (Ruparel et al., 2020). More specifically, they scanned the reference section of particularly relevant academic articles and book chapters to conduct a backward search for potentially relevant sources not identified in the initial searches (Levy & Ellis, 2006). This process was repeated iteratively until a comprehensive and exhaustive list of sources published from 2013 to 2023 was identified.



All gathered sources were stored and organized using Zotero, a data management software. A notable feature of Zotero is the ability to create a Group Library, which automatically syncs documents that are uploaded by all users. This feature allowed all members of the research team to upload, organize, and review the literature. Two major folders were created and labelled within the Group Library – Academic Literature and Grey Literature – with the academic folder subdivided by

sources on the TFWP and migrant labour versus sources specific to human trafficking. We additionally established sub-categories during team meetings to further organize both the academic and grey sources, including by theme and by type of publication. In total, the research team uploaded 217 distinct sources into Zotero’s Group Library for in-depth analysis and evaluation.

**Table 1: Source Type and Number**

	<b>Source Type</b>	<b>Number</b>
<b>Academic Publications (human trafficking)</b>	Journal Articles	30
	Books	3
	Book Chapters	6
	Theses/Dissertations	7
	<b>Total:</b>	<b>46</b>
<b>Academic Publications (TFWP + migrant labour)</b>	Journal Articles	64
	Books	8
	Book Chapters	4
	Theses/Dissertations	1
	<b>Total:</b>	<b>77</b>
<b>Grey Literature (human/labour trafficking and TFWP)</b>	Government of Canada (Websites)	29
	Government Reports	20
	NGO Documents	20
	Migrant Advocacy Groups/Coalition Documents	17
	Technical and Community Reports	8
	<b>Total:</b>	<b>94</b>
	<b>Grand Total</b>	<b>217</b>

## Step 2 Evaluation

After compiling and organizing the literature in Zotero, we began the lengthy evaluation stage. Here, we divided our team into three groups, with each responsible for examining one of the bodies of literature under review: academic publications on human trafficking; academic publications on the TFWP and migrant labour; and grey literature on human and/or labour trafficking and on the TFWP. Our evaluative process was guided by a qualitative thematic approach (see Saunders et al., 2018) where we sorted data according to key concepts. The following set of questions was used to prompt each group in identifying pertinent themes:

- 1 How are **labour exploitation, abuse, and/or coercion discussed** in the literature on Canada's TFWP? How is **human trafficking** discussed in the literature on Canada's TFWP? How is human trafficking distinguished from labour exploitation, abuse, and/or coercion in this context?;
- 2 When **law and policy documents** distinguish between experiences of exploitation and abuse in the context of temporary migrant labour and human trafficking, what rationale is employed?;
- 3 What **policies, legal materials, and mandates** contribute to and which challenge the exploitation and abuse of temporary migrant workers, and how do they do so? How are these practices of exploitation distinguished from or equated with trafficking?
- 4 What are the **racialized and gendered impacts** of the distinctive approaches to labour exploitation, abuse, and/or coercion within the TFWP and human trafficking?

After the first round of data sorting, these four questions were broken down into sub-inquiries/questions to provide further guidance for data extraction. For a complete list of questions and prompts guiding our extraction of information, see Appendix A. Due to the richness of the data and space limitations of this report, here we address two overarching and broad research questions: Are framings of exploitative practices in Canada's TFWP distinguished from framings of human trafficking? And if so, how is this distinction rationalized?

### Research Questions:

**Are framings of exploitative practices in Canada's Temporary Foreign Worker Program (TFWP) distinguished from framings of human trafficking? And if so, how is this distinction rationalized?**

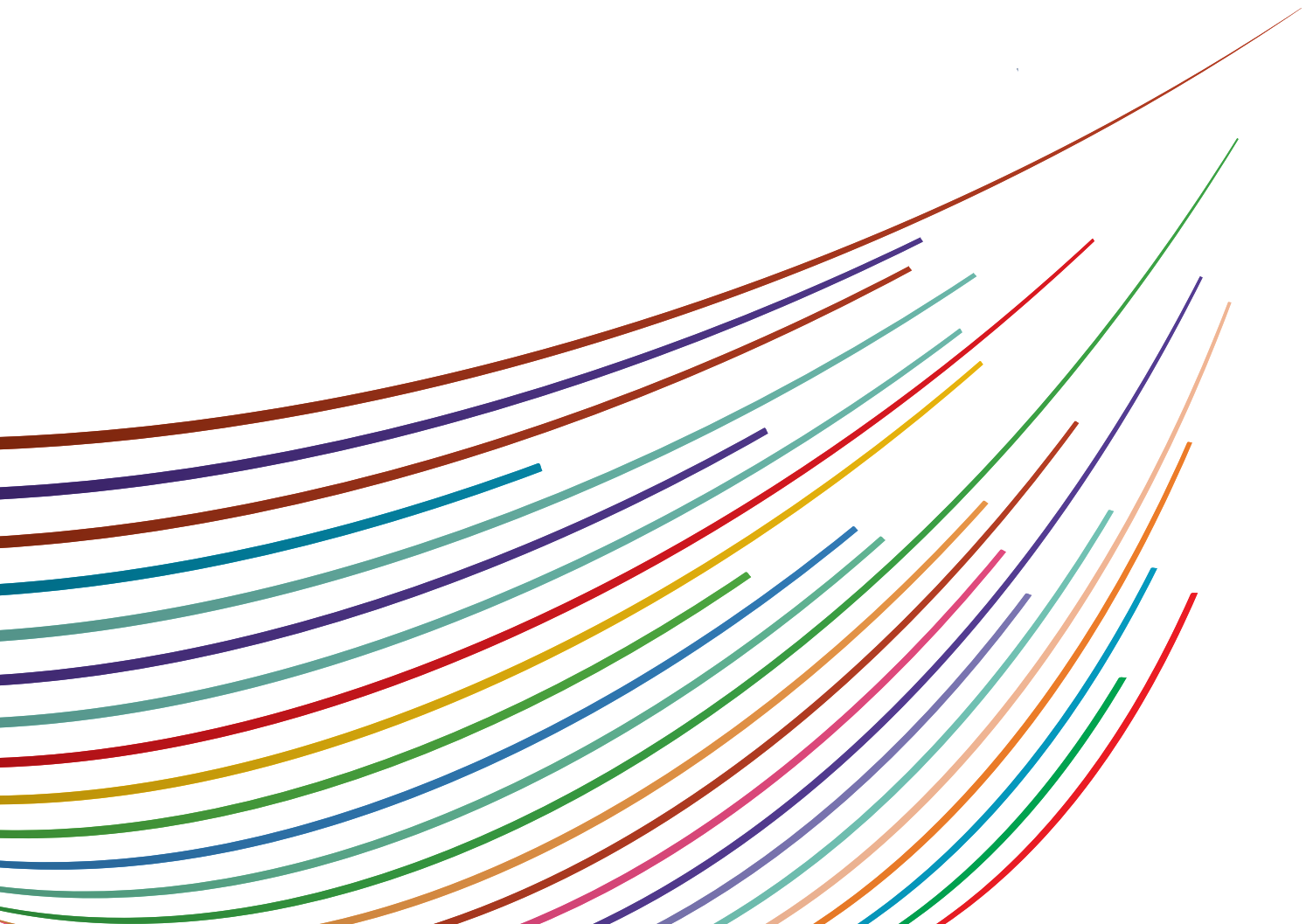
### Step 3 Synthesis

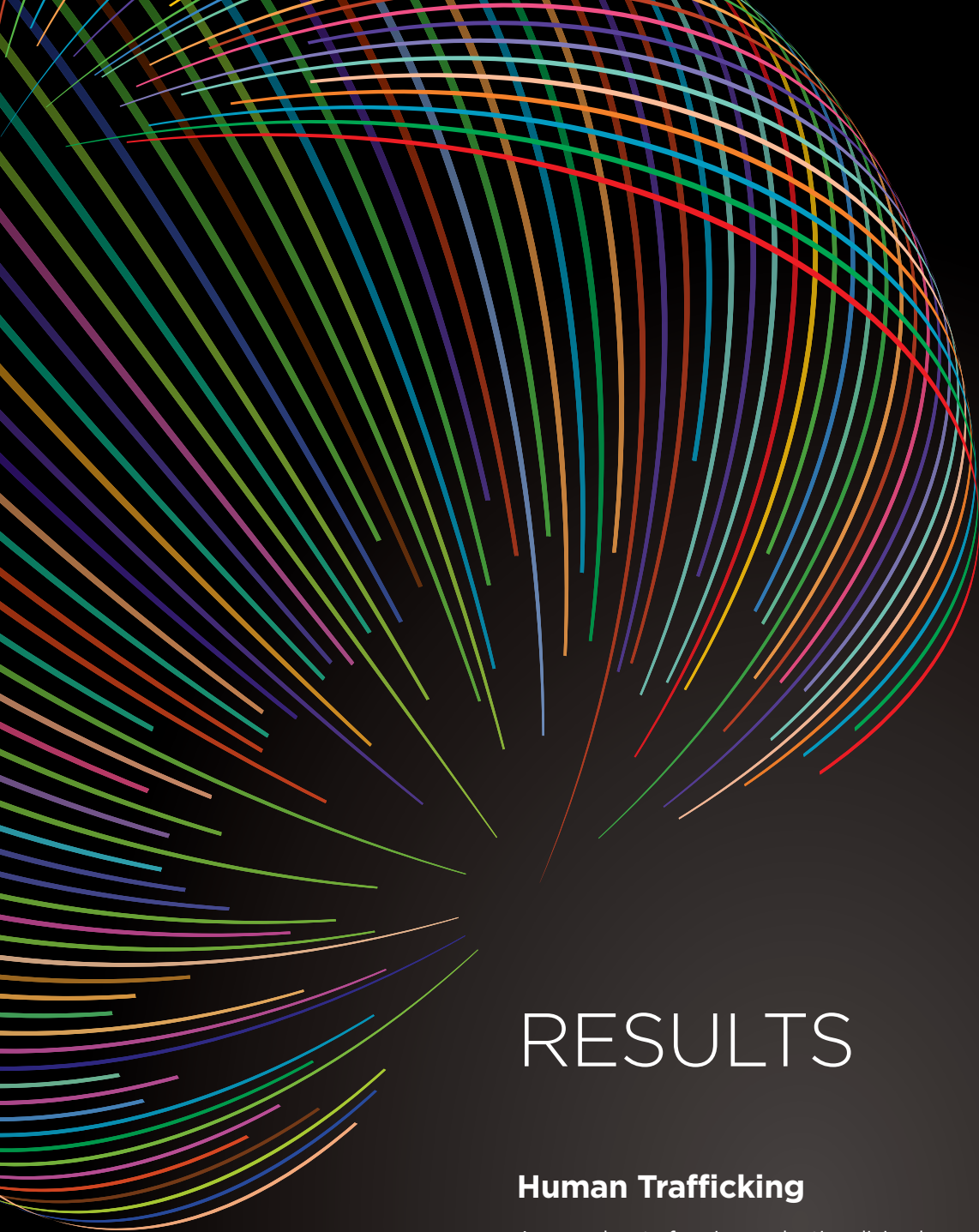
We concluded our systematic literature review by synthesizing and evaluating the collected materials. To do this, each of the three groups wrote detailed summaries of the findings guided by the questions provided in Appendix A. Team members then reviewed the summaries produced by the other groups, and subsequently met to discuss the themes emerging from the literature, noting patterns, overlaps, and divergences. Some findings were also used to create tables and charts that visually represented and illustrated the themes that were cutting across the different sources.

In the following pages of this report, we share our syntheses of the framings and rationalizations of seven terms and concepts that were most frequently discussed in the academic and grey sources: human trafficking; exploitation; forced and unfree labour; precarity; violence and abuse; control; and coercion. Our examination uncovers major variability in how these concepts are defined, utilized, and discussed.

### Seven key terms and concepts analyzed:

- human trafficking
- exploitation
- forced and unfree labour
- precarity
- violence and abuse
- control
- coercion





# RESULTS

## Human Trafficking

Approaches to framing and rationalizing human trafficking across all three bodies of literature differ in important ways. Academic publications on human trafficking in Canada primarily rely on legislation to define the term, and often directly cite immigration and criminal laws (Boulanger, 2018; Bourgeois, 2015; Burgess, 2014; De Shalit et al., 2021; Guilmain & Hanley, 2020; Hastie, 2013; Kaye & Hastie, 2015; Perry, 2018; Ricard-Guay & Hanley, 2014, 2020; Roots, 2013, 2022; Roots & De Shalit, 2015; Sikka, 2014). There is general agreement in this literature that existing definitions of trafficking are ambiguous, lacking in clarity, and have resulted in the conflation of the term with other criminal legal concerns, such as sex work, migration, border control, gendered colonial violence, youth who trade or sell sex, sexual assault, intimate partner violence, organized crime, and so on (Durisin & van der Meulen, 2021; Kaye et al., 2014, 2018; Maynard, 2015; Ricard-Guay & Hanley, 2020; Roots, 2022; Sibley & van der Meulen, 2022).



## Sex trafficking is the primary focus of academic publications on human trafficking.

Several scholarly publications on trafficking draw comparisons between the definitions of trafficking provided in the UN Trafficking Protocol and the *Criminal Code* (Beatson et al., 2017; Ricard-Guay, 2016; Roots, 2013, 2022; Kaye & Hastie, 2015). As these sources point out, the *Criminal Code* does not provide a definition of trafficking that specifically involves labour exploitation and forced labour. Instead, all trafficking offences are covered under one broad definition. This is in contrast to the Trafficking Protocol, where a list of different forms of trafficking is provided (e.g., forced prostitution, forced labour, etc.) (Beatson et al., 2017; Ricard-Guay, 2016). As such, Kaye and Hastie (2015) conclude that Canada's trafficking law is inattentive to trafficking outside of the sex trade.

Within academic publications on the TFWP and migrant labour, trafficking is rarely defined. Only one of the articles we reviewed in this body of literature provides a clear definition, with the source specifically referencing the language of the Trafficking Protocol rather than the *Criminal Code* or the *Immigration and Refugee Protection Act* (Guilmain & Hanely, 2020). Others examine migrant experiences, characterizing them as trafficking while leaving the term itself undefined (Depatie-Pelletier et al., 2022; Perry, 2020; Robillard et al., 2018; Salami et al., 2020). Academic publications on the TFWP and migrant labour additionally rely on other key concepts, such as exploitation and coercion, to identify trafficking, but these secondary terms likewise remain undefined (Bhuyan et al., 2018; Landry et al., 2021). And while some sources point to the failure of the Canadian government to label migrant experiences as trafficking (Bhuyan et al., 2018), a few instead describe these experiences as unfree labour (Strauss & McGrath, 2017).

In grey literature, trafficking tends to be framed in ways that better aligns with international law. The discussions here frequently focus on cross border transportation, recruitment, and exploitative labour conditions via the use of coercion, deception, force, abuse, and other means. For example, the Canadian Centre to End Human Trafficking (n.d.) defines human trafficking as “the exploitation of human beings for gain” that “usually entails sexual services or labour through force, coercion, deception, and/or abuse of trust, power or authority” (para. 1). We can observe the absence of references to

recruiting, moving, and holding in this passage, which are present in international law, though the Centre picks these terms up elsewhere (see section on ‘labour trafficking’ below). The Centre (n.d.) further states that “human trafficking involves acts that lead to the exploitation of human beings for the ongoing gain of traffickers/exploiters” (para. 5), thereby only factoring in exploitation. Interestingly, it additionally notes that “trafficking... can also occur without force, coercion, or deception, and even when the victim consents to it. For example, a foreign domestic worker may be too scared to leave their job and will continue working despite not being paid because the employer is withholding their passport” (n.p.). Questions arise about why this example does not in fact constitute coercion, as the Centre concludes.

Despite these notable variations in definitions of trafficking across the literature, one consistency is the use of the term exploitation to define trafficking. Variability continues, though, in how and if exploitation is itself defined, as we discuss in more detail later.

### Sex Trafficking

Sex trafficking is the primary focus of academic publications on human trafficking. As the sources point out, Canada's anti-trafficking criminal law is applied almost exclusively to cases of sex trafficking. The law is aligned with anti-sex work provisions in the *Criminal Code* and even uses terminology that is similar and at times verbatim to procuring legislation under subsection 286.3(1) (Millar & O'Doherty, 2020; Roots, 2022). Another way this alignment is achieved is through an overwhelming emphasis on the concept of exploitation with minimal attention paid to all other intersecting and compounding factors that make it possible (Roots, 2022; Sibley & van der Meulen, 2022). This concern over exploitation, however, is focused almost exclusively on the sex trade, which is framed as inherently exploitative in some legislative contexts, thus enabling the application of the law more liberally. The same view is not taken with respect to the TFWP despite a myriad of research that demonstrates its exploitative practices. The grey literature and academic publications on the TFWP and migrant labour exploitation we considered do not have anything significant to add to these discussions.

## Labour Trafficking

In comparison to discussions of sex trafficking, labour trafficking is a concern of all three bodies of literature, which is unsurprising given the focus of our study. How labour trafficking is defined is inconsistent, however, even within a single body of literature. For example, Immigration, Refugees and Citizenship Canada (2016) considers recruitment for the purpose of exploitation as the factor that elevates a situation of labour exploitation to one of labour trafficking. FCJ Refugee Centre and the Canadian Centre to End Human Trafficking (2023) define labour trafficking as “recruiting, moving, or holding victims to coerce them,” while, in contrast, labour exploitation “occurs when employers treat workers in a way that breaks the law” (p. 9). Elsewhere, the Centre (n.d.) defines labour trafficking as “the use of violence, threats, lies, debt bondage, or other forms of coercion to force people to work against their will in many different industries” (para. 4).

According to other grey literature, labour trafficking can be understood as forced labour combined with deception (at the recruitment stage) and transportation (Kempadoo et al., 2017). Though most distinguish between the two, some materials use the terms labour trafficking and forced labour interchangeably (CCR, 2020; Public Safety Canada, 2018; WCDWA, 2018). While one grey source appears to use labour trafficking and labour exploitation concomitantly (CCEHT, 2023), exploitation and trafficking are not as commonly conflated in ‘labour’ scenarios as they are in scenarios involving sex. McCrae (2016) alludes to this, stating that while labour exploitation is widespread, “the number of people fitting official definitions of human trafficking is arguably relatively small” (p. 3). Public Safety Canada (2018) similarly suggests that “labour trafficking cases are very hard to detect and when they are suspected, they may be treated as contractual problems to be dealt with by labour standards” (p. 19), pointing to the rationalizations that underlie how and when notions of exploitation are deployed in definitions of trafficking.

In academic publications on the TFWP and migrant labour, a number of sources characterize labour trafficking as the most severe form of labour exploitation (Strauss & McGrath, 2017). Others define labour trafficking by the presence of exploitation and other factors. For example, Muchka (2021) provides a breakdown of what makes labour violations (what some refer to as labour abuse or labour exploitation) and trafficking distinct, writing that “a critical element in defining labour trafficking is the incorporation of labour exploitation and coercion – where coercion is used to facilitate labour exploitation” (p. 11).

**Table 2: Intersecting Exploitation and Coercion**

<b>Exploitation</b>	No	Yes	Yes
<b>Coercion</b>	No	No	Yes
	<b>Decent Work</b>	<b>Labour Violation</b>	<b>Labour Trafficking</b>

(Muchka, 2021, p. 11)

Academic publications on the TFWP and migrant labour hold that exploitation produces unfree labour that may then become trafficking (Strauss & McGrath, 2017; Thomas, 2016). Thus, while trafficking and unfree labour are not equivalent, both require the presence of exploitation. Unfree labour and trafficking effectively emerge as two ends of a continuum, with unfree labour shading into trafficking based on the severity of the exploitative conditions and practices. Other academic sources on the TFWP and migrant labour contend that unfree labour is produced by coercive legal constraints imposed on all migrant workers, and it is when these coercive constraints are combined with exploitation that unfree labour is transformed into trafficking (Guilmain & Hanley, 2020; Tulli et al., 2023). Unfree labour is thus tied to coercion (rather than exploitation) and may become trafficking with the addition of exploitation.

This secondary approach to trafficking in academic sources on the TFWP and migrant labour is drawn from academic publications on human trafficking. In the latter, definitions of labour trafficking are provided by sources that focus on labour exploitation and trafficking specifically (rather than sex trafficking). These publications generally define labour trafficking as the combination of labour exploitation and coercion (Beatson et al., 2017; Guilmain & Hanley, 2020). Beatson and colleagues (2017) note that it is this combination that distinguishes labour trafficking from labour violations (exploitation without coercion) and unfree labour (coercion without exploitation).

## Exploitation

As already traced above, exploitation is frequently evoked in the sources we considered. Yet, the term appears to differ depending on whether the discussion takes place in the context of broader considerations of sex trafficking or of labour trafficking.

In particular, academic publications on human trafficking tend to focus heavily on legislative definitions and compare the UN Trafficking Protocol's definition of exploitation to that of the *Criminal Code*. The sources criticize the use of this term without distinguishing between different forms of exploitation, which range widely and exist on a spectrum of all forms of labour. Currently, the focus remains on marginalized and precarious forms of labour and sex work, leaving other areas of exploitation unaddressed and thus normalized (O'Doherty et al., 2018; Ricard-Guay, 2016; Ricard-Guay & Hanley, 2020). It is equally important to note that the term exploitation is often used without specific distinction between sexual exploitation and labour exploitation in academic publications on human trafficking, though the two represent a different set of assumptions and rationalizations. The language of exploitation in discussions of sex trafficking, sex work, sexual activities, and intimate relationships, for example, relies on an understanding of the term as sexual abuse, assault, and violence.

Academic publications on the TFWP and migrant labour, in contrast, rarely engage in defining or trying to make sense of the term exploitation. Grey literature alternatively focuses on comparisons between labour and sexual exploitation, highlighting that while labour exploitation is commonplace, legal definitions and understandings around this concept mean that it does not easily fit into the definition of labour trafficking, thus resulting in few cases being classified as such.

### Sexual Exploitation

Sexual exploitation is an important point of intervention in academic publications on human trafficking, which are predominantly focused on sex trafficking. While sources mostly refer simply to exploitation, rather than sexual exploitation, with the focus of analysis on domestic sex work and sex trafficking, we can deduce that guiding the discussion are ideas about 'sexual' exploitation.

As with the term human trafficking, discussions of exploitation in relation to sex trafficking mostly point to the way in which the term is understood in legislation. Sources note for example that the UN Trafficking Protocol does not explicitly define exploitation but instead lists various possible forms (e.g., sexual exploitation, forced labour or services, slavery or slavery-like practices, servitude or the removal of organs) (Roots, 2013; Sikka, 2014). In contrast, Canada's *Criminal*

*Code* holds exploitation as the defining feature of trafficking (Roots, 2022; Sibley & van der Meulen, 2022; Sikka, 2014). Some criticize this definition for being too narrow as it requires victims to convince the court that they performed labour or services out of fear for their safety or the safety of their loved ones (Beatson et al. 2017; Kaye et al., 2014). Still others argue that the interpretation of exploitation is overly broad as only proof of intent to exploit rather than exploitation itself is required by law, thereby capturing a range of sex work activities due to the common conceptualization of sex work as inherently exploitative (Roots, 2022; Sibley & van der Meulen, 2022).

### Labour Exploitation

Labour exploitation is a key point of discussion in grey literature and academic publications on the TFWP and migrant labour. Note, however, that academic publications only refer to exploitation in general rather than specify labour exploitation in particular. Indeed, academic sources tend to rely heavily on references to exploitation to describe the experiences of migrant labourers (Reid-Musson, 2014; Smith, 2015; Strauss & McGrath, 2017), yet they do not provide clear and concise explanations of precisely what is meant by exploitation.

An exception is the definition provided by Gordon (2019), who, drawing on Marxist theory, writes that exploitation refers to the "appropriation by ruling classes of the surplus wealth, or value, that labourers produce beyond their own material reproduction costs" (p. 931; similar Marxist arguments are advanced by Reid-Musson, 2014; Strauss & McGrath, 2017). Gordon (2019) goes on to state that exploitation is not simply the result of "juridical unfreedom," but also due to "the appropriation of surplus as a condition of workers being alienated from society's productive resources and thus having to enter market relations to sell their labour power" (p. 931). Here, a new concept of "juridical unfreedom" is introduced that appears to be related to exploitation.

Despite the lack of definitional clarity, some academic publications on the TFWP and migrant labour deploy variations of the term exploitation to describe migrant experiences, for example "hyper-exploitation," "super-exploitation," and a "continuum of exploitation" (Reid-Musson, 2014; Smith, 2015; Strauss & McGrath, 2017; Thomas, 2016; Tulli et al., 2023; Yea, 2015). In these discussions, sources generally explore the intersecting conditions that create more severe forms of exploitation, such as coercion, control, and/or precarious legal status, which are also linked to considerations of labour trafficking, as noted previously. The effect is a somewhat complicated interweaving of concepts, often underexplored, forcing the reader to infer when and how migrant exploitation moves towards hyper or super exploitation, and what this means in practice.



Other academic publications point to types, forms, and/or relations of exploitation in explaining labour exploitation, which again ultimately raises definitional questions (Jubany & Castellanos, 2021; Knott & Marschke, 2021). Consider, for example, the work of Larios and colleagues (2020) who identify distinct types of exploitation, as follows: “exploitation of financial need, exploitation of immigration precarity, and exploitation of relationships” (p. 139).

The use of secondary key concepts to define exploitation is evident across both grey literature and academic publications on the TFWP and migrant labour, with exploitation positioned as a component of and/or equivalent to labour trafficking. Among the sources we reviewed, labour exploitation is used as a broader category that can entail or lead to labour trafficking (CORE, 2022; Dandurand et al., 2017; Strauss & McGrath, 2017). Labour trafficking and forced/unfree labour are also folded into labour exploitation, while labour exploitation is tied to coercion in other cases (Tulli et al., 2023). The connection between coercion and exploitation is discussed by Muchka (2021), who specifically defines exploitation as “practices that allow an employer to obtain profit through unfair methods that violate employment standards” (p. 10). Exploitation is further tied to control in much of the academic publications on the TFWP and migrant labour (Perry, 2020; Smith, 2015b).

### **Finally, as mentioned earlier, labour exploitation is at times used interchangeably with forced labour and labour trafficking in grey literature.**

For example, the Canadian Ombudsperson for Responsible Enterprise (2022) explains that “labour exploitation includes child labour, forced labour, and labour trafficking yet each of these forms of labour exploitation may have different roots and underlying causes, pre-conditions, and pathways [...]. While they share a legal basis as forms of forced labour, they also have distinct legal status and protection” (para. 3). Forced labour thus appears as both a major component of, as well as a form of, labour exploitation. The Ombudsperson additionally identifies trafficking as a type of exploitation and a form of forced labour (CORE, 2022).

## **Forced and Unfree Labour**

In addition to the above positions that forced labour is a component of human trafficking, specifically amongst migrant workers, and that human trafficking is a form of forced labour, some grey literature suggests that experiences and conditions of forced labour do not automatically qualify as human trafficking (Dandurand et al., 2017; ESDC, 2014; Holman & Godden, 2022). Sources instead consider labour trafficking or human trafficking *for the purpose of* forced labour, or, forced labour existing along a continuum of coercion together with trafficking and labour exploitation – that is, forced labour, trafficking, and labour exploitation are all understood as forms of coercion (Dandurand et al., 2017). According to a report by Holman and Godden (2022), academic and grey literature on labour trafficking in Canada largely focus on labour trafficking in Canada largely focus on cross-border crime where trafficking is “treated as distinct from the problem of forced labour in supply chains” (p. 8). This is not similarly identified in academic publications on the TFWP and migrant labour, however.

In such literature, references to forced labour repeat the definition of trafficking produced by the International Labour Organization (ILO). For example, Gordon (2019) writes that the ILO employs the label of “forced or compulsory labour” to capture labour that is “performed under threat of penalty and involuntarily,” and can range from “slavery to debt bondage to trafficking of persons ‘for the purpose of exploitation’” (p. 924). Here, trafficking is understood as a form of forced labour. Although not citing the ILO, other academic publications on the TFWP and migrant labour echo the connection between forced labour and trafficking, again stating that human trafficking is a form of forced labour (Landry et al., 2021). Some sources hold that forced labour and trafficking are forms of exploitation, thus adopting a slightly different definition from the ILO (Strauss & McGrath, 2017), while others point out that forced labour is often equated to trafficking (Guilmain & Hanely, 2020).

Regarding unfree labour, as related to but distinct from forced labour, this concept emerges frequently across academic publications on the TFWP and migrant labour, with less references in grey literature and in academic publications on human trafficking. For the most part, the concept of unfreedom is linked to the experiences of temporary migrant workers. According to some, unfreedom is experienced differently depending on a range of conditions that impact an individual’s ability to sell labour, including for example their mobility. Unfreedom is often tied in these discussions to concomitant experiences of exploitation, legal precarity, and coercion (Smith, 2015; Strauss & McGrath, 2017; Thomas, 2016). Reid-Musson (2014), for instance, defines unfreedom

as resulting from “situations in which workers are not only subject to labour exploitation but are not even free to choose the buyer of their labour power” (p. 161). Strauss and McGrath (2017) comparatively write that unfreedom relates to precarious legal status. They explain that legal precarity moves temporary foreign workers “into precarious employment relations, which can shade into more severe forms of unfreedom and exploitation, including forced labour and trafficking, because of restrictions on their ability to change employers and the large debts they incur in order to migrate” (p. 203).

Perry (2019) contends that unfreedom is tied to a “continuum of exploitation that far ‘exceeds the effects of a political or economic strategy’ and profoundly affects workers’ private and public lives, their relationships to each other, and the formation of social and cultural identities” (p. 5). Whereas Smith (2015) writes: “in contrast to free labour, capitalist societies also contain ‘unfree labour’ defined by the imposition of political and legal compulsion sometimes coupled with the use of direct physical force. Where unfree labour exists, therefore, compulsion occurs through economic and politico-legal and/or physical means, capturing the use of a range of coercive practices” (p. 7). Further, we have the work of Hastie (2015), who defines unfree labour as “severe forms of exploitation [that] can be distilled as relying on three relational factors: (1) attempts to gain or effect control over another person (2) through the use of mechanisms which target vulnerable contextual factors or characteristics, and which may act as a ‘bundle of forces’ or layered experience, and (3) in a way which operates to interfere or impede with their ability to meaningful choose between alternatives or engage in autonomous decision-making” (pp. 127-128).

While many academic publications on the TFWP and migrant labour link unfreedom to exploitation, precarity, and coercion, rarely do they define these secondary terms. For example, from Reid-Musson (2014) we know that exploitation is a component of unfreedom, but freedom of labour is determined by more than simply experiences of exploitation. Perry (2019) more specifically connects unfreedom to exploitation, contrary to Strauss and McGrath (2017) who state that unfreedom begins with legal precarity and that it is the level or amount of precariousness that results in exploitation and unfreedom, with precarity being experienced differently and in a multitude of degrees. Exploitation and unfreedom are thus both seen as products of legal precarity. As well, Smith (2015b) ties unfreedom to compulsion, which appears to be a form of coercion, but what exactly is meant by this concept remains unclear (for further discussion of the association between unfreedom and coercion, see Guilmain & Hanely, 2020).

Labour unfreedom is also distinguished from trafficking in academic publications on the TFWP and migrant labour. Some compare unfreedom to slavery as opposed to trafficking, though if and how trafficking and slavery differ is not addressed. LeBaron (2015) connects unfree labour to coercion, imagining unfreedom as the result of systemic “social relationship of insecurity and exploitation” (p. 1). She uses these insights to criticize literature on neo-slavery for overlooking unfree labour (see also Walia, 2021).

Importantly, there is some effort made in academic publications on the TFWP and migrant labour to distinguish between forced and unfree labour. As an illustration, Strauss and McGrath (2017) suggest that “regimes of unfreedom do not, or not always, equate to widespread conditions of forced labour or trafficking” (p. 200). They later state that unfreedom can shade into forced labour and trafficking, arguing that forced labour (like trafficking) is an extreme form of unfreedom. The source by Thomas (2016) provides further clarity on the distinction in these concepts. It contrasts unfree labour with trafficking, stating that while trafficking might be a form of unfreedom in the organization of labour, it is not the only form. Drawing from the ILO, Thomas (2016) goes on to write:

However, the ILO definition of forced labour that frames many current debates is actually a subset of much broader conditions of “unfreedom,” which rather than being anomalous, are in fact systemic to the organization of capitalist labour markets. For example, Phillips (2011) argues that conditions of freedom/unfreedom should not be understood as a simple dichotomy, as this binary approach occludes many of the conditions of “adverse incorporation” experienced by workers in the global economy. (p. 23)

Unfree labour is thus differentiated from forced labour, with the latter appearing again as an extreme form of unfreedom.

Finally, we learn from academic publications on human trafficking of the connection between unfreedom and coercion through the work of Beatson and colleagues (2017). As noted earlier, this source explains that unfree labour can be distinguished from trafficking based on the presence of exploitation, with trafficking tied to both exploitation and coercion. It adds that there are three key characteristics of unfree labour: the person is not free to change employers; the person is not permitted to leave their current employer; and the terms and conditions of the employment contribute to the first two factors (Beatson et al., 2017). The publication further suggests that, based on this definition, unfree labour has all the components of labour trafficking except for exploitation.

## Precarity

The term precarity is frequently used in academic publications on the TFWP and migrant labour in conjunction and/or interchangeably with exploitation (Guilmain & Hanely, 2020; Strauss & McGrath, 2017). These sources provide a variety of definitions for the term, with most explanations of precarity offered through descriptions of purported victims' experiences. Publications by Reid-Musson (2014) and Goldring and Joly (2014), for instance, tie precarity to conditions of employment. They appear to suggest that precarity results from insecure immigration and employment status, poverty, and the lack of social or regulatory provisions protecting workers. Goldring and Joly (2014) further contend that precarious employment generally includes the following four dimensions:

- 1 the security or insecurity of employment**, with indicators of employment form (e.g., self-employed versus employee, full-time or part-time), terms of employment and tenure (e.g., permanent versus short term, contract type, seasonality, etc.), and sometimes type of employer (e.g., temporary agency, size of firm);
- 2 income in/stability** (e.g., variable and unpredictable income, which may overlap with the stability of the employment relationship, and likelihood of having hours reduced);
- 3 institutional protections and social benefits** (e.g., indicated by poorly or unregulated workplaces, cash payment, limited recourse in the face of inequities or problems, and limited or no benefits); and
- 4 control over the work process** (e.g., limited say over schedules, working on-call, no collective bargaining, etc.). (p. 96, emphasis added)

Building on this, Strauss and McGrath (2017) argue that precarity exists along a continuum with exploitation. They go on to distinguish between precarity and precariousness, submitting that while these concepts are used interchangeably, a lack of definitional specificity elides “the distinction between institutionalized forms of precarious employment relations, their interrelationship with legal status, and more variable, contingent and fluid experiences of insecurity, vulnerability – and agency” (p. 202). What is especially notable about the work of Strauss and McGrath (2017) is the reference to migrant status. Their argument highlights that whether a migrant has the right to enter and remain in a particular country has a significant impact on their experiences of precarity. Another definition of precarity in academic publications on the TFWP and migrant labour worth mentioning comes by way of Vosko (quoted in Marsden 2014), who defines it as “limited social benefits and statutory entitlements, job insecurity, low wages, and high risks of ill-health” (p. 3). Again, precarity here is related to conditions of employment but is also produced based on other factors, such as access to benefits, suggesting the importance of institutions in creating and maintaining precarity.

The grey literature we examined regularly mentions precarious labour and immigration status, but definitions of these conditions are provided infrequently. Most sources allude to precarious immigration status as a factor that increases the vulnerabilities that “traffickers can exploit” (CCEHT, n.d., para. 4) and may lead to “tolerance of abuse or exploitation” to avoid jeopardizing the opportunity to attain permanent resident status (CCEHT, 2020, para. 5). Like some of the academic publications on the TFWP and migrant labour, precarity appears linked to exploitation in grey literature.

## Violence and Abuse

References to violence appear across the three bodies of literature. One academic source on human trafficking, for example, considers violence as an element that determines whether trafficking has taken place (Ricard-Guay, 2016), while another explains that it is a form of coercion (Beatson et al., 2017). Note here the use of the term coercion to define violence. According to some of the related academic publications, instances where physical or sexual violence are absent are often not labelled as human trafficking (Bourgeois, 2015; Guilmain & Hanley, 2020). Nevertheless, academic publications on human trafficking do not focus much on violence, though childhood trauma and history of trauma are mentioned as vulnerability factors. There is also some discussion of structural forms of violence including gendered colonial violence (Kaye, 2017; Maynard, 2015) and law as a form of violence (Hunt, 2015).

While academic publications on the TFWP and migrant labour similarly provide minimal definitions of violence, one article identifies it as the deprivation of labour rights and basic needs of migrant domestic workers (i.e., live-in caregivers) (Bhuyan et al., 2018; for further discussion of structural violence in the TFWP, see Robillard et al., 2018; Walia, 2021).

Grey literature, on the other hand, rarely mentions or defines the term. As in academic literature on human trafficking, violence here is mostly discussed as a precondition for trafficking, for example having a history of family violence or child abuse as a 'risk' factor for sex trafficking, and how gender-based violence and human trafficking are linked (Canadian Women's Foundation, 2014; Public Safety Canada, 2018). Violence is also understood by some as an inherent characteristic of sex work (CWF, 2014). It is important to note that the Canadian Women's Foundation has since redacted the reports in which they conflated sex work and violence (Smith & Hale, 2021).

Abuse, though conceptually similar to violence, is discussed somewhat differently in the literature. A definition frequently reproduced in academic publications on the TFWP and migrant labour, as well as in grey sources, is provided at section 196.2(1) of the *Immigration and Refugee Protection Regulations*, which stipulate how the *Immigration and Refugee Protection Act* is to be applied. This provision outlines four types of abuse, as follows:

- a **physical abuse, including assault and forcible confinement;**
- b **sexual abuse, including sexual contact without consent;**
- c **psychological abuse, including threats and intimidation; and**
- d **financial abuse, including fraud and extortion.**

Academic publications on the TFWP and migrant labour have observed that Immigration, Refugees and Citizenship Canada produced an Operational Manual to assist officers and investigators in applying the Regulations. According to Marsden and colleagues (2020), the Manual provides instructions with respect to determinations of whether an employer who is seeking migrant workers has made 'reasonable efforts' to provide a workplace free of abuse, stating:

**"Reasonable efforts"** is not a defined term in the regulations, but the inspections policy gives a list of criteria to determine whether reasonable efforts have been made, namely:

- The employer had made general efforts to prevent workplace abuse;
- The employer, or anyone in a supervisory role or acting on the employer's behalf, has not actively participated in abuse, including failing to stop abuse of which they had knowledge; and
- Where an allegation or incident of abuse occurred, steps were taken by the employer to address abuse and prevent it from happening again. (pp. 14-15)

Note here that, as per Marsden and colleagues (2020), when it comes to sexual abuse, the Manual instructs investigators to look for signs such as "intimate relations between workers or between workers and management, erotic literature, photographs and/or websites, in the workplace, trafficking in persons...." (p. 15).

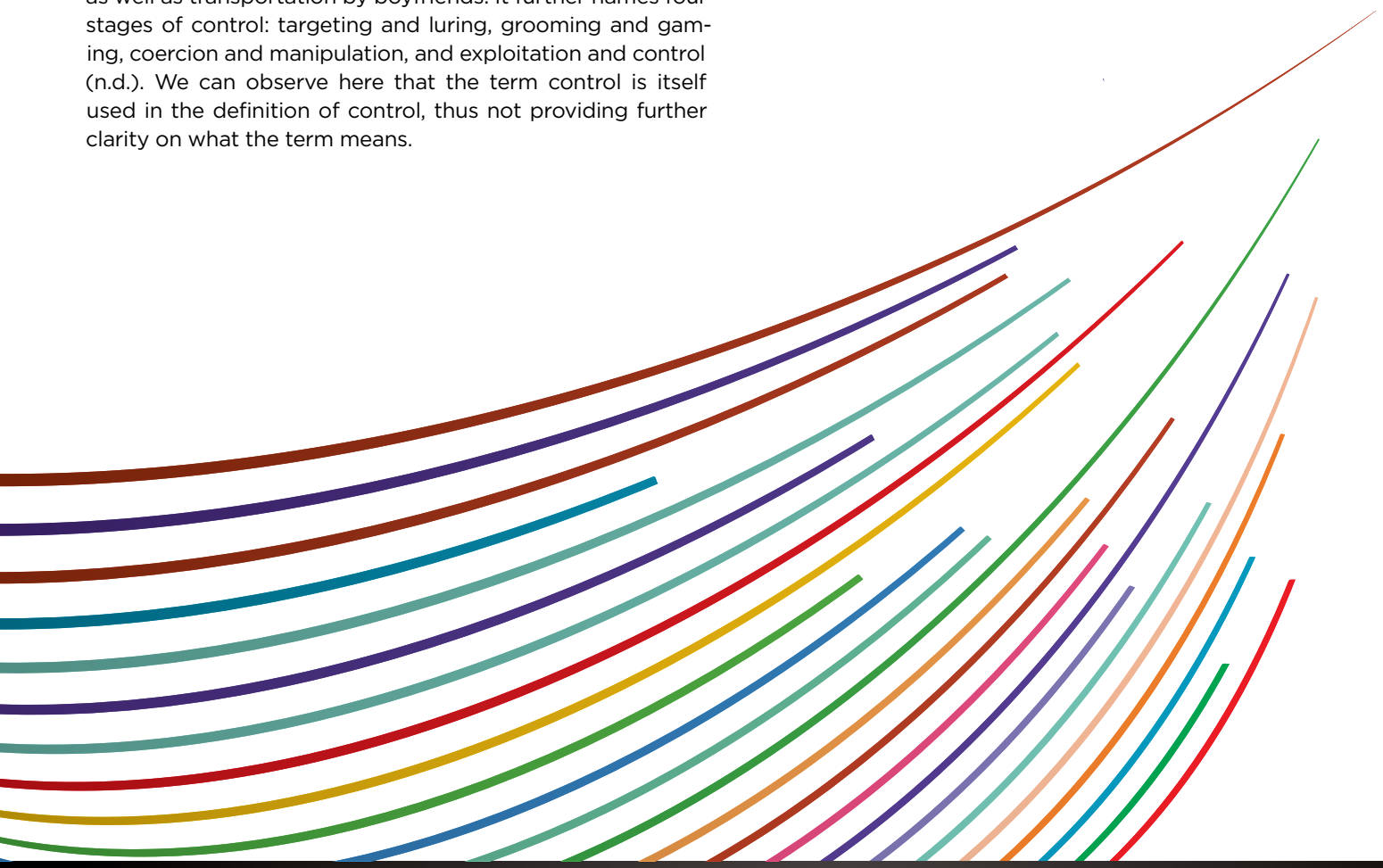
Abuse is not a frequently examined term in academic publications on human trafficking. When it is addressed, it tends to be in relation to specific vulnerabilities such as drug dependency, or to psychological and physical abuse (Boulanger, 2018).

## Control

Academic sources on human trafficking centre the concept of control as an important component and indicator of trafficking. For instance, Boulanger (2018) explains that control over victims is the most important factor of trafficking. Exercise of control takes place when a person's movement is restrained or managed by imposed rules or behaviours (Sikka, 2014). This is often said to be done through control of communication with loved ones, withholding identification documents, threatening to expose the victim's activities (i.e., sex work), making the victim participate in criminalized conduct, threatening to report victims to authorities, and inducing debt (Ricard-Guay & Hanley, 2014). We found that across academic publications on human trafficking, the same descriptions and examples are frequently deployed to define coercion and control, making it difficult to assess the difference between the two.

Control is also discussed in grey literature in relation to what is often referred to as sex trafficking. As an example, the Canadian Women's Foundation (2014) mentions but does not define in detail, psychological control. The Canadian Centre to End Human Trafficking (n.d.) comments on the control of movement of people across purported trafficking corridors, as well as transportation by boyfriends. It further names four stages of control: targeting and luring, grooming and gaming, coercion and manipulation, and exploitation and control (n.d.). We can observe here that the term control is itself used in the definition of control, thus not providing further clarity on what the term means.

Across academic publications on the TFWP and migrant labour, sources generally discuss control as a product of migration legislation and policy. The Canadian government and/or employers are positioned as having control over migrants because of the structure of the TFWP itself, such as the requirement for closed work permits (Bridi, 2013; Chartrand & Vosko, 2021; Jubany & Costellanos, 2021; Sharma, 2020; Strauss & McGrath, 2017; Walia, 2021). Control is additionally associated with practices employed under this program, including the surveillance and disciplining of migrant workers (Hjalmarson, 2022; Walia, 2021), and is positioned as contributing to migrant exploitation (Perry, 2020; Smith, 2015). Migrants are also described as being out of control of their own lives and, therefore, have little autonomy (Goldring & Joly, 2014). That said, a clear and concise definition of control is not provided in this body of literature.



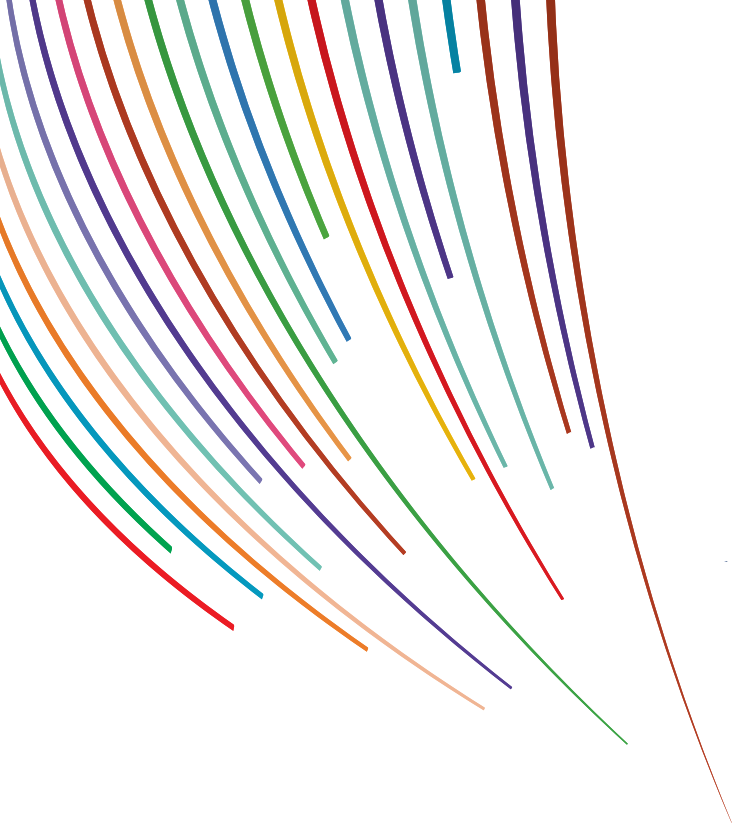
## Coercion

Our final key term, coercion, appears in discussions across all three bodies of literature, with definitional variations. Beginning with grey literature, coercion appears in a number of sources as a distinguishing factor of human trafficking. For instance, the FCJ Refugee Centre and the Canadian Centre to End Human Trafficking (2023) understand trafficking to entail coercion, among other factors. As we highlighted earlier, a number of sources contend that coercion must be present along with labour exploitation, forced labour, and/or recruitment to constitute labour trafficking. Statistics Canada (2016) asserts that “victims [of forced labour] are coerced into working long hours, with little to no pay” (p. 7), here making a connection between coercion and forced labour in a report on human trafficking. The Canadian Women’s Foundation (2014) argues that “the defining factor in trafficking is not travel. It is coercion and control” (p. 12), while the Canadian Centre to End Human Trafficking (n.d.) likens coercion to violence, threats, lies, and debt bondage. Other than the Centre, the materials from the grey literature do not define coercion.

Few academic sources on human trafficking engage with the definition of coercion, though interestingly Kaye (2013) has found that the presence of coercion makes it difficult to distinguish between migrant smuggling and human trafficking. She provides the example of threats to family members in countries of origin, which can prevent migrants who might otherwise be deemed trafficked from reporting the exploitation they experience. Other sources draw on the term to define labour trafficking. To elucidate, Beatson and colleagues (2017) argue that labour trafficking can be defined as the use of coercion for the purposes of labour exploitation. It can either be direct via active attempts at preventing the worker from leaving the worksite and/or the country, or systemic such as a law and policies that restrict the worker’s general freedoms. According to Beatson and colleagues (2017), coercion (and exploitation) can range from severe to less severe:

- 1 **direct threats** (of violence, reports to immigration officers);
- 2 **administrative control** (withholding information or documents);
- 3 **financial control** (debt bondage);
- 4 **psychological control** (emotional dependency, social isolation);
- 5 **physical control** (locking someone in place, physical violence);
- 6 **systemic** (deportation, loss of work permit);
- 7 **criminalization** (charges related to criminal activity). (p. 146)

Similar examples of labour-related coercion are also adopted by academic publications on the TFWP and migrant labour. Guilmain and Hanely (2020) state that the definition of labour trafficking deployed in trafficking publications refers to forced labour, although this is not borne out in our review. They explain that while labour under the TFWP is always coercive, this does not amount to forced labour (and therefore trafficking). Instead, they argue, coercive legal constraints are placed on all migrants, resulting in labour unfreedom. All told, for Guilmain and Hanely (2020), coercion is a component of unfreedom, and when combined with exploitation (unfreedom + coercion + exploitation) it amounts to labour trafficking, which is also equivalent to forced labour. No definition of either coercion or exploitation is otherwise provided.



**As our findings show, definitions of human trafficking are rarely explored or provided in academic publications on the TFWP and migrant labour.**

# SUMMARY

As our findings show, definitions of **human trafficking** are rarely explored or provided in academic publications on the TFWP and migrant labour. It is within academic publications on human trafficking that definitions are given. Here, sources rely heavily on immigration and criminal laws, with general agreement that the legislative language is broad, ambiguous, and vague. Grey literature tends not to rely directly on law, but most definitions align with the ways in which trafficking is captured by the UN Trafficking Protocol.

Academic publications on human trafficking are primarily focused on **sex trafficking**, often centring on examinations of Canada's anti-trafficking laws and the ways in which these align with anti-sex work laws. While the grey literature and academic publications on the TFWP and migrant labour we examined do not address sex trafficking in any notable way, **labour trafficking** is a point of focus across all three bodies of literature. Indeed, framings of labour trafficking range widely, not only across the materials but also within each body of literature. When it comes to academic publications on human trafficking, labour trafficking is examined only in sources that centre labour exploitation or trafficking (most are focused on sex trafficking). According to these sources, labour trafficking is generally defined as a combination of labour exploitation and coercion. Grey literature similarly points to various combinations of factors as resulting in labour trafficking, including recruitment and exploitation; recruitment and coercion; coercion and force; and force, deception, and transportation, to name a few.

**Exploitation** is a heavily used term in academic publications on human trafficking, where discussions focus mostly on sexual exploitation as well as definitions provided in domestic and international law and the inconsistencies between the two. In academic sources on the TFWP and migrant labour, exploitation is seen as the central component of both unfree labour and trafficking, which are placed on separate ends of a continuum depending on the severity of the exploitation. This area of the literature offers significant discussion of the term but typically only with respect to labour exploitation. Sources tend to describe experiences of migrant worker exploitation using a range of additional terms, such as hyper-exploitation, super-exploitation, and continuum of exploitation. This body of academic literature does not discuss sexual exploitation.

Grey literature at times offers comparisons between **sexual exploitation** and **labour exploitation**, with the latter being a common focus of discussion, at times used interchangeably with forced labour. There is a general consensus across grey sources that instances of labour exploitation in temporary migrant work do not automatically qualify as labour trafficking. This appears to be related to definitional constraints (e.g., the legal definition of exploitation and lack of clarity on which conditions constitute exploitation for the purposes of human trafficking). However, how exploitation differs in TFWP and human trafficking cases remains largely unexplored.

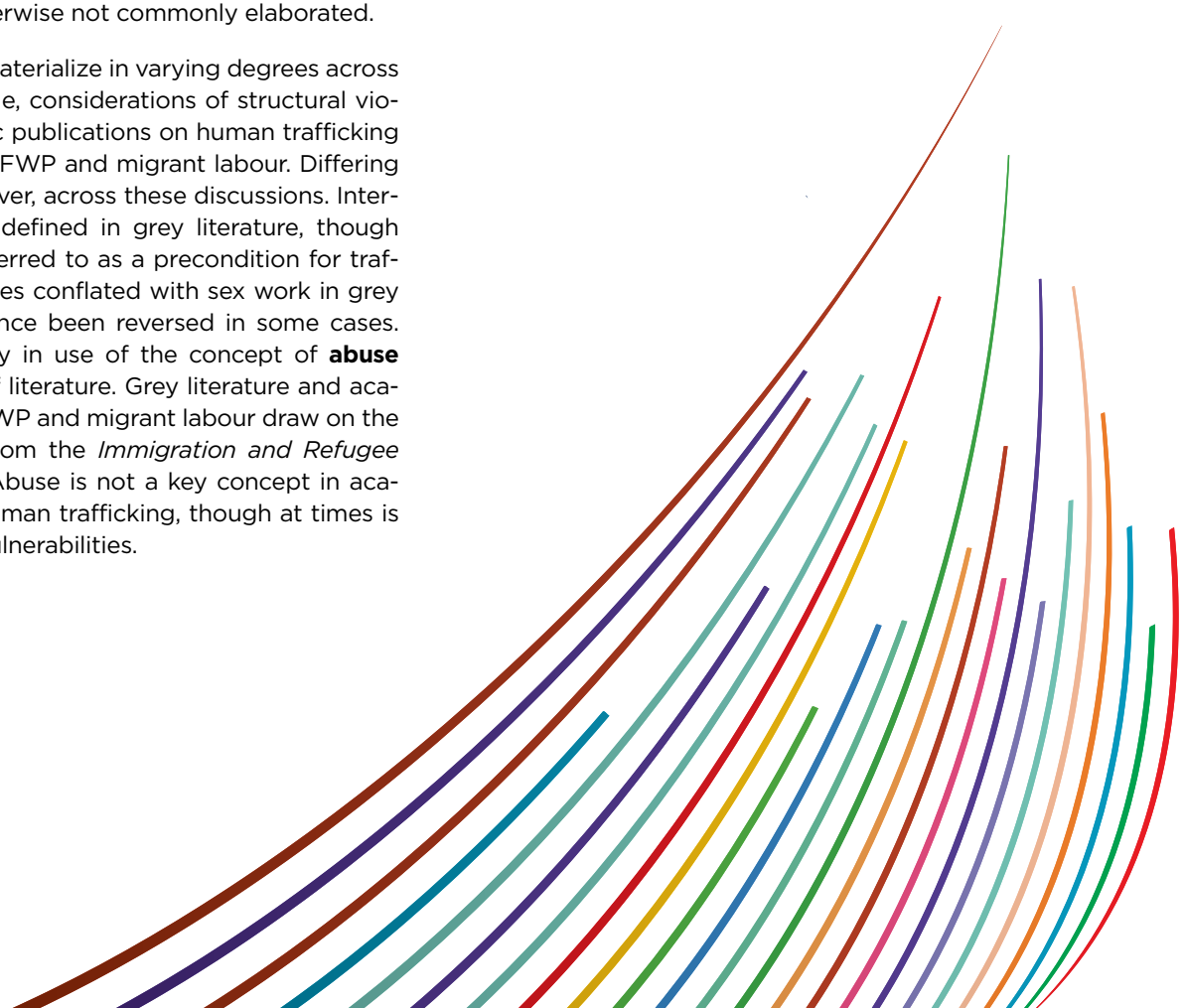
Definitions of **forced labour** in grey literature and in academic publications on the TFWP and migrant labour consider the connection between forced labour, exploitation, and human trafficking. Sources across these bodies of literature generally contend that forced labour may amount to trafficking; however, it is not the case that forced labour is always equivalent to trafficking. Trafficking is seen to exist along a continuum of forced labour, emerging when combined with other factors, including coercion and exploitation. There is no significant consideration of this term in academic publications on human trafficking. **Unfree labour** is also a key term in academic sources on the TFWP and migrant labour, and is defined through references to secondary key terms, namely exploitation, precarity, force, and coercion. There is minimal mention of unfree labour in grey literature and academic publications on human trafficking.

**Precarity** is not consistently discussed in the three bodies of literature we examined. Academic publications on the TFWP and migrant labour reference the term widely but definitions are inconsistent or missing, and the concept remains undefined in academic sources on human trafficking. Precarity is mentioned in grey literature as a condition affecting the vulnerability and/or tolerance of migrant workers to trafficking and abuse, but is otherwise not commonly elaborated.

References to **violence** materialize in varying degrees across the literature. For example, considerations of structural violence appear in academic publications on human trafficking as well as those on the TFWP and migrant labour. Differing definitions emerge, however, across these discussions. Interestingly, violence is not defined in grey literature, though where discussed, it is referred to as a precondition for trafficking. Violence is at times conflated with sex work in grey literature, but this has since been reversed in some cases. There is similar variability in use of the concept of **abuse** across all three bodies of literature. Grey literature and academic sources on the TFWP and migrant labour draw on the definition of this term from the *Immigration and Refugee Protection Regulations*. Abuse is not a key concept in academic publications on human trafficking, though at times is used to describe other vulnerabilities.

When it comes to the concept of **control**, grey literature and academic sources on human trafficking focus on individual control using circular definitions. For instance, academic sources utilize the same types of examples to demarcate control and coercion, whereas in the grey literature, the word control is sometimes used to define the very concept of control. In contrast, academic publications on the TFWP and migrant labour discuss control in relation to policy and law.

And finally, **coercion** is a term addressed across our three bodies of literature, though again to differing degrees. It is infrequently evoked in academic publications on human trafficking, although in some instances it is relied on to define labour trafficking. In academic sources on the TFWP and migrant labour, coercion is identified as a central factor in migrant work experiences but not one that amounts to forced labour or trafficking. Coercion here is tied in varying ways to exploitation, forced labour, and human trafficking. What is meant by coercion, however, is unclear. In grey literature, coercion is suggested to be a distinguishing factor in defining human trafficking.





# CONCLUDING INSIGHTS AND IMPLICATIONS

Several insights can be gleaned from the framings and rationalizations of the key terms we examined. To begin, despite their heavy usage, there are generally few attempts across the three bodies of literature to define the concepts and/or to draw distinctions between them. When definitional attempts are made, sources often rely on references to other secondary key terms. Understanding the primary terms, then, requires a comprehension of secondary terms, which are also frequently undefined. Further, while some sources try to provide clarity by introducing distinctions, these clarifications are isolated, at times contradictory, with diffuse boundaries, and their explanations vary in form. For instance, in explaining exploitation, some publications rely on legislation while others provide typologies and/or examples of exploitation to define the term.

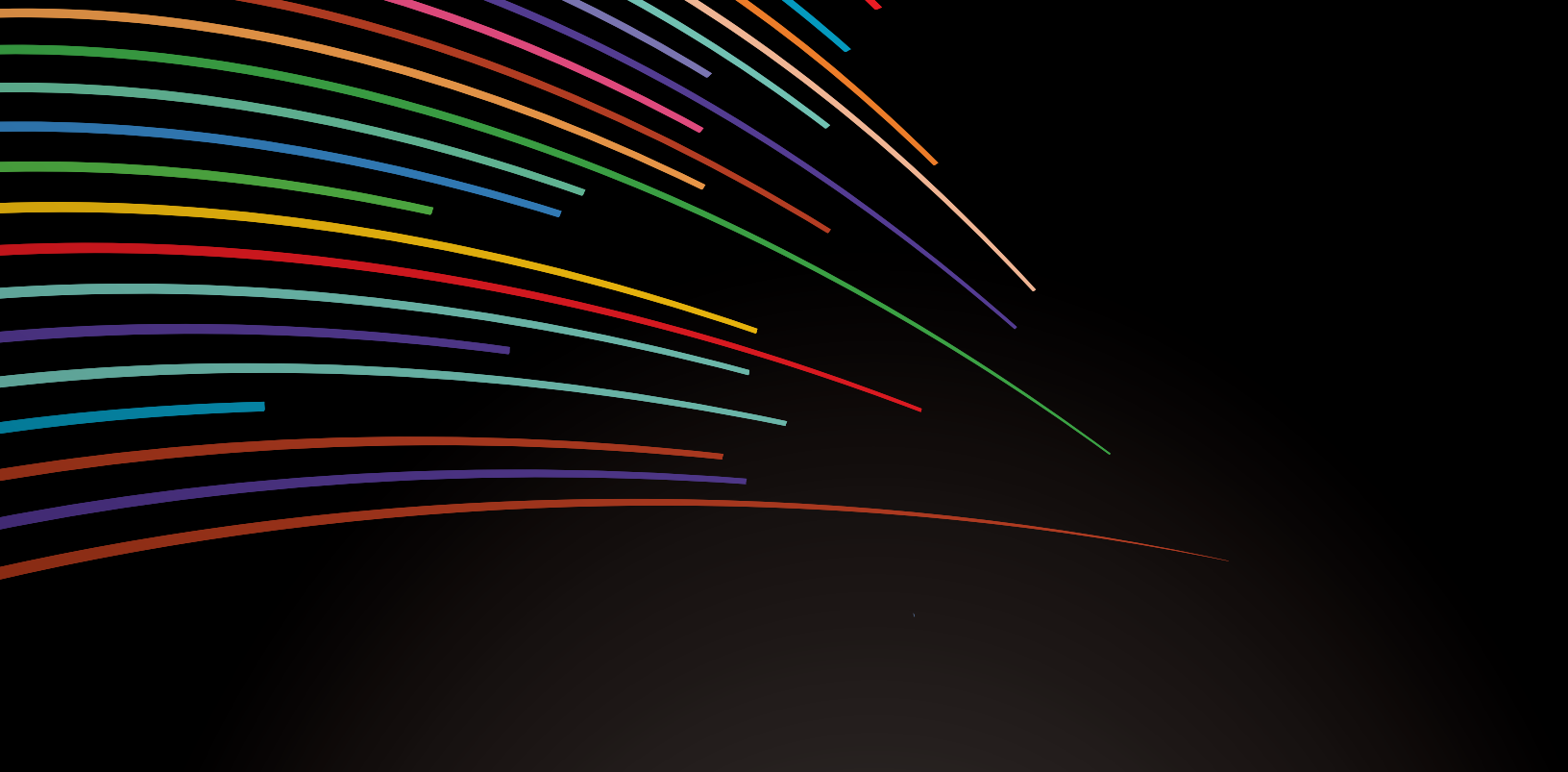
Importantly, what is understood as exploitation, abuse, violence, control, and coercion differ based on which type of trafficking is under investigation. In the context of what is referred to as sex trafficking, there seems to be an inclination to use (or to critique the use of) these terms (on their own or in combination) in an effort to capture more people under the umbrella of sex trafficking. Conversely, when it comes to labour trafficking, descriptive secondary terms appear to be used either for specificity and distinction, even if they are not defined, or indeed to differentiate the conditions from trafficking.

Along with these variations, there are some sites of overlap amongst the bodies of literature that emerge through our analysis. For one, all three bodies make reference to the UN Trafficking Protocol in defining human trafficking, although how this international legislation is then interpreted differs, resulting in varied framings of trafficking. For instance, while academic publications on human trafficking consider how this definition was adopted domestically, grey literature and academic sources on the TFWP and migrant labour consider, in part, if and how migrant experiences meet international legislative requirements. The singular attempt to define trafficking in academic publications on the TFWP and migrant labour relies specifically on academic sources on human trafficking, demonstrating a significant point of interaction.

Overlaps in key thematic areas are otherwise primarily traced to analysis of the TFWP in grey literature and academic publications on the TFWP and migrant labour. These overlaps emerge with respect to discussions of the following concepts: exploitation, coercion, forced and unfree labour, abuse, and precarity. As mentioned, the definition of abuse in the *Immigration and Refugee Protection Regulations* is consistently deployed across academic publications on the TFWP and migrant labour as well as in grey literature. This is likely because there is clear domestic legislation providing a standardized and thorough discussion of how to identify this concept. Sources also rely on references to coercion, trafficking, and forced or unfree labour to explain exploitation. While it might be inferred that the consistency in approaches across the literature suggests clarity, the repetition of secondary key terms within the materials to define primary thematic areas cannot offer greater comprehension.

Academic sources on human trafficking diverge substantially from the focus, findings, use, and definitions of terms found in grey literature and academic publications on the TFWP and migrant labour. Returning once again to the example of exploitation, we find that this key concept in grey literature and academic publications on the TFWP and migrant labour is positioned as a factor of/or equivalent to labour trafficking, while in academic sources on human trafficking, discussions of exploitation are centered on legislative definitions and the ways in which it takes place within domestic sex work. There are also several concepts that are considered in the other two bodies of literature that are not significantly addressed in academic publications on human trafficking. This includes forced and unfree labour, precarity, and violence.

**The implications of our findings are varied in terms of their relevance to the academic study of trafficking and migrant labour exploitation; to policy and practice in these areas; and to resistance by migrants and allied advocates to unfavourable conditions of labour and migration.**



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**Academic Research:** Our results demonstrate a need for academics to consider how key concepts are or could be more effectively deployed across interrelated fields of study and bodies of literature. We suggest that without exchange of knowledge and dialogue on the issues covered in this report, the lack of clarity in definitions and terms will remain. That said, we do not argue that definitional uniformity is required to address or resolve the conditions under investigation. We recognize conceptual definitions may remain variable. Our goal in highlighting this implication is to foster greater interchange amongst academics and practitioners in pertinent fields of study in order to facilitate increased specificity and critical reflection on the broad contours of the concepts that are commonly used.

**Policy and Practice:** Implications also arise from the findings of this study for policy and practice. Further efforts to critically examine the key terms can set a precedent for legal interpretations and potentially reduce the discretionary powers of police, border agents, and criminal legal actors in their application of the concepts explored. Here, again, it is not our recommendation that efforts must first be undertaken to provide definitional accuracy. Instead, the implications we are noting are meant to provoke new approaches for framing and rationalizing human trafficking and migrant labour exploitation beyond current legislative and policy attempts.

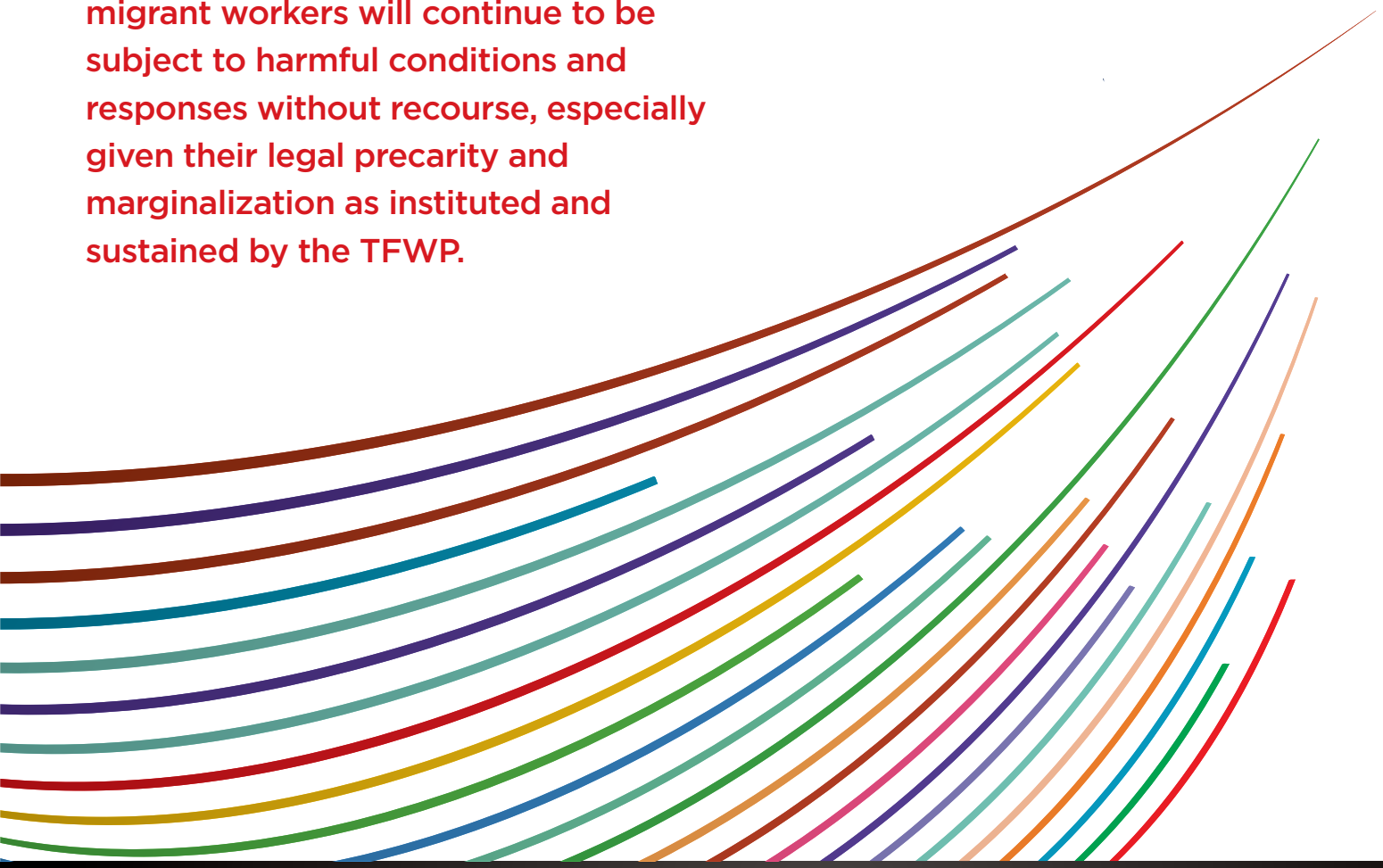
**Resistance and Reform:** Our findings indicate that ambiguity in language has the potential to thwart migrants' efforts to resist labour exploitation, abuse, and related conditions. Indeed, progressive amendments to the TFWP may be undermined when initiatives for reform utilize differing definitions of key concepts. By not using terms in the same way, programmatic and policy changes can be disregarded and/or dismissed. Rights based claims initiated by migrants in response to experiences of exploitation can similarly be thwarted based on language. Judges have, for example, refuted claims for compensation, support, and status on this basis. Exposing the inner workings of the framings and rationalizations being mobilized in academic, governmental, and non-governmental spheres, as this study has attempted to do, can offer another set of conceptualizations that better represent the experiences, needs, and rights of migrant workers.

# KNOWLEDGE MOBILIZING ACTIVITIES

Migrant labourers, grassroots organizers, and critical academics have long drawn attention to both the mundane and exceptional forms of exploitation, abuse, and related conditions taking place within the TFWP, yet despite these varied experiences being the same as those typically associated with human trafficking, migrant labour exploitation rarely attracts the level and type of concern and resources that are dedicated to eradicating trafficking. When it does, it invites more policing, surveillance, withdrawal of supports, and other harmful practices that are part and parcel of the anti-trafficking response in Canada.

**Without further scrutinization of how the concepts examined in this report are framed and rationalized, migrant workers will continue to be subject to harmful conditions and responses without recourse, especially given their legal precarity and marginalization as instituted and sustained by the TFWP.**

**Accordingly, our research aims to mobilize knowledge and advance conversations around the need to amend and improve Canada's migrant worker programs.** To do so, we hope this report will be read widely by academic audiences, relevant NGOs, policymakers, and the general public. We will also be communicating our results through academic journal articles and conference presentations, as well as a podcast episode to be housed on the website of Wilfrid Laurier University's Centre for Research on Security Practices (CRSP). The podcast will discuss findings beyond those in this report, in an easily accessible format. Look for that in early 2025.



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# APPENDIX

## COMPLETE LIST OF QUESTIONS

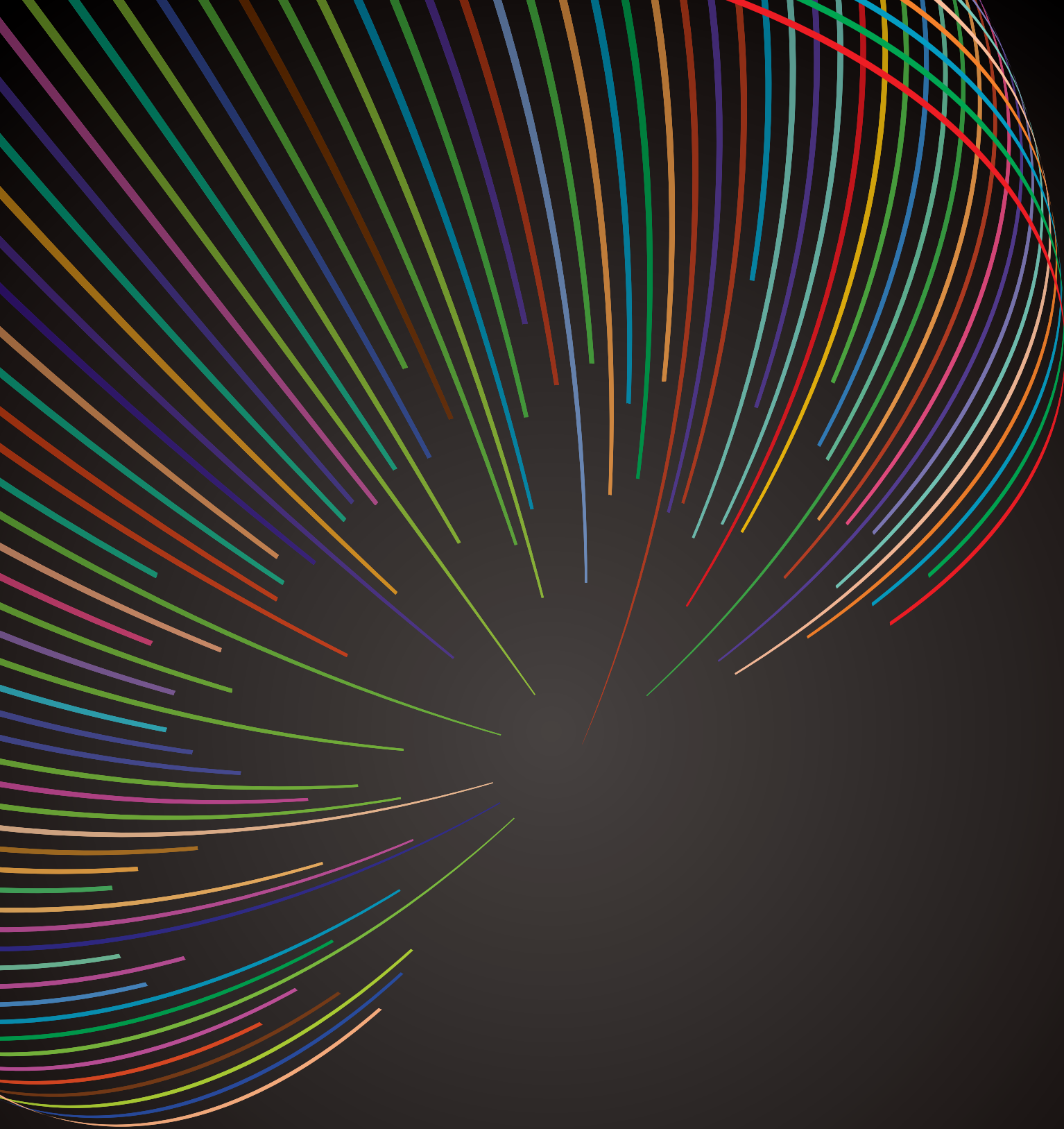
### As noted in the report, the inquiry began with the following four questions:

1. How are labour exploitation, abuse, and/or coercion discussed in the literature on Canada's TFWP? How is human trafficking discussed in the literature on Canada's TFWP? How is human trafficking distinguished from labour exploitation, abuse, and/or coercion in this context?;
2. When law and policy documents distinguish between experiences of exploitation and abuse in the context of temporary migrant labour and human trafficking, what rationale is employed?;
3. What policies, legal materials, and mandates contribute to and which challenge the exploitation and abuse of temporary migrant workers, and how do they do so? How are these practices of exploitation distinguished from or equated with trafficking?
4. What are the racialized and gendered impacts of the distinctive approaches to labour exploitation, abuse, and/or coercion within the TFWP and human trafficking?

### The four questions were then broken down into smaller questions/inquiries:

1. Specific ways in which the following are defined in literature:
  - a. Exploitation
  - b. Abuse
  - c. Violence
  - d. Coercion
  - e. Control
  - f. Human trafficking
2. List of identified gaps/inadequacies in legislation and suggested solutions; also include specific challenges with meeting legal thresholds of human trafficking and labour exploitation/abuse (e.g., what has been attempted and what were the results?).
3. List of other systemic/structural factors (eg. precarious immigration status, policy legislation, debt bondage, systemic poverty etc.) that are said to be causing exploitation, abuse, coercion, and control among TFWP workers and victims of trafficking and suggested solutions.
4. List of individual level factors (language barriers, mental health, family poverty), that are said to be causing exploitation, abuse, coercion and control amongst TFWP workers and victims of trafficking and suggested solutions.
5. How/when is the label of human trafficking specifically being used? In other words, who is it being applied to and for what conditions? Who is it not applied to, and why?
6. What are said to be the benefits of the human trafficking label and what are the challenges with it?
7. How are human/labour trafficking, labour exploitation/abuse and force labour defined and distinguished in concrete terms?
8. List of eligible services and supports for TFWP workers who are identified as experiencing abuse, exploitation, abuse, coercion and control.
9. List of stats on labour trafficking/exploitation/forced labour in Canada. What are the general issues with stats?
10. How is the pandemic specifically discussed in relation to labour exploitation and trafficking?
11. How are race, gender, class specifically discussed in relation to labour exploitation and trafficking?
12. How are borders/border imperialism discussed in relation to labour exploitation and trafficking?
13. How is security discussed in relation to labour exploitation and trafficking?





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