Sex Trafficking in Mexico:
A Human Rights Violation and Humanitarian Crisis

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A) Executive Summary

Many immigrants from Mexico dream of moving to the United States where they hope to obtain a job, earn a paycheck, and support their families. Due to the fact that working as an undocumented immigrant is not unheard of in this country, many Mexicans decide to pay a “coyote” to illegally transport them across the border to the United States. Although this plan goes accordingly for many immigrants, others are not so fortunate. They reach the United States only to be told that their transportation fees have increased and then end up being hard-pressed into forced labor or prostitution in order to pay their debts. These immigrants left their homes and families in search of a better life, and ended up falling victim to human trafficking.

This report will outline the international human rights framework that applies to sex trafficking, explain Mexico’s role as a sex trafficking hub, and discuss the lived experience of victims of sex trafficking. The report will conclude with an analysis of political, legal, and social factors that could be reformed to minimize sex trafficking in Mexico as a human rights violation.

More specifically, sex trafficking in Mexico is carried out largely by networks of individuals and families who rely on or supplement their incomes with profits gained from forcing women into sex work. Migrants, poor women, and women from rural areas are most easily exploitable by traffickers. These women often enter trafficking hub cities such as Tijuana and Tenancingo alone or with few resources, and they are often coerced with ideas of big-city opportunities. It is somewhat a norm in certain Mexican cities for young men to become traffickers and pimps. Once the trafficker or pimp has coerced the women into trusting them, they use violence to force the women to perform sex work. These events take place in part because the many migrating people in Mexico are vulnerable. There is also a strong tourist relationship with the United States that provides demand for the industry and incentive for
traffickers to continue. In some ways many victims are voiceless after exiting the trafficking, as they are often psychologically traumatized as well as isolated from their communities.

Much of the sex trafficking that occurs in Mexico eventually leads the victims to the United States. One report argues that Mexico to the United States is the principal migration corridor in the world, hosting the transmigration of hundreds of thousands of Latin American migrants on their journey to the United States.¹ Mexico is also frequently the last stop before women and girls are trafficked into the United States where they are sold to vendors such as brothels. Later this report discusses that it is also the responsibility of the United States government to develop policies and programs that diminish the amount of sex trafficking between the two countries, as well as to mitigate the effects of this traumatic experience. Additionally, the report asserts that deportation policies should be altered so that victims who go to authorities in the U.S. do not have to fear being sent back to even more inhuman conditions at home. This report will also call for programs to be established that help victims recuperate from the abuse. The report emphasizes the need to focus on the human rights abuses and the plight of the individuals, rather than the desire to reduce migration to the United States.

From an international perspective, sex trafficking is a human rights violation because it not only breaches multiple articles of the UDHR but because an entire UN Protocol was constructed to combat this humanitarian crisis. In addition, on the state level sex trafficking is a complex issue because prostitution, which is what most trafficked victims are forced into, is not technically illegal within Mexico, making prosecution of sex trafficking more precarious. In addition, despite the fact that Mexico has recently implemented multiple laws and programs to

¹ Gnam A. Mexico’s Missed Opportunities to Protect Irregular Women Transmigrants: Applying a Gender Lens to Migration Law Reform. *Pacific Rim Law & Policy Journal* [serial online]. June 2013:714
combat human trafficking and prevent the sexual exploitation of minors, many of these laws and programs are unsuccessful due to a lack of funding, inadequate training for prosecutors, and the many ambiguities that exist between Mexico’s state and federal laws. As a result, this report will demonstrate that large scale reforms in both international laws on sex trafficking and localized laws within Mexico and the U.S. need to take place so that this human rights violation can be more adequately prevented and prosecuted.

B) Historical Context

I. Sex Trafficking as a Human Rights Violation

Sex trafficking, which is a subcategory of human trafficking, is a human rights violation because it not only breaches Articles 4, 5, 23, and 24 of the Universal Declaration of Human Rights (UDHR) but it is also such a pervasive problem that the United Nations (UN) created “The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children” to support ending this type of human exploitation. One of the most important contributions from the UN protocol is the international definition of human trafficking which is:

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

It is also important to note that a number of the human rights that are included in the Universal Declaration of Human Rights are violated in the definition of human trafficking, reinforcing the

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notion that human trafficking, more specifically sex trafficking, is a violation of human rights. For example, sex trafficking, which can be thought of as a form of sexual slavery, violates Article 4 of the UDHR because women and children who are sold into sexual servitude, kept against their will in brothels, and exploited for their bodies are definitely being “held in slavery and servitude” which is a human rights violation under the UDHR. Sex trafficking also violates Article 5 of the UDHR in that sex trafficked victims are subjected to “cruel, inhuman or degrading treatment or punishment” as they are forced to sell their bodies, are retained through coercion, and must endure constant physical, sexual, and psychological abuses as part of their daily lives. Sex trafficking also violates Article 23 section 1 of the UDHR in that trafficking victims who are forced into the sex trade to work on the streets or in brothels do not have “the right…to free choice of employment, [or] to just and favourable conditions of work.” Lastly, sex trafficking violates Article 24 of the UDHR because people who have been sex trafficked do not have the “right to rest and leisure” nor the right to “reasonable limitations of working hours or periodic holidays with pay” because in the sex trade they must work whenever they are told to, must service multiple clients per day, and only get time off if their madam or pimp permits it. Laws within individual nations do not always support these UN stipulations, creating opportunity for human rights violations on the national level. Specifically, the Mexican government does not have strongly explicit policies to prevent this particular human rights violation.

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5 “Annex 1: Protocol”
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II. Why Mexico is a Sex Trafficking Hub

In Mexico, there are several sex trafficking hub cities that are known for holding a large amount of traffickers and victims. According to journalist Max Kutner, Tenancingo, Mexico, is “widely considered the sex trafficking capital of the world,” which is a distinctive reputation amongst the many sex trafficking hubs worldwide. Judge Toko Serita of the Human Trafficking Intervention Court also claims that Tenancingo is “sex-trafficking city” in which pimping is perpetuated through family instability brought on by poverty and health issues as well as limited education.\(^9\) “Networks involving immigrants, military personnel, police, governmental officials, and businessmen” take part in sexual exploitation in Mexico and the US.\(^10\) This demand for sex workers keeps the sex trafficking business alive and thriving. The Tijuana-San Diego metropolis is another prominent locale for the trade, largely because of “the large volumes of commerce and tourism in the region” that developed in the early 1900s because the “prevailing prohibitionist rhetoric in the United States” motivated people to go across the border for nightlife.\(^11\) \(^12\) Another contributing factor is that the Tijuana-San Diego border area is currently “the world’s busiest international land-crossing” indicating the presence of many vulnerable migrants.\(^13\) Mexico is often the last stop before women and girls are illegally smuggled into the United States. Individuals from Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and (to a lesser extent) South America, the Caribbean, Eastern Europe, Russia, and Asia are trafficked into

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\(^9\) Kutner, Max. “Sex Slaves on the Farm.” *Newsweek.* (February 2015).


\(^13\) Goldenberg S, Silverman J, Engstrom D, Bojorquez-Chapela I, Strathdee S. 'Right Here is the Gateway': Mobility, Sex Work Entry and HIV Risk along the Mexico-US Border. *International Migration* [serial online]. August 2014: 27.
Mexico for sexual or labor exploitation or taken through the country en route to the U.S. Pimps in Tijuana and Tenancingo often enter the industry through “kinship and social networks” that motivate them to use sex trafficking as a means of profiting. The proximity of migrants to both tourism and social networks that support trafficking create a locale well suited to be a sex trafficking center. These significant urban centers of Mexico’s sex-trafficking operations have developed in part due to proximity to the US-Mexico border, bringing in migrants and creating accessibility for tourists from the United States.

As such, sex trafficking is especially rampant among migrants who travel from Mexico to the United States due to the prevalence of vulnerable women and children migrants. Interviews conducted with health workers in San Diego reveal that trafficking of women and children for prostitution is common but rarely reported to US or Mexican police. Although prostitution and trafficking are in fact human rights violations, they are often dismissed in the U.S. as “problems of illegal immigrants,” an image that has contributed to human trafficking across the Mexico - U.S. border becoming a lucrative business. As a result, the success of sex trafficking in Mexico is in part due to lack of legal accountability surrounding the issue.

The US government’s inadequacy in creating policies to mitigate the amount of human smuggling has also greatly contributed to Mexico becoming a sex trafficking hub. Migrants’ “reliance on smugglers…leaves them vulnerable to trafficking” as traffickers often market themselves as smugglers who will help migrants enter the US, and then they force the women into sex work. A former colonel in the marine corps who has dealt with border control argues

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15 Zhang, 514.
16 Ugarte,"Prostitution and Trafficking," 149.
that both illegal immigration and human trafficking are “driven more by economic opportunity and soaring internal social upheaval than they are restrained by tighter border control,” which is the US government’s current focus. He argues that a more holistic and collaborative approach between the US and Mexico is important to investigate a reduction in the illegal immigration that contributes to human trafficking. The relationship between illegal immigration and human trafficking is not addressed by the U.S. government’s recent tightening of border control.

Another example of the limitations in U.S. border control policies is in the Trafficking Victims Protection Act of 2000, or TVPA, which criminalizes trafficking of persons. The TVPA can be used to protect victims of severe forms of trafficking and to prosecute traffickers. However, access to the TVPA is contingent on the victim seeking help or being rescued. Given that these victims are usually undocumented, fear being deported, and are intimidated with violence, the chances that the TVPA reaches intended victims is often slim. This policy does not give the majority of victims the safety to report their situation and therefore also does not contribute to the capture of the criminals in order to prevent future trafficking.

III. The Legality of Sex Trafficking and Prostitution in Mexico

The legality of sex trafficking in Mexico is complex because it is related to the legality of prostitution which is a huge gray area within Mexican law. For example in Mexico, there are both federal and state laws because each state has its own penal code. As such, the section titled “crimes against public morality” in the federal penal code prohibits procuring but does not specifically outlaw prostitution because there are no proscriptions against exchanging sex for

money within the Mexican legal system.\textsuperscript{21} \textsuperscript{22} As a result, prostitutes are usually “charged with ‘un atentado contra las buenas costumbres’ [which is] (an assault on good customs)” that addresses their immodest attire rather than the act of selling sex.\textsuperscript{23} Further complicating the situation, most states have legalized and regulated prostitution by implementing Zonas de Tolerencia or red light districts which emphasizes the discontinuity and ambiguities that exist between federal and state laws regarding prostitution.\textsuperscript{24} \textsuperscript{25} Sex traffickers exploit the ambiguities and inefficiencies in prostitution and trafficking laws, streamlining the industry and increasing their impact on individuals and communities.

IV. How the Sex Trafficked Victim Becomes a Victim

Sex-trafficking in Mexico often follows a couple of similar patterns relating to traffickers’ decisions and the people who they target. Sex traffickers often choose women based on vulnerability and traits that are marketable to clients. Traffickers often bring in poor women from rural areas to the urban centers, largely because the traffickers can use “false promises of employment” in the city and romanticized images of “exotic life in cities” to coerce the women.\textsuperscript{26} There is a history in Mexico of trafficking underage children for prostitution, and sex tourism has more recently expanded to that market.\textsuperscript{27} Assumptions about preferences of the growing number of sex tourists influence traffickers’ decisions, as “only young women are considered” because they are perceived as having higher longevity in the industry and attractiveness to clients.\textsuperscript{28}

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\textsuperscript{22} Ugarte, “Prostitution and Trafficking,” 155.
\textsuperscript{23} Castillo, “Border Lives,” 401.
\textsuperscript{24} Ugarte, “Prostitution and Trafficking,” 155.
\textsuperscript{25} Castillo, “Border Lives,” 401.
\textsuperscript{26} Acharya, Arun Kumar. “Forced Labour,” 12.
\textsuperscript{27} Azaola, ”The Sexual Exploitation of Children in Mexico,” 99.
\textsuperscript{28} Acharya, “Forced Labour,” 12.
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Another factor is race; in a study done by scholar Arun Acharya, he found that most of the trafficked women he surveyed were mestizo, because clients prefer their light skin color.\textsuperscript{29} Traffickers’ use of historic assumptions about the nature of city opportunities, trafficking of children, and race in order to maximize profits emphasizes their understanding of trafficking as a business endeavor rather than as maltreatment of human beings.

Because traffickers work to maximize profit at all costs, victims of sex trafficking are frequently forced to work in unsafe and inhumane conditions. The experience of being trafficked for sex work involves a range of violence and psychological coercion that often result in health issues and trauma. A direct effect of violence against trafficked women is that they enter “a marginalized condition in terms of physical, mental, and sexual health.”\textsuperscript{30} Violence can also be a secondary means of force, after coercion. “When the women come to know the reality of their kind of employment…the pimp and traffickers use various kinds of violence” to create a “life of violence” that intimidates the women enough to make them stay and work.\textsuperscript{31} This kind of intense intimidation is effective in part because of stigmas associated with being a victim of such acts. Some examples of the violence are verbal abuse, death threats, being denied food, being forced to have sex with more than one client at once, and being beaten, stabbed, and burned.\textsuperscript{32} These women and girls are often transported to brothels or outdoor farm labor sexual exploitation camps. Many of them have young children who are in turn held hostage so that their mothers will not try to escape.\textsuperscript{33} These abuses can shame the victims and their home communities are not

\textsuperscript{29} Acharya, “Forced Labour,” 13.
\textsuperscript{31} Acharya, “Forced Labour,” 12.
\textsuperscript{32} Acharya, “Forced Labour,” 14.
\textsuperscript{33} Kutner, “Sex Slaves.”
always equipped to help them recover and re-assimilate when they return home. Thus formerly trafficked women are often isolated.\textsuperscript{34} Sex trafficking as a broad process has very focused and impactful effects on its victims as individuals who experience trafficking as both a violation of their bodies and as a removal from their established community structure.

V. Combatting Sex Trafficking within Mexico

Despite the pervasiveness of human trafficking within the country, Mexico has made efforts to combat human and sex trafficking within its borders. For example, in 2000 Mexico finally introduced laws that proscribe the sexual exploitation of children relating to sex tourism and child pornography under the “Law for the Protection of the Rights of Children and Adolescents [which] aimed to protect children and teens from abandonment, neglect, abuse, exploitation, kidnapping, and trafficking.”\textsuperscript{35} 36 Mexico’s “first anti-trafficking in persons law was passed” in 2004, making it punishable with up to 18 years of incarceration.\textsuperscript{37} In addition, in 2007 Congress ratified a national law on human trafficking which was adopted by all 31 states in Mexico and was followed by each state modifying their “laws to include penalties for the crime of trafficking human beings” as well as the implementation of “sanctions for all parts of the trafficking chain, including consumers.” Similarly, in 2010 the Inter-Secretarial Commission to Prevent and Sanction Human Trafficking created a national program to combat exploitation and degradation that is caused by human trafficking.\textsuperscript{38} However, despite these government programs and new forms of legislation, sex and human trafficking continue to be a

\textsuperscript{34} Acharya, “Forced Labour,” 15.
\textsuperscript{35} Risley, “Sex Trafficking,” 106.
\textsuperscript{36} Azaola,”The Sexual Exploitation of Children in Mexico,” 98.
\textsuperscript{37} Shahani, Arjan. “Human Trafficking in Mexico.” Americas Quarterly. (June 2013).
pervasive issue due to the lack of adequate funding for preventative programs, “a lack of law enforcement and embedded corruption,” inadequate training and resources for prosecutors, and huge disparities between state and federal laws on human and sex trafficking.  

C) Analysis and Suggested Reforms to Combat Sex Trafficking in Mexico

VI. Economic Reforms to Prevent Sex Trafficking in Mexico

Because poverty contributes to motivating families and individuals to take part in the sex trafficking industry, it is a rights issue. If we conclude from human rights declarations that being trafficked for sex work is a violation of human rights, then either the traffickers themselves or the forces that create such desperate poverty are the rights violators. Based on the evidence from Max Kutner’s and Sheldon Zhang’s articles discussing pimps entering trafficking because of economic instability, it appears that the forces leading to sex trafficking begin in the forces that maintain poverty for a significant portion of Mexican society. The poverty issue needs to be addressed before sex trafficking will decrease in Mexico. As a human rights violation it must be addressed at its sources through authorities that have some power to shift economic patterns, in addition to prosecuting the traffickers who carry it out.

VII. Social Reforms

While pimps carry out the horrific violence against sex trafficked victims; the real human rights violation is that the legal system in Mexico and the United States does not effectively prevent this exploitation of human bodies. The system tacitly supports both pimps’ strong control over the women and sex tourists’ taking advantage of the women’s lack of rights. To alleviate

40 Azaola, ”The Sexual Exploitation of Children in Mexico,” 98.
41 Shahani “Human Trafficking in Mexico.”
the effects of the system that allows for the human rights violation, greater community support for victims could be beneficial. Acharya discusses isolation that formerly trafficked women experience. Research into and financial support for community and family level education and therapy could help to lower the social and psychological long-term impacts of violence from sex trafficking. These remedies are not solutions to the human rights violation itself; rather they are potential coping mechanisms for the violence that results from a systemic injustice.

**VIII. Reform to U.S. Victim Rehabilitation Policies**

The United States also needs to alter its policies regarding rehabilitation for victims of sex trafficking. Often times the victims who have been trafficking into the U.S. are not given proper medical health and mental treatment after the traumatizing experiences that they have been through. A U.S. physician witnessed this first hand after she came across migrant worker camps and saw the amount of girls being sexually assaulted in prostitution. Under instruction from her supervisor, the physician worked with the pimps for five years. After she reported the girls’ sexual assaults in prostitution the physician was instructed by US officials that prostitution was “not a migrant health concern.” 42 It is imperative that the United States policies recognize the plight of victims of sex trafficking as a serious health concern and provide the victims with programs and options so that they may start a new life in this country. It would be especially beneficial to focus on the mental health of the victims along with working towards ensuring them of their safety and security.

**Reform to Mexican and U.S. Sex Tourism Policies**

42 Ugarte, "Prostitution and Trafficking,” 150.
The relationship between sex tourists and the victims of sex trafficking is important in considering what can be done to support the human rights of those involved. Tourists from the United States who bring their money to sex workers such as Tijuana and Tenancingo often contribute to the trafficking of women. A higher profile of the discussion on human rights of trafficked sex workers would potentially limit the amount of clients who are willing to have sex with a trafficked person. Both the Mexican and US government and media outlets have a platform from which to discuss the human rights issues of touring Mexico with the purpose of having sex with workers who may or may not be trafficked. Increased dialogue could demonstrate that the issue is not separated from individuals’ decisions.

Reforms for International and State Laws on Sex Trafficking

As we have seen, both Mexico and the UN have laws in place to combat human and sex trafficking; however, it is also apparent that this human rights issue is still a pervasive problem and would benefit from some reforms on both the international and state level. That said, using the existing scholarship that exists on this matter, this section will aim to point out some needed reforms to the UN Protocol on Human Trafficking, Mexican laws on sex trafficking, and the United States’ laws on prosecutions of sex trafficking due to the fact that many victims are trafficked into the U.S. and seek justice while on U.S. soil. That said, with regards to the UN Protocol, it may be beneficial if the UN actually proposed a law for countries to adopt, or at least put forth a more specific framework that each country could then modify to fit their needs. Nevertheless, the UN Protocol has very little about the punishment or criminalization of human trafficking and should at least include stipulations about the length of punishment for certain sex trafficking offenses, if those different crimes should be a state or federal offence, and it should be
more specific about what actions regarding sex trafficking should be criminalized. In addition, as Scholar Marissa Ugarte notes in the article “Prostitution and Trafficking of Women and Children from Mexico to the United States,” it might also be useful to reform the UN’s definition of human trafficking so that it acknowledges and accounts for the factors that push people into sex trafficking which could also change the way that human trafficking is handled from a legal standpoint.\(^4^3\)

With regards to reform in the Mexican laws on sex trafficking and prostitution, the biggest restructurings should come from clearing up the ambiguities that exist between federal and state laws on these issues. In doing so, this would create continuity throughout the Mexican legal system and it would also force policymakers to tackle the legal gray area of prostitution which would then help correct many ambiguities that exist within the legal field of sex trafficking. In addition, because of the interconnected nature of Mexico and the U.S. with regards to sex trafficking, the U.S. also needs to reform some of its laws with regards to prosecuting these crimes. For example, current U.S. law puts the burden of proof on the victim to show that a crime has taken place and victims who come forward also face the possibility of being deported or charged with other crimes such as illegally entering the country and possession of false identification which are both felonies and prostitution or pandering which are both misdemeanors.\(^4^4\) That said, the U.S. needs to implement better laws that will protect victims of sex trafficking from being charged with other crimes or from being deported because they have technically entered the country illegally.

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\(^{43}\) Ugarte, "Prostitution and Trafficking," 148.

\(^{44}\) Ugarte, "Prostitution and Trafficking," 161.
Since many of women who are sex trafficked in the United States pass through Mexico, it is the responsibility of these two nations to work together to develop legislation and programs that encourage the prevention of this heinous crime, as well as methods of recuperation for the victims. Much of the blame over the trafficking of women is directed at Mexico, even though forces in the United States often drive the sex trade. It is not simply up to Mexico to manage the prevention of sex trafficking, and this issue requires a bilateral partnership between the two countries. By working together, these countries can greatly mitigate the amount of sex trafficking between them as well as the effects that this experience can have on the victims.

**Reform to U.S. Deportation Policies Regarding Mexican Sex Trafficking Victims**

Although strengthening the US-Mexico border would help reduce the amount of women and girls being trafficked into the country, there are more specific methods of reducing the prevalence of sex trafficking. For example, it would be beneficial to change immigration and deportation policies so that undocumented victims do not have to fear legal repercussions if they wish to report any misconduct that occurred with the smugglers. Despite recent programs providing transportation for deportees to Mexico City and/or their home communities, these policies are ultimately aimed at curbing migration, rather than protecting migrants’ well being.\(^{45}\) The United States should work towards creating deportation policies that ensure the victim’s safety in Mexico and provide the victim with rehabilitation programs instead of simply transporting them back to their original state of poverty and hopelessness. It is necessary to focus on the human rights aspect of deportation rather than simply trying to decrease the number of undocumented immigrants in the United States.

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\(^{45}\) Goldenberg, “Right Here is the Gateway,” 28.
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