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*Arun Kumar ACHARYA, Armando Moctezuma SUAREZ,
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Trafficking of Women and Children in Mexico: An Assessment of Anti-Trafficking Laws

Arun Kumar ACHARYA¹, Armando Moctezuma SUAREZ², Francisco de Jesus Gomez ONTIVEROS³

Abstract

Mexico is a source, transit, and destination country for human trafficking, where the majority of the victims fall into sexual exploitation and some of them are exploited in forced labor in agriculture, domestic service, food processing factories, construction, the informal economy, begging and vending. Mexico signed the international human trafficking treaty in 2005, the first anti-trafficking law was formulated in 2007, and again in 2012 the federal government presented a new anti-trafficking law and was reformed in 2014. This illustrates that during the last eight years there has been significant progress achieved in legislation on anti-trafficking issues, but the implementation of the law has not been observed due to dysfunctional law enforcement. Thus, in the present paper we have utilized information available at national and international level to analyze the progress achieved by the Mexican Government in tackling the human trafficking problem. Also, in this study we have examined the strengths, complementary issues as well as biases of the 2007, 2012 and 2014 anti-trafficking laws to offer recommendations to assist policies and actions.

Keywords: human trafficking, sexual exploitation, slavery, anti-trafficking law, Mexico.

¹Autonomous University of Nuevo Leon, Monterrey, MEXICO. E-Mail: arun.kumara@uanl.mx

²Autonomous University of Nuevo Leon, Monterrey, MEXICO. E-mail: armando.moctezumasr@uanl.edu.mx

³Autonomous University of Nuevo Leon, Monterrey, MEXICO. E-mail: francisco.gomez@uanl.mx

Introduction

Trafficking in human beings, especially of women and children for the purpose of sexual exploitation has become an issue of major concern globally because of its rapid growth in recent years (UNODC, 2014). The phenomenon has become more national and international issues (Sharapov, 2014), thus the anti-trafficking initiatives have expanded at global as well as at regional level, and trafficking projects have become an important instrument for national and international development agencies (Luda, 2003; Marshall, 2001). It is estimated that between 800,000 and 4,000,000 people, mostly women and children are trafficked across international borders annually (U.S. Department of State, 2014) and it is also the fastest growing crime, which has serious public health implications as well as a violation of human rights (Zimmerman et al., 2008, Busza, Castle, & Diarra, 2004; McClain & Garrity, 2011).

According to the Office for Democratic Institutions and Human Rights (ODIHR), human trafficking regarded as a modern form of slavery, is an affront to human dignity, often involving psychological terror and physical violence, which encompasses human rights issues and crime control, of inequality and discrimination, of corruption, economic deprivation and migration (ODIHR, 2004). Similarly, the Beijing Platform for Action identified trafficking for sexual exploitation as a form of violence against women. Trafficking for the purpose of sexual exploitation includes those women who have suffered intimidation and/or violence while being trafficked. Initial consent may not be relevant, as some enter the trafficking chain knowing they will work as prostitutes. However, they are then deprived of their basic human rights, in conditions akin to slavery (Anti-Slavery International, 2002).

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (United Nations, 2004) defines human trafficking in Article 3 as: “the recruitment, transportation, transfer, harboring or receipt of persons, by means of 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 having control over another person, for the purpose of exploitation” (United Nations, 2004).

The protocol cites a list of acts such as recruitment, transportation and others, followed by the methods used to enforce those acts, for example threat, the use of force, or other abuses of power, or of a position of vulnerability. The definition further specifies that the term ‘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 (Skilbrei & Tveit, 2008) (see *Figure 1*).

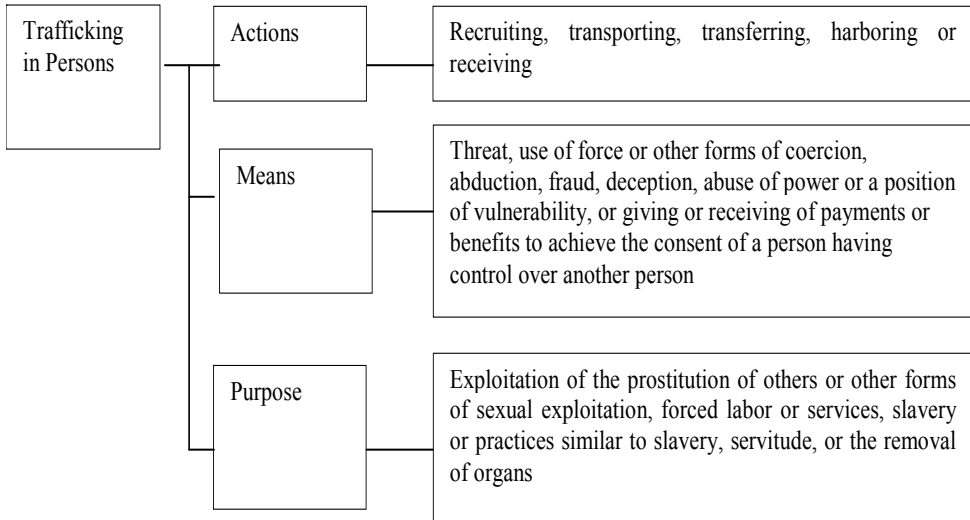


Figure 1: Configuration of crime of Trafficking in Persons

Source: Self elaboration

The second UN Protocol, the Protocol against the Smuggling of Migrants by Land, Sea and Air, defines smuggling of migrants in Article 3 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’ (United Nations, 2004). There is a common misconception that an individual must cross international borders to be considered a victim of human trafficking (Carling, 2006). However, as stated by the United Nations definition, this is not always the case and much trafficking takes place domestically within country borders (UNODC, 2008).

The International Labor Organization (ILO) estimates that 2.5 million people worldwide are being trafficked at any given time, where, 43 percent of trafficking victims are used for commercial sexual exploitation, while 32 percent are used for forced economic exploitation, around 25 percent of victims are used for a combination of forced exploitation and commercial sexual exploitation or for undetermined reasons (ILO, 2005). Furthermore, according to the latest ILO’s Global Estimate of Forced Labor (2012), 20.9 million people worldwide are victims of forced labor, trapped in jobs into which they were coerced and cannot leave. Of the 9.1 million victims of forced labor, 44 percent have moved either domestically or internationally. This indicates that migration can be an important vulnerability factor. In this context, it has also been shown that forced sexual exploitation is strongly associated with cross-border movement (ILO, 2012).

The Global Trafficking of Persons Report (2012) presented by the United Nations Office on Drugs and Crime states that: young girls and women who are being trafficked for the purpose of sexual exploitation and prostitution, often suffer from extreme sexual, physical and psychological abuses, associated with gender-based violence (UNODC, 2012). Trafficking of women for sexual exploitation has recently moved up on the international agenda due to growing concerns about violence against women, as well as its connection with the sex industry, forced and exploitative labor, sexually transmitted diseases (STDs) including HIV/AIDS and other forms of human rights violations (Huda, 2006). Despite efforts from many international units such as the United Nations, IOM, ILO, GAATW, CATW and ECPAT-International, Stop-Traffic to fight against the trafficking problem, there is still a lack of government responsiveness on this issue. During the last few years, the Mexican government has adopted the United Nations protocol to fight against trafficking, but this effort has not delivered satisfactory results. Thus, the main objective of this paper is to analyze Mexico's three anti-trafficking laws, and we have also made an effort to describe the effectiveness of the law during the last eight years.

Trafficking of Women and children for the purpose of sexual exploitation in Mexico

Human trafficking for the purpose of prostitution in Mexico has become a public concern in the last few years, especially with respect to the prostitution of children (Esteinou, 2011). Mexico ranks second in the world in terms of prostitution of under-age persons (Monroy, 2010). Available evidence suggests that children are commonly trafficked from poor areas of the country and are often exploited by American tourists (COHA; 2009, Ruiz Torres, 2003). Prostitution has been practiced in the country since the Pre-Hispanic period, and is still commonplace throughout the country (Franco, 1973; Rios de la Torre, 1991). According to Azaola (1998, in Esteinou, 2011) the rapid increase in the number of children for commercial sexual exploitation is due to the following factors: (1) The deterioration of living conditions of poor families, (2) the promotion of child prostitution by close family members, (3) the use of sexual activities as a means of survival by street children who escape from an abusive home, (4) the recruitment of children as sex workers by organized crime network and, (5) the illegal transfer of children as sex workers from developing countries to developed countries.

The above studies demonstrate how child prostitution has increased in the country, however, during the last few years, Mexico has undergone deep changes regarding trafficking of women (Azaola & Estes, 2003). Firstly, it is an important country of origin, destination and transit for international trafficking, and secondly,

it is one of the most important countries with regards to domestic trafficking. The real extent of trafficking of women in Mexico is difficult to ascertain. There is little empirical data on trafficking of women in Mexico. To date, there are no official statistics on trafficking of women, but our previous research indicates that every year approximately 10,000 people are being trafficked within Mexico, particularly to the following six cities: Cancun, Acapulco, Mexico City, Tijuana, Ciudad Juarez and Monterrey, and approximately 5,000 are trafficked into the United States (Acharya & Bryson, 2014). This study also found that in Mexico 7 out of 10 trafficked women are being trafficked within the country and 3 out of 10 are taken abroad (Acharya, 2010). In addition, every day an estimated 400 women enter into prostitution (this figure includes trafficked and non-trafficked women) in Mexico City, out of which 80 per cent do so against their will (González, 2003).

In 2014, the National Citizen Observatory conducted a four-year analysis (January 2010 through July 2013) of human trafficking in Mexico including 31 States, the Federal District, and the federal government. The present study found persistently high levels of impunity for the crime, demonstrating how incomplete and contradictory official information contributes to bury the true scope of the problem. Over the time period, 16 states reported a total of 846 victims, while the rest failed to provide information. Jalisco had the highest number of victims, with 283, representing about a third of the total. This was followed by Baja California, with 136, and Puebla, with 122. The national Attorney General’s Office (PGR) registered 347 victims during this time period, and the Ministerial Federal Police (PFM) registered 121 (ONC, 2014) (see figure 2).

Likewise, information regarding sex, age and nationality was provided for only a portion of the total victims reported by these States. Of these, around 87 percent were women and approximately the same percent were victims of sex trafficking, and nearly 90 percent of victims were single, Mexican citizens and were under 18 years old (ONC, 2014).

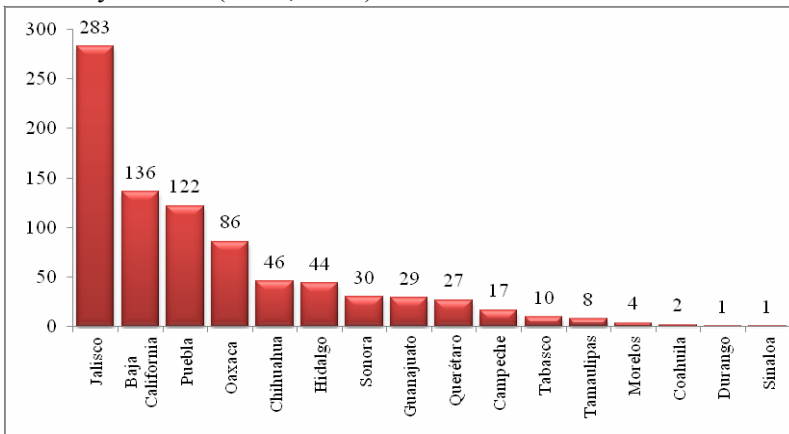


Figure 2: Numbers of human trafficking victims in Mexico during 2010-2013
Source: ONC, 2014

On the other hand, the 2015 Trafficking in Persons Report provided by the U.S Department of State indicates that Mexico is a source, transit and destination country for women, children and men subjected to sex trafficking and forced labor. The report states that Mexican women, children as well as men are exploited in forced labor in agriculture, domestic service, food processing factories, construction, the informal economy, begging, and vending in both the United States and Mexico. The most vulnerable groups to human trafficking in Mexico include women, children, indigenous people, individuals with mental or physical disabilities, migrants and LGBT Mexicans (U.S. Department of State, 2015).

In the last few years, some significant effort has been made to understand the Trafficking in Persons issue in the country. It also evidenced that both domestic and international trafficking of persons, especially of women and children has increased (U.S Department of State, 2015, Montalvo, 2014⁴, CNDH, 2013⁵), however, trafficking-related corruption among public officials, especially local law enforcement, judicial, and immigration officials remains a significant concern in Mexico. Some officials extort bribes and sexual services from adults and children in prostitution; extort irregular migrants, including trafficking victims; falsify victims' documents; threaten victims with prosecution if they will not file official complaints against their traffickers; accept bribes from traffickers; facilitate movement of victims across borders; operate or patronize brothels where victims are exploited; or fail to respond to trafficking crimes, including in commercial sex locations (U.S Department of States, 2015). Given that the Mexican Government does not fully comply with the minimum standards to eliminate trafficking, the country is currently at a Tier 2 level.

With respect to Trafficking in Persons Reports from 2001 to 2015, in the last 15 years Mexico has faced some key challenges. For example, the 2001 Trafficking in Persons Report ranked Mexico as source and transit country. According to the U.S. State Department, Mexican women, children and men were trafficked into the United States, Canada, and Japan for the purpose of sexual exploitation and forced labor, and Mexico is a transit country for persons from various countries, especially Central America and China. There are an increasing number of persons from Brazil and Eastern Europe transiting through Mexico, some of whom are trafficked Salvadorans and Guatemalans, especially children, are trafficked into Mexico for prostitution, particularly at the Southern border. Internal trafficking is also a problem (U.S. Department of State, 2001). The report classified Mexico as a Tier 2 country, given that the government does not yet fully meet the minimum standards and there are no specific laws in place to prohibit the trafficking of persons, and this continued until 2003. However, since the 2002

⁴ <http://www.animalpolitico.com/2014/11/victimias-de-trata-en-mexico-se-duplican-en-el-ultimo-ano-la-mayoria-son-mujeres-y-ninas/>

⁵ http://www.senado.gob.mx/comisiones/trata_personas/docs/Diagnostico_Trata.pdf

Trafficking in Persons Report, the U.S. Department of State extensively recognized Mexico is a source, transit and destination country of women and children trafficked for the purpose of sexual exploitation.

It was indicated to Mexico by the international community to strengthen the anti-trafficking efforts with specific laws and programs, its negligence and low political will led country to a greater setback in 2004, where the Trafficking in Persons report attributes the country’s drop in ranking to the Tier 2 Watch List where it continued until 2007. Among the pre and post 2004 trafficking reports (until 2007) there is a drop in ranking, it is evident that in the post 2004 report Mexico has become a major destination country for trafficked victims from Central America and a lesser number of victims come from South America, the Caribbean, Eastern Europe, and Asia. Within this period, the report highlights that there is also significant growth in domestic trafficking, where women, girls, and boys are often lured from poor rural regions to urban, border, and tourist areas through false offers of employment; many of them are beaten, threatened, and forced into prostitution. Sex tourism, including child sex tourism, appears to be growing, especially in tourist areas such as Acapulco and Cancun, and border towns like Tijuana; foreign pedophiles arrive most often from Western Europe and the United States (U.S. Department of State, 2004).

The change in federal government in Mexico in 2006 brought some significant transformation in the country. It was President Calderon who not only fought against the drug cartels but also proposed to Congress the first ever anti-trafficking law. On November 27, 2007 the Federal Government enacted the Law to Prevent and Punish Trafficking in People (*Ley para Prevenir y Sancionar la Trata de Personas*), which was a significant move by Mexico and helped the country to its position at the Tier 2 level in the Trafficking in Persons Report. The rise and fall in the World’s ranking (see Figure 3) on anti-trafficking efforts has forced Mexico into a relentless pursuit to improve its operations on the “3P” approach to fight against human trafficking, and is rendering humble advances.

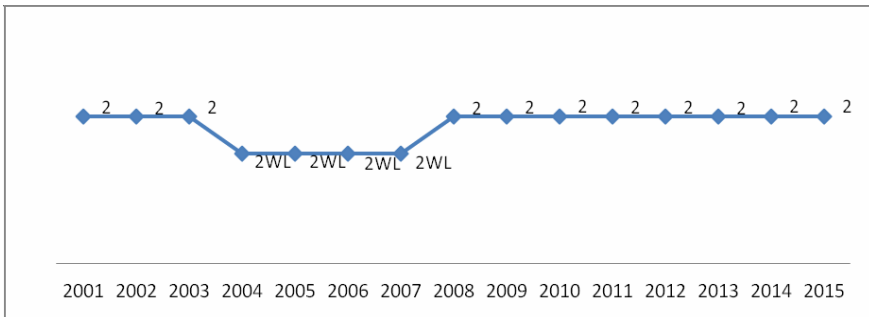


Figure 3: Tier ranking of Mexico during 2001-2015

Source: Self elaboration

The Government of Mexico continued to increase its law enforcement efforts and in June 2012 Congress approved the new anti-trafficking law, which was also reformed in 2014. Although there is a lack of coordination, officials' complicity, and some officials' limited understanding of human trafficking, it has been observed that to this date most States have specific anti-trafficking legislation in line with national trafficking laws and only in some States the law criminalizes all forms of trafficking. These inconsistencies among States laws complicate interstate investigations and prosecutions.

According to official information, after implementing the 2012 Anti-Trafficking Law in the country, there are 253 trafficking cases under investigation by the Federal Government, and at least 196 trafficking cases are under investigation by States entities in 2014, as compared to 139 federal investigations and 458 State investigations reported in 2013 (ONC, 2014). Moreover, government data indicates that 30 federal prosecutions and approximately 177 State prosecutions initiated in 2013, though there is no information for 2014. However, Mexican authorities reported sentencing three traffickers at the federal level and at least 108 at the State level in 2014; this represented an increase in reported sentences from 2013 when authorities did not issue any federal trafficking convictions and only 73 at the State level, including 38 in the federal district (U.S. Department of State, 2015). This analysis specifies that government sustained strong efforts to prevent human trafficking in the country; however indicated results are insufficient to deal with the scale of the problem.

Anti-trafficking laws in Mexico in 2007, 2012 and 2014

Mexico is considered the leading destination in all Latin America for sexual tourism⁶. The Mexican human trafficking problem often encompasses smuggling of foreigners, as well as drug trafficking, and many of the same criminal networks are involved. Corruption within law enforcement inhibits the investigation of trafficking cases⁷. The majority of victims in Mexico are trafficked for sexual exploitation, however, there are also cases of domestic servitude, and other forms of trafficking for labor exploitation and victims are also treated as commodities, verbally and physically abused, raped, forced to have abortions and threatened with death (Acharya, 2014). Trafficking in Persons is a complex crime requiring state and federal legislation that have distinct sentencing guidelines and rehabilitative mechanisms to serve and protect TIP victims, thus in this section, we

⁶ <http://www.laht.com/article.asp?CategoryId=14091&ArticleId=339639>.

⁷ <http://www.nilc.org/immlawpolicy/trafficking/trf002.htm>.

have examined the two anti-trafficking laws (2007 and 2012) and the 2014 Reformed Law to analyze the government's responses during the last eight years.

In 2005, Mexico ratified the Palermo Protocol, and since then the first anti-trafficking law was published in 2007, also known as the Law to Prevent and Punish Trafficking in Persons (*Ley para Prevenir y Sancionar la Trata de Personas*). The project Programa de Apoyo a Víctimas de Trata de Personas (PROTEJA) began its work in 2006, and prior to this date Mexico did not have a federal anti-trafficking law, nor were there any adequate state laws on the subject (Cámara de Diputados del H. Congreso de la Unión, 2007). In many states, a number of offenses that should have been considered human trafficking were classified under sections of state penal codes related to trafficking but failed to account for the full extent and severity of this crime.

PROTEJA took an integrated approach to pursuing anti-trafficking legislation. Rather than simply seek to classify Trafficking in Persons as a crime, it sought to develop an integrated proposal to revise penal codes that would eliminate loopholes and duplications that hinder the prosecution of accused traffickers and victims' access to justice. PROTEJA worked closely with the legislature to amend early versions of the bill, as they did not adequately address Trafficking in Persons in an integrated manner, nor did they comply with international agreements such as the UN Protocol to which Mexico was a party. After years of debate and analysis, the Mexican National Congress approved the federal Law to Prevent and Punish Trafficking in Persons and the federal Law against Organized Crime on October 2, 2007. The laws became effective on November 28, 2007 and some of the main issues addressed in the legislation were: To incorporate a broad definition of Trafficking in Persons that conforms to the United Nations and other international protocols on the subject; provide stiff penalties for violations, with special consideration given when victims are minors and/or have diminished capacity to comprehend or resist; imposed monetary fines and restitution to victims; require all federal agencies, including the Office of the Attorney General (PGR in Spanish), to cooperate to create a permanent infrastructure to prevent Trafficking in Persons; and took into account the complex and often transnational aspects of this crime (Cámara de Diputados del H. Congreso de la Unión, 2007).

The law was written to put in place a comprehensive public policy regarding Trafficking in Persons and its victims. It integrates itself into the policies of all the government organizations and agencies that in any manner have the ability to combat trafficking or assist its victims. The important goal in the law was establishing an Inter-Agency Commission to coordinate the actions of its members on this subject in drafting and implementing the National Program to Prevent and Punish Trafficking in Persons. The Commission was required to include a broad range of government institutions, as well as representatives of autonomous public agencies, civil society organizations, and academics in an advisory capacity and some of the main objectives of this Commission were: To establish a National

Program to Prevent and Punish Trafficking in Persons (National Program); develop campaigns to prevent, protect, and care for victims of trafficking; inform and train those representatives working with victims of the human rights implications of the situation; promote the scientific investigation and exchange of experiences among those institutions, both governmental and non-governmental, that are in positions of assisting victims; educate the public on Trafficking in Persons and the methods to detect and prevent it; conduct research and maintain data on trafficking and provide an annual report regarding the results of the National Program to the President.

Soon after the law was enacted, the Commission began working closely with PROTEJA in 2008, and it determined that the National Institute of Migration should be the lead agency in developing regulations to implement the National Program. The Commission requested that PROTEJA offer training sessions on Trafficking in Persons to the representatives from the various organizations on the Inter-Agency Commission.

Nevertheless, this first law shows a series of biases that obstruct formulating public policies properly and taking integral actions among governmental and non-governmental organizations, as this last one is not even mentioned. Even when this law empowers local governments to take care of the problem it is not specific about their roles, representing a lack of a proper organizational structure to address the situation integrally. Also the intention to eradicate the crime is not shown in the law, as it does not contain a provision with such purpose. Moreover, the law completely ignored Article 3 of the 2000 UN Trafficking in Persons Protocol, that a victim's consent is not relevant when elements of force or coercion are verified. Similarly, the implementation of a National Action Plan for Trafficking in Persons was not clear, including funding and guidance to federal agencies and state governments for such implementation (see Table 1).

In addition, as it is stated above, prior to this law Trafficking in Persons was defined as a crime on the Federal Penal Code and although the definition found on this legislation was also similar to the one on the Palermo Protocol, the acknowledgment of trafficking as a crime reflects that the government's main concern towards trafficking is that it is an illegal activity more than a complex phenomenon where migration, human rights and gender among other variables are involved. Thus, due to the complexity and gaps of the 2007 Anti-Trafficking Law it could not reach to success, but it must be underlined that this law provided the basis to fight against Trafficking in Persons in Mexico.

In 2012 a new anti-trafficking law was introduced and approved, taking down the 2007 juridical instrument. This General Law to prevent, punish and eradicate crimes on human trafficking and to protect and assist victims of these crimes, defined trafficking as an organized crime activity, therefore being prosecution a task exclusive of Federal order agencies leaving in hands of local governments

the protection of victims. Both local and federal governments are responsible for preventive actions. This anti-trafficking law also prohibits all forms of human trafficking, prescribing penalties of 5 to 60 years' imprisonment depending on the form of trafficking; these penalties are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape (Cámara de Diputados del H. Congreso de la Unión, 2012).

In the same way, this law requires States to adjust their anti-trafficking legislation to align with national legislation, and several States modified their anti-trafficking laws during the year. While 23 States and the Federal District have specific trafficking laws, only some States' laws criminalize all forms of trafficking, and these inconsistencies among States laws complicate inter-state investigations and prosecutions. Some of the new topics addressed in this legislation were: It is important to define and administer the State policy on Trafficking in Persons expressed in the National Program for Trafficking in Persons: 2014-2018⁸ which should contain the strategies for prevention, protection and prosecution, to promote and coordinate cooperation among local public institutions, inspect and watch programs, actions and programs, design prevention and educational campaigns, promote local development programs aimed to prevent trafficking, gather statistic data regarding Trafficking in Persons crimes, ensure adequate repatriation for foreign victims, promote agreements with NGOs for a better compliance of the National Program, educate public on denouncement and foster public awareness on Internet and social media risks.

However, it has been observed that the government has continued its uneven law enforcement efforts. Authorities reported an increase in the number of trafficking sentences at the Federal and State levels, but it was unclear how many of these sentences involved trafficking as defined by the 2000 United Nations Trafficking in Persons protocol, and law enforcement efforts were undermined by significant officials' complicity in trafficking crimes. For the law enforcement in the country, the 2012 anti-trafficking law also recommended to form an inter-secretarial commission to prevent, sanction and eradicate Trafficking in Persons, which includes various government agencies such as the Secretariat of the Interior (SEGOB in Spanish), Secretariat of Transportation and Communication (SCT in Spanish), Secretariat of Foreign Affairs (SRE in Spanish), Secretariat of Public Security (SSP in Spanish), Secretariat of Labor (STPS in Spanish), Secretariat of Health (SALUD in Spanish), Secretariat of Social Development (SEDESOL in Spanish), Secretariat of Tourism (SECTUR in Spanish), Secretariat of Education (SEP in Spanish), Office of the Attorney General (PGR in Spanish), National Institute of Women (INMUJERES in Spanish), and National Institute of Migration

⁸ Programa Nacional para Prevenir, Sancionar y Erradicar los delitos en material de Trata de Personas y para la Protección y Asistencia a las víctimas de estos Delitos: 2014-2018, (http://www.dof.gob.mx/nota_detalle.php?codigo=5343079&fecha=30/04/2014)

(INM in Spanish), among others (Cámara de Diputados del H. Congreso de la Unión, 2012).

In contrast to the previous law, the definition of Trafficking in Persons stated on this new juridical frame is different from the one on the Palermo Protocol. Instead of a typical structure where actions, means and purpose are put together as the three key elements of the crime of trafficking only the actions and the purpose compound the crime, while the means are included on the different types of exploitation. Also, despite growing awareness of the much wider scope on human trafficking, most of the laws remain focused on the issue of sexual exploitation, being 9 out of 25 activities fitted as Trafficking in Persons related to sexual matters such as forced prostitution, the production, distribution and possession of child pornography, forced marriage with the purpose of sexual exploitation, among others. The rest of the activities mentioned are slavery, servitude, labor exploitation, forced labor, forced begging, child trafficking and illegal adoption, usage of children for organized crime activities, forced marriage for servitude purposes, organ trafficking and illegal medical experimentation with humans (Cámara de Diputados del H. Congreso de la Unión, 2012). This new law also introduces punishment for actions that are not necessarily trafficking but are related to the crime such as purchasing sex while being aware of the trafficking situation of the person, buy deceitful publicity for trafficking purposes, selling advertising knowing it has trafficking ends, leasing or providing a place knowing it will be used for activities related to trafficking. As a protection measure, avoiding re-victimization is established as a principle to follow. However, this term is not clear enough and it does not even exist in the Mexican legal language making this principle inoperable, but it does protect foreign victims from penalties stated on migration laws. On the other hand, the principle of due diligence is now introduced (see *Table 1*).

Two years later in 2014, Congress reformed the Anti-Trafficking Law, though this reform law remained the same as the 2012 Anti-Trafficking Law, very few changes have been made (see *Table 1*). For example, the most notable issue in this new legislation was the elimination of the term re-victimization, replacing it with “*avoiding the criminalization of the victims due to activities related with their trafficking situation*”. The other changes in the law were language assistance for the victims and local governments regaining their faculties to prosecute the crime of trafficking, it is possible only when it does not involve organized crime (Cámara de Diputados del H. Congreso de la Unión, 2014).

REALITIES IN A KALEIDOSCOPE

Table 1. *Strengths, complementary issues and biases in the 2007, 2012 and 2014 (Reform) Trafficking Laws in Mexico*

STRENGTHS	
2007 Trafficking law	Definition of Trafficking in Persons is close to the Palermo Protocol States provisions for prevention, protection and prosecution
2012 Trafficking law	Introduces gender perspective Introduces the superior interest of the child Introduces the due diligence principle Protects foreign victims from migratory issues' penalties Inclusion of NGOs for the protection of victims The consent of a victim does not eliminate the responsibility of the crime for a trafficker Establishment of specific tasks for each member of the Trafficking Commission
2014 Trafficking law (Reform)	No longer addresses re-victimization Guarantees assistance in victim's native language Superior child interest Prevents victims' criminalization
COMPLEMENTARY ISSUES	
2007 Trafficking law	Penalty of minimum 6 years and maximum 27 years in prison Creates administrative committee to design and implement the anti-trafficking policy
2012 Trafficking law	Creates administrative committee to design and implement the anti-trafficking policy Penalty of minimum 5 years and maximum 60 years in prison Prosecution is exclusively a federal task Prevention and protection are both federal and local issues Classified 25 activities that fit as exploitation Punishment for clients who purchase sexual services form trafficked victims Punishment for deceptive advertising for trafficking purposes
2014 Trafficking law (Reform)	Creates administrative committee to design and implement the anti-trafficking policy Penalty of minimum 5 years and maximum 60 years in prison Prosecution is also a local task only if organized crime is not involved Prevention and protection are both federal and local issues Classified 25 activities that fit as exploitation Punishment for clients who purchase sexual services form trafficked victims Punishment for deceptive advertising for trafficking purposes
BIASES	
2007 Trafficking law	There is no clear definition for exploitation Does not prevent victims' criminalization Does not establish specific roles for local authorities Emphasizes a transnational organized crime
2012 Trafficking law	Definition of Trafficking in Persons is confusing as a many types of exploitation The means are not included in the Trafficking in Persons definition, but in the definition of each type of exploitation Introduces no re-victimization principle Provision to create a uniform model for victims' assistance
2014 Trafficking law (Reform)	Definition of Trafficking in Persons is confusing as a many types of exploitation The means are not included in the Trafficking in Persons definition, but in the definition of each type of exploitation Provision to create a uniform model for victims' assistance

Source: Self elaboration

Conclusion

Studies on human trafficking are limited in Mexico, however, there is some research illustrating human trafficking trends and patterns in the country. It is observed that the Mexican government is currently focusing more on investigating bars and nightclubs for administrative irregularities. Similarly, NGOs reported that the overly-broad law led some officials to focus on targeting people in prostitution instead of focusing on individuals experiencing force, fraud, or coercion and some public officials conflate trafficking with migrant smuggling and prostitution.

As it was previously analyzed, the 2012 law required States to have a dedicated human trafficking prosecutor, but many States lacked funding to hire one. Moreover, many officials do not have a clear understanding of trafficking and also causes more confusion on to enforce laws. According to the Secretariat of the Interior, during 2014, nearly 9,000 public servants were trained on human trafficking issues. However, many NGOs reported officials often re-victimized trafficking victims through their lack of sensitivity. Despite ongoing reports of extensive officials' complicity, authorities did not report any prosecutions or convictions of government employees complicit in trafficking in 2014. The government continued to provide limited specialized services for trafficking victims. Some government institutions had informal victim referral procedures, but most government officials lacked clear guidelines for identifying and referring victims to care services.

It is also unclear how many identified victims received particular services such as shelter. Experts and victims cited the need for open shelters with specialized services for trafficking victims including access to psychosocial care and reintegration services, particularly job training. Government-funded services for male and forced labor victims were particularly weak. The national human rights commission (CNDH) reported cases of victims housed in inappropriate accommodations, such as migration detention centers, and noted the lack of services for victims with specific needs, such as drug addiction.

Many victims were afraid to identify themselves as trafficking victims, and few sought legal remedies due to their fear of retaliation from traffickers, the lack of specialized services, or a lack of trust in authorities. Mexican law has provisions to protect victims from punishment for unlawful acts committed as a direct result of being subjected to trafficking, but there were reports indicating some victims were punished in practice. Some officials transferred victims to the National Institute of Migration (INM) for detention and deportation due to victims' legal status or lack of formal identification as trafficking victims.

Though, over the last eight years some significant progress has been achieved in legislation on anti-trafficking issues, the implementation of the law has not

been observed. It is pressing that Mexico enforces anti-trafficking laws and reforms its administrative structure to reduce bureaucracy issues. It is also indispensable that the Federal Government increases funding for the provision of specialized victim services and shelters in partnership with civil society, and refers victims of all forms of trafficking to services and provides them with adequate protection.

As we have seen on Table 1, there is stronger bias on the definition of trafficking, thus it is necessary to modify the anti-trafficking law at the Federal and State level to reflect the Palermo Protocol. Similarly, there is an urgency to increase the ability of regional and state coalitions and specialized units to more effectively respond to trafficking cases through training of government servants with an integrated approach of human rights, gender perspectives and migration. Lastly, it is essential that the Mexican government provides effective protection for witnesses and victims testifying against traffickers and increase government employees' training on victim identification and treatment including a better coordination mechanism between federal, state and local authorities.

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