



Slavery Without Borders: Human Trafficking in the U.S.-Mexican Context

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OVERVIEW

- An estimated 18,000 people are trafficked into the United States each year.
- Persistent challenges to the administration of justice and the rule of law in Mexico present serious challenges for law enforcement training and cross-border collaboration to address human trafficking in the border region.
- Despite stronger and better-structured responses to human trafficking in the United States, advocacy officials and activists recognize with some frustration that the numbers of successful prosecutions and victims certified remains relatively small.

There has been increasing public attention and concern about the issue of human trafficking, a modern form of slavery. Human trafficking, also referred to as trafficking in persons, is defined by U.S. and international law as encompassing two distinct forms of criminal activity: forced labor and sexual exploitation. Given its geographic location and economic circumstances, Mexico is one obvious point of entry and source for the estimated 18,000 people trafficked into the United States each year. Mexico is the largest source of undocumented migrants to the United States, and a major transit point for third-country migration (especially from Central America, now the second-largest source of U.S.-bound migrants). Moreover, recent reports suggest that Mexico has itself become a major destination for sexual tourism and pedophiles, particularly from the United States. This preliminary assessment identifies the main patterns, causes, and initiatives to combat human trafficking in the U.S.-Mexican context.

The Many Faces of Human Trafficking

Most attention to the movement of people between Mexico and the United States has traditionally focused on illegal immigration and people smuggling. Unlike people smuggling, human trafficking involves the deception

and/or coercion of another for the purpose of labor, sexual, or other forms of debasement. In many cases, traffickers obtain and maintain control of a victim through the guise of debt bondage.

Victims are often physically and emotionally abused into submission through horrific beatings, gang rapes, starvation, violent threats, forced drug use, and/or confinement. Their abusers are men and women of all nationalities, and in the most difficult cases, victims are socialized to become active participants and traffickers themselves. Reports and studies of cases of human trafficking identified below illustrate the diversity of this phenomenon in the U.S.-Mexican context.²

Labor Exploitation and Forced Labor

Although many undocumented workers recruited or hired by U.S. employers accept positions with illegal wages, poor working conditions, long hours, and substandard living conditions, the vast majority of individuals that migrate or hire smugglers to enter the United States do not become victims of trafficking. That said, the vulnerable position of undocumented Mexicans in the United States, and the potential for intimidation and abuse by their employers, has led to significant instances of exploitation and human trafficking. In June 2002, for example, the *New York Times* reported the case of 40 farm laborers forced into indentured

servitude in Albion, New York; this followed the infamous case of dozens of deaf Mexicans trafficked and exploited as panhandlers in New York City in 1997. Also troubling is the increasing number of migrant laborers forced to pay smuggler's fees through indentured servitude and even kidnapped by rival gangs of smugglers along the border.³

Sexual Slavery

Women from Latin America are often deceived into becoming victims of trafficking by individuals—even acquaintances—promising jobs in restaurants and bars, modeling, domestic services, etc. In 2002, authorities uncovered a San Diego-based prostitution ring bringing hundreds of men to have sex with 30 women and girls at \$15 to \$20 per visit; nearly half of the women were minors and the youngest estimated to be aged 12.⁴ When authorities raided the camp, they found 15 women and arrested 30 men, mostly undocumented Mexican migrants who were later deported. However, federal prosecutors were unable to build a case because only 1 of the 15 women (a 16 year old) was willing to testify, and the main organizers of the trafficking ring remained at large. Similar patterns of sexual exploitation have also been reported domestically in Mexico, and along its southern border with Guatemala.

Sex Tourism

Sex tourism is the act of traveling to another country to engage in commercial sex, usually due to greater tolerance (or legality) in the destination country. According to child advocacy groups, child sex tourism (involving individuals under the age of 18) is a growing problem.⁵ Many of the sex tourists who travel to Mexico in order to exploit children come from the United States and Canada. In February 2003, for example, Thai police arrested multimillionaire Thomas Frank White, age 67, of San Francisco for sexual exploitation of minors, including child prostitution, child sexual abuse, and providing drugs to minors in an orphanage that he cofounded in Puerto Vallarta, Mexico. Commenting on the case, Bruce Harris, executive director for Latin American Programs of Casa Alianza observed: “With the crackdown on sex tourism in Asia, many North Americans are now turning to Mexico and Central America for the sexual abuse of children.”⁶

Illegal Adoptions

Some evidence suggests that children are trafficked into the United States through Mexico for illegal adoptions, particularly from Central American countries. In November 1997, for example, the *Houston Chronicle* reported that high demand for international adoptions encouraged the trafficking of small children from Central America.⁷ Still, it is not clear how such illegal adoptions are relevant to the Mexican context, or to what extent illegally adopted children are trafficked through the U.S.-Mexican border. Presently, U.S. law requires minors traveling between the United States and

Mexico to be accompanied by both parents, or with notarized parental permission; while these requirements are primarily enforced in air travel, they are not regularly enforced at land ports of entry.

Organ Trafficking

Since the mid-1990s there have been speculative reports and rumors of organ trafficking in both Mexico and along the border. However, unconfirmed allegations aside, there is very little concrete evidence of organ trafficking in the U.S.-Mexican context. Indeed, Mexican federal investigators eventually dropped their investigation of alleged organ trafficking in the murders of young women in the Mexican border city of Ciudad Juárez, Chihuahua, when their sole informant recanted his claims that organ trafficking was involved in the murders. Thus, much more research is needed to confirm or refute the prevalence of organ trafficking in Mexico and the border region.

Contributing Factors

It is difficult to fathom the continued enslavement and sexual exploitation of human beings in the twenty-first century. Yet the underlying causes of human trafficking are related to major trends in the new global economy. Increased flows of goods, people, and capital have yielded net gains for entrepreneurs of all kinds—both legal and illegal—while desperation and vulnerability continues at the margins. These socioeconomic inequalities contribute significantly to human trafficking and are particularly salient in the U.S.-Mexican context. With over 40 percent of its population in poverty, Mexico's economic underdevelopment creates conditions that make poor people, especially women and children, susceptible to traffickers. Indeed, given these conditions, a significant amount of human trafficking occurs domestically in Mexico; some estimates suggest that as many as 16,000 children are subject to commercial sexual exploitation domestically in Mexico.⁸

Major demographic shifts in international migration also play a role. Although migration from Mexico to the United States is predominantly male, mass migration of women responding to market demands for labor in the United States (and/or reuniting with husband and family members who migrated before them) has been accompanied by large numbers of child migrants.⁹ These new migrant populations are especially vulnerable to human trafficking. At the same time, the fundamental paradox of U.S. immigration policy—focusing on border apprehension of migrants, rather than interior enforcement—also contributes directly to higher rates of human smuggling and trafficking. Lured by unregulated employers in the United States, undocumented persons increasingly rely on “professional” smugglers (coyotes), who are uniquely positioned to engage in both labor and sexual exploitation.¹⁰

Technological innovation constitutes yet another part of the

explanation, particularly in reference to sexual exploitation. Expansive growth of the commercial sex industry, fueled largely by video-, digital-, and file-sharing technologies used to disseminate pornographic materials, has facilitated demand for the sexual exploitation of women and children. In the U.S.-Mexican context, Web-based sex tour promotions offer airfare, hotel, and directions for Mexican brothels, particularly in the border region and major tourist destinations. Indeed, Tijuana was the primary destination cited by sexual tourists in one study that found a total of nearly 40 Web sites dedicated to “promoting Mexico as a destination for erotic vacations and Sexual Tourism.”¹¹

Finally, persistent challenges related to the administration of justice and the rule of law in Mexico (e.g., corruption, human capital formation) present serious challenges for law enforcement training and cross-border collaboration to address human trafficking in the border region. The pervasiveness of organized crime in this context is of particular concern. Indeed, the profit potential of sexual slavery makes human trafficking a multibillion-dollar industry, the third most-lucrative criminal act next to drug and arms trafficking, and the “fastest growing source of profits for organized criminal enterprises worldwide.”¹²

U.S. and Mexican Responses to Trafficking in Persons

Beginning with the United Nations’ Protocol to Prevent, Suppress and Punish Trafficking in Persons in 2000, the international community has come to a clear understanding of what trafficking is and how to combat it. UN signatories to the agreement adopted a three-fold approach to combating human trafficking: (1) prevent human trafficking by criminalizing it; (2) promote justice through international cooperation between law enforcement agencies around the world; and (3) protect the basic rights of human trafficking victims. Both the United States and Mexico have taken action toward these goals.

The U.S. Victims of Trafficking and Violence Protection Act (also known as the “Protect Act”), passed in 2000, promoted prevention through the creation of the Interagency Task Force to Monitor and Combat Trafficking in Persons, and the State Department’s Office to Monitor and Combat Trafficking in Persons (OMCTIP).¹³ The Protect Act also strengthened anti-trafficking provisions by providing prosecutors with greater flexibility in cases involving children, new penalties for sex tourism abroad, and increased criminal penalties for forcing a person into commercial sex. Finally, the Protect Act provided victims with new protections, including new visas for victims of trafficking (T-visas) and violence (U-visas), which allow victims to stay in the United States—from three years to permanent residency—in exchange for investigative and prosecutorial assistance against traffickers.

Despite these stronger and better-structured responses to human trafficking in the United States, advocacy officials and

activists recognize with some frustration that the numbers of successful prosecutions and victims certified remains relatively small. Between 2001 and 2002, U.S. Attorneys’ Offices had initiated 76 prosecutions of traffickers. Out of 23 cases prosecuted in that time 14 were successful, convicting 92 defendants and triggering human trafficking penalties for 65 defendants.¹⁴ According to the Department of Justice, 23 out of a total of 150 T-visa applications were granted from January 2002 to April 2003, with continued presence granted to 300 persons certified by the Office of Refugee Resettlement.

Meanwhile, Mexico, like the United States, has ratified multiple agreements related to trafficking in persons. However, in Mexico, efforts to combat human trafficking have relied mainly on existing laws pertaining to prostitution or sexual exploitation, threats to public health, “moral corruption,” and pimping (*lenocinio*). The Mexican criminal code includes penalties for infecting others with venereal diseases and other severe contagious illnesses; for “offenses to public morality” and the “corruption of a minor under the age of 16”; for induced or forced prostitution, as well as maintaining brothels; for employment of minors under age 18 in “taverns, bars and other centers of vice”; and for the procurement, inducement, or concealment of prostitution.¹⁵ Recent reforms strengthened these penalties in Mexico, especially for sexual exploitation of minors.

However, prostitution remains essentially legal in Mexico, since commercial sex is not explicitly prohibited by law. Moreover, despite the above-noted restrictions, pimping and child exploitation are practiced widely without arrest or prosecution, and often with the collaboration or knowledge of corrupt or apathetic local law enforcement officials.¹⁶ These difficulties contribute to Mexico’s suboptimal ranking in the United States’ annual *Trafficking in Persons Report*, which evaluates individual country efforts to combat trafficking in persons.¹⁷ Finally, despite State Department reports that Mexico has “achieved a high level of success in interdicting illicit migration, including trafficking,” efforts to punish traffickers (and to assist victims) have been both limited and poorly documented.¹⁸

Borders Without Slavery?

Human trafficking is a complex form of organized crime, particularly in the U.S.-Mexican context. At present, we offer three very general conclusions. First, there is a tremendous need for more information, analysis, and education on human trafficking, both in general and in the U.S.-Mexican context. Law enforcement agencies, legal advocates, and nongovernmental organizations on the front lines need specialized training and assistance to identify and rescue victims, convict their traffickers, and assist victims reentering society. Current initiatives are properly headed in this direction and will increasingly enhance public awareness of the problem.

Second, obtaining clear information from victims is critical to understanding how best to combat the crime, as they have the greatest insight into its nature. Victims of trafficking in the U.S.-Mexican context face two major problems. On the one hand, migrants crossing to the United States from Mexico are increasingly victimized by “professional” smugglers in the border region. For this and other reasons (including a rising death toll of migrants at the border), the United States needs to reevaluate its immigration policies and concentrated border enforcement initiatives. On the other hand, victims are often not identified and treated as such in either country. Victims of labor exploitation in the United States fall through the cracks of a crime with a complicated definition. Victims of sexual exploitation in Mexico, especially women and children, are further victimized by the inadequacies of its justice system and the harsh realities of socioeconomic conditions. Moreover, despite new laws for prosecution in both countries, greater protections and incentives for victim cooperation may be needed to ensure successful prosecution.

Finally, in developing strategies for combating trafficking in persons, it is worthwhile to consider the track record of other initiatives designed to address transnational crime and flows of people. The record in the U.S.-Mexican context offers little cause for optimism. The availability of both drugs and illegal immigration into the United States—from or via Mexico—did not decline significantly in response to major enforcement initiatives in the 1990s. In both instances, countervailing factors have clearly undermined law enforcement efforts: the influence of corruption and organized crime, unchecked demand from U.S. citizens, and divergent priorities and capacities. In combating the problem of human trafficking, the United States and Mexico must overcome the same challenges. There are, however, some encouraging signs. Recent legislation and criminal penalties to address human trafficking in the United States and Mexico are clear indicators of progress, but these will take time to have an impact as law enforcement, prosecutors, and advocates learn to utilize new legal frameworks. Also, a host of nongovernmental organizations and coalitions have emerged to address various components of the problem in both the United States and Mexico and are mobilizing to take advantage of government grants for training and service provision. Moreover, renewed attention to immigration reform provides the single greatest hope for reducing human trafficking in the U.S.-Mexican context, since it would undercut the often predatory organized crime networks that have profited from smuggling migrants into the United States. Lastly, both the United States and Mexico appear particularly resolved to address this problem, because it perpetuates human rights abuses of the worst kind on the most vulnerable elements of society: exploiters, pimps, and pedophiles have few sympathizers on either side of the border.

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² Elena Azaola's *Stolen Childhood: Girl and Boy Victims of Sexual Exploitation in Mexico* (Mexico City: UNICEF/DIF/CIESAS, 2000). Richard J. Estes and Neil Alan Weiner, *The Commercial Sexual Exploitation of Children In the U.S., Canada, and Mexico* (Philadelphia: University of Pennsylvania, 2002).

³ David Kelly, “Fight for Human Freight,” *Los Angeles Times*, December 14, 2003, p. A-1.

⁴ Anne-Marie O'Connor, “Gathering Fights Those Who Deal in Human Lives,” *Los Angeles Times*, August 25, 2002, B-10.

⁵ See <http://www.protectchild.org>.

⁶ Casa Alianza, “American Accused of Sexual Abuse of Mexican Boys Arrested in Thailand,” February 14, 2003, <http://www.casa-alianza.org/EN/noticias/lmn/noticia19>.

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¹⁰ *Regional Investigation on Trafficking, Prostitution, Child Pornography and Sex Tourism with Children in Central America and Mexico* (San Jose, Costa Rica: Casa Alianza, 2001), p. 119, http://www.casa-alianza.org/EN/human-rights/sexual-exploit/regional_report_CSE.pdf.

¹¹ *Victims of Trafficking and Violence Protection Act*, Section 100(8), 114 Stat. 1464 (2000).

¹² U.S. Department of State, *Trafficking in Persons Report, June 2003* (Washington, D.C.: Bureau of Public Affairs, 2003), <http://www.state.gov/r/pa/ei/rls/21475.htm>.

¹³ U.S. State Department Fact Sheet, “Accomplishments in the Fight to Prevent Trafficking in Persons,” February 25, 2003, <http://www.state.gov/g/tip/rls/fs/17968pf.htm>.

¹⁴ The Protection Project, *Mexico Country Report* (Washington, D.C.: Johns Hopkins University–SAIS, March 2001), http://www.protectionproject.org/human_rights/countryreport/mexico.htm.

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¹⁷ U.S. Department of State, *Trafficking in Persons Report, June 2003* (Washington, D.C.: Bureau of Public Affairs, 2003), <http://www.state.gov/r/pa/ei/rls/21475.htm>.

¹⁸ Ibid.