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**COMPARATIVE STUDY  
ON SMUGGLING AND  
TRAFFICKING LAWS  
IN THE WESTERN  
HEMISPHERE**

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## INTRODUCTION

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“Human trafficking” and “human smuggling” are often thought to be interchangeable; however, they are two distinct crimes. Identifying the two as separate crimes is crucial to provide victim identification and services as well as implementing effective government policies to combat the crimes committed. Human Trafficking<sup>1</sup> involves the exploitation of an individual for the purpose of labor or commercial sex using force, fraud, or coercion. A common pattern found throughout the examined countries (Haiti, Venezuela, Honduras, Mexico, and Panama) is the mistaken idea that human trafficking involves the movement of the victim from one country to another to be considered trafficked.<sup>2</sup> In fact, movement is not required for a victim to be identified as a victim of trafficking.

On the other hand, human smuggling<sup>3</sup> occurs when an individual makes a voluntary agreement with a smuggler to grant them illegal passage into a foreign country. The relationship between the smuggler and the migrant is built through the exchange of financial compensation for the smuggler’s services. These two crimes become intertwined when migrants can no longer provide pay for their transport and are often forced into labor or sex trafficking to pay off debts. The main distinction between the two crimes is that individuals who are trafficked are victims of a crime under international law, whereas smuggled migrants are not. Understanding the two is essential to providing adequate victim protections and criminal prosecution. Differentiating the two crimes is critical as this has further affected access to proper victim screening and access to those seeking asylum.

According to the U.S. Trafficking in Person Report<sup>4</sup> tier rankings in the Western Hemisphere are moving in a positive direction. Tier ranking varies from tier 1, 2, and 3 countries.<sup>5</sup> Tier 1 fully complies

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<sup>1</sup> Security , H. (2021, October 22). *What is human trafficking?* Department of Homeland Security. Retrieved October 25, 2021, from <https://www.dhs.gov/blue-campaign/what-human-trafficking>.

<sup>2</sup> Security , Homeland. “What Is Human Trafficking?” *Department of Homeland Security*, 22 Oct. 2021, [www.dhs.gov/blue-campaign/what-human-trafficking](http://www.dhs.gov/blue-campaign/what-human-trafficking).

<sup>3</sup> Report, The Cornerstone. “Human Trafficking vs Human Smuggling - Ice | U.S ...” *Ice.gov*, 2017, [www.ice.gov/sites/default/files/documents/Report/2017/CSReport-13-1.pdf](http://www.ice.gov/sites/default/files/documents/Report/2017/CSReport-13-1.pdf).

<sup>4</sup> of State, U.S. Department. “2020 Trafficking in Persons Report - United States Department of State.” *U.S. Department of State*, U.S. Department of State, 23 June 2021, [www.state.gov/reports/2020-trafficking-in-persons-report/](http://www.state.gov/reports/2020-trafficking-in-persons-report/).

<sup>5</sup> Search, Human Trafficking. “The Department of State’s 2020 Trafficking in Persons Report.” *The Department of State’s 2020 Trafficking in Persons Report*, 2020, [humantraffickingsearch.org/the-department-of-states-2020-trafficking-in-persons-report/](http://humantraffickingsearch.org/the-department-of-states-2020-trafficking-in-persons-report/).

with the Trafficking Victims Protection Act (TVPA) minimum standards, tier 2 identifies countries where governments are making substantial efforts but do not entirely meet the minimum TVPA requirements, and tier 3 signifies countries that do not meet the TVPA minimum standards and are not taking the proper steps to do so. Since 2003, twenty-one countries have been moved to Tier 2, among those including Haiti, Honduras, Panama, and Mexico. However, countries like Venezuela remain in Tier 3 status, due to a lack of political prioritization and chronic poverty that restricts its progress.

Both the TVPA<sup>6</sup> of 2000 and the United Nations Palermo Protocol<sup>7</sup> of 2003 have served as an international standard to guide countries into implementing effective anti-trafficking measures. The TVPA was established to provide the U.S. with new resources to build a comprehensive and coordinated campaign to eradicate modern forms of slavery such as trafficking, both within domestic borders and on an international scale. This act emphasizes the importance of the “3 Ps”: Protection, Prevention and Prosecution needed to provide victims with resources and a pathway to U.S. citizenship. The UN’s Palermo Protocol, while like the TVPA, is focused on addressing the true meaning of trafficking. The Palermo Protocol is the first official international document to highlight trafficking as its own separate crime apart from human smuggling.

Despite the benefits provided to the international community by both the TVPA and Palermo Protocol, each failed to recognize or address intercountry adoption as a form of trafficking. Intercountry adoption<sup>8</sup> occurs when a parent or couple becomes the legal guardian of a child from another country. Usually trafficking of this kind occurs when a child and their family is extremely vulnerable, mainly due to poverty. To make ends meet parents sell their children to abusive orphanages or organizations for an extra source of income. The hope behind these transactions is that the child might be offered a prosperous opportunity and access to education and medical treatment that the parents cannot afford. Instead, children are left vulnerable to labor or sex trafficking.

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<sup>6</sup> Law, Public. “Victims of Trafficking and Violence Protection Act of 2000.” *Authenticated U.S. Government Information*, 2000, [www.congress.gov/106/plaws/publ386/PLAW-106publ386.pdf](http://www.congress.gov/106/plaws/publ386/PLAW-106publ386.pdf).

<sup>7</sup> Nations, United. “United Nations Convention against Transnational Organized Crime.” *United Nations : Office on Drugs and Crime*, 2000, [www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html](http://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html).

<sup>8</sup> of State, U.S. Department. “Intercountry Adoption - Travel.” *Travel.state.gov*, 2021, [travel.state.gov/content/travel/en/Intercountry-Adoption.html/](http://travel.state.gov/content/travel/en/Intercountry-Adoption.html/).

In addition, due to the Central American Four Agreement signed in 2006 by the four central American bordering countries: Honduras, El Salvador, Guatemala, and Nicaragua, traffickers and smugglers are taking advantage of the lack of adequate security to remain undetected while transporting people, weapons, money, or drugs. Due to increased militarization<sup>9</sup> on the Mexico- U.S. border, migrants are risking their lives by crossing over through dangerous routes such as via freight trains, being shoved into small compact spaces in cars or trucks, traveling on foot, or hitchhiking. The safest method for most migrants, especially women traveling alone or with children, is paying for a smuggler to transport them. The level of danger from smuggling services depends on the type of relationship the smuggler has with the migrant, which varies depending on the type of situation presented. In addition, there has been a switch from single male migrants to groups of families and unaccompanied children seeking asylum. To minimize the number of migrants crossing over, the Trump Administration enacted a “zero-tolerance” immigration policy that tightened acceptance of asylum cases, causing migrants to become desperate for opportunities to enter the country.<sup>10</sup>

Although the TVPA and Palermo Protocol serve as international standards for anti-trafficking and smuggling policies, countries in the Western Hemisphere, predominantly those in Central and South America and the Caribbean, remain inconsistent with their policing. The research conducted in this report to provide the International Bureau of Narcotics and Law Enforcement (INL)<sup>11</sup> solutions on how to combat human trafficking and smuggling. INL provides guidance and education to law enforcement officials by emphasizing compassion-based training to reduce the chance of unnecessary violence and identifying where corruption exists within their government systems by allocating proper funding to rebuild infrastructure. The purpose of the INL is to provide a wide range of tools to counter crime, illegal drug trafficking, and instability abroad that includes human rights violations. After compiling all our research, we have concluded that strict border policies have not deterred trafficking and smuggling. These policies have instead made it more dangerous for victims. A country’s economic instability, increased violence, and poor infrastructure all take part in amplifying human trafficking and smuggling

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<sup>9</sup> Felbab-Brown, Vanda. “The Wall: The Real Costs of a Barrier between the United States and Mexico.” *Brookings*, Brookings, 15 Sept. 2017, [www.brookings.edu/essay/the-wall-the-real-costs-of-a-barrier-between-the-united-states-and-mexico/](http://www.brookings.edu/essay/the-wall-the-real-costs-of-a-barrier-between-the-united-states-and-mexico/).

<sup>10</sup> Rights Watch, Human. “Q&A: Trump Administration’s ‘Zero-Tolerance’ Immigration Policy.” Human Rights Watch, October 28, 2020. <http://www.hrw.org/news/2018/08/16/qa-trump-administrations-zero-tolerance-immigration-policy>.

<sup>11</sup> of State, U.S. Department. “Bureau of International Narcotics and Law Enforcement Affairs - United States Department of State.” *U.S. Department of State*, U.S. Department of State, 14 Oct. 2021, [www.state.gov/bureaus-offices/under-secretary-for-civilian-security-democracy-and-human-rights/bureau-of-international-narcotics-and-law-enforcement-affairs/](http://www.state.gov/bureaus-offices/under-secretary-for-civilian-security-democracy-and-human-rights/bureau-of-international-narcotics-and-law-enforcement-affairs/).

## PREVAILING CONSIDERATIONS

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There are five factors to consider when analyzing human trafficking and human smuggling laws in a specific region.

1. **Increased government corruption.** Government corruption leads to a lack of investigations and prosecutions. This is a result of the government not being concerned with the cases presented. Government officials are often bribed by gangs or cartels. These officials have power and are capable of silencing anyone. Therefore, cartels or gangs ask them to assist in smuggling or trafficking victims. At times, government officials have engaged directly in trafficking.<sup>12</sup>
2. **Lack of definitions between human trafficking and human smuggling.** A lack of distinction prevents victims of trafficking from accessing suitable application screening, adequate physical assessment, and psychological care. These rights are essential in the prosecuting process. They also provide necessary protections for victims once they seek asylum. In addition, human traffickers are actively breaking international law.<sup>13</sup>
3. **Increased levels of gang activity, reports of violence, and migration rates.** The U.S. has seen large numbers of Hondurans, Salvadorans, and Guatemalans seeking refuge from gang activity. Gangs, such as MS-13, are main contributors to violence against women, especially young girls. Law enforcement in the region is finding it difficult to protect victims. Due to the lack of action by law enforcement, 95% of crime goes unpunished in the Northern Triangle.<sup>14</sup> In addition, in El Salvador and Honduras, gangs are forcing citizens to pay extortion fees—sometimes as much as \$300 million dollars. In Mexico, the Sinaloa and the Juarez cartels ignited a “turf war” in Ciudad Juarez that caused a spike in regional violence. The two cartels committed homicides, extortion, kidnapping, and theft from the years 2008 to 2011.<sup>15</sup>

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<sup>12</sup> Agren, David. “Pull and Push Factors Driving the Central American Migration Crisis.” Texas Policy, 2020. <https://files.texaspolicy.com/uploads/2020/04/29115436/Agren-Central-American-Migration.pdf>.

<sup>13</sup> Burke, Carolyn. “Smuggling versus Trafficking: Do the U.N. Protocols Have It Right? ,” 2008. <https://www.du.edu/korbel/hrhw/researchdigest/trafficking/UNProtocols.pdf>.

<sup>14</sup> Sadulski, J., Staff, I., & Cain, N. (2019, September 18). Gang Involvement in Human Trafficking in Central America. Retrieved December 05, 2020, from <https://inpublicsafety.com/2019/09/gang-involvement-in-human-trafficking-in-central-america/>

<sup>15</sup> “Mexico: Organized Crime and Drug Trafficking Organizations .” Congressional Research Service , July 28, 2020. <https://fas.org/sgp/crs/row/R41576.pdf>.

4. **Lack of education due to chronic poverty.** Unemployed families in Latin America and the Caribbean cannot afford to send their children to school, contributing to the 14 million children and adolescents ages 7 to 18 not receiving an education.<sup>16</sup> Other factors that prevent children from obtaining an education are: living in rural areas, coming from an indigenous background, increased violence, and gender-based discrimination. Lack of education affects the ability to spot exploitative situations and hinders young populations from seeking out help when they're in a situation of abuse.<sup>17</sup>
  
5. **The rise of gender-based violence influenced by patriarchal mindsets.** Deeply rooted machismo culture in the region prevents women from obtaining access to equal pay, education, home ownership, and autonomy over their own bodies. In Honduras, for example, victims filed 82,547 domestic violence complaints from 2009 to 2012. In addition, a study in Panama reported that child trafficking is not considered a problem to many Panamanian citizens since the schools and the households do not normalize it as a problem that should be addressed.<sup>18</sup> This is once again influenced by the machismo mindset.

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<sup>16</sup> Investing in education. (2019). Retrieved December 05, 2020, from <https://www.unicef.org/lac/en/investing-education-0>

<sup>17</sup> Philipp, Jennifer, Borgen Project, and Kim Thelwell. "Poverty In Mexico." The Borgen Project. Jennifer Philipp [https://borgenproject.org/wp-content/uploads/The\\_Borgen\\_Project\\_Logo\\_small.jpg](https://borgenproject.org/wp-content/uploads/The_Borgen_Project_Logo_small.jpg), July 3, 2020. <https://borgenproject.org/tag/poverty-in-mexico/>

<sup>18</sup> Fitch, Elliott. "Human Trafficking in Panama: A Country Analysis," May 2, 2016. [https://klau.nd.edu/assets/331828/ht\\_lgl\\_rems\\_fitch.pdf](https://klau.nd.edu/assets/331828/ht_lgl_rems_fitch.pdf).

## DATA

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### I. Detected Trafficking Victims



Figure 1

The data figure presented was collected from national authorities through the annual United Nations Crime Trends Survey (UN-CTS).<sup>19</sup> Figure 1 represents the total number of trafficking victims detected in each of the countries presented in this report. This may not represent all victims within a country. For example, Mexico detected the most trafficking victims in 2017 with a total of 725 reported. However, Mexico may not suffer the most from trafficking out of the five countries. Instead, the results show that Mexico has effectively collected a greater amount of data. In the case of Haiti, the country did not detect any trafficking victims. However, that does not indicate that Haitians are not trafficked to other countries. It only reveals that there is no detection of victims being smuggled or trafficked into Haiti. Our research revealed that most Haitian victims are trafficked to the Dominican Republic and the United States. Considering the victims are being trafficked and smuggled out of the country, that would explain why there is no detection of them in Haiti. Therefore, the fact that victims are not reported in a country does not mean that there is no trafficking activity within that country.

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<sup>19</sup> UNODC. (2017). Detected Trafficking Victims 2017. Retrieved December 13, 2020, from <https://dataunodc.un.org/data>



## II. Victims of Exploitation

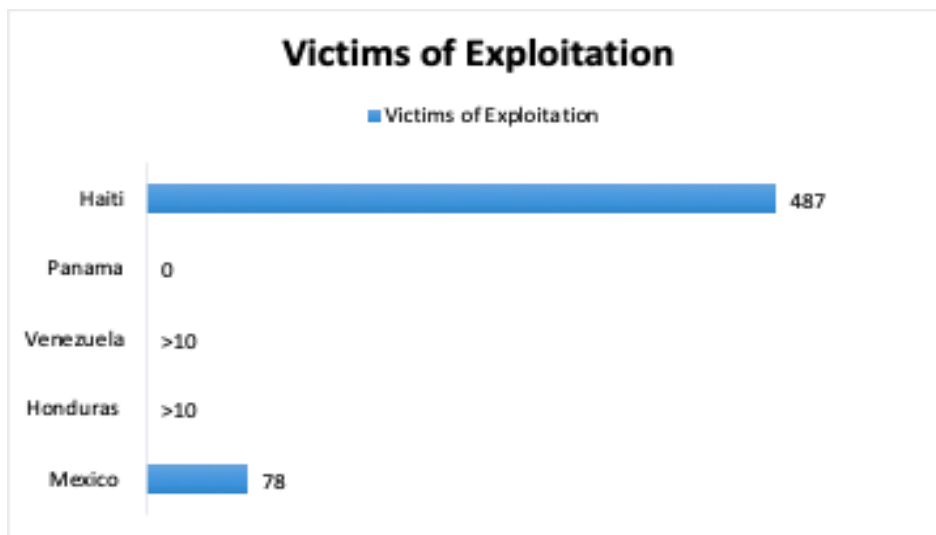


Figure 2

Figure 2 reveals the number of victims that have been exploited within the five countries. This data was collected from the case management services and the hotline reports from the Counter-Trafficking Data Collaborative (CTDC) contributing organizations. The case management services data has been collected since 2002.<sup>20</sup> Based on the data presented in Figure 2, we can see that the country with the most reports for victims of exploitation was Haiti, with a total of 487 reported. Mexico was second highest with 78. Venezuela and Honduras reported fewer than 10 victims of exploitation, while Panama reported zero. Victims reported to the contributing organizations may not represent all victims identified within a country. Our research indicated that 81% of the victims reported in Mexico were exploited in sex work, while the other 19% were exploited in forced labor.<sup>21</sup> In comparison, Haiti reported that 86% of its victims were exploited in forced labor, while the other 14% were exploited in sex work.

<sup>20</sup> Counter-Trafficking Data Collaborative (CTDC). (n.d.). Retrieved December 13, 2020, from <https://www.ctdatacollaborative.org/map/segment>

<sup>21</sup> (UNODC), U. N. O. on D. and C. (n.d.). Trafficking in Persons. United Nations : Office on Drugs and Crime. <https://www.unodc.org/unodc/data-and-analysis/glotip.html>.

### III. Poverty Rate Data

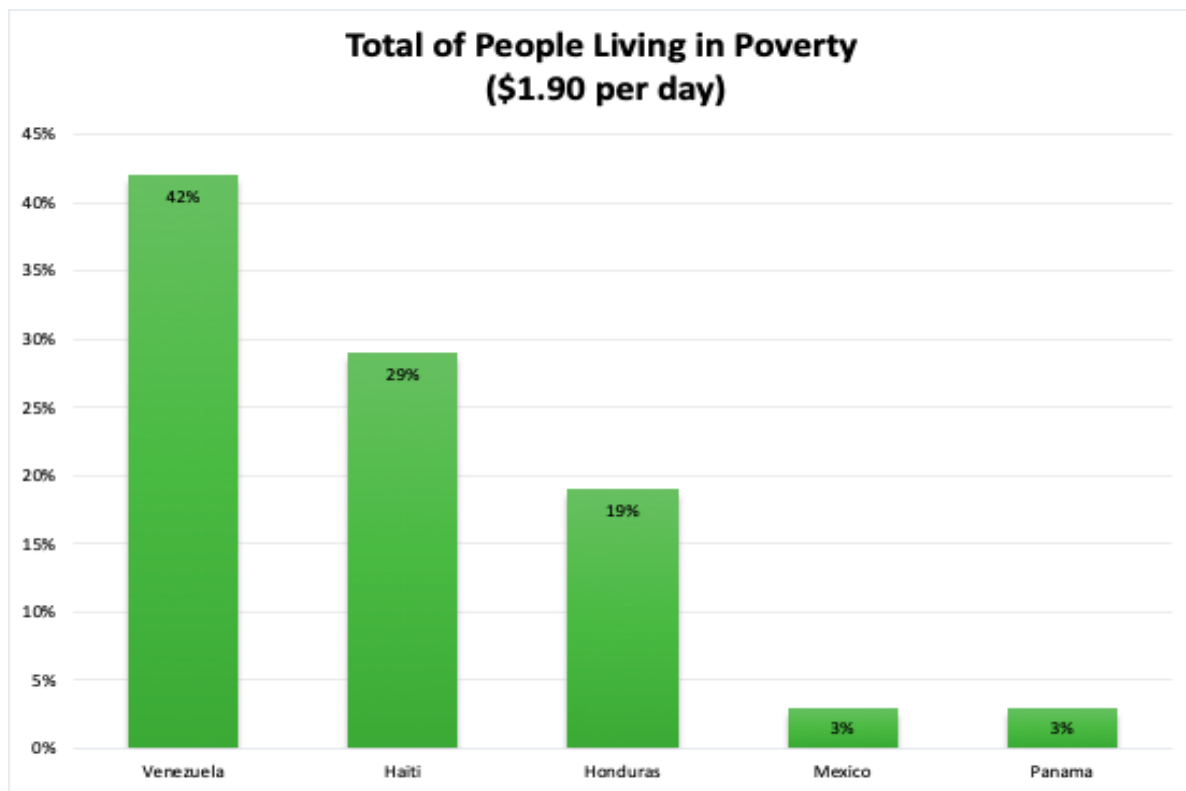


Figure 3

Figure 3 shows the percentage of people living in extreme poverty (earning \$1.90 per day). Venezuela suffers the most from poverty while Panama and Mexico maintain a low poverty rate.<sup>22</sup> The graph reveals that approximately 42% of Venezuelans currently earn \$1.90 per day, while less than 3% of the population in Panama and Mexico earn that same amount.<sup>23</sup> Poverty rates are included in this research because the lack of basic human resources increases migration rates, which also raises human trafficking and human smuggling cases. When a country suffers from extremely limited resources of food, water, medicine, and a shortage of electricity, it incites the citizens to find ways to provide for their families or to leave the country. When searching for ways to provide for the family, parents start sending kids to work instead of school, leaving them vulnerable to smuggling by illegal recruitment gangs. As citizens try to leave the country, they find themselves unable to do so, because earning less than \$2 per day does not even get them a bus ticket. As a result, citizens resort to illegal smugglers who can transport them into another country. In the

<sup>22</sup> World Data Lab (2020). World Poverty Clock. Retrieved December 03, 2020, from [https://worlddata.io/?utm\\_source=google](https://worlddata.io/?utm_source=google)

<sup>23</sup> BIRNSTINGL, ANDREAS. "Venezuela: South America's Poverty Outlier." *World Data Lab*, 2019, [worlddata.io/blog/venezuela-south-america-poverty-outlier](https://worlddata.io/blog/venezuela-south-america-poverty-outlier).

end, as they arrive to the neighboring countries, they find themselves subjected to forced labor or sex work to repay the smuggler or to survive.

#### IV. Legislation Data

Country	Trafficking Law
<b>Venezuela</b>	<ul style="list-style-type: none"> <li>● Criminalized labor trafficking and forms of sex trafficking of women and girls (15 to 20 years’ imprisonment)<sup>24</sup></li> <li>● Inconsistent with international law; requires a demonstration of force, fraud, or coercion to constitute child sex trafficking</li> <li>● Law failed to criminalize trafficking of men and boys when perpetrators were not part of an organized criminal organization.</li> <li>● Criminalized trafficking by organized criminal groups of three or more individuals with penalties of 20 to 30 years’ imprisonment.</li> </ul>
<b>Haiti</b>	<ul style="list-style-type: none"> <li>● 2014 Anti-Trafficking (TIP) Law (No.CL/20140010) criminalized sex trafficking and labor trafficking and prescribed penalties of seven to 15 years’ imprisonment and a fine ranging from 200,000 to 1.5 million gourdes (\$2,280 to \$17,110)<sup>25</sup></li> <li>● The law provided for increased penalties of up to life imprisonment when the victim was a minor.</li> </ul>
<b>Honduras</b>	<ul style="list-style-type: none"> <li>● 2012 Honduran anti-trafficking law criminalized sex and labor trafficking and prescribed penalties ranging from 10 to 15 years’ imprisonment</li> <li>● Inconsistent with the definition of trafficking under international law, the law established the use of force, fraud, or coercion as <i>aggravating</i> factors, rather than <i>essential</i> elements of the crime. <sup>26</sup></li> <li>● The law defined trafficking broadly to include illegal adoption without the purpose of exploitation.</li> </ul>
<b>Mexico</b>	<ul style="list-style-type: none"> <li>● The 2012 anti-trafficking law criminalized sex trafficking and labor trafficking, prescribing penalties of five to 30 years’ imprisonment and fines for sex trafficking offenses, and five to 20 years’ imprisonment and fines for labor trafficking.</li> <li>● The law defined trafficking broadly to include illegal adoption without the purpose of exploitation.<sup>27</sup></li> </ul>

<sup>24</sup> “Venezuela - United States Department of State.” U.S. Department of State, U.S. Department of State, 1 Dec. 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/venezuela/](http://www.state.gov/reports/2020-trafficking-in-persons-report/venezuela/).

<sup>25</sup> “Haiti - United States Department of State.” U.S. Department of State, U.S. Department of State, 1 Dec. 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/haiti/](http://www.state.gov/reports/2020-trafficking-in-persons-report/haiti/).

<sup>26</sup> “Honduras - United States Department of State.” U.S. Department of State, U.S. Department of State, 1 Dec. 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/honduras/](http://www.state.gov/reports/2020-trafficking-in-persons-report/honduras/).

<sup>27</sup> “Mexico - United States Department of State.” U.S. Department of State, U.S. Department of State, 1 Dec. 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/mexico/](http://www.state.gov/reports/2020-trafficking-in-persons-report/mexico/).

	<ul style="list-style-type: none"> <li>The 2012 law obligated states to have a dedicated human trafficking prosecutor; 30 of 32 states had established specialized anti-trafficking prosecutors or units.</li> </ul>
<b>Panama</b>	<ul style="list-style-type: none"> <li>Article 456 of the penal code did not criminalize all forms of sex trafficking and labor trafficking because it required movement to constitute a trafficking offense— 15 to 20 years’ imprisonment for trafficking offenses involving an adult victim and 20 to 30 years’ imprisonment for those involving a child victim or other aggravating circumstances<sup>28</sup></li> <li>Inconsistent with international law, the law established the use of force, fraud, or coercion as aggravating factors, rather than essential elements of the crime.</li> <li>The law defined trafficking broadly to include illegal adoption without the purpose of exploitation.</li> <li>Article 180 criminalized “the prostitution of minors” with penalties of four to six years’ imprisonment and a fine of 5,200 balboas (\$5,200).</li> <li>Article 186 criminalized purchasing commercial sex acts from a child and prescribed penalties of five to eight years’ imprisonment.</li> </ul>

All countries researched, except for Mexico, did not clearly define human smuggling and refrained from creating comprehensive laws that address this issue.

**V. Education Data**

Country	Age When School is No Longer Mandatory
Haiti	12
Honduras	12
Mexico	18
Panama	15
Venezuela	15

Table 1

Table 1 displays the maximum age in which students are required to study in each country. Children who are older than the age specified for each country are no longer required to attend school. In many cases, after the students complete the compulsory grades, they are sent to work and cannot further their education. Among the five countries, Mexico is the only one that requires schooling until the completion

<sup>28</sup> “Panama - United States Department of State.” U.S. Department of State, U.S. Department of State, 1 Dec. 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/panama/](http://www.state.gov/reports/2020-trafficking-in-persons-report/panama/).

of high school. Haiti and Honduras require the least amount of education, only up to the 6th grade, while Panama and Venezuela require schooling until the 9<sup>th</sup> grade.<sup>29</sup>

## INDIVIDUAL COUNTRY ANALYSIS

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### Haiti

According to a 2020 report by the U.S. Department of Labor, Haiti does not meet the minimum standard for the elimination of trafficking but has made efforts to do so. They have begun investigating more traffickers, established an executive order to improve monitoring of trafficking within the National Anti-Trafficking Committee, and have made improvements in passing a national plan to address closing abusive orphanages. In addition, Haiti has addressed the lack of awareness within its weak judicial system and among law enforcement officials, begun prosecuting offenses on labor trafficking, and is building alternative shelters for vulnerable victims. Despite this, Haiti continues to not convict traffickers, not distribute sufficient funding for anti-trafficking efforts or victim service regulations, and has yet to implement the standard procedures for victim identification. Additionally, the government has done little to address or combat child domestic servitude. Haitian children are much more susceptible to child trafficking due to increased poverty in Haiti, resulting in higher chances of human trafficking to take place through intercountry adoption (ICA).<sup>30</sup> The government has not upheld its 2014 anti-trafficking law that tasked the National Committee for the Fight Against Human Trafficking (CNLTP), a national body to combat trafficking and to develop a standard procedure to guide officials into taking the proper protocols. Furthermore, for the past two years the government has not approved a budget for assistance and continues to rely heavily on NGOs for funding and services to track victims. Nonetheless, since the government has shown some increasing efforts in the previous period it continues to be identified as a Tier 2 country.

Since the 2010 earthquake that killed more than 250,000 people, Haiti suffers from a gradually declining economy in which 60% of the population is impoverished.<sup>31</sup> Faced with a lack of upward financial

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<sup>29</sup> Department of Education, Rhode Island. "Evaluating Foreign Transcripts - Rhode Island." *Ride.ri.gov*, 2020, [www.ride.ri.gov/Portals/0/Uploads/Documents/Instruction-and-Assessment-World-Class-Standards/Instructional-Resources/Foreign-Transcript-Review/Foreign-Transcripts-Review-Resource-Guide-2-27-2012.pdf](http://www.ride.ri.gov/Portals/0/Uploads/Documents/Instruction-and-Assessment-World-Class-Standards/Instructional-Resources/Foreign-Transcript-Review/Foreign-Transcripts-Review-Resource-Guide-2-27-2012.pdf).

<sup>30</sup> Bromfield, Nicole. "Human Trafficking and the Haitian Child Abduction Attempt: Policy Analysis and Implications for Social Workers and NASW." *Journal of Social Work Values and ...*, 2012. Retrieved from [https://www.academia.edu/1939493/Human\\_Trafficking\\_and\\_the\\_Haitian\\_Child\\_Abduction\\_Attempt\\_Policy\\_Analysis\\_and\\_Implications\\_for\\_Social\\_Workers\\_and\\_NASW](https://www.academia.edu/1939493/Human_Trafficking_and_the_Haitian_Child_Abduction_Attempt_Policy_Analysis_and_Implications_for_Social_Workers_and_NASW).

<sup>31</sup> "Haiti's Political and Economic Conditions." Congressional Research Service, 2020. Retrieved from <https://fas.org/sgp/crs/row/R45034.pdf>.

mobility and a deteriorating economy, poorer Haitian parents relinquished their parental rights to orphanages so that their children would receive an affordable education. Instead, Haitian orphanages continue to exploit gaps in child protection policies to force children into dangerous occupations where they are overworked and sexualized. An absence of clear minimum age requirements for domestic work, insufficient compulsory education laws, and a lack of penalties for violators constitute the present policy gaps. Addressing these problems through official documentation is the first step in helping approximately 25,000 children susceptible to human trafficking and child labor in Haitian orphanages.

There are some organizations for which the government is currently providing limited funding, such as the Ministry of Social Affairs and Labor (MAST), the Brigade for the Protection of Minors (BPM), and POLIFRONT to combat child labor.<sup>32</sup> The limited funding has resulted in their lack of proper measures to fully execute solutions to the problem. Due to Haiti's economic instability, authorities are hindered from enforcing adequate measures to combat and identify these issues. International Narcotics and Law Enforcement Affairs within the U.S. State Department has worked to provide Haiti with funding assistance to rebuild its infrastructure as well as offering proper training to law enforcement. The emphasis is on compassion-based training to begin educating law enforcement on how to deescalate situations to limit unnecessary violence. A mandated update review was implemented to evaluate if the training is creating the desired results. However, gaps remain. As stated in an interview with Alex Douglas of the Office of Western Hemisphere programs with the Bureau of International Narcotics and Law Enforcement Affairs, at the start of the Coronavirus outbreak, Haiti closed its borders to limit the spread of the virus. Due to large amounts of informal border crossing points, the Haitian-Dominican border lacked adequate measures to regulate activity, which had been further perpetuated with the virus. Informal border crossing points and limited security allows for smugglers and traffickers to pass into the Dominican Republic or to head to Turks and Caicos and Jamaica to continue traveling through South America undetected.

Inadequate police presence and civil security undermines public trust in the government, resulting in gangs to replace the role of police in domestic security. Due to the lack of adequate pay, officers are being paid off to support gang activity, resulting in an increase in corruption. Since the earthquake destroyed many police stations, jobs, and access to local educational facilities, many locals—especially in rural areas—are finding it difficult to not engage in criminal activity to survive. With such potent problems within Haiti, Haitians are migrating en masse into the Dominican Republic malnourished, impoverished, and

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<sup>32</sup> "Findings on the Worst Forms of Child Labor - Haiti: U.S. Department of Labor." U.S. Department of Labor Seal, 2019. <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/haiti>.

undocumented. The Dominican Republic's per capita income is five times larger than that of Haiti, causing the country to have more opportunities to access jobs.<sup>33</sup> This opens the pathway for exploitation as Haitians take over the lower-paying jobs, moving the Dominicans to take on the newer industrialized jobs. Given both countries long-standing history, racial tension plays a key factor in abuse, forced domestic servitude, sexual exploitation, and trafficking. As a result of this tension, Dominican officials began illegally deporting anyone that resembles to be Haitian or in general tends to have a darker skin tone. This is done without a proper time notice or without a word to the victims' relatives. This is causing many Haitians to begin traveling into Latin America and parts of South America such as Brazil or Venezuela, and then into Mexico causing new and unforeseen migration patterns into the United States.<sup>34]</sup>

Haiti's lack of natural resources and predisposition to natural disasters hinders economic growth, which directly inflates levels of child trafficking. Haiti's attempts to combat child trafficking are overshadowed by low conviction rates and insufficient funding for anti-trafficking efforts. The country struggles with a lack of government accountability on unregulated polices to combat issues of gender-based violence, the worst forms of child labor, and protocols to handle crime. Following the fall of the Duvalier regime, democracy has not controlled the violence that has festered for decades. This is due to the government's weak judicial system that generates a lack of awareness on trafficking among law enforcement, prosecutors, and judges. Migration into Latin America, the U.S., or other parts of the Caribbean is creating the possibility—and probability—that people are left vulnerable for smugglers to enhance their chances of becoming trafficked. The atrocities that continue to take place have been uprooted by patriarchal mindsets and lack of government control over its people.

## Venezuela

Based on the 2020 Trafficking in Persons (TIP) Report, Venezuela is currently a Tier 3 ranked country.<sup>35</sup> Commonly, a country that suffers from political and economic adversities acquires a low-tier placement; this is because unstable countries are more susceptible to human trafficking and human smuggling.

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<sup>33</sup> Cloud, Calla. "Human Rights Abuses along the Dominican-Haitian Border." du.edu, 2009. <https://www.du.edu/korbel/hrhw/researchdigest/latinamerica2/digest-human%20rights%20in%20latin%20america%20vol%202-dominican-haiti.pdf> .

<sup>34</sup> Terry, Kyilah. "New Haitian Migration Patterns End in Displacement." New Haitian migration patterns end in displacement, 2019. <https://www.international.ucla.edu/lai/article/202365>.

<sup>35</sup> Department of States, U.S., 2020. *Trafficking in Persons Report 20th Edition*. [PDF] pp.55-60. Retrieved September 07, 2020, from <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

In efforts to protect victims of trafficking, the Bolivarian Republic of Venezuela adopted the Palermo Protocol in 2005.<sup>36</sup> The latest efforts reported in Venezuela are the provisions made by the administration under President Nicolás Maduro, which consist of two public policies to combat human trafficking. The Working Plan with the United Nations High Commissioner for Refugees policy was presented in 2014, and the National Formation Plan on the Rights of Human Trafficking Victims was presented in 2018. Unfortunately, both remain in the revision phase.<sup>37</sup> Although it may appear that Venezuela is attempting to combat human trafficking, the enforcement of these laws is minimal to nonexistent. Thus, Venezuela's government and legal framework have proven to be unreliable.

Under Maduro's regime, Venezuela is currently facing one of the worst political and economic crises in the country's history. Based on statistics provided by the World Data Lab, Venezuela has an approximate total population of 33.1 million people, and 42% of that population lives in extreme poverty, earning a minimum of \$1.90 per day.<sup>38</sup> Additionally, the government is failing to provide crucial human resources to its citizens. Hence, Venezuelans are experiencing an extreme shortage of food, water, medicine, and electricity.

These conditions have prompted Venezuelans to emigrate, but for most, their salaries are so low that they cannot afford a bus ticket to travel to a neighboring country. As a result, a vast majority of Venezuelans resort to foot migration. They are typically men known as the "Venezuelan Walkers."<sup>39</sup> Some Venezuelan Walkers migrate by foot to neighboring countries like Colombia, while others hitchhike for miles until they reach more distant destinations such as Ecuador and Peru.

One of the many disadvantages of resorting to foot migration is that most women and children are incapable of walking thousands of miles to get to another country. This leads to citizens seeking help from gangs and illegal armed groups known as FARC dissidents (Revolutionary Armed Forces of Colombia) and the ELN (National Liberation Army of Colombia), who can smuggle and transport them illegally to a neighboring country. These gangs and illegal armed groups often give migrants false promises of a better

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<sup>36</sup> UN, United Nations, UN Treaties, Treaties. (2020, June 12). Retrieved December 07, 2020, from <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY>

<sup>37</sup> Prather, H., 2019. When Words Are Not Enough: The Development of Human Trafficking in Venezuela Under the Maduro Administration. [PDF] pp. 16-21 [https://egrove.olemiss.edu/cgi/viewcontent.cgi?article=2184&context=hon\\_thesis.pdf](https://egrove.olemiss.edu/cgi/viewcontent.cgi?article=2184&context=hon_thesis.pdf)

<sup>38</sup> W. (2020). World Poverty Clock. Retrieved December 03, 2020, from [https://worlddata.io/?utm\\_source=google](https://worlddata.io/?utm_source=google)

<sup>39</sup> Broner, Tamara Taraciuk. "The Venezuelan Walkers." *Human Rights Watch*, 28 Oct. 2020, [www.hrw.org/news/2018/09/05/venezuelan-walkers](http://www.hrw.org/news/2018/09/05/venezuelan-walkers).



future to persuade them into viewing smuggling as their best option. When a person gets smuggled to another country, smugglers allow them to take a limited number of personal items with them—in worst cases, nothing at all. However, since the migrants are promised employment opportunities with higher wages and better living conditions, their decision is worth the sacrifice. When arriving at the neighboring countries, they find themselves with only the clothes on their backs. Suddenly, the migrants become victims of sex work or forced labor, either to repay the smuggler or to survive.<sup>40</sup>

Since victims of sex work or forced labor are already being exploited in a country, traffickers sell and transport them to other countries. The victims of these crimes are mostly women and children as they are the ones who resort to smuggling because they cannot migrate by foot. Even though human trafficking is common in many neighboring countries of Venezuela, Ecuador and Colombia are the two countries where women and girls are more susceptible to sex trafficking. In Venezuela, child labor is prohibited by law, and it states that children younger than 14 years cannot be employed. However, these laws offer limited protections to children. A 14-year-old can be legally employed, and at the same time, be exploited in domestic servitude, mining, forced begging, and commercial sexual exploitation.

In 2019, there was an increase in human trafficking cases in Venezuela, but these new cases were not reported. The prosecutor's office charged with investigating trafficking crimes against women is currently understaffed with one prosecutor assigned for the entire country.<sup>41</sup> Venezuela's government efforts to protect its victims are tenuous. The country implemented the 2007 Organic Law<sup>42</sup> on the Right of Women to a Life Free of Violence, but this law does not criminalize all forms of trafficking. The law only criminalizes labor trafficking and some forms of sex trafficking. For a form of sex trafficking to be considered a criminal act, there needs to be evidence or proof of force, fraud, or coercion. Furthermore, the law stipulates that the penalty for these crimes is 15 to 20 years of imprisonment.

It is important to emphasize that women and girls are not the only victims of human trafficking and human smuggling; boys and men are also victims of these crimes. Venezuelan men are recruited, exploited to forced labor inside Venezuela, and trafficked to nearby countries, like the Caribbean. Men and children

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<sup>40</sup> Cone, D., Teff, M., 2019. Searching for Safety: Confronting sexual exploitation and trafficking of Venezuelan Women and Girls [PDF] pp.4-9 [Accessed September 20, 2020]

<sup>41</sup> Department of States, U.S., 2020. *Trafficking in Persons Report 20th Edition*. [PDF] pp.55-60. Retrieved September 07, 2020, from <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

<sup>42</sup> Nations, United. "Committee on Economic, Social and Cultural Rights Considers Report of Venezuela." *OHCHR*, 2015, [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16037&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16037&LangID=E).

are sometimes recruited by FARC dissidents or the ELN, but the way they approach their victims differs. The way these gangs and illegal armed groups grow is by recruiting or kidnapping child soldiers to exploit them in sex trafficking and forced labor. Men are often manipulated with debt or extreme threats of violence, while children are lured into joining armed groups with gifts and false promises. Children who are already being forced to work in the agricultural sector, domestic service, street vending, and hazardous environments like mining areas are more susceptible to be recruited by these groups.<sup>43</sup> Armed groups recruit the children and traffic them into another country to keep them working under the same conditions. As Venezuelans currently lack basic human resources, the children who accept the offers do it with the hope of providing for their families without imagining the consequences.<sup>44</sup>

Trusted non-governmental organizations have reported that security forces and local officials in the Maduro administration were collaborating and authorizing illegal armed groups to operate in Venezuela with impunity. In the “Venezuela and Colombia: Border Security Issue” thesis written by Raul F. Torres Aguilera,<sup>45</sup> he states that high-level Venezuelan officials under Maduro took part in trafficking crimes linked to FARC and ELN, and other security forces like coast guard officials facilitated and permitted the departure of trafficking victims to Caribbean islands. This is one of the reasons why Venezuela is in such a low tier. Human trafficking and human smuggling cases will continue to grow exponentially if Venezuela's government officials continue to collaborate with Colombian illegal armed groups.

The COVID-19 pandemic<sup>46</sup> has also directly and indirectly affected the increase in human trafficking and human smuggling. The pandemic has forced them to find new alternatives and adjust to this new reality. In wealthy countries like the United States, where most people have access to technology, traffickers began to incorporate its use to keep their business going. In less wealthy countries like Venezuela, the pandemic has led to a significant increase in these crimes.

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<sup>43</sup> Bureau of International Labor Affairs, 2017. “2016 FINDINGS ON THE WORST FORMS OF CHILD LABOR” [PDF] [https://www.dol.gov/sites/dolgov/files/ILAB/child\\_labor\\_reports/tda2017/Venezuela.pdf](https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2017/Venezuela.pdf)

<sup>44</sup> John, M., 2019. Venezuelan economic crisis: crossing Latin American and Caribbean borders, Migration and Development. [PDF] pp.439-443. [Accessed September 17, 2020]

<sup>45</sup> Torres Aguilera, Raul F. “Venezuela and Colombia: Border Security Issues.” *Calhoun Home*, Monterey, California. Naval Postgraduate School, 1 Dec. 1994, calhoun.nps.edu/handle/10945/42870.

<sup>46</sup> AND SMUGGLING REGIONAL SUB-SECTOR, HUMAN TRAFFICKING. “THE IMPACT OF COVID - 19 ON REFUGEES AND MIGRANTS FROM VENEZUELA VULNERABLE TO HUMAN TRAFFICKING AND SMUGGLING:” *Humanitarianlibrary.org*, 2020, [www.humanitarianlibrary.org/sites/default/files/2020/07/The%20Impact%20of%20COVID-19%20on%20Refugees%20and%20Migrants%20from%20Venezuela%20vulnerable%20to%20Human%20Trafficking%20and%20Smuggling.pdf](http://www.humanitarianlibrary.org/sites/default/files/2020/07/The%20Impact%20of%20COVID-19%20on%20Refugees%20and%20Migrants%20from%20Venezuela%20vulnerable%20to%20Human%20Trafficking%20and%20Smuggling.pdf).

The inhuman conditions in Venezuela not only drive numerous civilians to migrate but also make it easier for the traffickers to persuade others with false promises. Currently, traffickers are aware that Venezuelans are looking for any means to survive, serving as a perfect strategy to exploit those in poverty. As schools close, children are forced to help their families financially, exposing them to dangerous working environments where trafficking is more common. The underfunded health care system and the lack of doctors in Venezuela have left many children orphaned, leaving them vulnerable to kidnapping and trafficking. Venezuela's weak economy was the most affected factor throughout the pandemic, and it also benefited most illegal organizations to increase their activity one way or another.

## Panama

Panama is a Tier 2 ranking country in terms of human smuggling and trafficking. While both occur within Panama, it is mostly a transit country for these crimes.<sup>47</sup> This is largely due to government corruption, inadequate protection in educational institutions, high poverty rates, and a weak legal framework.

Many cases of government corruption in Panama that are tied to smuggling and trafficking are now apparent. Corruption involving crimes has been rampant in Panama for many years, which has contributed to millions of dollars in losses.<sup>48</sup> In one raid, in which Panamanian officers disrupted a trafficking network, it was found that Panamanian officials that create passports and visas were providing the documentation to disguise victims as tourists.<sup>49</sup> The use of false documents made it difficult to discover who the victims were. Corruption provides the lubricant for such crimes so that networks can work with maximum effectiveness and minimal interference.<sup>50</sup> Similar instances of corruption create a more complex network in trafficking and smuggling, making it more difficult to mitigate.

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<sup>47</sup> Finckenaue, James O, and Jennifer Schrock. "Human Trafficking: A Growing Criminal Market in the U.S." Accessed September 13, 2020. <https://www.ncjrs.gov/pdffiles1/nij/218462.pdf>.

<sup>48</sup> Cristina Guevara, "¡Basta Ya! How Pandemic-Related CORRUPTION Calls for a New Social Contract in Panama," November 10, 2020, <https://www.atlanticcouncil.org/blogs/new-atlanticist/basta-ya-how-pandemic-related-corruption-calls-for-a-new-social-contract-in-panama/>.

<sup>49</sup> Papadovassilakis, Alex, and Seth Robbins. "Costa Rica and Panama Find Joint Success in Tackling People Smuggling." InSight Crime, September 11, 2019. <https://www.insightcrime.org/news/brief/costa-rica-panama-find-success-in-tackling-people-smuggling/>.

<sup>50</sup> Finckenaue, James O., and Jennifer Schrock. "Human trafficking: A growing criminal market in the US." *Human Trafficking: Data and Documents* (2000): 14.

In addition, there exists a lack of protection for students at educational institutions. In Panama schools are used as recruitment grounds for child trafficking, where traffickers send child victims into schools to recruit more children into trafficking.<sup>51</sup> With a lack of infrastructure, resources, and inexperienced staff, teachers can't keep records of students and most of the teachers at these schools are very inexperienced.<sup>52</sup> This leads to an inability in identifying children as victims and properly addressing the issue.

High poverty rates within Panama expose many citizens to human trafficking and smuggling. Despite the decreasing poverty rate in Panama, poverty remains high at 22.1 percent for the national average. The indigenous community are disproportionately affected by poverty with more than 90 percent of them not being able to meet basic needs.<sup>53</sup> Poverty forces many women and children into human trafficking within their country.<sup>54</sup> Victims of trafficking see it as their only way to meet basic needs for themselves or their families. Other individuals see smuggling to better their situation by illegally migrating to another country. When they cannot pay the price for smuggling, they become trafficked as a form of payment.<sup>55</sup> Poverty leads to a higher chance of individuals engaging in smuggling or trafficking since they see no other way out of the financial and economic burden they are in.

The legal framework of Panama also contributes to the cases of human smuggling and trafficking. The Palermo Protocol was added into Panamanian legislation followed by Law 79 about seven years later.<sup>56</sup>

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<sup>51</sup> Beltran, Maria. "ECPAT Country Overview: Panama," October 2019. <https://www.ecpat.org/wp-content/uploads/2019/10/ECPAT-Country-Overview-Research-Report-Panama-2019.pdf>.

<sup>52</sup> Andisha, Nasir, Oscar Chiquito-Saban, Eduardo Emmerich, Aurelia Figueroa, Yuewen Jiang, Jun Hui-Lee, Darren Manning, and Alejandra Ortega-Sanchez. "Combating Child Labor through DESTINO-Reducing Child Labor in Panama: An Impact Evaluation of a Department of Labor-Funded Initiative." (2009).

<sup>53</sup> Borgen Project, "5 Facts About Poverty in Panama," The Borgen Project (Borgen Project [https://borgenproject.org/wp-content/uploads/The\\_Borgen\\_Project\\_Logo\\_small.jpg](https://borgenproject.org/wp-content/uploads/The_Borgen_Project_Logo_small.jpg), October 6, 2020), <https://borgenproject.org/poverty-in-panama/>.

<sup>54</sup> UN, "General Recommendations Made by the Committee on the Elimination of Discrimination against Women," (United Nations), accessed May 2, 2021, <https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>.

<sup>55</sup> Brendon Derr, "Panama Confronts Human Traffickers in Migration Route," Panama confronts human traffickers where a major migration route bottlenecks (Cronkite Borderlands Project, September 2, 2020), <https://cronkitenews.azpbs.org/2020/09/01/panama-human-traffickers-migration-route/>.

<sup>56</sup> Fitch, Elliott. "Human Trafficking in Panama: A Country Analysis," May 2, 2016. [https://klau.nd.edu/assets/331828/ht\\_lgl\\_rems\\_fitch.pdf](https://klau.nd.edu/assets/331828/ht_lgl_rems_fitch.pdf).

Law 79 broadened the definition of trafficking in persons and criminalized any forms of trafficking by setting the punishments based on the severity of the offense. However, Law 79 doesn't criminalize trafficking that doesn't include movement. The new laws do improve the prosecution of traffickers in many cases, but in other cases, like with child trafficking, previous laws contradict each other in punishment.<sup>57</sup> Articles 180 and 186 of Panamanian law have different punishments for the same offense. Article 180 has fewer years of imprisonment, so many of the convicted traffickers receive a lesser sentence because of this article.<sup>58</sup> In addition to trafficking and smuggling laws, the legal system in Panama also makes convictions difficult. A lack of procedural guidelines for judges and prosecutors is a major cause. Without the proper legal framework, it is very difficult for Panama to successfully fight human trafficking and smuggling.

The United States, through the State Department's INL division, has greatly affected and helped decrease the occurrences of human trafficking and smuggling within Panama. According to Ruth Gallant, an INL-WHP-CEN program advisor for Panama and Belize, INL officials are working alongside Panamanian officers to teach them tactics for spotting and helping victims of trafficking and smuggling. For Panama specifically, INL has worked to modernize and strengthen border security, including passing the titles of six helicopters to Panamanian officials for air protection. Regarding organized crime, which includes trafficking and smuggling, INL works with officers in investigations and prosecutions. INL trains many of these officers in criminal sentencing and improving data collection of incidents and evidence.

## Honduras

Honduras is a Tier 2 transit country for trafficking victims of women and children. The Honduran government has focused on efforts to increase public awareness of the issue and stop irregular migration patterns. Nevertheless, it lacks an accountable justice system, political will to address this issue, and has ineffective policies that further harms victims.

When it comes to defining human trafficking, Honduras created a cohesive definition, which includes illegal adoptions and the words "coercion, force, and fraud." However, this has led to loopholes including an inability to prosecute trafficking as severely as other sex crimes. A lack of adequate

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<sup>57</sup> United States Department of State, "2017 Trafficking in Persons Report - Panama," Refworld (United States Department of State, June 27, 2017), <https://www.refworld.org/docid/5959ec6c13.html>.

<sup>58</sup> Office to Monitor and Combat Trafficking in Persons, "Panama - United States Department of State," U.S. Department of State (U.S. Department of State, December 1, 2020), <https://www.state.gov/reports/2020-trafficking-in-persons-report/panama/>.

prosecution of government officials and traffickers who exploit child sex trafficking leads to crimes being punished up to five years instead of 15 years.<sup>59</sup>

Potential trafficking victims face many difficulties when migrating. From 2009 to 2012 alone, migrants filed 82,547 domestic violence complaints during their irregular migration journey.<sup>60</sup> Children are even placed in exploitative situations by parents and family members in order to gain a source of income. In their hometown, criminal organizations exploit children in sex trafficking schemes like street begging, transporting drugs, extortion, and/or acts of violence. Survival sex is a form of prostitution due to a person's extreme need. A common group seen forced to engage in this act are children due to child sex tourism.

Research shows that the more educated a family is, the the smaller their family size becomes and the more likely they are to break out of the poverty cycle.<sup>61</sup> Children often sleep on the streets to attend schools which puts them at risk for being trafficked. Education is free up until the sixth grade, so after that it can be costly to keep children in school. This lack of education reduces their chance of getting legitimate jobs. This is more detrimental to girls, since one in three drop out of school each year and 34% get married before the age of 18.<sup>62</sup>

If women do get employed, they still face adversities that can subject them to trafficking schemes. This includes unfair working conditions, little collective bargaining abilities, and gender/age discrimination. The limited work opportunities and physical, psychological, and sexual violence toward women increases their chance to be recruited to an appealing business opportunity that ends up being a trafficking scheme.<sup>63</sup>

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<sup>59</sup> "Honduras - United States Department of State." U.S. Department of State, U.S. Department of State, 1 Dec. 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/honduras/](https://www.state.gov/reports/2020-trafficking-in-persons-report/honduras/).

<sup>60</sup> NP, R. "I'm a Survivor of Violence': Portraits of Women Waiting in Mexico for U.S. Asylum." *Colorado Public Radio*, Colorado Public Radio, 17 Jan. 2019, [www.cpr.org/2019/01/16/im-a-survivor-of-violence-portraits-of-women-waiting-in-mexico-for-u-s-asylum/](http://www.cpr.org/2019/01/16/im-a-survivor-of-violence-portraits-of-women-waiting-in-mexico-for-u-s-asylum/).

<sup>61</sup> Walters, Jim, and Patricia H Davis. "Human Trafficking, Sex Tourism, and Child Exploitation on the Southern Border." *Journal of Applied Research on Children: Informing Policy for Children at Risk* 2 (2011). <https://doi.org/https://files.eric.ed.gov/fulltext/EJ1189037.pdf>.

<sup>62</sup> Thelwell, Kim. "Top 10 Facts about Girls' Education in Honduras." *The Borgen Project*, Kim Thelwell [https://Borgenproject.org/Wp-Content/Uploads/The\\_Borgen\\_Project\\_Logo\\_small.Jpg](https://Borgenproject.org/Wp-Content/Uploads/The_Borgen_Project_Logo_small.Jpg), 11 Feb. 2020, [borgenproject.org/top-10-facts-about-girls-education-in-honduras/](https://borgenproject.org/top-10-facts-about-girls-education-in-honduras/).

<sup>63</sup> Bakrania, Shivit. "Impact of Violence in the Northern Triangle of Central America." *Governance, Social Development, Humanitarian, and Conflict (GSDHC)*, 2018, doi:10.18356/9a5c8513-en.

Then there is the securitization of the U.S. border, another obstacle to reducing trafficking and smuggling. The rise in refugees fleeing their home over the years has pushed the U.S. to create deterrence measures that shift responsibility to countries other than the U.S. For example, the creation of safe third countries,<sup>64</sup> a concept where underdeveloped countries are labeled as safe enough to accept refugees and foreign nationals. This is so the number of refugees decreases if they arrive at the border, which harms countries like Honduras that do not have the resources to support these individuals. With natural disasters like Hurricane Eta and Iota, tens of thousands of people displaced in Latin America and the Caribbean are more susceptible to trafficking since Honduras is labeled as a country who can hold refugees.<sup>65</sup>

## Mexico

Mexico does differentiate between the definitions of human trafficking and human smuggling. This differentiation led the government to create two distinct laws and two distinct sets of punishments for traffickers. The law that tackles human trafficking is the “general law to prevent, sanction, and eradicate the crimes on human trafficking and to protect and aid victims of these crimes.”<sup>66</sup> Article 10 in this law states that human trafficking is “any malicious act or omission of one or more persons to capture, hook up, transport, transfer, retain, deliver, receive, or house one or more people for exploitation purposes”. Mexico wrote the general law after the Palermo Protocol and its laws are like the laws that nearby countries such as El Salvador and Guatemala have implemented.

According to the 2020 Department of State Trafficking in Persons Report, Mexico has demonstrated great efforts to uphold these laws by investigating more cases, prosecuting more traffickers, and identifying more victims within the country and abroad. Although government corruption remains a significant problem in Mexico, the government investigates and prosecutes corrupt government officials, provides more resources for victims, and cooperates with the U.S. Through these efforts, the Mexican

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<sup>64</sup> Ibe Peniel Ibe Peniel Ibe is the policy engagement coordinator at, Peniel. “The Dangers of Trump's ‘Safe Third Country’ Agreements in Central America.” *American Friends Service Committee*, 25 May 2021, [www.afsc.org/blogs/news-and-commentary/dangers-trumps-safe-third-country-agreements-central-america](http://www.afsc.org/blogs/news-and-commentary/dangers-trumps-safe-third-country-agreements-central-america).

<sup>65</sup> Justman, Cydney. “Two Weeks after Hurricane Eta, Iota Devastates Central America: Direct Relief Is Providing Nearly \$10 Million in Aid after the Category 4 Storm Left Entire Communities Underwater and 200,000 Displaced. - Honduras.” *ReliefWeb*, 2020, [reliefweb.int/report/honduras/two-weeks-after-hurricane-eta-iota-devastates-central-america-direct-relief](http://reliefweb.int/report/honduras/two-weeks-after-hurricane-eta-iota-devastates-central-america-direct-relief).

<sup>66</sup> Regulation, Global. “Machine Translation of ‘General Law to Prevent, Punish and Eradicate Crime in Trafficking in Persons and Protecting and Assisting the Victims of...’ (Mexico).” *Global*, 2014, [www.global-regulation.com/translation/mexico/560308/general-law-to-prevent%252c-punish-and-eradicate-crime-in-trafficking-in-persons-and-protecting-and-assisting-the-victims-of-these-crimes.html](http://www.global-regulation.com/translation/mexico/560308/general-law-to-prevent%252c-punish-and-eradicate-crime-in-trafficking-in-persons-and-protecting-and-assisting-the-victims-of-these-crimes.html).

government was able to identify 658 trafficking victims in 2020. Of these victims, 18 percent were male, 35 percent were female and 24 percent had an unspecified gender.<sup>67</sup> They also provided their support to an additional 933 Mexican trafficking victims abroad. Mexican authorities were able to initiate 133 federal investigations and 545 state investigations for trafficking. They prosecuted 522 individuals in federal and state cases in 2019. On the other hand, Mexico has faced many challenges while upholding these laws. According to the Trafficking in Persons Report, the Mexican government had issues when identifying forced labor and trafficking victims causing many of them to not receive the proper care or shelter. This example would show that the Mexican government has not done an adequate job in protecting victims. Despite collaborating with programs such as the National Institute of Social Development and the System for the Protection of Girls, Boys, and Adolescents by investing about \$232,370 in new programs, their shelters and services are not large enough for all the victims. These shelters are unavailable to males older than 13. Most victims within these shelters get re-traumatized because they are not allowed to leave the shelters without security personnel and the government also fails to grant humanitarian visas to international victims.

Also, there are some loopholes which allow for trafficking and smuggling to occur in Mexico. The first one is that there are no laws that punish smuggling. This is due to the nature of the four-border agreement, which allows free movement with no restrictions or checks between four countries in Central America—El Salvador, Nicaragua, Honduras, and Guatemala. This agreement is important to the issue of human trafficking and smuggling. It motivates traffickers to traffic or smuggle as many victims as possible, since there are no restrictions or checks when crossing borders. Traffickers then proceed into Mexico to leave victims there or transport them into the U.S.

A lack of economic opportunity in Mexico causes individuals to resort to other neighboring countries, resulting in them falling victim to smuggling. They are also lured into situations of forced labor or human trafficking. It makes people resort to dangerous jobs such as prostitution and hard labor. In 2018 it was reported that about 52 million Mexicans lived in poverty,<sup>68</sup> and about 6.6 percent of the population was reported to be living on less than \$3.20 per day.<sup>69</sup> Most parents cannot afford to send their kids to

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<sup>67</sup> OFFICE TO MONITOR AND COMBAT, COMBAT TRAFFICKING IN PERSONS. “Mexico - United States Department of State.” *U.S. Department of State*, U.S. Department of State, 1 Dec. 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/mexico/](https://www.state.gov/reports/2020-trafficking-in-persons-report/mexico/).

<sup>68</sup> Philipp, Jennifer, Clint Borgen, and Kim Thelwell. “Poverty In Mexico.” The Borgen Project. Jennifer Philipp [https://borgenproject.org/wp-content/uploads/The\\_Borgen\\_Project\\_Logo\\_small.jpg](https://borgenproject.org/wp-content/uploads/The_Borgen_Project_Logo_small.jpg), July 3, 2020. <https://borgenproject.org/tag/poverty-in-mexico/>.

<sup>69</sup> Pasquali, Marina. “COVID-19: Adults Who Lost Their Job in Mexico 2020.” Statista, November 6, 2020.



school, limiting educational access. Non-educated individuals run a higher risk of being vulnerable to trafficking or being forced into labor.

The most susceptible victims in Mexico are women, children, and indigenous people. Women and young girls are trafficked at higher numbers because of the high demand for sex services. It has been noted that there have been instances where traffickers wait outside schools to lure children and teens. Indigenous people are extremely vulnerable due to the language barrier, poverty, and lack of education.<sup>70</sup> According to the Borgen Project, 150,000 children are currently living in the streets of Mexico and 50 percent of those are trafficked for sexual labor.<sup>71</sup> According to the 2019 Trafficking in Persons Report, women made up 54 percent of those trafficked.

The main perpetrators of trafficking and smuggling victims in Mexico are drug cartels. Human trafficking and smuggling crimes in Mexico are sometimes linked to money laundering and drug trafficking. Drug cartels hold such a large presence in Mexico and its culture that they have more power than the government in certain regions. There have been instances where cartels bribed government officials into letting them traffic and smuggle victims through the borders without any consequences.<sup>72</sup> Some examples of active cartels who have been involved in several crimes including human trafficking, human smuggling, money laundering, and drug trafficking from the 1970s-present are the Juarez<sup>73</sup> and Sinaloa cartels.<sup>74</sup>

The Sinaloa Cartel is one of Mexico's oldest and most established cartels.<sup>75</sup> Leaders of Sinaloa have successfully been able to corrupt public officials from local to national levels inside Mexico and have held operations in 50 other countries. The Sinaloa cartel has also participated in human trafficking and

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<sup>70</sup> Philipp, Jennifer, Clint Borgen, and Kim Thelwell. "Poverty In Mexico." The Borgen Project. Jennifer Philipp [https://borgenproject.org/wp-content/uploads/The\\_Borgen\\_Project\\_Logo\\_small.jpg](https://borgenproject.org/wp-content/uploads/The_Borgen_Project_Logo_small.jpg), July 3, 2020. <https://borgenproject.org/tag/poverty-in-mexico/>.

<sup>71</sup> Frazer, Sarah, et al. "Human Trafficking in Mexico." *The Borgen Project*, Sarah Frazer [https://borgenproject.org/Wp-Content/Uploads/The\\_Borgen\\_Project\\_Logo\\_small.Jpg](https://borgenproject.org/Wp-Content/Uploads/The_Borgen_Project_Logo_small.Jpg), 11 June 2021, [borgenproject.org/tag/human-trafficking-in-mexico/](https://borgenproject.org/tag/human-trafficking-in-mexico/).

<sup>72</sup> Research Service, Congressional. "Mexico: Organized Crime and Drug Trafficking Organizations." *Sgp.fas*, 2020, [sgp.fas.org/crs/row/R41576.pdf](https://sgp.fas.org/crs/row/R41576.pdf).

<sup>73</sup> Crime, Insight. "Juárez Cartel." *InSight Crime*, 25 Apr. 2021, [insightcrime.org/mexico-organized-crime-news/juarez-cartel-profile/](https://insightcrime.org/mexico-organized-crime-news/juarez-cartel-profile/).

<sup>74</sup> Justice, U.S. Department of. "Deagovdev.dea.gov." *Dea.gov*, 2017, [deagovdev.dea.gov/sites/default/files/2018-07/DIR-040-17\\_2017-NDTA.pdf](https://deagovdev.dea.gov/sites/default/files/2018-07/DIR-040-17_2017-NDTA.pdf).

<sup>75</sup> "Mexico: Organized Crime and Drug Trafficking Organizations ." Congressional Research Service , July 28, 2020. <https://fas.org/sgp/crs/row/R41576.pdf>.

smuggling to obtain money. According to an interview with a Sinaloa cartel boss and one of his human traffickers, they earn about \$3,500 to \$4,000 per smuggled individual.<sup>76</sup> The trafficker that works for the cartel boss earns \$1,400 per successful trip.

The Juarez Cartel is another prominent cartel in Mexico. In the 1980s and 1990s, the Juarez cartel controlled a smuggling route between Ciudad Juarez, its city of origin, and El Paso, Texas. From 2008 to 2011, the Sinaloa Cartel and the Juarez Cartel engaged in a “turf war” in Ciudad Juarez that led to significant violence. These cartels committed homicides, extortion, kidnapping, and theft.<sup>77</sup> Due to the amount of power cartels maintain and the amount of corruption in the government, victims involved usually do not report their situations to the authorities because of threats and uncooperative police forces.

Corruption takes place in all levels of the government. Increased government corruption has also caused distrust between the public and Mexican authorities. In 2017, an investigation was done to determine how the Mexican people view their country. As of 2017, the satisfaction of Mexicans with their country was at an all-time low. Approximately 35 percent of the Mexican population described the country as being in a horrible state. Mexican citizens mentioned that they are aware of the high levels of government corruption and drug cartel violence.<sup>78</sup> With this broken relationship in mind, the issue of human trafficking and smuggling becomes more difficult to deal with in the sense that when these crimes happen, a large portion of the country does not report the crime and it becomes harder for non-corrupt authorities to do their job and proceed with investigations.

President Andrés Manuel López Obrador took office December 1, 2018, and he endorsed a humanitarian approach to migration and proposed helping Central American countries develop solutions for human trafficking and smuggling. Despite this, López Obrador never increased funding for Mexico’s Commission for the aid of refugees. In December 2018, he allowed the U.S. to return Central American migrants to Mexico under the U.S Migrant Protection Protocols. This allowed the U.S Department of Homeland Security to process cases of migrants while they wait in Mexico. On June 7, 2019, U.S. President

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<sup>76</sup> Anderson, Brian. “We Met a Sinaloa Cartel Boss and One of His Human Traffickers.” *VICE*, 2016, [www.vice.com/en/article/z43489/we-met-a-sinaloa-cartel-boss-and-one-of-his-human-traffickers-border-lines](http://www.vice.com/en/article/z43489/we-met-a-sinaloa-cartel-boss-and-one-of-his-human-traffickers-border-lines).

<sup>77</sup> “Mexico: Organized Crime and Drug Trafficking Organizations .” Congressional Research Service , July 28, 2020. <https://fas.org/sgp/crs/row/R41576.pdf>.

<sup>78</sup> Vice, Margaret, and Hanyu Chwe. “Mexicans Unsatisfied with Current State of Mexico.” Pew Research Center's Global Attitudes Project. Pew Research Center, December 30, 2019. <https://www.pewresearch.org/global/2017/09/14/mexicans-are-downbeat-about-their-countrys-direction/>.

Donald Trump and López Obrador made an agreement to help dismantle human smuggling networks along the Mexican borders by deploying the Mexican National Guard. Mexico also agreed to provide access to jobs, healthcare, and education to those in the migrant protection protocols. From May to August 2019, U.S. apprehensions of migrants on the southwest border fell by 62 percent.<sup>79</sup> U.S. Vice President Mike Pence acknowledged Mexico's efforts to reduce migration into the U.S. Despite these actions, Mexico still struggles to keep human trafficking and smuggling numbers under control, and it still lacks effort to combat this issue without the help of the U.S.

Transparent government policies can be useful to combat government corruption. Officials will have the opportunity to prove that they will help victims. By providing resources, witnesses to these crimes will be more likely to trust authorities. Witnesses will be able to cooperate by providing their sides of these crimes without worrying about corrupt authorities. Transparency will help shed light on more cases and will aid in the investigation and prosecution of those involved.

Another factor impacting human trafficking in Mexico is the current COVID-19 pandemic. According to the United Nations Office on Drugs and Crime, the COVID-19 pandemic is only going to make human trafficking and smuggling riskier and while increasing the cost of victim services for frontline victim support service providers. NGO's for example, have begun to pay for services like housing out of pocket since governments will not house victims due to quarantine regulations. These waves of smuggling and trafficking are motivated by unemployment due to COVID-19's effect on the job market. It is worth noting that victims are more vulnerable and desperate for jobs, which can in turn cause them to be tricked by traffickers into forced labor and sexual exploitation. COVID-19 also negatively affects those who are currently being trafficked because they may not have the opportunity to get necessary tools such as masks and hand sanitizer to stay safe from the virus, causing them to be much more susceptible to infection.

Mexico has been severely affected by the pandemic. The number of cases surpassed one million in November 2020 with about 250,000 deaths.<sup>80</sup> A survey carried out in July 2020 determined that 47 percent of respondents had lost their jobs due to the pandemic, with 17 percent of respondents stating that they were

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<sup>79</sup> "Mexico's Immigration Control Efforts." Congressional Research Service, February 19, 2019.  
<https://fas.org/sgp/crs/row/IF10215.pdf>.

<sup>80</sup> Ríos, Ana María. "Mexico: COVID-19 Cases and Deaths Timeline." Statista, November 18, 2020.  
<https://www.statista.com/statistics/1107063/mexico-covid-19-cases-deaths/>.

forced to close their businesses.<sup>81</sup> Another survey conducted in June 2020 determined that 32 percent of participants said that their households had lost all of their income due to the pandemic.<sup>82</sup> Citizens are vulnerable and desperate to find jobs, especially during a difficult time, therefore it is easier for traffickers to lure them into exploitive situations.

Mexico is an important country in terms of human trafficking and smuggling because of its northern border. The U.S. is a top destination for immigrants looking to achieve the “American Dream.”<sup>83</sup> Because of this, Mexico is an important gateway for those being trafficked or smuggled. Since 2014, Mexico experienced a rush in unauthorized migration from some Central American countries such as El Salvador, Nicaragua, and Honduras as well as from Cuba and Haiti in 2010.<sup>84</sup> In June 2019, during the Trump administration, Mexican President López Obrador agreed to increase immigration efforts in Mexico. With the support of the U.S., Mexico put into effect the Southern Border Plan, which established a naval patrols on its rivers, security cordons north of its borders with Guatemala and Belize, and a drone surveillance program.<sup>85</sup> However, human rights groups argued that these immigration efforts pushed migrants and victims of trafficking to take more dangerous routes which caused people to rely more on smugglers. The 2019 Trafficking in Persons Report further supported this statement by documenting the dangers faced by migrants and trafficking victims.<sup>86</sup>

## RECOMMENDATIONS

Our first recommendation for INL to facilitate bilateral work between nonprofits and governmental institutions is for INL to start an initiative using the existing UN worldwide database that keeps track of

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<sup>81</sup> Pasquali, Marina. “Poverty Rate in Mexico.” Statista, September 9, 2020.  
<https://www.statista.com/statistics/788970/poverty-rate-mexico/>.

<sup>82</sup> Ríos, Ana María. “Mexico: COVID-19 Cases and Deaths Timeline.” Statista, November 18, 2020.  
<https://www.statista.com/statistics/1107063/mexico-covid-19-cases-deaths/>.

<sup>83</sup> CW, Dev. “Top 5 Countries With The Highest Immigration Rates.” Law Offices of Alice Antonovsky, PLLC, March 18, 2020. <https://www.aantlaw.com/top-5-countries-highest-immigration-rates/>.

<sup>84</sup> “Mexico's Immigration Control Efforts.” Congressional Research Service, February 19, 2019.  
<https://fas.org/sgp/crs/row/IF10215.pdf>.

<sup>85</sup> “Mexico's Immigration Control Efforts.” Congressional Research Service, February 19, 2019.  
<https://fas.org/sgp/crs/row/IF10215.pdf>.

<sup>86</sup> “Mexico's Immigration Control Efforts.” Congressional Research Service, February 19, 2019.  
<https://fas.org/sgp/crs/row/IF10215.pdf>.

these trafficking networks to better equip law enforcement in Latin America and the Caribbean.<sup>87</sup> Countries in the region have independently implemented training and task forces focused on uncovering trafficking schemes occurring within their borders.<sup>88</sup> However, these countries also serve as transit countries for trafficking which makes it difficult to identify transcontinental trafficking organizations. The database would ensure that networks can be better identified and information can be shared easier.

Our second recommendation is providing more services to vulnerable populations including women, children, and LGBTQIA+ individuals. Research shows that formal work opportunities for marginalized communities help a country's GDP and reduces trafficking rates.<sup>89</sup> There are several pipeline organizations focused on job recruitment and training opportunities and INL can introduce these programs to governmental institutions. Organizations can include those like the Latin American and Caribbean Center for Rural Women, La Via Campesina, and Honduran Women and Farmers.

On top of this, there are educational initiatives INL can spearhead and delegate to increase awareness of trafficking. One can be focused on passing out pamphlets on planes highlighting resources if someone is being trafficked. Another is a red mask initiative, where those being trafficked can ask healthcare professionals for a red mask to let them know they are being trafficked.<sup>90</sup> Within the U.S., INL agents can go in industries faced with challenges that traffickers use to implement trafficking schemes. This can include visiting agricultural fields with translators and educating them of their rights if they are being trafficked and how they cannot be deported.

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<sup>87</sup> Ts, UNODC. "Human Trafficking Knowledge Portal ." *Human Trafficking Knowledge Portal*, 2020, [sherloc.unodc.org/cld/en/v3/htms/index.html](https://sherloc.unodc.org/cld/en/v3/htms/index.html).

<sup>88</sup> Seelke, Clare Ribando. "Trafficking in Persons in Latin America and the Caribbean." *Sup.fas*, 2016, [sgp.fas.org/crs/row/RL33200.pdf](https://sgp.fas.org/crs/row/RL33200.pdf).

<sup>89</sup> Bank, The World. "Jobs at the Core of Development: Transforming Economies and Societies through Sustainable Employment." *World Bank*, 2018, [www.worldbank.org/en/results/2018/02/13/jobs-at-the-core-of-development](https://www.worldbank.org/en/results/2018/02/13/jobs-at-the-core-of-development).

<sup>90</sup> Luciana Polischuk, Daniel L. Fay. "Administrative Response to Consequences of COVID-19 Emergency Responses: Observations and Implications from Gender-Based Violence in Argentina - Luciana Polischuk, Daniel L. Fay, 2020." *SAGE Journals*, 2020, [journals.sagepub.com/doi/10.1177/0275074020942081?icid=int.sj-full-text.citing-articles.3](https://journals.sagepub.com/doi/10.1177/0275074020942081?icid=int.sj-full-text.citing-articles.3).

Our last recommendation focuses on funding for long-term housing services and career training for trafficking survivors.<sup>91</sup> Current short-term transitional shelters leave survivors stranded on the streets after their temporary stay is over.<sup>92</sup> Since they do not have access to permanent emergency housing, these victims end up providing survival sex in order to purchase necessities such as food, shelter, and water. Engaging in this behavior in turn exposes them to being re-trafficked. Providing more funding to permanent housing means survivors can focus on rehabilitation and resettlement.

## CONCLUSION

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To conclude, the main causes of human trafficking and smuggling in the Western Hemisphere examined by this research report are as follows: (1) high demands for cheap labor which is perpetuated by chronic poverty, (2) economic stresses, (3) the machismo and patriarchal culture documented within our researched countries, (4) established trafficking networks by gangs and cartels, (5) political will to investigate and prosecute these crimes due to documented public corruption, (6) restrictive U.S. immigration policies result in increased illegal migration into the U.S., (7) limited access to proper education and (8) limited economic and social opportunities for women that resort to gender-based violence and smuggling of women. Strict border policies and increased militarization in the Mexican-U.S. borderlands have not dissolved trafficking and smuggling in the Western Hemisphere but have made alternative routes more dangerous and costly for victims. In order to fight the continued rise of trafficking and smuggling in the region, contradictory laws that address human trafficking and smuggling must be identified and revised in order to adequately prosecute crimes and to offer proper victim protection to mitigate the cycle of abuse. The above recommendations should be implemented to create a comprehensive system that targets the causes and effects of trafficking at the source. In addition, partnership with local NGOs to provide an intimate perspective will bridge the gap between developed countries' points of view on how to handle this issue. Implementing these recommendations into action is crucial in limiting trafficking in person as well as smuggling in the region.

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<sup>91</sup> in person, office of trafficking. "Innovative Solutions to Expand Housing Options for ..." *Administration for Children and Families*, 2021, [www.acf.hhs.gov/sites/default/files/documents/otip/Innovative\\_Solutions\\_to\\_Expand\\_Housing\\_Options\\_for\\_Survivors\\_of\\_Human\\_Trafficking.pdf](http://www.acf.hhs.gov/sites/default/files/documents/otip/Innovative_Solutions_to_Expand_Housing_Options_for_Survivors_of_Human_Trafficking.pdf).

<sup>92</sup> Urban Development, Housing and. "Frequently Asked Questions Let's Talk Video Series ... - Hud." *Hud.gov*, 2020, [www.hud.gov/sites/documents/CFBNP\\_FAQTRAFVIC.PDF](http://www.hud.gov/sites/documents/CFBNP_FAQTRAFVIC.PDF).