

## Re-victimizing Trafficked Migrant Women: The Southern Border Plan and Mexico's Anti-trafficking Legislation

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### Abstract

The phenomena of migration and trafficking in persons are inextricably linked in Mexico. Restrictive border policies and inadequate anti-trafficking legislation increase the vulnerability of migrants to exploitation and trafficking. Migrant women constitute a highly vulnerable group facing increasing risks of not only trafficking, but of re-victimization. The Southern Border Plan (*Plan Frontera Sur*), implemented by the Government of Mexico in July 2014, has increased the vulnerability to trafficking of migrants, and in particular of women. The Plan has resulted in a sharp increase in deportations from Mexico. Migrants and smugglers have been pushed to find new and more dangerous routes to evade the new checkpoints and increased militarization along Mexico's southern border. This paper explores the effects that Mexico's anti-trafficking legislation and the Southern Border Plan has had on the vulnerability of women to trafficking and re-victimization, particularly in the realm of forced sexual servitude. The last sentence of the paragraph should be instead like this: The research is based on 47 interviews conducted along Mexico's southern border and in Cancún, Quintana Roo.<sup>1</sup>

### Introduction

Every year, thousands of Central American migrants risk falling victim to exploitation and human trafficking at the hands of smugglers and criminals when they cross Mexico en route to the United States. These very vulnerable people decide to risk the journey northwards mainly because of extreme violence and poverty. Once in Mexico, Central American migrants fleeing poverty and abuse in their homelands are still vulnerable to exploitation and violence. As impoverished and desperate individuals without any reliable support network in Mexico, migrants are particularly exposed to abuse by Mexican criminals and corrupt authorities. Transnational criminal organizations, corrupt law enforcement officials, and unaffiliated criminals lurk along the country's migration routes, preying on migrants for extortion, kidnapping, and forced labor. The most vulnerable groups to these abuses are women, children, and the LGBT community.

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The present paper focuses on the phenomenon of trafficking of migrant women and girls along Mexico's eastern migration routes. This work details first the entangled connection between migrant smuggling and human trafficking in Mexico. It then explores the effects that Mexico's anti-trafficking legislation and border enforcement has had on the vulnerability of women to trafficking and re-victimization, particularly in the realm of forced sexual servitude. The present research is based on 31 interviews conducted along Chiapas's migration routes (from Tecún Umán, Guatemala to Chahuities, Oaxaca) and 16 interviews conducted in Cancún, Quintana Roo.

### **Migrant Smuggling and Human Trafficking: An Inextricable Link in Mexico**

The conceptual complexities of cross border trafficking and irregular migration make it difficult to identify victims of trafficking. Migration and trafficking are inextricably linked, and irregular migrants – particularly, migrant women, children and the LBGT community – are extremely vulnerable to trafficking. Many trafficked victims begin their journey as irregular migrants, and subsequently become trafficked along the migration routes. It is impossible to understand human trafficking in Mexico without understanding the dynamics of migration and migrant smuggling in the country.

Migrants transiting Mexico in hopes of reaching the United States, most of whom are from Central America, are acutely vulnerable to trafficking. The government does not provide migrants with a comprehensive network of support and protection. Mexican anti-trafficking agencies are underfunded and understaffed,<sup>2</sup> while immigration and law enforcement agents routinely abuse migrants instead of protecting them from harm. Criminals – both those affiliated to transnational criminal organizations or so-called drug cartels and those who are not – as well as corrupt authorities, take advantage of migrants' vulnerability to abuse and exploit them. It is worthwhile noticing that while not all crimes committed against migrants – such as extortion, kidnapping for ransom, and labor exploitation, or the practice of migrant smuggling itself – constitute trafficking in persons, trafficking is sometimes connected to these other crimes and does take place along the migration routes.

Immigration enforcement and border protection personnel, as well as other law enforcement agents, categorize migrants in differing ways. Migrants identified as trafficked have an array of legal remedies and services available, whereas those who are smuggled are considered criminals and face detention and deportation. There are gray areas between smuggling and trafficking. Trafficking of migrants seem to happen frequently during the smuggling process. Migrants may fit into several categories. A migrant may consent and consider him or herself to be smuggled, but, in fact, unknown to the individual, could be a victim of trafficking.

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<sup>2</sup> Le Goff, Helene and Thomas L. Weiss, *La Trata de Personas en México: Diagnóstico sobre la Asistencia a Víctimas* (Mexico City: International Organization for Migration, (IOM), Mexico Office, 2011). Accessed June 2, 2016: [http://reliefweb.int/sites/reliefweb.int/files/resources/Full\\_Report\\_1945.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_1945.pdf)

## Human Rights vs. Security Approaches to Fight Trafficking of Migrants

The complexities of trafficking in the migratory process pose challenges for law enforcement agencies when identifying victims. Framing trafficking as a security issue ignores these complexities, resulting in arrest, detention, and deportation. As trafficked victims lack legal status, they are frequently incarcerated for non-violent crimes such as sex work in the so-called zones of tolerance, or violation of immigration policies (see Brysk, 2012<sup>3</sup>; Choi-Fitzpatrick, 2012<sup>4</sup>; Chang and Kim, 2007<sup>5</sup>; Kempadoo, 2005<sup>6</sup>; Limoncelli, 2009<sup>7</sup>; Sanghera, 2005<sup>8</sup>). If “rescued,” trafficked victims are commonly deported, which often returns them to the hands of traffickers and the conditions they fled in the first place, and consequently they are not only victimized by traffickers, but are re-victimized by the host government’s policies.

As conditions at home remain the same, returned migrants make new attempts to leave, resulting in vulnerability to smuggling, debt bondage, rape, deception and coercion, and violence from employers, law enforcement officials, and migration officers. While trafficked migrants, as long as they cooperate with law enforcement agencies, are perceived as “victims,” they are nevertheless still often treated as common criminals and as a threat to national security. A security approach fails to recognize the complexities of trafficking, as Ann Jordan, Director of the International Human Rights Law Group’s Initiative against Trafficking in Persons, argues:

A law enforcement approach, by itself, may endanger trafficked persons, and it often results in the immediate deportation of potential witnesses or else arrest and imprisonment. An approach that treats victims as criminals or immigrants without rights also is responsible for causing trafficked persons to disappear into the underground or to return home without any support. At its worst, it may also lead to

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<sup>3</sup> Alison Brysk, “Rethinking Trafficking: Human Rights and Private Wrongs,” in *From Human Trafficking to Human Rights: Reframing Contemporary Slavery*, ed. Alison Brysk and Austin Choi-Fitzpatrick (Philadelphia: University of Pennsylvania Press, 2012), 73–85.

<sup>4</sup> Austin Choi-Fitzpatrick, “Rethinking Trafficking: Contemporary Slavery,” in *From Human Trafficking to Human Rights: Reframing Contemporary Slavery*, ed. Alison Brysk and Austin Choi-Fitzpatrick (Philadelphia: University of Pennsylvania Press, 2012), 13–24.

<sup>5</sup> Grace Chang and Kathleen Kim, “Reconceptualizing Approaches to Human Trafficking: New Directions and Perspectives from the Field(s),” *Stanford Journal of Civil Rights and Civil Liberties* 2:12 (2007): 334–339.

<sup>6</sup> Kamala Kempadoo, “Sex Workers’ Rights Organizations and Anti-trafficking Campaigns,” in *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights*, ed. Kamala Kempadoo, Jyoti Sanghera, and Bandana Pattanaik (Boulder: Paradigm, 2005).

<sup>7</sup> Stephanie A. Limoncelli, “The Trouble with Trafficking: Conceptualizing Women’s Sexual Labor and Economic Human Rights,” *Women’s Studies International Forum* 32:9 (2009): 261–269.

<sup>8</sup> Jyoti Sanghera, “Unpacking the Trafficking Discourse,” in *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights*, ed. Kamala Kempadoo, Jyoti Sanghera, and Bandana Pattanaik (Boulder: Paradigm Publishers, 2005), 3–24.

their re-trafficking.<sup>9</sup>

This cannot be more evident than along the Mexico-Guatemala border and in the state of Chiapas in particular since the implementation of the Southern Border Plan. *Plan Frontera Sur* (in Spanish) is an ambitious and massive migration control effort on Mexico's southern border. It includes interagency cooperation, federal police checkpoints, and the use of the military to enforce border control. In 2014, Mexico deported 107,841 migrants, most of whom were Central Americans. That number represented an increase of 35 percent in comparison to 2013.<sup>10</sup> Women are particularly prone to re-victimization under the framework of the Southern Border Plan. Since many trafficked victims are poor migrants often fleeing violence, or indigenous women living in absolute poverty, their marginalization and invisibility goes beyond mere gender concerns to deeper systemic issues. The push factors that cause the need to migrate, global economic realities, violence and corruption, and the lack of the rule of law, perpetuate human trafficking.

### **Vulnerability to Trafficking Factors**

Human traffickers in Mexico take advantage of migrants' vulnerability and lack of governmental support to prey on and exploit them. Central Americans transiting Mexico's eastern migration routes are especially vulnerable to trafficking. In its 2012 general anti-human trafficking legislation, the Mexican federal government has acknowledged that victims' vulnerability to trafficking is an important issue that must be tackled. Under the current legislation, trafficking a person who is in a condition of vulnerability is an aggravating factor that leads to longer sentences. The situations of vulnerability in Article 4 included origin, age, instruction level, pregnancy, immigration status, and belonging to an indigenous group. In order to understand Central American migrants' vulnerability to trafficking, the following factors must be taken into account: lack of monetary resources, possibility of deportation, authorities' abuse, and locals' hostility.

Women live especially on the edges of global economic systems due to discriminatory and gender-based violence practices that relegate them to unregulated low-wage employment in informal sectors with limited opportunities for legal migration. Human trafficking thrives on cheap and exploitable labor and strict migration laws. This phenomenon is intimately related to gender violence, poverty, and disparities in economic opportunities. Under the security approach to combat human trafficking, the irregular status of migrants, especially women, leads to further marginalization along the migratory routes, increased risk of exploitation, trafficking and re-victimization. As Janie Chung states:

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<sup>9</sup> Ann Jordan, *The Annotated Guide to the Complete U.N. Trafficking Protocol* (Washington, DC: International Human Rights Law Group, 2002). Accessed July 2, 2016: <http://www.nswp.org/sites/nswp.org/files/UN-TRAFFICK.pdf>.

<sup>10</sup> Clay Boggs, *Mexico's Southern Border Plan: More Deportations and Widespread Human Rights Violations* (Washington, DC: Washington Office on Latin America (WOLA), 2015). Accessed January 8, 2017. <https://www.wola.org/analysis/mexicos-southern-border-plan-more-deportations-and-widespread-human-rights-violations/>

The problem of trafficking begins not with the traffickers themselves, but with the conditions that caused their victims to migrate under circumstances rendering them vulnerable to exploitation. Human trafficking is but “an opportunistic response” to the tension between the economic necessity to migrate, on the one hand, and the politically motivated restrictions on migration, on the other.<sup>11</sup>

Women and children are being pushed out of developing nations due to economic failure, violence, domestic violence, corruption, and familial and societal pressures to make a living. In the face of tightening border controls and limited options for legal migration, young women and girls desperate to migrate for survival opt for risky underground migration channels, which puts them at much higher risks of becoming victims of human trafficking.

### **Limitations of Mexico’s Anti-Trafficking Legislation**

Trafficking in persons was not defined in international or national laws until the late nineties, when in 2000 the United Nations (U.N.) adopted the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (also known as the Trafficking Protocol, the Palermo Protocol, or U.N. TIP Protocol)<sup>12</sup> and the same year, the United States enacted the Trafficking Victim Protection Act (TVPA). The last seventeen years have brought much attention to trafficking in persons, yet the international community and civil society’s efforts to mitigate trafficking and protect those most likely to be victimized, particularly in the migratory process, continue to fall short. Human rights violations have not been abated despite numerous anti-trafficking measures and improved national legislations. One of the main reasons for the lack of success is that trafficking is framed as a security issue that is as a matter of criminal law enforcement and secure borders, rather than being addressed from a human rights, gender-based perspective.<sup>13</sup>

Mexico ratified the U.N. TIP Protocol<sup>14</sup> in 2005, and on November 28, 2007, the Mexican Congress passed its first national comprehensive Law to Prevent and Punish Trafficking in Persons (*Ley para Prevenir y Sancionar la Trata de Personas*). The law incorporated a broad definition of trafficking in persons, provided stiff penalties for traffickers, imposed monetary restitution to victims of trafficking, required all federal agencies, including the Attorney General’s Office (*Procuraduría General de la República*. PGR), to cooperate in creating a permanent infrastructure to prevent trafficking, and called upon all 32 Mexican states – including Mexico City (then the Federal District

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<sup>11</sup> Janie Chaung, “Beyond a Snapshot: Preventing Human Trafficking in the Global Economy,” *Indiana Journal of Global Legal Studies* 13:1 (2006): 137–163.

<sup>12</sup> It entered into force on December 25, 2003.

<sup>13</sup> Marika McAdam, “Who’s Who at the Border? A Rights-Based Approach to Identifying Human Trafficking at International Borders,” *Anti-Trafficking Review* 2 (2013): 33–49.

<sup>14</sup> The Palermo Protocol was initially intended to deal only with trafficking in women and children (see United Nations, 2004). However, it was subsequently expanded in scope to include all persons. Most states agree that particular attention should be given to the protection of women and children (see Ann Gallagher, “Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis,” *Human Rights Quarterly* 23:4 (2001): 975–1004.

or *Distrito Federal*) – to reform their state laws to include penalties for the trafficking of persons. Previously, human trafficking cases were classified and prosecuted under sections of state penal codes, which fell short of addressing the dynamics, realities, and severity of trafficking in persons.

The 2007 law defined trafficking as “the promotion, solicitation, offer, facilitation, procurement, transfer, delivery or receipt, of a person, through physical or moral violence, deceit or abuse of power to be subjected to sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or the removal of an organ, tissue or its components practices.”<sup>15</sup> While the definition of trafficking was, to a large extent, consistent with the Trafficking Protocol and the 2000 United States TVPA, it was not very clear regarding the issue of a person’s original consent<sup>16</sup>. This certainly matters for prosecution purposes since trafficking in persons is a complex phenomenon, particularly, when migration and trafficking intersect.

On June 14, 2012, the Mexican Congress approved a new anti-trafficking law: the General Law to Prevent, Sanction, and Eradicate Human Trafficking and for the Protection and Assistance of Victims of these Crimes (*Ley General para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos Delitos*) which was subsequently reformed in 2014.<sup>17</sup> The anti-prostitution lobby heavily influenced the passage of the 2012 law, and while there is a growing awareness of the wider scope of trafficking, in particular, the extent of labor trafficking, the majority of the law still remains focused on sexual exploitation.

The 2012 law defines trafficking as an organized crime activity putting federal agencies in charge of prosecution. In personal interviews, Mónica Salazar, attorney and former Director of Collective against Trafficking in Persons (*Colectivo contra la Trata de Personas*), stated that judges who are not trained in the dynamics of trafficking decide cases resulting in potential trafficking victims being misidentified. Salazar noted that by classifying human trafficking with organized crime and kidnapping, the current law does not help identify human trafficking victims and that the statistics on human trafficking cases in Mexico are not accurate because the coding of cases is problematic.<sup>18</sup> Criticism of the new law has also emerged from civil society groups, which claim that the new law lacks precise language and is too complex to be consistently applied by authorities.<sup>19</sup>

As with the 2007 law, the new legislation requires states to adjust the anti-trafficking

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<sup>15</sup> Cámara de Diputados del H. Congreso de la Unión, *Ley para Prevenir y Sancionar la Trata de Personas, Última Reforma DOF 01-06-2011* (Mexico City: Government of Mexico (Article V), 2011). Accessed February 20, 2016: <http://www.inegi.org.mx/est/contenidos/proyectos/aspectosmetodologicos/clasificadoresycatalogos/ced2012/doc/federal/LPPYSLTDP.pdf>

<sup>16</sup> Today, the Mexican law invalidates consent given under coercion/fraud. However, it is not specific about what exact circumstances could render consent invalid.

<sup>17</sup> Cámara de Diputados del H. Congreso de la Unión, *Ley General Para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y Para la Protección y Asistencia a las Víctimas de estos Delitos, Última Reforma DOF 19-03-2014* (Mexico City: Government of Mexico, 2014). Accessed February 20, 2016: <http://www.diputados.gob.mx/LeyesBiblio/pdf/LGPSEDMTP.pdf>

<sup>18</sup> Mónica Salazar, personal interview: May 21 and August 4, 2015, Mexico City.

<sup>19</sup> Victoria Rietig, “New Law, Old Impunity: Mexico Has a New Anti-Trafficking Law. But Will It Address the Country’s Problems?” *Oxford Monitor of Forced Migration* 2:2 (2012): 21–25.

legislation to align with the new federal law. According to Arun Kumar Acharya, a professor at the Universidad Autónoma de Nuevo León, while most Mexican states have specific anti-trafficking laws, many states' laws do not criminalize all forms of trafficking and these inconsistencies complicate interstate investigations, prosecutions, and convictions.<sup>20</sup> A more problematic aspect of the 2012 law is that it equates trafficking with exploitation rather than with the elements of force, fraud, or coercion.

Whereas, under the U.N. TIP Protocol, actions, means, and purpose are the three elements of human trafficking, the 2012 Mexico's trafficking law eliminates the means and only considers actions and purpose as key elements of trafficking in persons.<sup>21</sup> By removing the "means," trafficking becomes one of many forms of exploitation. Article 10 of the 2012 law defines trafficking to include: slavery, serfdom, prostitution and other forms of sexual exploitation (such as table dancing), labor exploitation, forced labor, the usage of children for organized crime, forced begging, illegal adoption, forced or servile marriage, the trafficking of organs and unlawful biomedical research on humans.<sup>22</sup> Article 14 of this most recent law also defines the production, distribution, and possession of child pornography as a form of trafficking.<sup>23</sup>

This new broad definition of trafficking allows for an expansion beyond the Protocol's categories of, "sexual exploitation, forced labor, slavery and its practices, servitude, and the removal of organs" (U.N. TIP Protocol 2000, Article 3). The definition of trafficking under the 2012 law also extends beyond the United States TVPA, in which trafficking has the elements of action (recruiting, harboring), means (force, fraud, or coercion) and purpose (servitude, debt bondage, sexual exploitation, and slavery) defining trafficking as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act, or labor services through the use of force, fraud, or coercion (TVPA 2000).

Under the 2012 law many other offenses that are not trafficking, but are related to it, are now punishable alongside trafficking. These include: purchasing sex while being aware that the person is trafficked, renting a building knowing it will be utilized for trafficking, and posting advertisements with trafficking ends. Also, as the means are not included in the new law, prostitution, and other forms of sexual exploitation are synonymous with forced prostitution (trafficking), making it difficult to identify victims of trafficking.<sup>24</sup> The new law was heavily influenced by the anti-prostitution lobby, and as such, equating prostitution with trafficking serves their purpose, but at the same time leads to misidentification and re-victimization.

The complexities between prostitution and trafficking hamper efforts to identify female

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<sup>20</sup> Arun Kumar Acharya, *Trafficking of Women and Children in Mexico: An Assessment of Anti-Trafficking Laws* (Universidad Autónoma de Nuevo León: Typescript, 2016).

<sup>21</sup> Mónica Salazar, personal interview, August 4, 2015, Mexico City. Also see Acharya, *Trafficking of Women*.

<sup>22</sup> Cámara de Diputados del H. Congreso de la Unión 2014, Article 10, 7.

<sup>23</sup> *Ibid.*, Article 14, 8.

<sup>24</sup> Acharya, *Trafficking of Women*.

victims of trafficking.<sup>25</sup> Portrayals of human trafficking, especially in the media and in awareness campaigns by NGOs, continue to oversimplify the trafficking situation and often demonstrate the “white slave trade” propaganda used in the 1920s and 1930s. The myth of the white slave trade was utilized to harness women’s freedom of movement. The portrayal of helpless white women exploited by dark-skinned men reinforced the attitude that women lacked agency. Media portrayals of images of rescue attempts of helpless, innocent women and girls from a life of immoral sexual activities continue to dominate trafficking discourse. This narrative emphasizes the plight of women and the need to “rescue” them from traffickers. Focusing on “rescuing” vulnerable women ignores the many complexities that led them to migrate in the first place.

Authorities report an increase in the number of arrests and an increase in the number of trafficking sentences at both federal and state levels, but it is unclear how many of the prosecutions and sentences involve trafficking cases as defined by the U.N. TIP Protocol or the TVPA. NGOs also report that not focusing on force, fraud, or coercion has led public officials to target sex workers instead of concentrating on actual trafficking, with public officials conflating trafficking with migrant smuggling and prostitution. According to Salazar, the increases in arrests under the overly broad definition of trafficking, coupled with the lack of conceptual understanding of this phenomenon, has made it more difficult to identify migrants who are trafficked, resulting in re-victimization as unidentified migrant trafficking victims are deported, or released and placed back in the hands of traffickers.<sup>26</sup> Finally, the new legislation remains focused on sexual exploitation, leaving victims of forced labor, forced begging, and compelled labor for criminal activities by organized crime, not identified as trafficking victims.

To sum up, from a conceptual standpoint, Mexico’s 2012 anti-trafficking law provides a broad definition of human trafficking that does not qualify force, extortion, and fraud as essential elements of human trafficking, but merely aggravating factors to it. This broader definition allows the state to investigate and condemn individuals for human trafficking even if, according to international laws, they have not committed it. This phenomenon is evident at the state prison in Tapachula, Chiapas. During field work conducted in this facility, we interviewed eleven women who are currently incarcerated under human trafficking charges. With the exception of two Mexican nationals, all the inmates were Central Americans. Some were indigenous and illiterate, and only spoke basic Spanish. We do not believe that any were human traffickers.

Not only Mexico’s anti-trafficking legislation itself has significant issues, but Mexico’s enforcement of it has also been problematic. Congress drafted and adopted the 2012 general law to ensure that states would investigate and prosecute human trafficking following federal norms and definitions. Nevertheless, state authorities have still enforced anti-human trafficking laws unevenly. For instance, according to official state government’s data, between 2010 and 2013 the Quintana Roo government started eight processes to investigate human trafficking, identified 32 people as

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<sup>25</sup> Janie Chung, “Rescuing Trafficking from Ideological Capture: Prostitution Reform and Anti Trafficking Law and Policy,” *University of Pennsylvania Law Review* 158:6 (2010): 1655–1728.

<sup>26</sup> Mónica Salazar, personal interview: August 4, 2015, Mexico City.



trafficking victims, and did not convict anyone. Those are extraordinarily low numbers, considering that Quintana Roo's largest city, Cancún, is an internationally-known hub for sex trafficking.<sup>27</sup>

### **Mexico's Southern Border Plan, and the Re-Victimization of Women**

Migrant women and girls, especially those without legal status, are extremely vulnerable to exploitation and are at heightened risk of sexual violence by criminal gangs, smugglers, traffickers, other migrants, and corrupt officials at federal, state and local levels, and by agents from the National Immigration Institute (IMN), the very agency tasked with protecting migrants. According to a report by Amnesty International published in 2010, approximately sixty per cent of female migrants are raped en route to the United States.<sup>28</sup> Migrant shelter workers and activists estimate the number to be higher, believing that eighty percent of Central American women and girls are raped. Both interviews with experts and data from civil society organizations document that criminal gangs use sexual violence as part of the "price" that must be paid for passage north. The prevalence is so high that smugglers require women to take contraceptives prior to embarking on the journey as a precaution.

Government plans designed to secure the border and stem human rights abuses have been difficult to implement and offer limited success. The Mérida Initiative (*Iniciativa Mérida*) – a bilateral antinarcotics program designed to combat organized crime and violence – increased the budget for military and police assistance, but has failed to provide comprehensive aid to migrants, and politically-motivated negotiations have removed, or watered down, clauses designed to protect human rights. Similarly, the framework adopted by the United States and Mexican governments with the Southern Border Plan supports the security interests of both countries, rather than that of the migrant population in general, and the female migrant population in particular, leaving them vulnerable to exploitation and trafficking. Migrant women and children from the Northern Triangle counties fleeing gang violence, extortion, and extra-judicial executions, embark on the journey north to seek a better livelihood for themselves and their families in a highly gendered world. In Mexico these vulnerable groups face further exploitation as the dominant trafficking paradigm lacks critical distinctions between trafficking and migration on the one hand and trafficking and prostitution on the other, thus failing to provide protection.

### **The Effects of the Southern Border Plan**

Before the implementation of the Southern Border Plan, the 714-mile border that the Mexican states of Chiapas, Tabasco, Campeche, and Quintana Roo share with Guatemala and Belize was relatively porous. In December 2012, Enrique Peña Nieto announced his government's intentions

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<sup>27</sup> Observatorio Nacional Ciudadano de Seguridad, Justicia y Legalidad. *Estadística sobre la Eficiencia en el Combate a la Trata de Personas en México: Un Ejercicio de Acceso a la Información 2010–2013* (1<sup>st</sup> ed.). (Mexico City: Observatorio Nacional Ciudadano de Seguridad, Justicia y Legalidad, 2014).

<sup>28</sup> Amnesty International, *Invisible Victims: Migrants on the Move in Mexico* (London: Amnesty International, 2010). Accessed June 28, 2016: <https://www.amnesty.org/en/documents/AMR41/014/2010/en/>

to strengthen security and controls along Mexico's southern border. In 2014, 5,000 officers of a new division of Mexico's Federal Police were deployed to the state of Chiapas adding to the 400 federal police officers deployed in 2013.<sup>29</sup> Checkpoints and raids increased dramatically, leading to a higher number of deportations. The exact number of deportations is unclear but the state of Chiapas has the highest rate of deportations. In 2013, the National Migration Institute (*Instituto Nacional de Migración*, INM) deported approximately 34,252 migrants, most of whom were from Honduras, Guatemala, or El Salvador.<sup>30</sup>

It is worth noting that while border enforcement has severely tightened in Mexico and the United States in the past few years, and further human mobility restrictions have been placed along Mexico's southern border and Mexico's migration routes, border controls in Central America have moved in the opposite way. In June 2006, Guatemala, Honduras, El Salvador and Guatemala signed the Central America-4 (CA-4) Border Control Agreement, which establishes "the free movement across borders between the four signatory states of their citizens without any restrictions or checks." The treaty also states that "[f]oreign nationals who enter one of the signatory countries can also travel to other signatory states without having to obtain additional permits or to undergo checks at border checkpoints." Overall, it "establishes a harmonized visa regime for foreign nationals travelling to the area."<sup>31</sup>

Civil society organizations have widely rejected the Southern Border Plan for its lack of clarity and for not placing emphasis on the human rights of migrants. These organizations reported countless abuses committed by authorities and have expressed their concerns regarding the increased power of authorities.<sup>32</sup> The implementation of the Southern Border Plan has increased the surveillance of the border and highways in the state of Chiapas. When travelling from Tapachula and crossing the state of Chiapas to the border with Oaxaca (the city of Chahuites), there were twelve checkpoints along the 250 km ride. Although only the INM is authorized to ask for migration papers, the checkpoints along the way include all types of law enforcement – military, state, and federal.

Siglo XXI is the largest detention center of the INM in Mexico. It was opened in 2006 under the administration of President Vicente Fox (2000-2006). When migrants are detained they are either sent to Siglo XXI Migration Station or to the National System for Integral Family Development (*Sistema Nacional para el Desarrollo Integral de la Familia*, SNDIF or DIF) if they are minors. Gerardo Espinoza, from the Center of Human Rights Fray Matías de Córdova, observed in a personal interview that migrants are indiscriminately sent to either place without an explanation. Detention

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<sup>29</sup> Maureen Meyer, Clay Boggs, and Rodolfo Córdova, *New Developments along Mexico's Southern Border*, (Washington, DC: WOLA, 2014). Accessed January 12, 2017: <https://www.wola.org/analysis/new-developments-along-mexicos-southern-border/>

<sup>30</sup> Adam Isacson, Maureen Meyer, and Gabriela Morales, *Mexico's Other Border: Security, Migration, and the Humanitarian Crisis at the Line with Central America* (Washington, DC: WOLA, 2014). Accessed June 2, 2016: <http://www.wola.org/files/mxgt/report/>

<sup>31</sup> Embassy of the United States in El Salvador, *CA-4 Border Control Agreement*. (San Salvador: U.S. Department of State, 2017). Accessed January 14, 2017: <https://sansalvador.usembassy.gov/ca-4.html>

<sup>32</sup> Ruben Figueroa, personal interview: October 1, 2015, Tapacula, Chiapas. Gerardo Espinoza, personal interview: October 5, 2015, Tapacula, Chiapas.

centers have a prison structure. They are guarded by officers, and in the case of disturbances, the military has been known to intervene to restore order. Sometimes, these actions are performed through violence and migrants become victims of abuse. While “gang violence and the political situation have increased the out-migration of Hondurans and Salvadorans, the number of migrants granted asylum is only one of every ten.”<sup>33</sup>

Previous to the implementation of the Southern Border Plan, migrants crossed the Guatemala-Mexico border at Tecún-Umán and La Mesilla; however, due to the increased security in Mexico, smugglers are pushed to seek alternate routes and mechanisms to avoid detection (IOM 2012, 54-55). Authorities more recently have taken steps to prevent migrants from riding on freight trains, forcing migrants to seek alternative means of transit. Female migrants with economic resources utilize buses to make their way north, so, due to the implementation of the Southern Border Plan, transit through Mexico has become more expensive. The results of increased militarization, including the checkpoints in the southern border region, has resulted in less affluent female migrants settling in the border city of Tapachula, either to earn money to make the journey north or to stay in Tapachula and send remittances home.

### **Human Trafficking in Tapachula, Chiapas**

Tapachula, in the southern state of Chiapas, is a municipality of more than 300,000 inhabitants and is one of the busiest border crossings along the Guatemala-Mexico border. Tapachula is a center of irregular migration, clandestine human smuggling, prostitution, and trafficking in persons. According to Mexico’s National Migration Institute (INM) about 140,000 irregular migrants arrive annually, mostly from Central America.<sup>34</sup> The state of Chiapas has the highest rate of deportations. In 2013, the INM deported 34,252 migrants, most of whom were from Honduras, Guatemala, or El Salvador.<sup>35</sup> Expanding federal security and migration agents along the southern border through the implementation of the Southern Border Plan has made the migrant routes more perilous. The increased vulnerability of migrants has led to human rights violations, including mistreatment, extortion with impunity, and re-victimization.

A common phenomenon found in Tapachula is young women, often minors, from Central America forced to work as prostitutes in the bars. Miriam González, researcher at the Institute for Women in Migration (*Instituto para las Mujeres en la Migración*, IMUMI) stated that as many as 58 percent of the prostitutes in Tapachula are Guatemalan migrants and 95 percent of them are between

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<sup>33</sup> Gerardo Espinoza, personal interview: October 5, 2015, Tapachula, Chiapas.

<sup>34</sup> Comisión Interamericana de Derechos Humanos (CIDH), *Informe Anual de la Comisión Interamericana de Derechos Humanos* (Washington, DC: Organization of American States, 2013). Accessed June 25, 2016: <http://www.oas.org/es/cidh/docs/anual/2013/informes/LE2013-esp.pdf>

<sup>35</sup> Isacson et al., “Mexico’s Other Border.”

the ages of 15 and 19.<sup>36</sup> These establishments are notorious for prostituted and trafficked women. Sister Rosa Maria, coordinator of the “Casa de la Mujer” in Tecún-Umán, Guatemala, observed in a personal interview that a large segment of the migration flows do not move further than the city of Tapachula. She stated that more migrant women get involved in prostitution, forced or voluntary, in order to make a living. Some of these women become indebted to bar owners and are then forced to work to pay off their debt and provide basic needs such as housing and food.<sup>37</sup>

Many women move to the city of Tapachula from the Northern Triangle countries because they know, or have been told, that they can get a job at bars. Although these places are loosely regulated, and all female employees are required to obtain a health card showing that they meet the health standards and are free of any sexually transmitted diseases, these establishments do not have legal permits for prostitution. A personal interview with Lorenza Obdulia Reyes, a woman who was initially charged with human trafficking,<sup>38</sup> provides some insight on how these bars or so-called *botaneros* operate. According to Reyes, who said she had worked in most, if not all, of these establishments in Tapachula, men can do as they please with the waitresses.<sup>39</sup>

Across Mexico, one of the recurring places where trafficking for the purpose of sexual exploitation occurs are *botanero* bars. *Botaneros* are typical Mexican establishments where inexpensive *botanas*, or appetizers, and alcoholic beverages are served. Owners of such bars regularly offer employment to young migrant women. Although Mexico does not issue *botaneros* permits allowing prostitution, related activities initiate or take place inside some of these small businesses. In order to increase profits and bring more clients, bar owners force or convince waitresses to drink with the clients. In a practice known as *fichar*, a client who would normally pay \$30-40 pesos for a beer (1.5-2 U.S. dollars), pays four times that amount to have a waitress sit with him, whom he can sexually caress. The waitress has little to no say in the matter, and most of the profit goes to the bar owner.

Anti-trafficking authorities and law enforcement routinely raid *botaneros*, but there are strong indications that there is collusion between officials and bar owners. In interviews, *Botanero* workers in Tapachula told us about the close relationship between authorities and *botanero* owners in the city. According to them, officials responsible for issuing restaurant licenses would demand bribes from known abusers. Some sources also stated that whenever authorities raided bars, the owners were never present and the bar staff, often migrants, were arrested for trafficking instead. They assumed officials informed bar owners of incoming raids.

Almost the entire clientele of *botaneros* are male. The waitress’ ages vary depending on the place. Most are in their late teens and 20s, the number of minors being difficult to determine as the makeup the girls wear makes them look older. There is no prohibition on what the men can do with

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<sup>36</sup> “Aumenta Migración de Mujeres y Niños por Chiapas, México,” *Departamento 19*, August 27, 2012. Accessed January 14, 2017: <http://www.departamento19.hn/index.php/elcamino/ddhh/7080-aumenta-migracion-de-mujeres-y-ninos-por-chiapas-mexico.html>

<sup>37</sup> Sister Rosa María, personal interview: October 2, 2015, Tecún Umán, Guatemala.

<sup>38</sup> She was eventually acquitted.

<sup>39</sup> Lorenza Obdulia Reyes, personal interview: September 30, 2015, Tapacula, Chiapas.

the women and inappropriate touching seems commonplace. According to civil society groups, women endure these conditions because if they go back to their places of origin they are stigmatized for their involvement in sex work, or for bar jobs they had, and they feel shame and are ostracized by the community and family. Also, for the most part, if they go back there is no means of making a living. Migrant women can be found in the downtown area of Tapachula, waiting to be hired for different kinds of labor. Many work in domestic service. Women are forced to accept harsh conditions, exploitive pay, long hours, and no benefits, as they have no other means of survival.

Many women are tricked into prostitution. According to Tania Cruz Salazar, a researcher at Colegio de la Frontera Sur, in an article in *El Universal*, “adolescent migrants arriving in Chiapas are regularly invited by owners of bars and restaurants to work as waitresses and they are slowly introduced into the sex trade.”<sup>40</sup> Some migrant women, who are tricked by the type of work offered, embrace the new opportunities for making money. This is the case of Yanel, a young Honduran migrant who arrived in Tapachula on the understanding that she would work as a maid or in a grocery store. She soon discovered that she would be a table dancer. Yanel embraced the idea and has since worked as a table dancer in Campeche, Puebla, Mexico City, Monterrey, and Veracruz. Yanel criticizes the current Mexican Government’s anti-trafficking measures as hampering her work.<sup>41</sup>

Trafficking can occur not only in various stages in migration, but can also take place at various points in a woman’s involvement in the sex trade. This can involve force, fraud, or coercion in the recruitment or transport of women across borders; it can involve forced labor or debt bondage at the destination; and it can also involve force, fraud, or coercion once women are already involved in paid sexual services. Many women who are trafficked are misled by traffickers about the nature of the work they will be doing and the extent of their obligation to the traffickers. Other women plan to migrate and to work in the sex industry but experience terrible human rights violations, including – though not limited to – rape, assault, debt bondage, sexual exploitation, and slavery.<sup>42</sup>

Romeo Octavio Ramírez, Coordinator of the National Commission of Human Rights (CNDH) in Tapachula, acknowledged in a personal interview that the dynamics are complicated and that some women are coerced and trafficked, while others consent, and others who may have originally consented to the work can subsequently be trafficked.<sup>43</sup> The latter component of trafficking encompasses a gray area where trafficking and prostitution intersect. Here it is particularly complicated and hard to identify trafficked victims, due to the original consent. Also, academics and feminists are deeply divided about concepts of sex work and trafficking. Radical feminists argue that trafficking and prostitution are forms of sexual exploitation and as such assert that both constitute

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<sup>40</sup> Fredy Martín Pérez, “Hondurans are in High Demand at Mexican Brothels,” *El Universal*, February 22, 2015. Accessed July 12, 2016: <http://archivo.eluniversal.com.mx/in-english/2015/hondurans-mexican-brothels-101920.html>

<sup>41</sup> *Ibid.*

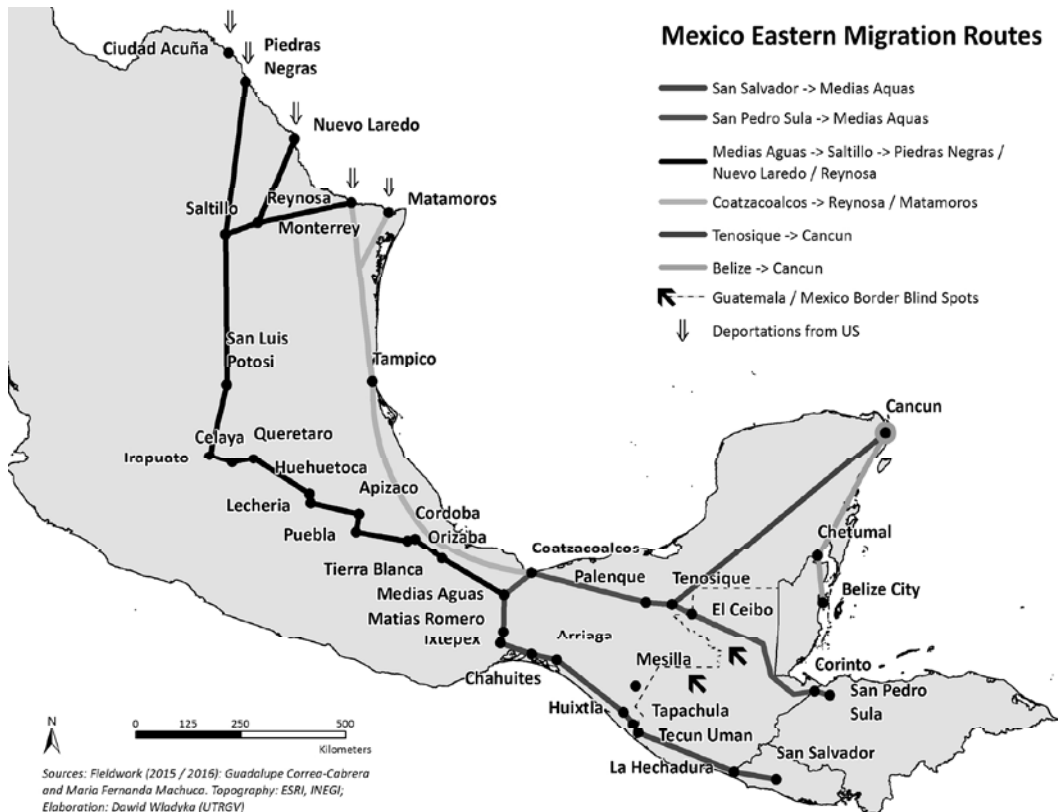
<sup>42</sup> Jennifer Lobasz, “Beyond Border Security: Feminist Approaches to Human Trafficking,” *Security Studies* 18:2 (2009): 319–344.

<sup>43</sup> Romeo Octavio Ramírez, personal interview: October 5, 2015, Tapachula, Chiapas.

trafficking.<sup>44</sup> Other feminists deconstruct the anti-prostitution and trafficking discourse, rejecting the view that all paid sexual services are exploitive, contending that women exercise agency and that sex work can empower women.<sup>45</sup> While it is important to recognize that women have agency, a woman who enters sex work freely can still be exploited and trafficked at any point. The complex phenomenon of trafficking in Tapachula is not clearly defined or understood by authorities, leading to lack of identification and thus re-victimization.

### New Destinations for Trafficking of Migrants: Cancún, Quintana Roo

The southern states of Chiapas and Quintana Roo, once only transition points for migrants seeking to reach Mexico’s northern border, have in recent years become desired destinations for migrants hoping to settle down in Mexico. Criminals and businessmen in these states target Central Americans with crimes ranging from demanding extortion fees to exploiting their cheap labor in the hospitality and construction businesses. Central American migrants enter Mexico through several



**Figure 1 : Migration Routes: Central America and Eastern Mexico**

<sup>44</sup> Barry, Kathleen, *The Prostitution of Sexuality* (New York: New York University Press, 1995); Sheila Jeffreys, *The Idea of Prostitution* (Melbourne: Spinifex Press, 1997).

<sup>45</sup> Kempadoo, “Sex Workers’ Rights.”

points along the border (see Map 1). There are no specific routes and the dynamics of the influxes are constantly changing. Many Guatemalan migrants, particularly girls and women, decide to stay in the city of Tapachula in Chiapas instead of moving north. The close proximity to Guatemala makes it easier for them to visit and send money to relatives, and the U.S. and Mexico's stricter border controls in recent years, making it harder for migrants to successfully reach the United States, are determining factors.

Cancún also has a significant incidence of human trafficking for the purpose of sexual exploitation. Unlike Tapachula, where most *botanero* and brothel patrons are Mexican nationals, Cancún attracts tourists from all over the planet to its tropical shores. In 2015, Cancún broke the mark of five million annual visitors for the first time in its history.<sup>46</sup> The city's booming tourist industry also attracts an unaccounted number of impoverished Central American migrants who have decided to live there instead of trying their luck in the United States. Poor, uneducated, and away from their families, these individuals are particularly vulnerable to human trafficking and exploitation.

While sex trafficking in Tapachula usually happens in inexpensive bars, trafficking in Cancún happens in brothels and spas. Traffickers attract foreign tourists, often from the United States and Europe, to brothels and spas where forced prostitution of migrants and minors occur. It is not difficult for sexual tourists to find such places. According to Paola Feregrino, the director of the Cancún-based women's rights advocacy group *Centro Integral de Atención a las Mujeres A.C.* (CIAM) Cancún, local taxi drivers are involved with human trafficking networks. They promote and direct tourists to establishments where sexual exploitation takes place.<sup>47</sup> Professor Celina Izquierdo of the Universidad del Caribe also reported the involvement of taxi drivers.<sup>48</sup> In Cancún, she was given a pamphlet promoting an "adult spa" that read "for more information, ask your taxi driver."

According to Paola Feregrino, foreign female victims of sex trafficking in Cancún can be divided into two groups based on their places of origin. Migrants from South America, the Caribbean, and Eastern Europe are usually sought by traffickers for their beauty. Migrants from Central America, typically of indigenous descent, are prized for their youth and virginity. Minors comprise a significant portion of Central American migrants sexually exploited in Cancún. However, it is impossible to assert how many underage migrants are in human trafficking conditions in the city due to the lack of comprehensive data on Cancún's human trafficked and migrant populations. Experts have attempted to assess the extent of human trafficking in Cancún. A notable example of such efforts is the report elaborated by Celina Izquierdo and Marisol Vanegas on human trafficking in the tourist sector, entitled *La Trata de Personas en el Sector Turístico*, which was sponsored by Cancún's Secretariat of Tourism and Universidad del Caribe. Nevertheless, a report exposing the full extent of human trafficking in Cancún has yet to emerge.

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<sup>46</sup> Jesús Vázquez, "Rompe Cancún la Barrera de los 5 Millones de Turistas," *El Economista*, January 12, 2016. Accessed January 14, 2017: <http://eleconomista.com.mx/estados/2016/01/12/rompe-Canc%C3%BAn-barrera-5-millones-turistas>.

<sup>47</sup> Paola Feregrino, personal interview: September 27, 2016, Cancún, Quintana Roo.

<sup>48</sup> Celina Izquierdo, personal interview: September 26, 2016, Cancún, Quintana Roo.

## **Conclusion**

The Southern Border Plan, restrictive immigration policies, and lack of an understanding of the complexities of trafficking hamper efforts to identify victims. The connections between trafficking and migration are complex and pose difficulties for the traditional security approaches to border enforcement. Distinguishing between migrant smuggling and trafficking is difficult despite the fact that the two phenomena are delineated separately in the U.N. TIP Protocol. Myopic policies and a lack of understanding of human trafficking result in re-victimization. This is particularly evident with regard to trafficking and prostitution. The new anti-human trafficking legislation recently passed by the Mexican government equating trafficking with prostitution epitomizes gender stereotypes that discount women's agency. The culture of victimization and the issue of morality around sex trafficking and prostitution show lack of understanding of the dynamics and of the rights of women. Security approaches to trafficking by governments are unsatisfactory in protecting victims of human trafficking and contribute to the violation of human rights. A better approach that encompasses human rights and gender is necessary.

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