

## **BORDER BRIEF**

### **Human Trafficking in the U.S.–Mexican Context**

*By Alexandra T. Webber*

Human trafficking—coerced labor and forced sexual exploitation— is a criminal phenomenon of particular concern in the U.S.-Mexican context, and is directly related to issues of cross-border law enforcement, immigration, and human rights. Tens of thousands of people cross the U.S.–Mexican border legally on a daily basis and an unknown number cross without authorization despite over a decade of concentrated border enforcement. Undocumented migrants crossing the U.S.–Mexican border are especially vulnerable to victimization by human traffickers. Concentrated border enforcement measures have led unauthorized migrants to increasingly rely on “professional” human smugglers to enter the country undetected.

U.S. authorities estimate that up to 20,000 Mexican nationals become victims of human trafficking in the United States each year, and that tens of thousands more fall victim to forced and under-aged sexual exploitation in Mexico. These figures are necessarily speculative. Because human trafficking is an underground form of transnational crime that is not easily documented, there is no way of knowing the true extent to which human trafficking occurs in either the United States or Mexico. Moreover, human trafficking is relatively poorly understood as a criminal phenomenon, primarily due to its complexity, clandestine nature, and the insufficiency of broad public initiatives to heighten awareness and combat the problem. This paper provides a brief explanation of human trafficking, an overview of some its manifestations in the U.S.-Mexican context, and an update on recent measures to combat this unfortunate form of exploitation.

#### **What is Human Trafficking?**

The term “human trafficking” is often wrongly conflated with the term “human smuggling.” Trafficking is not smuggling. In cases of human smuggling, a migrant pays a smuggler to transport them clandestinely across an international border. The smuggler and the migrant share a mutual goal—to gain illegal entry into the destination country without detection by state officials. In contrast, a victim of human trafficking is involuntarily held captive and exploited by force or threats of force. Human trafficking is essentially a modern form of involuntary servitude.

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The United Nations “Convention Against Organized Crime” and the supplemental “Protocol to Prevent, Suppress and Punish Trafficking in Persons” provided the first international legal definition of human trafficking. Signatories to these agreements commit to pass domestic

legislation to criminalize human trafficking, prevent human trafficking, and assist victims of human trafficking. The United States and Mexico are both signatories to the Protocol. However, while Mexico has ratified the Protocol, the United States has not yet done so. Conversely, while the United States has passed comprehensive federal legislation that defines and criminalizes human trafficking in terms consistent with the Protocol, Mexico has yet to do the same.

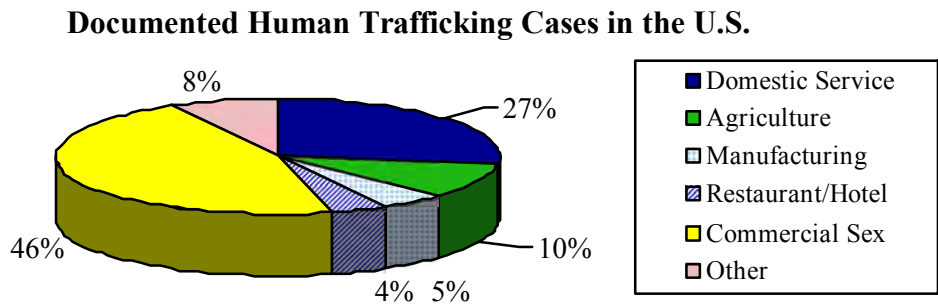
The United States passed the Trafficking Victims Protection Act (TVPA) in 2000 to criminalize human trafficking. The Act criminalizes the forced use of another person for the purpose of either sexual or labor exploitation. Although Mexico does not have a domestic law that specifically criminalizes human trafficking, the Mexican Congress is currently reviewing legislation that would criminalize human trafficking consistent with the UN Protocol's definition.

**U.N. Definition:** “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.”

**U.S. Definition:** (a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

### Manifestations of Human Trafficking in the U.S.-Mexican Context

Coerced labor and forced sexual exploitation are the two most common forms of human trafficking in the U.S.-Mexican context. Coerced labor refers to incidences of human trafficking where the victim's labor is illegally exploited for the trafficker's profit by some means of coercion (e.g., threats of force). Such coercion may be found in domestic service, agriculture, manufacturing, restaurants, and hotel work. Forced sexual exploitation refers to incidences of human trafficking where the victim is coerced into sexual exploitation for profit, and includes pornography, massage parlors, strip clubs, and brothels. Human trafficking, broadly interpreted, includes other illegal activities, including the forced sale of organs and illegal adoptions.



Adapted from *Hidden Slaves* a report by the Berkeley Human Rights Center and Free the Slaves in 2004.

The Hidden Slaves report, a recent study by the Berkeley Human Rights Center and Free the Slaves, surveyed cases of human trafficking in the United States and found that over half of all cases fit into the following categories of forced labor: domestic service (27%), agriculture (10%), manufacturing (5%), and restaurant and hotel work (4%). As for forced sexual exploitation, the same report estimated that approximately 46% of cases studies included commercial sex acts. Comparable research on cases of human trafficking in Mexico is not yet available.

Undocumented migrants smuggled into the United States from Mexico are increasingly at risk to **forced labor victimization** by human traffickers. Migrants commonly enter the United States illegally with the help of human smugglers; heightened border security has increased the market and profits for such smugglers—known as *polleros* or *coyotes*. Typically, migrants pay between \$1,500 and \$3,000 to be smuggled through the border into the United States. These funds are often supplied by relatives and friends already working in the United States. However, in many cases, migrants agree to pay the smuggler’s fee from wages to be earned once in the United States, or are obliged to pay much more than the fee originally agreed upon. In essence, such undocumented migrant laborers become indentured servants and are often coerced into situations that require them to “work off” their smuggler’s fees. In such cases of indentured servitude, the smuggler commits a form of human trafficking under the TVPA.

**Forced Labor Case Study:** The case of Ramiro and Juan Ramos exemplifies forced labor in the United States involving Mexican victims. The Ramos brothers worked as farm labor contractors to place Mexican migrants in agriculture jobs. The brothers forced migrants to work in citrus fields to pay off the debts the migrants incurred when the brothers provided transportation from Arizona to Florida. The brothers used force and threats of force to control 700 migrants in this fashion. Successful prosecution of both brothers resulted in prison sentences for 15 years, forfeiture of nearly 3 million dollars of property, and a two hundred thousand dollar fine for conspiracy to hold workers in involuntary servitude and harboring undocumented workers.

**Forced Prostitution Case Study:** One oft cited example of forced prostitution is a North San Diego, California case. In 2002, a woman from central Mexico was promised a job and transportation to the United States by a “charming” Mexican man. Once in the United States, the man threatened to harm the woman’s child if she did not work as a prostitute. The prostitution ring brought hundreds of men to have sex with 30 women and girls at \$15-20 per visit; nearly half of the women were minors. When authorities raided the camp, they found 15 women and arrested 30 men, mostly undocumented migrants who were later deported. However, federal prosecutors were unable to build a case because only one of the 15 women was willing to testify and the key perpetrators were not captured in the raid.

In the United States, a number of **forced prostitution cases** involving Mexican victims have been successfully prosecuted. Victims are often deceived by strangers or even acquaintances promising them a good job and entrance into the United States, but once in the United States are forced into prostitution. The U.S.-Mexican border has been a transit point for documented trafficking cases of forced prostitution from Mexico, Central America, and other source countries (e.g., Ukraine) into the United States.

Another form of sexual exploitation is **sex tourism** - the act of traveling to another country to engage in commercial sex. Under the Protect Act of 2003, any U.S. tourist traveling abroad and engaging in sex with minors is subject to prosecution in the United States. The government estimates that 16,000–20,000 Mexican and Central American child sex victims live in Mexico, primarily along the U.S.-Mexican border and in major tourist destination cities. Generally speaking, there are few documented cases of prosecuted sex tourism within the United States. However, sex tourism involving forced or under-aged persons appears to be a growing—or at least more recognized—problem in Mexico.

**Child Sex Tourism Case Study:** The Thomas Frank White case is another widely cited example of sex tourism in the U.S.-Mexican context. In February 2003, Thai police arrested White for sexual exploitation of minors in Thailand. Mexico is currently seeking to extradite White to subject him to prosecution for similar charges of sexual exploitation of minors in Mexico. White co-owned the Hotel Iguana in Puerto Vallarta, Mexico and founded an orphanage for street children. A footbridge connected the orphanage to the hotel. White allegedly abused the orphans by offering them money and drugs for sex.

The market for sex tourism is fed partly by the availability of exploitable, under-aged males and females in Mexico and along the border, which has fostered an international market for child prostitution and pornography. Indeed, a successful February 2005 undercover investigation by the FBI and cooperating law enforcement agencies illustrated that the U.S.-Mexican border is an important destination and conduit for sex tourism and illicit commercial sex with minors. This operation targeted four members of the North American Man/Boy Love Association (NAMBLA), which openly promotes “consensual,” “inter-generational” sexual relationships between men and boys.

### **Why Does Human Trafficking Occur in the U.S.–Mexican Context?**

A number of factors contribute to the occurrence of human trafficking in the U.S.-Mexican context. The 2,000 mile U.S.-Mexican border is the longest boundary in the world shared between a developed and developing country. One major reason that undocumented migration persists is because of Mexico’s continued under-development; over 40% of its population lives in poverty (earning less than the minimum wage). As a result, many Mexicans attempt to enter the U.S. economy to make a living. While NAFTA expanded free flows of goods and capital within the North American market, labor was left out of the equation. Thus, because current U.S. immigration quotas are too small to address both the evident “demand” and the “supply” of labor for low wage jobs, most migrants in need of work have no legal means to enter the United States.

Thus, current U.S. border control policy also contributes to the vulnerability of undocumented migrants to victimization by human traffickers crossing from Mexico into the United States. Concentrated U.S. border enforcement policies implemented over the past decade have focused on redirecting—but not stopping—flows of illegal immigration, while failing to

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address the “demand” for migrant labor in the United States. According to a report by UCSD Professor Wayne Cornelius, from 1990 to 2000, the United States spent over \$20 billion to block illegal immigration at the border; however, the number of employers fined for hiring undocumented workers dropped from 14,311 to 178 per year over the same period. This fundamental paradox of U.S. immigration policy contributes to higher rates of illegal immigration and human smuggling both of which contribute to the vulnerability and victimization of Mexican migrants by human traffickers.

These recent immigration trends have affected human trafficking in yet another way in the U.S.-Mexican context by increasing the number of women and children who migrate illegally. Traditionally, male immigrants left their families in Mexico to earn a livelihood in the U.S., supporting the women and children they left behind with remittances sent to Mexico. As new border security measures have made it more difficult and costly for men to migrate seasonally, many are now choosing to pay to relocate their families from Mexico to the United States. Meanwhile, many women and children without male heads of households make their own choices to migrate to support themselves and their families. Today, women make up 31% of U.S. immigration from Mexico and an estimated 48,000 unaccompanied minors from Mexico and Central America enter the United States illegally. Because of their vulnerability to exploitation, these women and children are increasingly at risk to victimization by human traffickers both in Mexico and as they migrate to the United States.

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Profits also drive human trafficking in the U.S.-Mexico context. Though the smuggling of migrants into the U.S. is extremely profitable, the profits made from human trafficking are even greater. According to then-U.S. Attorney General John Ashcroft, human trafficking was a global industry generating \$8-10 billion in annual profits in 2004. A trafficker can profit from a victim’s forced labor for long periods of time. Similarly, traffickers often charge (and overcharge) their victims for room and board provided during their victimization, adding to the profits. Traffickers also enhance their profits by imposing usurious interest rates on debt owed by their victims. In some cases, after years of making profits from one victim, a trafficker may even “sell” the victim to other handlers for hefty sums. Anecdotal evidence suggests that high profits contribute to the incentives that organized crime syndicates have to become involved in human trafficking. However, there is currently insufficient information about the links between human trafficking and organized crime.

### **Efforts to Combat Human Trafficking in the U.S.-Mexican Context**

The United States is committed to combating human trafficking both domestically and abroad. Domestically, under the Trafficking Victims Protection Act (TVPA), the United States seeks to protect victims, prosecute traffickers, and prevent further victimization. Under the TVPA, victims now have new protections, including visas specially designed for victims of trafficking (T-visas). A key foreign policy tool for accomplishing the objectives of the

TVPA is the development of bilateral and multilateral collaboration between governments and NGOs. The U.S. Department of State encourages such cooperation by ranking countries according to their compliance and effort to comply with U.S. standards for combating trafficking in persons. Countries not in compliance risk the imposition of sanctions. Countries are ranked into three tiers. Tier one countries meet the minimum standard of compliance; tier two countries do not currently comply with the minimum standards but are making significant efforts to comply; and tier three countries do not comply with the minimum standards and are not making a significant effort to comply. In 2004, Mexico's ranking fell from tier two to the tier two watch list, largely because the federal government has not yet passed a comprehensive federal law to combat human trafficking.

#### **U.S. State Department Rankings for Efforts to Combat Human Trafficking**

**Tier 1:** Australia, Austria, Belgium, Canada, Colombia, Czech Republic, Denmark, France, Germany, Ghana, Hong Kong, Italy, South Korea, Lithuania, Macedonia, Morocco, The Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Taiwan, United Kingdom

**Tier 2:** Afghanistan, Albania, Angola, Argentina, Armenia, Bahrain, Belarus, Benin, Bosnia/Herz., Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Chile, China, Costa Rica, Egypt, El Salvador, Finland, Gambia, Guinea, Hungary, Indonesia, Iran, Israel, Kuwait, Kyrgyz Republic, Latvia, Lebanon, Malaysia, Mali, Mauritius, Moldova, Mozambique, Nepal, Nicaragua, Niger, Panama, Romania, Rwanda, Saudi Arabia, Singapore, Slovak Republic, Slovenia, South Africa, Sri Lanka, Switzerland, Togo, United Arab Emirates, Uganda, Ukraine, Uzbekistan

**Tier 2 Watch List:** Azerbaijan, Belize, Bolivia, Congo, Cote d' Ivoire, Croatia, Cyprus, Dominican Rep., Estonia, Ethiopia, Gabon, Georgia, Greece, Guatemala, Honduras, India, Jamaica, Japan, Kazakstan, Kenya, Laos, Madagascar, Malawi, Mauritania, **Mexico**, Nigeria, Pakistan, Peru, Philippines, Qatar, Russia, Senegal, Serbia, Suriname, Tajikistan, Tanzania, Thailand, Turkey, Vietnam, Zambia, Zimbabwe

**Tier 3:** Bangladesh, Burma, Cuba, Ecuador, Equatorial Guinea, Guyana, North Korea, Sierra Leone, Sudan, Venezuela

While Mexico has prosecuted a handful of human trafficking cases, a comprehensive federal law and plan for enforcement to would likely enhance the number of successful prosecutions. Meanwhile, under the March 2004 Mexico-Guatemala Memorandum of Understanding on Trafficking, Mexico and Guatemala have agreed to cooperatively strengthen bi-national efforts to combat human trafficking along the Mexican-Guatemalan border.

Non-governmental organizations (NGOs) in the United States are also developing anti-trafficking programs. A handful of NGOs focus their anti-trafficking programs on the problems presented at the border. The Bilateral Safety Corridor Coalition (BSCC) is an NGO working to combat human trafficking along the U.S.-Mexican border. Currently, the BSCC's "Closing the Border to Human Trafficking" project has funding from the U.S. Department of State to promote bi-national collaboration to combat trafficking in Baja California, Sonora, Chihuahua, and Nuevo León. The project is also raising public awareness of human trafficking in these border communities as a means of preventing victimization. Additionally, the project provides training to law enforcement, victim service organizations, and advocates for more effective laws and enforcement in Mexico. The long-term objective of the project is to partner with and develop similar coalitions in northern Mexico to facilitate bilateral cooperation, education, and training to stop human trafficking in the U.S.-Mexican border region.

Another important NGO is the Coalition to Abolish Slavery and Trafficking (CAST), which is based in Los Angeles and focuses some of their anti-trafficking programs on human trafficking at the border. Like the BSCC, CAST is working to build integrated networks of other NGO service providers and government agencies as a means of enhancing the effectiveness of anti-trafficking programs. Specifically, CAST trains NGOs and government agencies on the issue of human trafficking and on best practices for working with identified victims of trafficking.

Despite current efforts, more research and information is needed to promote a better understanding of how best to address the issue human trafficking, both in general and in the U.S.-Mexican context. Law enforcement officers need specialized training to identify and rescue victims, to address the corruption and violence associated with organized crime networks, and to collect evidence that can be used by prosecutors to convict their traffickers. Lawyers unfamiliar with the issue need information about the legal protections available for victims of trafficking, and especially the facts of cases in which victims successfully obtained T-visa applications. Service providers working with potential victim populations need additional resources and collaborative relationships with law enforcement agencies (and other service providers) to help victims.

Victims of human trafficking are a critical source of information and can greatly expand our knowledge of human trafficking as a crime. Indeed, most of what is known about human trafficking is drawn from victim accounts and prosecutions that have resulted from them. Identifying victims is the first step, but is often difficult because authorities may simply treat migrants or prostitutes as criminals. Moreover, once identified, victims typically require special assistance to cope with the effects of their experience. Victim testimony is then essential for investigators and prosecutors to build a case against the accused human traffickers. For these reasons, more safeguards are recommended to provide victims with protections that are needed for their cooperation with law enforcement. This will expand our knowledge of human trafficking and improve the effectiveness of prosecutions against human traffickers.

**Alexandra T. Webber** recently graduated with a Juris Doctorate from the Law School at the University of Southern California. She obtained her B.A. in Latin American Studies and History from the University of California-San Diego and an M.A. in Developmental and Educational Psychology from Boston College. Ms. Webber is currently a Fulbright-Garcia Robles scholar based in Baja California, Mexico. For her research on human trafficking and transnational human smuggling issues, Ms. Webber has interviewed representatives from the U.S. Department of Justice, the Office of Refugee Resettlement and various non-governmental organizations from San Diego County to Arizona and Washington, D.C. She also co-authored a policy brief titled "Slavery Without Borders" for the Mexico Project of the Center for Strategic and International Studies in 2004.

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