The Plight of Undocumented Female Migrants: Identifying Structural Factors that Contribute to the Proliferation of Sex Trafficking and the Failings of International Law

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The Plight of Undocumented Female Migrants: 
Identifying Structural Factors that Contribute to the Proliferation of Sex Trafficking and the Failings of International Law

An Honors Thesis submitted in partial fulfillment of the requirements for Honors Studies in International Relations

By

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Introduction

Women, borders, and violence are all interconnected. Migration, whether legal or illicit in nature, involves risk and exposure to dangers that threaten the safety of migrants. One of the most striking consequences of migration across borders is abduction into sex trafficking networks. My analysis of these patterns of movement and their consequences focuses on the extralegal efforts of women who migrate transnationally from Honduras, Guatemala, El Salvador and Mexico to the United States. The movement of women and their exceptional exposure to violence and forced absorption into trafficking organizations merits an investigation into the conditions within their country of origin that compel them to relocate.

Migration is not a linear journey from one place to another but rather a complex, precarious trek across what is often hostile territory. Women who choose to embark on such journeys are often exposed to a myriad of forces that compromise their safety and lead to the violation of their human rights. This project seeks to identify the structural factors that cause undocumented female immigrants to leave their homes and place them at risk for abduction or recruitment into sexual exploitation. I argue that human mobility raises questions about international human rights law and its ability to effectively protect those who find themselves outside the provisions of legal and social protection. My analysis is based on an examination of existing literature on trafficking in this region and on agencies who serve these communities of victimized women.

My research questions were as follows: What factors impel patterns of movement that often place undocumented female migrants at risk for sexual exploitation? What legal mechanisms ensure the protection of women who traverse in extralegal spaces? Do
such legal precautions exist? Are there other models which better serve victims and ensure their protection in the future?

My argument will evolve along the following lines: In Chapter 1, I analyze the vulnerability of female irregular migrants and how the factors that push and pull them to leave their communities contribute to their being absorbed into the sex industry. I specifically explore the role played by poverty, job insecurity, and the potent atmosphere of violence in Mexico and the Northern Triangle in the decisions of females to undertake irregular, northward migration patterns. Chapter 2 takes a closer look at sex trafficking operations that undermine the rule of law in Mexico and the Northern Triangle. I focus on the actors in this regime of exploitation and attempt to dispel assumptions about the identity of traffickers. In addition, I explore the conditions at two specific border zones that render female irregular migrants especially vulnerable. Chapter 3 discusses the ineffectual nature of international law and existing policy regarding the trafficking of humans. I scrutinize the legal failings of the international law-making community with regards to the safeguarding of women whose socio-economic conditions prompt their international movement. In addition, I assess the failure of quantitative data to accurately represent the extent of sex trafficking. I assert that policy makers must recognize and address the lack of legal protection available to unauthorized migrant and the underlying conditions behind the burgeoning of sexual exploitation. Lastly, Chapter 4 proposes practical solutions by examining models used by non-profit organizations in combatting sex trafficking that take into account both victim protection measures and the enforcement of justice.
Chapter One | Migration Rationale for Latina Women

The attempts of women to achieve social mobility, and by extension global mobility (Pickering 2011), often cause them to bypass legal avenues of migration and to seek alternative ways to gain access to better job opportunities, increased personal and familial safety, and upward social mobility. The “effective target hardening of the wealthiest nations” (Pickering 2011:1) against less developed countries has resulted in increased illegality when it comes to border crossing. This is especially true of the U.S.-Mexico border, where heavily trafficked areas have witnessed an increase in military grade technology and intervention by government-sponsored task forces such as the United States Border Patrol and Customs and Border Protection agents that specifically target illegal migrants. These security efforts have only served to push migrants to dangerous fringes of the border where drug and human traffickers hold sway. This state of affairs produces serious gendered consequences. As women migrants enter such liminal border zones, they are frequently exposed to violence, against which there is limited legal protection due to their status as unauthorized migrants. In the absence of effective state mechanisms of protection, women migrants are frequently made vulnerable to abduction into trafficking organizations. The unconventional methods that Latina women resort to in order to successfully reach the United States are often a direct result of both the lack of local opportunities and social mobility brought on by poverty as well as high levels of crime and gender violence in their home communities. I investigate these factors below.
Human trafficking is now a “growing component of international crime” (Shelley 2010:110). It can “no longer be dismissed as a niche perversion or a psychological oddity” (Dillon 2008:122) but demands to be treated as a form of organized crime of global importance. Undoubtedly, “globalization, with its greater opportunities for human mobility, has created new possibilities to service the pre-existing demand” (Dillon 2008:174) for human slaves, especially sexual slaves. The access that traffickers enjoy, due to rapid globalization, to even the most remote locations in the world enables them to prey on even more people. In the same vein, the internet serves as a useful tool for the human trafficker because it diversifies their recruiting techniques. Globalization and the transnational movement of people are realities that are not likely to disappear any time soon, but the trafficking and sexual exploitation of humans should not be the price we pay for achieving extensive global networking, transnational trade, and an interactive and connected world.

Current sociological analysis of sex trafficking focuses on the notion sex trafficking is an intrinsically evil practice pursued by perverted males who use clandestine and deceptive methods to abduct or recruit women. Furthermore, many of these analyses focus chiefly on the crime itself and the sexual predators involved in the crime. Typically, they apply what is known as the prosecution-oriented model (Dillon 2008) which has been criticized for its tendency to neglect victim protection measures. This approach focuses solely on facilitating the prosecution of traffickers and has resulted in the creation of legal policy primarily concerned with realizing this goal. This method has been criticized for its tendency to neglect victim protection measures and “obscure
the question of how and why demand…to sexually exploit is so pervasive and broadly based” (Dillon 2008:124). While it is of course necessary to focus on the crime and the criminal, such an exclusive approach does not deal with the fact that effective legislation and other mechanisms are needed to properly protect and serve victim populations. In addition, most current approaches to the phenomenon fail to take account of socio-economic factors in the sending countries that drive women into migration and the arms of sex traffickers. An approach that focuses on the factors that place women at risk for absorption into the sex trafficking industry is not undertaken in order to deflect attention away from offenders but rather to underscore that poverty, migration, disenfranchisement, gender inequality, and violence are interconnected with sex trafficking. These factors must be considered in order to better understand the full scope of migration and contextualize them as realities that jeopardize a woman’s safety and human rights.

1.2 Push and Pull: Factors that Compel Latina Women to Attempt International Migration and Extra-Legal Border Crossing

It is essential to note that extra-legal migration can be viewed through two distinct lenses. Both push and pull factors must be examined in order to understand the rationale for migration and the illegality that results from border crossing attempts. The first question one must ask when analyzing illegal migration of Latina women is, what compels them to leave their nations, jobs, families, and security to initiate migration efforts to the north? Additionally, what are the primary factors that drive women to depart from their familial and communal structures of protection and take great risks in
order to gain access to better opportunities and conditions? In addition, what economic and social dynamics serve as draw factors that beckon women to pursue relocation?

Although there are a myriad of factors that compel women to seek safety and opportunity in the U.S. such as destabilized governments, U.S. demand for a low-skilled labor-force, natural disasters, and education opportunities, I focus here on the one that is most glaring: pervasive violence in the sending countries. Central America is arguably predisposed to violence simply due to its geographical predicament: positioned between the world’s largest drug producers in South America and the world’s greatest consumer of illegal drugs, the United States (Council on Foreign Relations 2012). Is it any wonder that this alleyway which serves as a conduit for illicit activity also fosters some of the most violent activity in the world? According to a study conducted by the Latin American Public Opinion Project at Vanderbilt University in 2014, natives of Central America, especially citizens of the Northern Triangle (El Salvador, Honduras, and Guatemala), were more likely to have intentions or to have previously attempted to migrate to the United States if they had experienced direct exposure to crime (Hiskey 2014:3). The map below (Figure 1) shows global homicide rates by country or territory as of 2012 or the latest year:
According to the data presented here, homicides in Mexico and Northern Triangle are exceptionally high on a global scale. As compared to the rate of 3.00 – 4.99 homicides per 100,000 people in the United States, Mexico experiences 20.00 – 29.00 per 100,000 and El Salvador, Honduras, and Guatemala experiences 30.00 or more per 100,000 (UNODC 2014). The high level of homicide rates occurring in the countries I focus on attest to the fact that Mexican and Central American citizens’ experience of high levels of violence are a significant factor in increased migration efforts. Note that although homicide is not the only crime that occurs in these countries, it can produce traumatic effects that certainly encourage the consideration to migrate.
Honduras in particular has been recognized since 2010 as having one of the highest murder rates in the world (Human Rights Watch 2015). Its homicide rate peaked in 2011 at 91 murders per 100,000 people as compared to the United States rate of 5 murders per 100,000 people (United Nations Office on Drugs and Crime, Global Study on Homicide 2013). Although this rate decreased to 66 per 100,000 people in 2014, it is still an alarming frequency for a country not currently engaged in warfare. The following figure (Figure 2) displays the unmatched magnitude of violence in Central America, especially Honduras and El Salvador, in comparison to figures for South America:

![Homicide rates at the national level, selected countries, by sub-region (2012 or latest year)](image)

Although Mexico experiences fewer annual homicides than Honduras, El Salvador, and Guatemala, the rate there is still significantly higher than that in the United States. The high levels of violent crime and the pervasive corruption that impedes prosecution are important factors influencing individual migration decisions and pushing women to leave their familial and communal institutions of safety and protection. I will discuss the implications of these decisions in a later chapter.
Furthermore, a recent study conducted for the Global Burden of Armed Violence (GBAV) 2011 report concluded that there is significant evidence of women’s ongoing exposure to high rates of gender-motivated killings in these countries. Although the majority of homicide victims are men, “women are the primary victims of intimate partner homicide,” (GBAV 2015) also known as intimate partner femicide (World Health Organization 2012). Is it any wonder that women choose to leave patriarchal structures of protection when they become volatile and abusive, if not life-threatening? This form of violence is especially prevalent in the Northern Triangle nations. El Salvador experiences the highest rate of femicide in the world at 12 per 100,00 people (Small Arms Survey 2012), closely followed by Guatemala with the third highest and Honduras the sixth (GBAV 2011). The turbulent era of civil wars that plagued the Northern Triangle during the 1980s and 1990s has resulted in femicide becoming quite common and almost normalized. According to Carey, the “naturalization of gender-based violence…promote[s] the systemic impunity that undergirds femicide today” and serves to “perpetuate post-war violence” (Carey 2010:142) that predominantly targets women. A statistical examination of homicides where females are specifically targeted reveals a correlation between nations that exhibit high homicide rates and nations with high rates of femicide. A 2013 study conducted by the United Nations Office on Drugs and Crime found that two thirds of all victims of intimate partner/family-related homicides are female. This statistic demonstrates the trend of intimate partner violence disproportionately perpetrated against females rather than males. Males who are homicide victims, in contrast, are routinely killed by someone who they do not know.
When the heavy influx of immigrants to the United States and the increasing number of border apprehensions are viewed through the lens of the pervasive violence that plagues the Northern Triangle, one notes a significant correlation. An article published in 2016 by the Texas Tribune compares the number of border apprehensions of Central Americans to that of Mexicans:

Through August of this year, there were a total of 369,411 apprehensions on the U.S.-Mexico border. More than half of those were of non-Mexicans… As of July, the border patrol had apprehended 57,344 people from El Salvador, 58,337 from Guatemala and 41,042 from Honduras compared to 160,193 from Mexico. (Dearman and Hill 2016; U.S. Customs and Border Protection)

This mass “exodus” from the Northern Triangle (Tuckman 2013) is a tangible result of the unofficial “civil war” (Tuckman 2013) being waged between two notorious street gangs, Mara Salvatrucha (MS-13) and the 18th Street Gang (M-18), who operate predominantly in Honduras and El Salvador. Contrary to popular belief that these two gangs originated in Central America, MS-13 and M-18 emerged from the streets of Los Angeles during the 1980s as El Salvadoran migrants sought asylum from their war-ravaged country. During this time, MS-13 and M-18 established a significant presence in the United States. Formed in response to violence perpetrated by gangs that flourished in Southern California in the same areas that migrants were settling, such as the Bloods and Crips, membership in MS-13 and M-18 served as means of self-protection as well as a mechanism to cope with social exclusion. Gangs “banded together under the threat of mutual retaliation” (Sobel 2009:996) from rival gangs in an effort to establish solidarity and structure in a chaotic and violence-prone environment. U.S. government crackdown
on gang violence in the 1990s, however, resulted in the expulsion of gang members back to El Salvador and Honduras. There they have “mutated into a fast-expanding, transnational organized crime networks” (Wolf 2012:65). Following the end of the civil war in 1992, the U.S. government began to seriously target foreigners for repatriation (Wolf 2012). Entire communities of noncitizens, especially El Salvadorans, were deported back to their war-devastated nation, and there the availability of weapons still remaining from the war produced an atmosphere conducive to gang hegemony. Among the new immigration rules was a regulation that banned the U.S. from disclosing the criminal backgrounds of deportees (Arana 2005:2), effectively obscuring the criminal capacity of many deportees returning to the country. According to a 2007 Congressional Research Service Report for the United States Congress, “high impunity rates and lack of reliable data” (CRSRC 2007:1) contribute to an inability to accurately assess the extent of street gang activity and ties between government personnel and gang members in Central America. Government negligence, pervasive corruption, and lack of an effective anti-gang strategy contribute to the proliferation of gang-perpetrated violence in the post-civil war era. The same trends are in Guatemala and Honduras, which both suffered from the effects of their own civil conflicts that ended in the mid-1990s.

Not surprisingly, many women of the Northern Triangle concerned for the wellbeing of their children who are targeted by gangs are inclined to leave. MS-13 and M-18 have both been known to recruit members as young as nine (Arana 2005). Many single mothers work multiple jobs and are therefore absent from their children’s lives. In this context, gangs “function as surrogate families” (Arana 2005:3) for children whose parents are jailed, dead, absent, or otherwise preoccupied. In addition, the absence of a
serious collaborative effort between the United States and Central American nations to combat ultraviolent gang activity, the criminal enterprises continue to grow and flourish. The United Nations has repeatedly tried to establish investigative commissions to assist nations such as Guatemala in identifying and dismantling organized, gang-affiliated crime within the government. Despite these efforts as well as proposals to provide financial resources, Guatemala rejected the UN offer in 2002 (Arana 2005). But even if such efforts had been initiated, they would not have addressed deeper-seated issues such as unbridled corruption inside the government apparatus and severe urban poverty that create an environment conducive to gang violence and criminal activity.

A study conducted by the Latin American Public Opinion Project at Vanderbilt University in 2014 found that there is a significant correlation between victimization, personal experience with violence and corruption, and decisions to leave one’s country. This conclusion indicates that the combination of fear of potential victimization, actual victimization, political instability, a desire to avoid recruitment into gangs, and pervasive insecurity all contribute to the migration rationale of Latinas living under such conditions. These factors serve as “significant predictors of migration intentions” (Hiskey 2014:6) and also serve as catalysts prompting a woman’s decision to leave her community and country. Such female migrants therefore are seeking safety and escape from the forces of violence and corruption that surround them, inflict trauma, and compromise their ability to live in peace.

A second important factor that contributes to the migration rationale of Latina women is the instability of local employment opportunities and prevailing low wages. The abundance of labor intensive employment opportunities available in the United States
serves a pull factor. The influx of transnational companies in Mexico and Central America beginning in the 1970’s has mostly obliterated small-scale industry in Mexico and Central America (Prieto 1985). The termination of the Bracero Program in 1964 and the subsequent implementation of the Border Industrialization Program by the United States government resulted in considerable industrial expansion in the U.S.-Mexico borderland. This altered the dimensions of the socioeconomic structure and employment demographic not only in Mexico but also in many Central American nations when offshore industry located there as well. Although foreign companies that set up factories in Mexico and the Northern Triangle offer many labor intensive employment opportunities to unskilled workers, over time such jobs tend to threaten the physical and emotional health of employees. The labor conditions in the maquiladoras that dot the U.S.-Mexico border jeopardize the stability of employment and health conditions of workers (Moure-Eraso 1997). The many published accounts of the experiences of maquiladora workers, who are predominantly female, present frightening narratives of factory work. Such jobs are characterized by heavy pollution, low-wages, exposure to harmful chemicals, and the prevalence of physical and emotion abuse (Moure-Eraso 1997). Negligence of maquiladora supervisors for the wellbeing of their employees and the failure to address systemic occupational hazards makes for a grim working environment. For many women, familial connections and employment in potentially better-regulated conditions in the United States provide incentives to migrate north. According to Shirk, “mass migration of women responding to market demands for labor in the United States (and/or reuniting with husband and family members who migrated
before them)” (Shirk 2004:2) has resulted in an influx of the migrants at the border who hope to gain unauthorized access into the United States.

The North American Free Trade Agreement enacted in 1994 under the Clinton Administration resulted in trade liberalization and increased movement of capital across borders. This asymmetrical agreement, however, compromised the cyclical movements (Fernández-Kelly 2007) of Mexicans who had previously moved relatively freely between the United State and Mexico. Although the new trade deal ushered in the expansion of Mexican trade, according to some reports exports surged from approximately $60 billion in 1994 to almost $400 billion in 2013 (Castañda 2014), NAFTA implementation meant Mexican economic dependency on exports to the United States, a drastic reduction of Mexican agriculture (especially the staple crop of corn) due in large part to competition from subsidized U.S. farmers, and acute unemployment (McBride 2017). According to a 2017 report issued by the Council of Foreign Relations, Mexico’s economy grew approximately 1.3 percent a year (McBride 2017) between 1993 and 2013. Not surprisingly, “poverty remains at the same levels as in 1994” (McBride 2017). Indeed, Mexico’s economic landscape has suffered greatly since the enforcement of NAFTA to the point where the notion of economic prosperity and social mobility seem unattainable goals for Mexican women.

Examining female migration through a gendered lens offers another means by which to understand both illicit and non-illicit movement. The economic prospects offered by migration, family reunification, and social mobility also prove to be attractive motivators for migration (Canudas-Romo 2004). By considering the social and economic roles of Latinas in their home communities, the feminization of poverty begins to take shape.
Research concerning the distribution of poverty have concluded that poverty disproportionately affects women compared to men (United Nations Department of Economic and Social Affairs 2015). The following graphic (Table 1) illustrates the poverty rate by sex of household members in two age groups in Latin America and the Caribbean between 2006 and 2012:

Source: Economic Commission for Latin America and the Caribbean (ECLAC)

This data confirms the notion that the burden of poverty afflicts females more than men, and especially females ages 25-34 in Latin America. In an effort to escape impoverished conditions, many women resort to migration. Shawn Kanaiaupuni notes that the start-up costs associated with international mobility, however, can often be a deterrent for potential migrants. This is where the importance of social networks and familial ties comes into play. Women who possess kinship ties in the United States for example, have social capital that reduces risk in transnational migration and ensures access to information concerning border crossing, job connections, and economic aid (Kanaiaupuni 2000). With this in mind, one can conclude that lack of kinship ties in the destination
country increases exposure to abduction or recruitment into illicit industries such as sex trafficking.

In conclusion, a woman’s decision to leave her socially implemented structure of protection, whether a husband, male guardian, or community is often the culmination of escalating aggression in her immediate environment, lack of decent jobs, as well as the means to escape poverty. A combination of personal and external factors undoubtedly work in tandem to encourage and push female migration in Mexico and the Northern Triangle. Mexico is largely afflicted by the economic factors while the Northern Triangle largely struggles from the fallout from war. I discuss the effects of war in regards to sex trafficking in further detail in the following section.

1.3 A History of Violence and Dispossession

In addition to the factors mentioned above, it is essential to apply a historical lens in order in order to better contextualize the scope of sex trafficking in the countries of the Northern Triangle and to identify the factors that have led to the establishment and sustained presence of violence in the Northern Triangle. The political and socioeconomic landscape of these nations, especially El Salvador, have been scathed by “civil conflicts, political struggles and military clashes” (Smith 2010). An examination of the civil wars that ravaged El Salvador and Honduras during the 1980s and 90s reveals the legacy of trauma and brutality that have ongoing effects, helping produce and sustain current violence and also the flourishing of the trafficking industry in this region. I focus here specifically on El Salvador due to the exceptional nature of the civil war that dislocated thousands of people and saw the arbitrary murder of entire communities such as El Mozote and El Calabozo (Danner 1994).
The assassination of Archbishop Oscar Romero in 1980 was the spark that ignited the fire of war in El Salvador. The ensuing conflict pitted the Farabundo Martí National Liberation Front (FMLN), an alliance of five left-wing guerilla groups, against the U.S.-backed military junta forces of the Salvadoran government (Haggarty 1988). At the heart of this bloody conflict were issues of poverty, inequality, failed social and economic reform, and the struggle for land control. Not surprisingly, these are the same factors that have incited large scale northern migration movements. The war saw a large flow of El Salvadorans to Honduras, Guatemala, and Nicaragua – countries also afflicted by civil conflicts. Seeking refuge from the civil strife laying waste to their communities, Salvadorans fled to nearby countries in numbers that overwhelmed already strained local resources. A country study on El Salvador indicates the extent of displaced persons stating:

Some 20,000 Salvadoran refugees...sought sanctuary in Nicaragua and an estimated 80,000 to 110,000 more relocated to Guatemala and thence to Mexico, many ultimately hoping to reach the United States. Indeed, between 1979 and 1988 as many as 500,000 Salvadorans were estimated to have reached the United States, the majority via Mexico (Haggarty 1988).

My personal experience with El Salvadoran refugees in Honduras is also relevant here. In the spring of 2016 I went to Honduras with Mercy International to provide medical assistance in La Esperanza, a small town northwest of Tegucigalpa. One day we visited a squatter camp on the outskirts of town to offer medical supplies and dental care. This small, make-shift neighborhood was composed of El Salvadorans who fled to Honduras during the civil war and have remained their ever since. We encountered many
children who were third generation migrants to this area. According to the accounts of these families, they are unwanted by the local community of La Esperanza and are scarcely tolerated by the government. One man alluded to the persisting animosity between El Salvadorans and Hondurans stemming from the 1969 war between the two countries (the so-called Football War) as a cause for their continued social exclusion.

When I asked whether they planned on returning to El Salvador, many responded that they indeed had plans to go back and that their current disposition was temporary. I followed their replies with another, more pointed question, why had they never acted upon those plans go back? Their responses mostly consisted of shrugs and the admittance of fear of returning to a country which they and their children hardly know. Although I was not in La Esperanza for ethnographic purposes, my brief interaction with the people who “temporarily” occupied this marginalized area of town speaks to the lasting effects of the devastating civil war that uprooted them almost forty years ago. Fear of the unknown and the absence of community prevents them from acting on their intention to return. Although they have made Honduras their home, they will never be fully welcomed or become a part of the social fabric of the greater community in La Esperanza. The economic and social disparity left in the wake of the civil war undoubtedly underpin the patterns of dispossession in the Northern Triangle and have fostered conditions suitable for discrimination and exploitation.

In the post-civil war era, limited governmental accountability and the use of the military in public security operations became rampant and continues to characterize law enforcement policy to this day (Ventura 2016). The widespread availability of firearms and the deportation of violent criminals by the U.S. government back to El Salvador
following the signing of peace accords contribute to continued civil conflict that has gradually become “an integral part of El Salvador” (Ventura 2016:13). The conditions I have outlined regarding El Salvador also pertain to Guatemala and Honduras where there was also civil conflict.

In this chapter, I have discussed the historical precursors as well as the social and economic factors that have given rise to an environment susceptible to crime and impunity and laid the groundwork for human trafficking operations to flourish. The next chapter focuses on the practical elements of sex trafficking in two distinct locations and the methods used by perpetrators that allow them to remain undetected. I also take a closer look at these individuals, and their respective motives.

Chapter Two | Dehumanization and Objectification: A Closer Look at Human Trafficking Operations

For the purposes of this thesis, I have adopted the definition of human trafficking proposed by the United Nations Office on Drugs and Crime (UNODC) Protocol to Prevent, Suppress and Punish Trafficking in Persons, due to its comprehensive nature:

The recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or the removal of organs. (UNODC 2003)
Approximately 20% of all migrants worldwide are female irregular migrants (UNODC), defined as migrants whose movements take place “outside the regulatory norms of the sending, transit and receiving countries” (International Organization for Migration). As women navigate exceptional spaces and engage in clandestine modes of transit, they are often exposed to a myriad of forces that compromise their safety, dignity, and human rights. In such spaces, “policing, militarization, and racism are particularly salient” (Vogt 2013:765). Competing interests between human traffickers, drug smugglers, and migrant smugglers have created dynamic networks of economic exchange and serve to commodify the precarious journeys of migrants (Vogt 2013). Moreover, the illicit exchange of capital and demand for labor, drugs, and sexual companionship reinforce structural violence and exploitation of undocumented migrant populations. The incorporation of sex trafficking into the mainstream economy in Mexico as well as the Northern Triangle, in particular Guatemala, has served to normalize the practice. Normalization occurs, for instance, in the form of smugglers contracting with taxi drivers to assist in the movement of abducted individuals and bribing public officers who agree to forge birth certificates and other legal documents (Ventura 2016). In addition, extensive corruption in government bureaucracies aids the collaboration between criminals and state officials and protects these law-breakers from investigation and prosecution. The fact that trafficking operations are deeply entrenched in the public sphere makes it exceedingly difficult to distinguish between victim and perpetrator since these identities are often ambiguous. I elaborate on this notion in section 2.4. In the absence of cooperation from local governments and law enforcement, international laws enacted to eradicate trafficking are rendered ineffectual. Corruption, extortion, and
bribery are common methods employed by traffickers operating in Mexico and the Northern Triangle that undermine the rule of law. This is the crux of my argument and will be discussed in further detail in Chapter 3.

The commodification of migrants by traffickers “insists upon objectification in some form, transforming persons and their bodies from a human category into objects of economic desire” (Sharp 200:293). In this sense, the ability to commodify migrants depends on their dehumanization as illegal, unwelcomed, and vulnerable persons who possess value as objects rather than as human beings. Control over migrants and the profitability of human trafficking and smuggling is contingent upon the migrants’ lack of autonomy and subjection to a continual state of dispossession. Moreover, the nature of human trafficking operations must be understood in order to analyze the shortcomings of local, national, and international legal efforts to protect migrants and their human rights.

2.1 Migrant Smuggling versus Human Trafficking

It is also important to describe the factors that distinguish migrants who are smuggled and migrants who are trafficked. According to the UNODC Smuggling of Migrant Protocol, the smuggling of migrants is defined as the:

procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.

In contrast to the definition of human trafficking provided by the UNODC, migrant smuggling is characterized by an individual’s consent and payment to a smuggler in order to gain entry into a foreign country. Although both trafficking and smuggling are crimes, the individual who chooses to be smuggled into a foreign country is “a willing participant
of criminal activity” (Ventura 2016:9) rather than a victim of kidnapping and exploitation. Additionally, a migrant exerts her agency when choosing to pay for transportation services, whereas a victim of trafficking is subjugated to the will of the trafficker. Unfortunately, women who seek out the services of smugglers often find themselves “diverted into trafficking systems” (Ventura 2016:9) where they are held and exploited against their will. In this manner, the distinction between a smuggled migrant and a victim of trafficking is obscured as she becomes both a victim of exploitation and a criminal guilty of utilizing illicit means to enter a foreign country.

2.2 Sex Trafficking Operations on the Guatemalan-Chiapas Border

I will map the journey of undocumented female migrants from the origins in the Northern Triangle all the way to the United States border beginning with the Guatemalan-Mexican border. I distinguish between the U.S.-Mexico and Mexico-Guatemala border regions because the conditions under which women become at risk, abducted or recruited into trafficking situations are notably different.

According to a study conducted by the Centro de Estudios y de Investigación en Desarrollo y Asistencia Social (CEIDAS), the Mexican state of Chiapas is the site of the majority human trafficking involving “irregular migrants from Guatemala, El Salvador, Honduras, and Nicaragua” (Índice Mexicano sobre la vulnerabilidad ante la trata de personas 2010; UNODC Transnational Organized Crime in Central America and the Caribbean 2012). The border between northern Guatemala and the southern Mexican state of Chiapas serves as the threshold where a migrant’s journey northward begins. Approximately 89% of human trafficking victims detected in this region are from El Salvador, Nicaragua, and Honduras suggesting a strong link to northward migration
However, the aggressive border protection measures employed by the U.S. government are not implemented with the same intensity by the Mexican government on the border that separates Mexico from Guatemala. A report issued by the Washington Office on Latin America (WOLA) in 2014 notes the porous nature of Mexico’s southern border and criticizes efforts to implement security measures as half-hearted at best (Isacson 2014). Cargo trains nicknamed “La Bestia” are the main option for migrants seeking transit across Mexico because they are usually policed lightly and traverse the great distance between Mexico’s southern and northern border. Trafficking in Chiapas is largely characterized by opportunism rather than carefully planned recruitment techniques, such as the fabrication of false employment opportunities as a lure to attract impoverished migrants. Successful recruitment or abduction into trafficking organizations operating along the Mexican-Guatemalan border is dependent upon inflows of irregular migrants who utilize “La Bestia” as a mode of transit (Villegas 2014).

Haynes notes that it is women who are already disenfranchised and lack future economic prospects within their communities who are most likely to fall prey to traffickers who patrol this border region (Haynes 2004). It is not uncommon for migrants to be denied access to the trains or be forcibly removed because they are unable to pay tariffs to those who control these routes. A report by the UNODC found that members of M-13 violently control southern migration routes in Mexico (UNODC 2012) and collude with cartels such as Los Zetas to maximize profits from migrant routes (Villegas 2014). Following their removal or rejection from “La Bestia,” women often become stranded in Mexico, caught in a treacherous, liminal domain. It is in this state of disorientation and isolation
that a cycle of exploitation often begins because citizenship and the rights to justice and protection become void. In the same vein, when women cross into a foreign land, their ability to exercise choice becomes constrained as they are subject to the will and intentions of gang members and corrupt officials who intercept their safe passage northward. Without resources or immediate help available to them, migrant women are frequently picked up by traffickers who exploit them for profit. Under threat of violence, female migrants are captured by gang members such as individuals loyal to Los Zetas, MS-13, and M18 and are brought to the site, such as a hotel or borrowed apartments, where they are subsequently forced into prostitution for an indefinite amount of time (Frank 2015). In this state, victims remain disempowered and often do not seek help because they are constantly subject to intimidation and the reality that they often have no where else to go (Frank 2015). The revenue from exploiting a victim is used to fund other gang operations such as obtaining firearms or purchasing items such as food and clothing to sustain the gang “family” (Frank 2015). Generating profit from prostituting women is dependent on having access to “a ready supply of females” (Frank 2015:365). A steady flow of female migrants from the Northern Triangle ensures that gangs have access to migrants whose bodies they can easily commodify.

2.3 Sex Trafficking Operations on the United States-Mexico Border

The United State-Mexico border poses a unique threat to women attempting to cross. Along the 2,000-mile geographical border between these two nations, both state and non-state actors present dangers to women. The increased security at the U.S.-Mexico border has the consequence of migrants relying on “‘professional’ smugglers (coyotes), who are uniquely positioned to engage in both labor and sexual exploitation”
Here, I elaborate on both governmental and non-state actors and the menace they pose to female migrants in this hazardous environment.

I will first discuss the varying methods utilized by the United States government to expand security and policing initiatives along its southern border. In 1994, the U.S. implemented a border policing strategy known as Prevention Through Deterrence (DeLeon 2015) which continues to serve as the border patrols’ chief operational strategy. This policy was enacted with the purpose of making the idea of crossing the border thoroughly unappealing to potential unauthorized migrants as well as traffickers. The point was to try to convince groups that the border was impenetrable and so to give up their pursuit of crossing altogether. However, controversy surrounding this strategy has sparked debate that this method has only served to push migrants to attempt to cross the border on its more treacherous areas, exposing them to harsh desert conditions and an increased likelihood of encountering drug traffickers who are also attempting to evade border law enforcement officials. The remoteness of the Chihuahuan and Sonoran deserts and their relative invisibility to the public eye due to media neglect no doubt further the objectives of the Customs and Border Protect (CBP) and removes accountability for the deaths of unauthorized migrants from the hands of CBP agents despite the U.S. governments’ failure to implement what the American Civil Liberties Union calls common-sense immigration systems which promote family reunification, pragmatic integration methods, and prioritize human rights over enforcement of Immigration and Customs Enforcements (ICE) and Drug Enforcement Agency (DEA) policies. In addition, numerous military technologies such as mobile surveillance systems, ground sensors, mobile X-ray technology, and Predator B unmanned aerial drones (American
Civil Liberties Union 2012) are now used along the border as deterrents which further exacerbate the already potent atmosphere of hostility and pervasive border aggression enforced by CBP. Furthermore, the rhetoric used in many formal government documents including Chad Haddal’s 2010 congressional report which refers to Central and South American immigrants as “aliens” is yet another method to disregard and subsequently justify the exertion of violence on unwanted persons accused of threatening the security of the U.S. border. The term “alien” implies an inherently “other” nature and fails to recognize the individual thus legitimizing mechanisms of violence in varying capacities utilized by border patrol agents in the name of protection and national security. The political vernacular used to refer to, in most cases, disenfranchised border-crossers strips them of their humanity, leaving only a grim picture of a foreign criminal crossing into the United States to incite alleged violence and instability against the American people. Ironically, this rhetoric reflects the same tactics employed by traffickers to disparage victims and acquire their compliance. All of these factors contribute to a greater dependency on coyotes who smuggle migrants across the border. In this way, smugglers essentially profit from migrants escaping from violence in gang-ridden areas or seeking better work to support their families. Unfortunately, many coyotes are complicit in trafficking and gang activity by charging migrants anywhere from 5,000 to 12,000 USD (Vargas 2014) in order to pay cartel taxes or fees that allow them to gain access to routes controlled by cartels such as the Zetas and the Gulf Cartel (Vargas 2014).

Although traffickers practice opportunistic abduction in this area, it is more common for traffickers to appeal to the desperation and hopelessness of women who have repeatedly been caught and deported or are attempting to cross the border for the
first time. Traffickers accomplish this by approaching disenfranchised migrants under false pretenses and attempting to persuade migrants that they can offer them a means by which to make money through high-paying employment opportunities (Frank 2015). Since many migrants cannot afford the fees demanded by coyotes to be smuggled into the United States, the prospect of employment is inviting.

2.4 Identifying the Traffickers

Human Rights First, a non-profit human rights organization, explains that trafficking is a process rather than a single offence (Human Right First 2014). Most modes of trafficking are usually dependent on a network of individuals as compared to an individual. Although instances of solo operators exist, they are less common in comparison to trafficking conducted by many people (Human Rights First Fact Sheet 2014). Each stage involves a wide range of both amateur and sophisticated criminals (Human Rights First Fact Sheet 2014). Trafficking operations are usually characterized by the following: 1.) use of recruitment techniques that lure, deceive, or force victims into exploitation and 2.) the transportation of victims from the point of recruitment or abduction to the sites in which victims are housed or the location where commercial exploitation will take place. The assumption that most if not all traffickers are male has proven to be erroneous. According to a report from the UNODC concerning the trafficking of women and girls within Central America, the demographic of traffickers operating in Chiapas is predominantly female, approximately 62 percent with 50 percent of those women were Guatemalan (UNODC Transnational Organized Crime in Central America and the Caribbean 2012). The 2014 Global Report on Trafficking in Persons prepared by the UNODC indicated that nearly 30 percent of convicted traffickers
between 2010 and 2012 were female offenders. A 2014 interview between Aidan McQuade, director of Anti-Slavery International and Kieran Guilbert of the Thomson Reuters Foundation news division revealed that women and girls choose to become traffickers themselves because it is a means of escape from exploitation. The UNODC found that women make up the largest proportion of traffickers in 30 percent of the 155 nations where data was gathered (UNODC 2014). Considering the extent trafficking perpetrated by female, I have had difficulty finding existing literature on the notion of the victim-turned-perpetrator identity and legislation that does not assume the propensity of women to be inherently passive and vulnerable. The existence of female traffickers and smugglers subverts the stereotype that women are only victims and challenges the “limiting depictions of one-dimensional female oppression” (Campbell 2008:240). The fixation that victims of sex trafficking are entirely female precludes efforts, such as the U.S. Department of States’ Trafficking Victims Protection Act which “typecast men in the role of trafficker and women as perpetual victims of violence” (Jones 2014:156), from holding women accountable for their complicity. Perhaps the most sinister consequence of female perpetrators is their unique ability to win the trust of potential recruits and manipulate other females into prostituting themselves (Jones 2014). Jones references Patricia Pearson’s analysis of why women get away with murder, which examines the rationale behind the reluctance of Western law enforcement officers to arrest female suspects and the utilization of “exonerative constructions” (Jones 2014:154) that are not applied to male perpetrators. This approach results in many female offenders “not making it beyond the detention stage” (Jones 2014:154) of the judicial process. The existence of female perpetrators of sex trafficking is evidence that many women possess the capacity
to operate within the intersectional framework of male dominated societies and defy the polarity of male power and female subordination (Copley 2014). However, the fact that women achieve agency in varying capacities by participating or assuming control of sex trafficking operations, their involvement in these crimes is often the result of their victimization. Thus a victim of sex trafficking who finds herself in the position of a perpetrator for one reason or another is experiencing a perpetual liminal state. Reflecting on Turner’s theory of liminality allows a deeper understanding of the phenomenon of the female perpetrator. A former victim turned perpetrator is not entirely a victim but not entirely a criminal, rather she is “betwixt and between” (Turner 1964) two fixed positions. Her identity as a victim is relatively certain: she is subject to abuse, exploitation, and a loss of rights. In the same way, her identity as a perpetrator is also relatively certain: she wields power over those whom she exploits and possesses some freedom to determine her activity. However, as both victim and perpetrator the distinction between the two is blurred and she may be subjugated to both simultaneously.

MS-13 and M-18 previously operating primarily in the Northern Triangle are increasingly involved in transnational organized crime, so much so that the lines between street gangs and organized crime rings have become indistinct. According to CRS Report for Congress published in 2007, street gangs previously operational within distinct locales have now expanding their holdings and operations beyond domestic borders. The involvement of groups that were previously localized street gangs in the business of trafficking victims demonstrates a “level of sophistication that closely resembles organized crime syndicates” (Franco 2007:6) and indicates that they have become criminally active in multiple countries by expanding their domain from domestic to
international arena, into Mexico and maintaining a significant presence in the United States.

For example, the MS-13 collaboration with Los Zetas cartel in Mexico to exert control over “La Bestia” train routes is evidence of their ability to expand operations. Gangs are drawn to U.S.-Mexico and Mexico-Guatemala border zones because the ability to retain victims due to higher populations of migrants awaiting passage into foreign territory. Employment within the realm of sex trafficking is highly profitable and serves as “an important source of revenue” (Frank 2015:344) for gangs in addition to drug smuggling. This trend is concerning since “profits are tied to the number of victims that can be prostituted” (Frank 2015:391). Simply put, gangs require significant amounts of money to keep their criminal enterprise operating and therefore are drawn to profitable criminal ventures such as sex trafficking. Monetary incentive makes for a formidable new threat known within academic and law enforcement communities as gang-controlled sex trafficking (Frank 2015). Although financial benefit is not the only reason gangs are motivated to partake in sex trafficking, it is undoubtedly the one that is most advantageous. The income earned by pursuing these ventures allows gangs to purchase weapons and other equipment that “gives a gang an edge in warfare” (Frank 2015:328) against rival gangs. In addition to supporting gang operations, consistent cash flows enable them to purchase the cooperation and complicity of government and law enforcement officials through bribery. Such complicity makes sex trafficking industry a relatively low-risk, high-profit enterprise when police investigation, prosecution, and efforts are decreased. This ability allows gangs to enjoy relative freedom in regards to their operations and participate in sex trafficking with impunity. Street gangs like MS-13
and M-18 therefore possess the means to effectively maintain trafficking operations. The geographical breadth of cliques that work under the MS-13 and M-18 gang umbrellas throughout the Northern Triangle and Mexico allow for far-reaching networks in which to successfully solicit victims of sex trafficking. The irony of gang-operated trafficking enterprises is that women migrating to escape violence inflicted by gangs fall victim to them on their way out and are exploited.

The solidarity and intense loyalty characteristic of gang membership creates an environment of collective depravity (Frank 2015). Since violence and moral indecency is ingrained in the fabric of gang member relations, their conduct is normalized to the point where they are no longer cognizant that forced prostitution and the exploitation individuals is unethical. Thus, a distinct moral code is engendered to serve the purposes of gang activities and involvement in sex trafficking in a manner that ensures allegiance (Frank 2015). Furthermore, ultraviolent behavior of MS-13 and M-18 keeps victims in a constant state of fear which assures compliance. For example, female migrants who are picked up by gang members intending to prostitute them for profit comply with the demands imposed on them for fear of violent reprisal threatened against family members should they resist. This form of intimidation aids in mitigating the issue of submission that must be obtained for prolonged exploitation of a victim.

A woman’s migrant journey places her in constant danger and jeopardizes her human rights. The inescapable nature of violence and abuse is a fact of life for many women living in Central America, especially the Northern Triangle, the complexities of which cannot be fathomed by exclusively gathering quantitative data. The existence of gang-controlled sex trafficking indicates the devastation of violence that follows female
migrants even when they decidedly leave their communities for better opportunities and a safer livelihood in the north. All of the aforementioned factors underpin the systematic nature of violence perpetrated within migrant transit routes and contribute to the ineffectual nature of laws which strive to curtail the proliferation of sex trafficking. The following chapter is dedicated to developing this discourse and examining the successes and short-comings of international law.

Chapter 3 | The Limitations of International Law

Prior to initiating this project, I asked myself why human rights injustices persist despite significant legal efforts by the international lawmaking community to curtail the proliferation of human trafficking. Numerous legal and humanitarian initiatives such as the Polaris Project the Anti-Slavery and Human Trafficking Initiative, have been undertaken in order to more fully understand and address the issue of human trafficking. Although the combined efforts of human rights organizations have brought the issue of trafficking to the forefront, they have not succeeded very well in safeguarding individuals who are subject to human rights violations during their migration journey. There still exist a myriad of factors that prevent the effective enforcement of international law regarding sex trafficking. Since trafficking is a unique criminal phenomenon that transcends international borders and various jurisdictions, it requires the collaboration of law enforcement officials and governments on an international level. As we have seen in the previous chapter, “multiple actors are implicated in both global processes and local economic markets that profit from human mobility” (Vogt 2013:776) and therefore a tailored response must be enacted if proper enforced and prevention is to be achieved.
In this chapter I explore the shortcomings of the U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons and the Trafficking Victims Protection Act enacted by the United States. I explore mechanisms of international accountability and the effects of data incongruence. I also analyze the various anti-human trafficking initiatives in Mexico and the Northern Triangle. Finally, I address how the illegal status that migrants take on while they navigate through extralegal zones often renders them ineligible to certain forms of protection and relief.

3.1 Assessing the Gap

In order to address the ineffectual nature of international law and propose methods of improvement, we need to identify the disparity between the implementation of laws and their enforcement. The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (UN Protocol) came into force in December of 2003 (UNODC 2003) and serves as the most widely accepted international standard of anti-trafficking legislation. Of the 173 participant nations at the United Nations Convention against Transnational Organized Crime, 117 nations signed and subsequently ratified the protocols. Among these nations were Mexico and El Salvador, whose governments ratified these protocols on March 4th, 2003 and March 18th, 2004 respectively. Representatives from Honduras and Guatemala, however, did not participate in the signing of the protocols but did ratify them at a later date. By 2012, a total of 157 countries of the 193 members of the UN had ratified the UN Protocol (Seideman 2015). Since its initial implementation, anti-trafficking efforts by signatories have largely been devoted to the arrest, prosecution, and punishment of traffickers (Dottridge 2007) rather than the creation of victim protection measures which prioritize human rights and work to
eradicate abuses such as gang violence and government corruption. As we have seen, victims of trafficking are routinely subject to violence and human rights violations in their home communities as well as along their migration route. Although emphasis on the punishment of traffickers is necessary to combat human trafficking, I argue that there are important, intersectional factors which hinder the ability of international legislation to fully dismantle trafficking operations through the use of the prosecution-oriented model (Haynes 2004).

According to David Gagnes’ InSight Crime Analysis on human trafficking in Latin America, human trafficking is the third largest criminal industry in Latin America, after drug and arms trafficking (Gagne 2014). The presence and growth of trafficking operations in Latin America suggest that prioritizing the criminalization of trafficking and prosecution of traffickers has been relatively ineffective in impeding trafficking efforts. According to the UNODC, the number of countries in compliance with international standards outlined by the UN Protocol had increased from 3 to 26 by 2014. The following data compilation (Table 2) displays the trends of compliance in Latin America since 2003:

**Evolution of Compliance to UN Protocol in Latin America**

<table>
<thead>
<tr>
<th>Year</th>
<th>Hardly compliant</th>
<th>Partially compliant</th>
<th>Compliant with international standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>23</td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>2008</td>
<td>6</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>2012</td>
<td>2</td>
<td>5</td>
<td>24</td>
</tr>
<tr>
<td>2014</td>
<td>1</td>
<td>4</td>
<td>26</td>
</tr>
</tbody>
</table>

Source: UNODC 2014, data compiled using Datawrapper
The following graphic (Figure 3) from the UNODC 2014 Global Report on Trafficking in Persons records the number of convictions per year between 2010 and 2012 in nations that have implemented legislative measures compliant with UNODC’s Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children:

![Conviction Rates](image)

Source: UNODC Global Report on Trafficking in Persons 2014

Despite significant legislative progress in the criminalization of trafficking in persons, such as the enactment of the UN Protocol in 2000 and summits such as the Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery in 1956 and the UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others in 1949 (King 2009), troubling dynamics persist that reflect the “difficulties of the criminal justice systems to appropriately respond to trafficking in persons” (UNODC Global Trafficking in Persons Report 2014:17). The relatively insignificant conviction rates recorded in the graphic above speak to the UN’s lack of success in creating a uniform procedure to combat trafficking and to hold signatories actively accountable. According to information provided by sixteen Mexican states to the National Citizen Observatory, of the 275 arrests made
between 2010 and 2013, only seventeen resulted in convictions (Cawley 2014). The situation in the Northern Triangle is similarly grim. Between 2009 and 2015, police records indicate 774 arrests of suspected traffickers in El Salvador, Guatemala, and Honduras combined but just eighty-four convictions (Lopez 2015). Although Honduras and El Salvador have made modest advances in curtailing trafficking, Guatemala still lags behind at just thirty-three convictions out of a total of 604 detained traffickers between 2009 and 2013 (Lopez 2015). Low conviction rates are also evidence of a failure of these nations to implement laws even after “undertaking domestic and international obligations” (Haynes 2004:224) such as signing the Protocol of 2000. As of 2011, of all the countries determined to be in compliance with the UN Protocol, “forty percent have yet to enforce their anti-trafficking laws and make a single conviction” (Seideman 2015:6). If compliance with the UN Protocol is intended to produce higher conviction rates of traffickers, the gap between laws and convictions rates is not encouraging. The prosecution-oriented model has shown to be insufficient in eradicating trafficking. It is clear that a new, more contextualized approach that considers the socioeconomic conditions, endemic poverty and violence, as well as pervasive corruption that afflict Latinas living in Mexico and the Northern Triangle is needed to remedy enforcement issues and implement measures to mitigate governmental negligence.

3.2 The United States TVPA Tier System: A Mechanism of Accountability?

Prior to discussing data incongruence and the gap between law and practice, I wish to outline the mechanics of the TVPA Tier system used by the United States government to rank foreign nations efforts in combatting human trafficking. The TVPA system is used by the U.S. Department of State to determine a nation’s compliance with
the 2000 Trafficking Victims Protection Act (TVPA) implemented by the United States government (U.S. Department of State). Section 108 of the TVPA specifically outlines the minimum standards for the elimination of trafficking and the criteria for each ranking. The rankings are divided into three distinct levels. The first tier, as defined by the U.S. Department of State, consists of countries whose governments fully meet the standards outlined in the TVPA. The second is composed of countries whose governments are not fulfilling the TVPA’s minimum stands but are “making significant efforts to do so” (U.S. Department of State). The third tier includes countries whose governments “do not fully meet the minimum standards and are not making significant efforts to do so” (U.S. Department of State). In addition to these primary categories of compliance, the Tier 2 Watch List, situated on the boundary of Tier 2 and 3, identifies countries at risk for becoming non-compliant. Three qualities distinguish this tier from the others: Firstly, victims of trafficking are significantly increasing in number. Secondly, there is a failure to provide evidence that these governments are taking the necessary steps outlined in the TVPA to combat forms of trafficking in persons. Lastly, the country’s decisions to take preventative steps against human trafficking was based on commitments made for the next year. Currently, the governments of El Salvador, Honduras, Guatemala, and Mexico do not fully comply with the minimum standards outlined in the TVPA for the elimination of trafficking and thus are all ranked under Tier 2 with the exception of Honduras which is currently on the Tier 2 Watchlist (U.S. Department of State). The TVPA, the Tier system, and the annual Trafficking in Persons Report issued by the Office to Monitor and Combat Trafficking in Persons serve as the U.S. government’s principal tools to coordinate anti-trafficking efforts in the United States but also the
“primary means of anti-trafficking accountability” (Smith 2013) throughout the world. However, there exits a few problems with these systems. I elaborate on these in the following section.

3.3 The Troublesome Nature of Data Incongruence

Accountability is an integral part of effectively enforcing anti-trafficking legislation. It is contingent, however, upon the availability of information concerning anti-trafficking efforts in compliant nations. Information gathered by human rights organizations and law enforcement agencies that is used to enforce accountability measures includes the quantity and degree of effectiveness of anti-trafficking legislation, increased convictions, and decreased persons being absorbed into trafficking organizations. This data is usually determined by quantitative indications which are often obscured due to misinformation (Merry 2016). Accurate data collection has long been a challenge for those whose goal is the elimination of sex trafficking and human trafficking as a whole. In her book The Seductions of Quantification, legal anthropologist Sally Engel Merry notes that global indicators of human trafficking are often “decontextualized, homogenized, and remote from local systems of meaning” (Merry 2016:3). Although quantitative data is a means by which to measure the dimensions of trafficking in the matrix of human rights violations, quantitative data often falls short of accurately representing the full extent of sex trafficking. Moreover, the quantitative incongruences regarding sex trafficking in the Northern Triangle and Mexico are quite daunting.

For example, International Crisis Group estimates that sex trafficking victims in Mexico range in numbers from 50,000 to 500,000 (International Crisis Group 2016).
However, a four-year examination of human trafficking in Mexico, conducted by the National Citizen Observatory between January 2010 and July 2013, reported that sixteen Mexican states calculated no more than 846 victims of human trafficking (Cawley 2014). The country’s other fifteen states failed to provide any data and the states that did provide information did not distinguish between which type of trafficking was perpetrated against victims. Furthermore, the sixteen states that provided information claimed that ninety-five percent of total victims were Mexican nationals, but data collected by the Federal Ministerial Police indicates a different trend (Cawley 2014). According to their analysis, “forty-eight percent of 276 victims were foreign” (Cawley 2014), the majority of whom were Guatemalan, Honduran, Haitian, and Salvadoran. Furthermore, 87 percent of victims were women (Cawley 2014). Assuming these figures are accurate, the victim demographic confirms that a significant portion of trafficking victims in Mexico are indeed female migrants from the Northern Triangle. The lack of information from half of all Mexican states, however, prevents a comprehensive understanding of the scope of trafficking in the country and by extension it impedes the development of policy needed to eradicate its existence. These regional examples of data incongruence and contradictory victim estimates demonstrate the failure of local and national authorities to supply accurate, reliable data.

Another troubling facet of data collection is the fact that the United States “provides financial incentives to countries that report active anti-trafficking legislation and activity” (Seideman 2015:8) in order to assist them in developing anti-trafficking programs. This is especially worrying since the promise of financial backing often leads countries to misrepresent the extent of their efforts to halt trafficking operations and to
falsify other forms of related data (Seideman 2015). Without proper incentive and funding, many nations who exhibit heightened incidences of sex trafficking will have a difficult time identifying and adequately serving vulnerable populations. This predicament leads them to misrepresent sex trafficking trends in order to receive funds to compensate for the lack in resources. Alternatively, some nations inflate their intervention success in order to avoid foreign assistance sanctions enforced by the U.S. on countries that fall below the Tier 2 Watch List and into the Tier 3 classification of the TVPA Tier system (Hendrix 2010). This is especially true of nations in the Northern Triangle that are largely dependent on humanitarian assistance from the United States (Hendrix 2010). Inaccurate self-reporting is factored into the tier system as well as the Trafficking in Persons Report published annually by the U.S. which many nations utilize to determine the need for systems of intervention. Thus governments are often basing their anti-trafficking efforts on inaccurate data, often causing their exertions to fall short of the actual needs.

3.4 Local and Regional Obstacles that Conflict with Anti-Trafficking Efforts

Although international laws and standards like those mentioned above provide a basis for international anti-human trafficking efforts, these laws are characterized by sweeping generalizations and are not concerned with the particulars of individual nations. Article 9, Paragraph 4 of the UN Protocol states:

Parties shall take or strengthen measures, including through multilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment, and lack of equal opportunity.
The UN-backed anti-impunity commission, “Comisión Internacional Contra la Impunidad en Guatemala” (International Commission Against Impunity in Guatemala, CICIG) (Lohmuller 2016), the Mexican “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” (General Law for the Prevention, Punishment and Eradication of the Trafficking in Persons Crime and for the Protection and Assistance to the Victims of such Crimes) (Traulsen 2016), the Special Law Against Trafficking in Persons in El Salvador (U.S. Department of State), and the Honduran Anti-Trafficking Law passed in 2012 (U.S. Department of State) serve as the each nations respective legislative attempts to combat trafficking operations. Even though the governments in Guatemala, Honduras, El Salvador, and Mexico and are striving to make significant efforts to obstruct trafficking, fight against impunity, and stay in compliance with international regulations (U.S. Department of State TIP Report 2016), the existing legislation in these countries is rudimentary at best if one judges it on the basis of conviction rates. Many signatories of the UN Protocol in 2001, including Mexico and the Northern Triangle, amended the definition of trafficking so that the scope of trafficking is not consistent with what was originally proposed in the Protocol but is instead left up to state discretion (Hendrix 2010). This inconsistency contributes to problems with reporting and to decreased apprehension and subsequent conviction of suspected traffickers. Lack of governmental commitment serves as one of the most critical and debilitating limitations of international law. According to the 2009 United Nations Office of Drugs and Crime Report on Human Trafficking, between 2003 and 2008, there was a 45% increase in the number of nations that adopted anti-trafficking legislation. During
this five-year period, sixty-nine countries adopted national legislation that targeted traffickers. Such rapid application of anti-trafficking laws should have significantly lowered levels of human absorption into the trafficking industry, but current data from the UNODC indicates this is not the case. This can be attributed to the disconnect between governments’ willingness to pass laws and their subsequent preparedness and ability to enforce them.

An analysis of national and local efforts to combat trafficking reveals that the lack of resources in Latin American countries to effectively combat the proliferation of human trafficking is a significant issue. One of the greatest difficulties faced by nations that exhibit heightened incidences of sex trafficking is the factors which make people, especially women and children, vulnerable. Identifying the social and cultural context surrounding sex trafficking is of utmost importance. Ubiquitous poverty, violence, and corruption are three outstanding factors that hamper the ability of these governments to engage in measures that would increase conviction rates and reduce the exposure of vulnerable populations. Trafficking is difficult to detect and therefore effectively combatting it necessitates specialized training, stable financial backing, and coordination between government and law enforcement agencies.

The strategy of systematic disruption of trafficking rings, recommended by the UN Protocol, is extremely difficult to achieve since operations are often embedded in the social and economic fabric of communities in the Northern Triangle and Mexico. As mentioned in the previous chapter, gangs pose an enormous barrier to enforcement. Gangs are the primary perpetrators of sex trafficking in Central America, as it serves as a lucrative form of income to sustain gang operations. Gang taxes are also a common form
of extortion. From fruit vendors to gas station attendants, many business owners must pay
taxes to remain in business and avoid harassment or violent repercussions. When I
traveled to Honduras in 2016, we stopped at a gas station in San Pedro Sula before
driving through to La Esperanza. Our driver warned us not to get out of the car but
instead wait for the station attendant to assist us. While waiting for the attendant to fill
the tank, the driver informed us that we were on MS-13 turf and that the gas station
owners were required to pay taxes to the gang or risk facing violent retaliation against
their business and their families. In El Salvador alone, gangs extort $756 million USD
annually from local and multinational businesses (The Economist 2016). In this way,
virtually all businesses operating in gang territory may be complicit in trafficking
operations by the simple act of paying gang taxes. MS-13 and M-18 in the Northern
Triangle are slowly amassing the sort of wealth and political clout enjoyed by Mexican
criminal syndicates such as Los Zetas (The Economist 2016).

Unfortunately, human trafficking is an especially lucrative business. World-wide,
trafficking in persons for the purpose of sexual exploitation generates $99 billion USD
annually (International Labor Organization 2014). The economic hardships found in the
Northern Triangle and Mexico undoubtedly breeds desperation that affects every level of
society. Government officials and specialized task forces commissioned to combat
trafficking may deem it profitable to partake in criminal undertakings themselves if the
monetary incentive is great enough. In this way, government officials tasked with
implementing anti-trafficking measures according to the terms of their country’s
agreement to the UN Protocol are often complicit in trafficking operations. In March of
this year, Devis Leonel Rivera Maradiaga, one of the leaders of Cachiros drug trafficking
network operating in Honduras, testified in a New York court that he had repeatedly bribed the former president of Honduras, Porfirio Lobo (Bargent 2017). Maradiaga confessed that the former president coordinated with him on multiple occasions to ensure the safe passage of cocaine through the country (Bargent 2017) in exchange for compensation. Although the guilt or innocence of Lobo has yet to be determined, the allegations that implicate government officials in the endeavors of crime syndicates indicate the potential depth of collusion between public servants and criminal individuals and the extent to which their agendas are entangled. Another notable case which exposed roots of corruption at the highest levels of governance is the arrest of former Guatemalan President Otto Pérez Molina and his Vice President Roxana Baldetti. In April of 2015, Guatemala authorities arrested Molina and Baldetti along with nearly two-dozen other government officials for a customs fraud scheme labeled “La Línea” (Lohmuller 2016). Baldetti was responsible for the creation of an investigative body consisting of three government officials charged with “strengthening penalties for human trafficking” (Stone 2012) just three years prior to her arrest and subsequent imprisonment. Baldetti allocated approximately five million quetzals (640,000 USD) to pay for the specialized training of the selected judges and prosecutor (Stone 2012). These are just a couple confirmed examples of the severe corruption that plagues this region and the disgraceful reality that government executives tasked with protecting civilians and their rights are often complicit in a plethora of criminal activities.

Governmental corruption and police negligence work in harmony to give rise to an environment ripe for traffickers to exploit. Much like trafficking in humans, the underground nature of corruption renders it an “extremely difficult phenomenon to
measure” (Seligson 2006:383). Due to the absence of a uniform statistical indicator (Ruhl 2011), the majority of bribes and corruption go undetected and can only be speculated upon. In his analysis of political corruption in Central America, J. Mark Ruhl notes that the primary step in “addressing political corruption should be to find the most accurate ways to measure its extent” (Ruhl 2011:33). The Corruption Perceptions Index (CPI) created by the anticorruption coalition Transparency International in 1995, serves as an internationally renowned measure of corruption. The CPI is a composite of data compiled annually from seventeen surveys produced by thirteen organizations, ranging from expert analysts to businesses which assess the overall extent of corruption in 176 countries (Transparency International, Governance Assessment Portal). The following table (Table 3) displays the rankings of nations in the Northern Triangle and Mexico according to the CPI collated in 2016:

**Corruption Perceptions Index, 2016**

<table>
<thead>
<tr>
<th>Country</th>
<th>Score</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>El Salvador</td>
<td>36/100</td>
<td>95/176</td>
</tr>
<tr>
<td>Guatemala</td>
<td>28/100</td>
<td>136/176</td>
</tr>
<tr>
<td>Honduras</td>
<td>30/100</td>
<td>124/176</td>
</tr>
<tr>
<td>Mexico</td>
<td>30/100</td>
<td>123/176</td>
</tr>
</tbody>
</table>

Source: Transparency International Corruption Perceptions Index
On a scale of 100, zero indicates nations which are highly corrupt and 100 indicates nations that are very clean, according to the Transparency International definition of corruption as “the abuse of entrusted power for private gain” (Transparency International 2011). With this in mind one can conclude that Central American nations are struggling when it comes to venality and would require substantial intervention in order to reform patterns of petty and grand corruption in the public and private sectors. However, these figures are “perceived levels of corruption, as determined by expert assessments and opinion surveys” (Transparency International 2011) which are prone to personal biases of informants (Ruhl 2011) and still have the potential to be “distorted by inadequate or inappropriate information” (Ruhl 2011:37). In addition, these numbers simply cannot capture the individual experiences of those negatively affected by corruption. Mitigating the epidemic of violence, gang manipulation, corruption in the public sector, and alleviating poverty that is so entrenched in Central American and Mexican communities must be a priority before international law can take roots and become effective to the fullest extent.

Poverty is a compelling factor in the continued existence of trafficking industries and struggle for governments to tackle the issue. Poverty in Mexico and the Northern Triangle is an epidemic that has witnessed an increase in income inequality and the deepening of destitution. In 2014, the poverty rate in Mexico increased from 45.5 to 46.2 percent encompassing 55.3 million Mexicans (The Borgen Project 2016). In Guatemala, 59.3 percent of Guatemalans live below the poverty line, approximately 9.3 million people (Rodriguez 2015). Honduras and El Salvador exhibit similar trends at 60 percent and 36.5 percent respectively of the population living below the poverty line (U.S.
Central Intelligence Agency 2017). Potential victims of sexual exploitation are driven by their disenfranchised and impoverished dispositions to seek out alternative solutions to alleviate their dire conditions. The stringent and expensive immigration process dissuades women from seeking out legal means by which to flee poverty and instead prompts them to turn to illicit means of transport across borders. Poverty makes migrants more susceptible to the false promises of traffickers offering remuneration for various “employment” opportunities (The Borgen Project 2016). A shift in focus and fundamental strategy in abating expansive poverty must occur to ameliorate the destitution that plagues this region. This in turn will allow female migrants to avoid the manipulation of traffickers offering fictitious job opportunities and discount the prospect of migrating northward to find work in order to send back remittances to family and friends.

3.5 Lack of Legal Protection Available for Female Irregular Migrants

The moment a woman crosses the threshold of the border the many dimensions of her identity -- mother, friend, daughter, sister, aunt, etc. -- are stripped from her and she becomes an unauthorized migrant, and when absorbed into sex trafficking, she becomes human merchandise (Atwood 2017). This change in legal as well as social status often results in the loss of her human rights because her migration movements place her outside of provisions of protection implemented by the state. Although the United Nations General Assembly adopted measures to ensure the defense of the rights of migrant workers in 1990, the issue of human rights protections for unauthorized migrants remains unaddressed by the international community in any significant manner due to collective government resistance and indifference (Lyon 2006). The current attitude towards
Unauthorized migrants is twofold: the international human rights community is largely aware of “the particularly vulnerable condition of unauthorized migrants,” but most national governments prefer “to avoid granting rights to this population” (Lyon 2006:549) due to conflicting interests with established immigration policy and perceived infringement on state sovereignty (International Organization for Migration 2013). The International Labour Organization put forth standards at the Convention Concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (ILO Convention No. 143) which called for undocumented migrants to be granted limited civil, social, and labor rights (ILO 1975). Currently, only twenty-three nations have ratified these measures and these numbers do not include the United States, Mexico, and the three nations that make up the Northern Triangle (International Labour Organization 2017). Many migrants who are ignorant of their rights typically do not report human rights abuses and violations for fear of being deported at any point along their migrant journey (Amnesty International). In 2016 alone, the United States conducted 313,552, border apprehensions and subsequent deportations, 101,418 of them female (U.S. Border Patrol Sector Profile 2016), which demonstrates how the United States prioritizes the removal rather than protection of non-citizens. Trends of deportation are similar in Mexico. In 2015, Mexico was responsible for the deportation of 150,000 Central Americans (NPR 2016). Stringent border patrol policy and indifference towards undocumented migrant rights have only served to amplify the precarious conditions faced by female migrants, placing them in environments where they are susceptible to abduction or recruitment into trafficking networks. While
deportation means a significant setback for migrants, it often does not deter them from embarking on the same journey again.

The protection of women from sexual exploitation is of paramount importance for international relations. The failure of prosecution-oriented laws to adequately protect and offer mechanisms for social reintegration does not necessarily mean they should be abandoned entirely. Rather, in addition to the enforcement of laws on trafficking, governments and non-governmental organizations must address the underlying factors that contribute to the proliferation of this atrocity and make a greater commitment to ensuring that the basic rights and needs of all people, especially vulnerable populations, are met in order to fully eradicate the pervasive presence of the practice in a sustainable manner. Although existing literature discusses the need to understand and tackle the inadequacies of international law, it rarely suggests practical solutions in a localized context. The following chapter investigates the efforts of nongovernmental organizations in combating and providing holistic care and recovery services to trafficking victims.

Chapter 4 | Enforcement Solutions: The Importance of Multilateral Cooperation and Holistic Care for Victims

Non-governmental organizations have long been the lifeblood of change at the grassroots level. When applied in a local context, those who attempt to implement international law face problems in their efforts to eradicate the threat that sex trafficking poses to vulnerable populations. In some instances, the emphasis on international law serves to exacerbate trafficking operations because it neglects complicated issues that help encourage the flourishing of trafficking. I have argued that the issues of poverty, job insecurity, and pervasive violence all make for infertile soil in which to sow the seeds of
justice. This soil must be tilled, in a slow and enduring process in which structural discrimination against women and migrants must be dismantled. The full implementation of the UN Protocol among other international and domestic legislation is frustrated by a failure to deal with these factors as well as the inefficiencies of bureaucratic procedure. Although international law has succeeded in improving awareness of this epidemic and laid the groundwork for defining, preventing, and prosecuting perpetrators, the intimacy of the crime requires a localized response that holistically addresses human sex trafficking and its various dimensions. I have included this section in an effort to profile successful anti-trafficking models that employ multivariate solutions in an effort to champion the rights of trafficked victims.

4.1 *International Justice Missions’ Justice System Transformation: A Contemporary Model*

As part of my research, I sought out multiple organizations in order to glean the various strategies used by non-governmental organizations to combat human trafficking and the exploitation of undocumented migrants. One of those was International Justice Mission (IJM) located in Washington, D.C. IJM utilizes a four-part model to “help victims of violence secure justice and partner with key authorities to fix broken justice systems” (IJM Annual Report 2015:4) in the countries and regions where they work. Here I outline the model used by IJM to combat trafficking and other human rights abuses and suggest ways in which it can be implemented in a regional and local context. Although IJM does not provide their services in the countries that I have examined in my analysis of sex trafficking and international law, their justice model is one that should be replicated by smaller organizations working in Mexico, Guatemala, Honduras, and El
Salvador in order to push for the restoration of broken justice systems and alleviate factors that contribute to the proliferation of trafficking operations.

I was unable to secure a personal interview with an IJM representative due to the high volume of requests this particular organization receives. Although they declined my request, my email correspondence with a contact at the IJM proved fruitful. My contact recommended many resources which have served to inform my research. One of those resources was an advocacy brochure containing information about Justice System Transformation, IJM’s model for combatting various kinds of slavery and ensuring justice for victims. The first part of this four step process is rescue. Rather than recruiting and training foreign specialized law enforcement officers to conduct rescue operations in lieu of local and regional authorities, IJM collaborates with local authorities to extract victims from exploitative situations and bring them to safe houses and rehabilitation centers inside the countries in which they were found. This method ensures the involvement of municipal authorities as well as the establishment of a localized framework in which to conduct future extraction operations. Preserving healthy, long-term collaboration with local law enforcement agencies and individuals is pivotal in producing lasting change in the fight against sex trafficking since the lack of active participation and awareness by local and regional law enforcement bodies is often the undoing of international law. The issue of corruption is problematic but it is not impossible to overcome. The fact that IJM partners with governments and law enforcement officials to combat sex trafficking in the Dominican Republic, India, and the Philippines, ranking 120, 79, and 101 respectively on the Corruption Perceptions Index, demonstrates that partnerships forged with a common interest can indeed prove fruitful.
(IJM, CPI 2016) despite perceived challenges in Mexico and the Northern Triangle. Engaging law enforcement communities to recognize their value and ability to curtail trafficking efforts in their sphere of influence is the key to effective enforcement of legislation. The Dominican Republic is perhaps the most comparable location to Mexico and the Northern Triangle because of their similar geographic disposition and cultures that bear resemblance to one another. In this sense, IJM’s specific approach to sex trafficking in the Dominican Republic should be considered in hopes that these same methods might be successfully applied in the region I have focused on. Since the opening of their office in 2013, IJM staff located in the Dominican Republic have worked to uncover and report instances of sexual exploitation and trafficking to public prosecutors as well as the Dominican police (IJM 2017). After identifying active trafficking operations, IJM offers their financial and legal support to these authorities in gathering evidence and arresting suspects. In addition to bringing criminals to justice, IJM equips Dominican government agencies and NGO’s who have already established a strong presence in the area to provide superior aftercare to victims. In this way, survivor support is culturally sensitive and those who are working with victims are well acquainted with the government failings and socioeconomic conditions that may have led to their sexual exploitation. Taking into account victims experiences and the specific failings of the justice system in the Dominican Republic, IJM develops strategies to mend broken this system in a sustainable manner. Since many of the same issues that contribute to sex trafficking in the Dominican Republic are also prevalent in Mexico and the Northern Triangle, applying these same methods of interception, victim aftercare, and strengthening justice systems may prove beneficial. Since 2013, in partnership with
Dominican officials, IJM has rescued eighteen children from sex trafficking, provided aftercare from nineteen survivors, and restrained nine perpetrators of sex trafficking (IJM 2017).

The second step of the Justice System Transformation model involves the rehabilitation of survivors through trauma counseling and skills training. This is accomplished through IJM partnering with local social workers to provide culturally sensitive, trauma-focused counseling as well as vocational skills training for victims. According to IJM, this process is highly individualized so as to maximize a victim’s opportunities to recover from the adverse emotional and physical effects of trafficking as well as other forms of abuse and to rebuild their lives. This type of comprehensive care is not feasible on an international level so it is imperative that organizations committed to tackling trafficking from the bottom up do not neglect victim care and future protection measures. This step is primarily used to ensure that victims do not return to situations or jobs such as prostitution that may result in continued exploitation. However, job skills training may also prove useful to migrant females fleeing violence who do not possess vocational skills but desire marketable abilities.

Restraining culpable individuals is the next step. IJM collaborates with attorneys who are nationals of the countries in which they work to take legal action against perpetrators of trafficking. Over ninety percent of IJM staff are domestic public servants (International Justice Mission). In this way, efforts to combat trafficking, improve justice systems, and protect victims and individuals who are vulnerable to human rights abuses are culturally sensitive and mindful of the particular needs of the community.
The final and perhaps most important part of IJM’s four-pronged approach is strengthening preexisting justice systems to ensure that criminals are held accountable and victims are protected within their communities. IJM identifies weaknesses in the existing justice system and again partners with local law enforcement, judges, and other legal professionals to provide training that takes into account the local milieu in an effort to obstruct the cycle of impunity and governmental negligence in a tangible and longsuffering manner. These four elements work together to address breaches in justice systems while also meeting the tangible needs of victims and prioritizing holistic restoration and reintegation methods, in contrast to the steady stream of prosecution-oriented laws enacted by international lawmaking bodies which often treat victims of trafficking as criminals resulting in their arrest, deportation, and the perpetuation of their trauma (King 2009). The importance of multilateral cooperation cannot be overstated. A single organization or piece of legislation will never have the power or longevity to end trafficking in migrants or persons in general in a sustainable way. IJM models continuous collaboration with local and regional institutions of law and has largely been successful in avoiding the issue of compromising state sovereignty while maintaining respect for individual jurisdictions (International Organization for Migration 2013). This is accomplished by mutual agreement to combat trafficking and engaging communities who have expressed interest in the services IJM provides rather than coercing them into compliance under the threat of sanctions.

Unlike the string of compliance to TVPA standards that is attached to U.S. humanitarian aid, non-governmental organizations receive much of their financial backing from donors. International Justice Missions’ financial base is largely composed
of individual donors who desire to assist in the pursuit of anti-human trafficking operations in contrast to international entities like the United Nations which receive contributions from participating states (UN Peacekeeping Operations). This method of acquiring funds permits freedom to allocate money where the need is greatest without potentially compromising foreign policy agenda. Monetary resources obtained through donors are distributed to cover a plethora of needs such as translators who can serve as a mouthpiece for victims who unable to communicate with law enforcement officials due to language barriers and also work to provide immigration services should the need arise (IJM 2015 Financial Report). Prioritizing these services demonstrates how the IJM diligently combines victim protection with criminal prosecution and justice system reform, each one not compromising the other.

4.2 Remaining Challenges

Repatriation is a solution that is often employed by countries that are receivers of trafficked persons for sexual exploitation. The continued use of this method has resulted in nations regarding trafficking as an “illegal immigration issue” which serves to “further victimize the victim of a crime and also sabotage their own attempts to quash trafficking” (Haynes 2004:263). Additionally, this practice contributes to the punishing of the victim for actions that came about under coercion and threat of violence. For female unauthorized migrants who left their countries in an attempt to escape unfavorable and often life-threatening conditions, repatriation only serves to worsen their situation (Haynes 2004). Although we have seen many countries have adopted domestic legislation that criminalizes human trafficking in their communities, “many continue to punish the victims of trafficking” (Haynes 2004:224) for their involvement in illicit activity. For
irregular migrants, however, legal punishment is not the only concern. Women who are extracted from exploitation and immediately repatriated to their country of origin fear retaliation from traffickers and of being approached by traffickers once more if they attempt to initiate another migration journey (Haynes 2004). This is a migrant’s punishment: the utter collapse of her efforts to leave the country and encountering once again the conditions which compromised her wellbeing and her ability to sustain herself and perhaps her family. Extending immigration benefits to victims is a practical solution to this problem. However, this would require expanding the narrow definition of victims to include noncitizens. This is no easy task as many nations are opposed to doing this for fear that women will take advantage of this procedure by seeking out opportunities to be trafficked in order to receive immigration benefits (Haynes 2004). Furthermore, the distribution of temporary residence permits is often contingent on the willingness of a victim to testify against the perpetrator in court (Haynes 2004). In the United States and Mexico, unwillingness to comply with this condition results in the immediate deportation of the victim (Haynes 2004). Reforming the distribution of legal residence permits so that they are extended to victims without the requirement of testifying allows victims to seek out counseling services and demonstrates a country’s ability to prioritize support mechanisms that aid in mitigating trauma inflicted by migration and trafficking experiences. Such an action would also undoubtedly serve the interests of national governments because providing legal residence permits to victims in the country where they were exploited allows victims to remain and testify against the trafficker potentially resulting in higher conviction rates (Haynes 2004). This in turn would enable states to
remain in compliance with international law while at the same time consider the emotional and psychosocial needs of victims.

While investigating the organizations and initiatives active in the countries I have examined, I had difficulty finding victim relief and advocacy organizations in Mexico and the Northern Triangle that serve migrant survivors of sex trafficking. La Alianza (Covenant House) located in Guatemala City and Agape International Missions operating in Mexico are two independent humanitarian aid and anti-trafficking organizations. However, these groups focus specifically on serving children who were victims of sexual exploitation. It seems clear that the number of organizations advocating for female irregular migrants in this region is minimal. Recognizing that the illegal status of irregular migrants heightens their exposure to human rights violations is the first step in the creation of programs and policy that adequately meet their needs.

Another challenge facing the Northern Triangle and Mexico is the presence of gangs. Gangs pose a unique threat to civilians and their activity is often the cause for irregular migration as well as the main actor in the proliferation of trafficking in this region. The first priority should be to work to break up ties between government officials who get involved in criminal activity and to form a united front composed of local and regional governments and law enforcement agencies to combat against gangs and other criminal enterprises. If gangs such as Los Zetas, MS-13, and M18 perceive that they no longer hold sway with officials and their administration, governments are liberated from the leverage that gangs exploit to ensure their operations remain uninterrupted. A second issue that must be overcome is recognizing the disenfranchisement and legacy of violence left in the wake of the civil wars as a humanitarian crisis which requires profound,
multilateral assistance and the establishment of early invention programs targeting youths who are prone to recruitment into gangs. Lastly, disassembling the criminal activities, including sex trafficking, that serve as the financial basis for gang operations is instrumental in the permanent elimination of gangs and gang violence.

When it comes to combatting the exploitation of people, especially female irregular migrants, there is no clear-cut solution. The creation of a new model which combines punishment of the offender and holistic care and protection of victims, regardless of their legal status, is vital. Since legislation that is created to curtail sex trafficking operations and bring criminals to justice is often reactive in nature, exploring more prevention-focused methods such as justice system reform and targeting the consuming population who drive the demand may also prove useful. In addition, trafficking literature must strive to identify intersectional vulnerabilities that permit the burgeoning of sex trafficking and render international law ineffectual and work to incorporate these findings in the developmental of contemporary, more localized policy that will minimize the factors which expose female irregular migrants to criminal predators. Again, the necessity of multilateral cooperation cannot be exaggerated. International animosity often impedes efforts to unite the various nations’ law enforcement officials in common pursuit of an end to trafficking. However, when confronting the issue of sexual exploitation and the trafficking of humans, the pervasive nature of these infringements upon human rights necessitates a unified response.
Conclusion

In the UNODC 2014 Global Report on Trafficking in Persons, Executive Director Yury Fedotov issued the following statement which speaks to the gap between legislative enactments and effective enforcement:

Legislation does not always comply with the Protocol [to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children], or does not cover all forms of trafficking and their victims, leaving far too many children, women and men vulnerable. Even where legislation is enacted, implementation often falls short…We need to advance from understanding to undertaking, from awareness to action. The gravity of this continuing exploitation compels us to step our response.

Although much has been accomplished in the fight against human trafficking, Fedotov’s statement acknowledges the inadequacy of international law to combat and effectively eradicate sex trafficking and human trafficking in a contextualized and holistic manner. Internationally implemented legislation will never have a significant impact if the local and regional needs as well as the casual factors of trafficking are not first addressed. For women living in Mexico and the Northern Triangle, violence is an everyday threat and poverty deprives them of opportunities for local social mobility and escape from their oppressive environments. I have highlighted the social, economic, and historical factors that underpin the flourishing of sex trafficking operations in this region. Recognizing the various dimensions of trafficking that are often rooted in local ills is the first step to reform. A collective effort on behalf of local, national, and international lawmakers to create a synthesis of policy that strongly defends the human rights
of all people and rigorously works to penalize those who violate those rights is essential. Once this is accomplished, international law will gain the traction it needs to reach those who are located on the fringes of legal protection and fervently challenge nations to fulfill their obligation to champion the rights of all people.
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