

# How Human Traffickers Avoid Conviction: The Legal Loopholes & Challenges in Canada

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**VOICE** FOR  
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**- Combatting Human Trafficking -**

## Introduction

Human trafficking is one of the most difficult crimes to prosecute in Canada. Despite strong legislation under the **Criminal Code of Canada** and the **Immigration and Refugee Protection Act**, traffickers frequently escape conviction due to the **high burden of proof, lack of victim cooperation, and legal loopholes** that make securing justice nearly impossible. This document outlines the **systemic barriers that allow traffickers to avoid accountability** and explores how Canada's legal system can be improved to strengthen prosecutions.

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## 1. The Burden of Proof: Why Trafficking Cases Are So Hard to Convict

### Proving Exploitation Beyond a Reasonable Doubt

For a trafficker to be convicted, prosecutors must prove:

- ✓ **Control, coercion, deception, or force** was used to exploit the victim.
- ✓ The victim was **compelled to provide labour or sexual services** against their will.
- ✓ The trafficker **materially benefitted** from the exploitation.

**Why It's Hard:** Traffickers often create psychological, emotional, and financial dependency rather than using overt physical violence, making it difficult to prove coercion in court.

### Victim Testimony: The Most Unreliable Yet Crucial Evidence

Most trafficking cases rely heavily on victim testimony, yet survivors often:

- **Fear retaliation** if they testify.

- Are **traumatized or manipulated** into recanting their statements.
- Are **criminalized** (e.g., for drug use or sex work) and may not be seen as "credible" witnesses.
- Lack **stable housing, financial security, or legal support**, making cooperation with law enforcement difficult.

**Loophole:** If a victim does not testify, the case often collapses due to lack of evidence.

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## 2. How Prosecutors Bypass Trafficking Charges With Lesser Convictions

Due to the difficulty of convicting traffickers under trafficking-specific laws, **prosecutors often use alternative charges** to secure convictions, such as:

- ✓ **Domestic Violence (DV)** – If the trafficker was in an intimate relationship with the victim.
- ✓ **Drug Trafficking** – If the trafficker also dealt drugs. ✓ **Weapons Possession** – If illegal firearms were involved.
- ✓ **Fraud & Financial Crimes** – If the trafficker stole the victim's identity or engaged in financial exploitation.
- ✓ **Kidnapping, Assault, or Sexual Exploitation** – When applicable, these charges can stick more easily than trafficking.

**The Problem:** These lesser charges may result in **lighter sentences** that do not fully reflect the **severity of human trafficking crimes**.

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## 3. Legal Loopholes That Traffickers Exploit

### Loophole #1: "Consent" as a Defense

Many traffickers **manipulate victims into believing they are consenting** to their exploitation. In cases of sex trafficking, traffickers may argue that victims were "willing participants"—even when coercion was involved.

**The Problem:** If the court cannot prove coercion, the trafficker may walk free.

### **Loophole #2: "Third-Party" Operations**

Traffickers often use **intermediaries** (such as recruiters or "managers") to insulate themselves from direct involvement in exploitation.

**The Problem:** By creating distance between themselves and the crime, traffickers make it harder for prosecutors to directly link them to trafficking activities.

### **Loophole #3: Cross-Jurisdictional Challenges**

Human trafficking often involves **multiple cities, provinces, or even countries**, making it difficult to prosecute under one jurisdiction.

**The Problem:** Different provinces may have **varying levels of commitment** to anti-trafficking enforcement, causing delays and legal roadblocks.

### **Loophole #4: Intimidation & Witness Tampering**

Traffickers frequently **threaten, bribe, or manipulate victims and witnesses** into silence.

**The Problem:** If the victim recants their statement or disappears, the case may fall apart.

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## **4. How Canada Can Strengthen Human Trafficking Prosecution**

### **Legal Reforms to Improve Conviction Rates**

✓ **Specialized Human Trafficking Courts** – Dedicated courts could **fast-track cases** and ensure trauma-informed proceedings.

- ✓ **Lowering the Burden of Proof for Trafficking Cases** – Adopting laws similar to domestic violence cases, where patterns of coercion hold weight.
  - ✓ **Stronger Witness Protection Programs** – Providing **housing, financial aid, and legal support** to keep survivors safe while they testify.
  - ✓ **Criminalizing “Knowing Facilitation” of Trafficking** – Holding **landlords, business owners, and advertisers** accountable for enabling traffickers.
  - ✓ **Mandatory Training for Law Enforcement & Prosecutors** – Ensuring authorities recognize the complexities of trafficking cases.
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## **Conclusion: Justice for Survivors Demands Legal Reform**

The **legal barriers and loopholes in Canada’s justice system** make it far too easy for traffickers to escape full accountability. While prosecutors use alternative charges to convict traffickers, this often results in **lighter sentences that do not reflect the gravity of their crimes**.

To truly protect survivors and dismantle trafficking networks, **Canada must reform its approach to human trafficking prosecution**. We need **stronger legal frameworks, specialized courts, and better victim support systems** to ensure traffickers face the full consequences of their actions.