

**IN MODERN BONDAGE: SEX
TRAFFICKING IN THE
AMERICAS**

**Central America, the Caribbean,
and Brazil**

—
**Belize, Brazil, Costa Rica, Dominican Republic, El
Salvador, Guatemala, Honduras, Nicaragua, & Panama**

**International Human Rights Law Institute
DePaul University College of Law**

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International Human Rights Law Institute

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Preface

In 1998, the International Human Rights Law Institute (IHRLI) began examining the trafficking of women and children for purposes of sexual exploitation within a human rights framework. Its research targeted international reports on trafficking by various United Nations bodies and Special Rapporteurs as well as existing national laws. A review of these efforts and a study of the publicly available literature on the subject suggested that a global approach was needed for an appropriate understanding of the phenomenon that could take into account various cultural, economic, and geographic differences.

IHRLI's global research perspective highlighted the common elements of this practice to modern-day slavery and its consequences for every nation. It also underscored the need to establish and support a worldwide response regime to this human rights, social, and criminal problem.

Several important steps were taken in recent years to build momentum for an international response. The international community ratified the United Nations Convention against Transnational Organized Crime (2000), which entered into force on September 29, 2003, and its supplemental Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), which entered into force December 25, 2003. In 2002, the United Nations High Commissioner for Human Rights issued a set of universally applicable Recommended Principles and Guidelines for Human Rights and Human Trafficking. And the United States government as a result of recent legislation has begun collecting information and reports on the status of trafficking around the globe and, in 2003, the State Department sponsored a conference that brought delegates from 120 nations to Washington, DC, to discuss effective strategies to combat sex trafficking. As these developments continue, research on the particular needs of countries and regions will become more important to ensuring the effectiveness of international efforts.

In 2000, IHRLI began to focus its efforts more specifically on Latin America and the Caribbean, given its long-standing involvement in human rights work in the region and the general lack of information on human trafficking in that context.

Due to the clandestine and criminal nature of the phenomenon, as well as inadequate monitoring by law enforcement agencies and public confusion about the nature of the problem, it was impossible to

obtain accurate quantitative data on the subject. In fact, available data was purely speculative and based largely on extrapolations. The existing regional literature, as in the general global case, demonstrated that most of what was known about sex trafficking was based on anecdotal reports in the media and derived from certain human rights organizations, particularly those that assist victims.

IHRLI, therefore, developed an innovative methodology to study the practice of sex trafficking that would elicit a more reliable level of anecdotal data and combine with other data and information to achieve a richer and more nuanced assessment of patterns of conduct and public policy responses. IHRLI also sought a method that would be both able to record the cultural, linguistic, historical, economic, and social patterns that may figure into the realities of sex trafficking as they may exist in the region.

The resultant methodology, which is explained in detail within this report, is explorative. It includes broad public consultation and field investigation aimed at encouraging a discussion of definitions and perspectives on trafficking—considering the important conceptual differences between smuggling and trafficking, the challenges of defining “sexual exploitation,” and the varying standards of treatment for women and children. Field investigations were aimed at providing a qualitative review of information and an explanation of why quantitative data may or may not be available. By clearly identifying and defining the problem, IHRLI hoped to facilitate the collection of increasingly accurate information about the nature and extent of the problem.

Also contributing to the methodological framework were the more policy-oriented aims of the project: to heighten government attention to this phenomenon, increase public awareness, and contribute to the public and private debate on the types of policies needed to prevent and suppress trafficking without further harming victims. By focusing greater attention on the plight of victims, IHRLI hoped that more would be done by governments and international organizations to reduce the level and number of victims and to provide them with greater material and human support.

The selection of countries from the Caribbean and Central America for the IHRLI-led study was complicated by the large number of countries to choose from and their many differences. In consultation with experts, IHRLI identified eight countries in which to begin concentrated investigations: Belize, Costa Rica, the Dominican

Republic, El Salvador, Guatemala, Honduras, Nicaragua and Panama. These countries were chosen for the perceived nexus among them in terms of regional organizations, geographical proximity, and other factors. Studying them individually and as a group also allowed researchers to develop a detailed understanding of trafficking on the national level, as well as the interrelationship among the countries.

At this stage, IHRLI turned to the Inter-American Commission of Women of the Organization of American States (OAS) to seek its involvement in the study. After agreeing to IHRLI's proposal and its partial funding, the commission suggested involving the Inter-American Children's Institute of the OAS, which also joined in sponsorship.

Prior to conducting field investigations, IHRLI and the commission hosted a Meeting of Experts in April 2000 to consult with individuals, organizations, and government representatives on the viability of the study and the methodological framework. Over sixty experts from non-governmental organizations (NGO) and government participated in the meeting. Several important contributions were made by participants that advanced the implementation of the project in the region. The transcripts of several of the addresses made at the meeting can be found in the Appendix to this report.

While carrying out this project, IHRLI also sought to generate local interest and ownership so as to secure a network of actors at the national and regional level who would be committed to turning research findings into action. Toward that end, IHRLI selected NGO counterparts to act as country coordinators in the following states: Costa Rica—Inter-American Legal Services in Human Rights (*Servicios Interamericanos de Abogados en Derechos Humanos*); Dominican Republic—CIPAF (*Centro de Investigación para la Acción Femenina*); El Salvador—FESPAD (*Fundación de Estudios para la Aplicación de Derecho*); Guatemala—PRONICE (*Pro Niños y Niñas Centroamericanos*); Nicaragua—INPRHU (*Instituto Nicaragüense de Promoción Humana*); Panama—*Casa Esperanza*; and, finally, Brazil—Reference Center for Studies and Actions in Favor of Children and Adolescents (*Centro de Referência, Estudos e Ações Sobre Crianças e Adolescentes*: CECRIA). The National Committee for Families and Children in Belize and *Alternativas y Oportunidades* in Honduras contributed to early project activities.

In many instances, these organizations brought numerous other groups into the project. In Brazil, for example, the project

benefited from the participation of over 130 NGOs and academic institutions. We are grateful to these organizations and to their staff who worked with us on this project.

Because Brazil was also deemed an important focal point, a special project was implemented by IHRLI's Brazilian counterpart CECRIA (Centro De Referência, Estudos E Ações Sobre Crianças E Adolescentes), with the assistance of dozens of local partners and research contributors. A comprehensive five-region study was conducted following the same research methodology. CECRIA's findings and conclusions were published in 2003 in a separate report—*Study on Trafficking in Women, Children and Adolescents for Commercial Sexual Exploitation in Brazil: National Report*. Included in this Second Edition of *In Modern Bondage* is a summary report on Brazil prepared by IHRLI Executive Director David E. Guinn, which distills and highlights CECRIA's findings.

Over the course of the study, the project developed and evolved in its learning—drawing knowledge from the many researchers and investigators who participated in the effort. The project greatly benefited from the assistance and support of the OAS Country Offices and the Principal Delegates of the Inter-American Commission of Women in the countries under study. Important contributions were also made by government officials, as well as representatives of international organizations both in and outside the region, through their advice and insights. In particular, IHRLI is grateful for the open discussions that were possible with numerous government officials in the region who demonstrated their governments' concern for the problem of trafficking in women and children for the purposes of commercial sexual exploitation, not only in appreciation of its criminal nature, but also, and above all, for its human dimension.

Now, in 2005, IHRLI continues its work in the area of sex trafficking. Its Worldwide Trafficking Project is ongoing, with approximately twenty-five DePaul law students having contributed research since its start. IHRLI staff persons routinely participate in public conferences and discussions on trafficking and give talks in the United States and abroad. In 2004, IHRLI published Spanish language and comprehensive national-study versions of this report: *Esclavitud Moderna: Tráfico Sexual en las América* and *In Modern Bondage: A National and Regional Overview*, respectively. And, in 2003 and 2004, IHRLI paired with the LA-based trafficking group Captive Daughters to present two conferences examining the demand side of sex

trafficking. The proceedings of the first conference were compiled by IHRLI and made available on our online Publications Catalogue at www.ihri.org. The proceedings of the second conference, which examined the role of pornography in sex trafficking, will also soon be available online.

This Second Edition of *In Modern Bondage: Sex Trafficking in the Americas* affords us another opportunity to raise awareness of this global human rights epidemic that attaches itself to the most exploitable and weaker elements of society. It also highlights, by the example of the Americas, how trafficking reaches and affects every nation in the world. This book is reprinted in the hope that its findings will help NGOs and governments better address this global problem.

Chicago
September 23, 2005

M. Cherif Bassiouni
Distinguished Research
Professor of Law; President,
IHRLI

Acknowledgments

The present report is the product of many years of research and learning at IHRLI on the complex issue of human trafficking. It builds on the knowledge gained through a rigorous review of trafficking literature around the world. Student and volunteer researchers examined over 200 United Nations reports from treaty-monitoring bodies, Special Rapporteurs, and other bodies for information on trafficking and related practices.¹ In addition, international and regional treaties were analyzed and specially assessed for their force and application in the Central American region.² Domestic legislation and policy statements were also collected, reviewed, and compared.³ All of these research efforts have contributed to the current report.

The regional report was prepared by Elissa Steglich, Trafficking Project Officer. David E. Guinn contributed to the editing of the report and prepared the summary report on trafficking in Brazil. Contributions were made by volunteer lawyers, as well as IHRLI Fellows and staff: Erin Abrams, Michele Dempsey, Jill Esenwein-Holly, Carolyn Frazier, Jennifer Healy, Anne Relias, and Sara Wraight. Laura Langberg of the Inter-American Commission of Women assisted in the final eight weeks of the project's fieldwork. Angela Hernandez provided translation services.

IHRLI is grateful to the Inter-American Commission of Women and its Executive Secretary, Carmen Lomellin, for assistance in this project and for the generous funding that IHRLI received through the Commission from the United States Mission to the Organization of American States, the United States Agency for International Development (USAID) and the Pan American Health Organization. The Inter-American Children's Institute of the OAS provided additional financial underwriting.

The OAS Country Directors and the Principal Delegates to the Inter-American Commission of Women deserve recognition for the keen interest they assumed in the investigations as they advanced and the technical support they offered to researchers during country visits. Their efforts facilitated access to many critical information sources

¹ See UN Documents Index in the Appendix.

² See International Legal Protections in the Appendix.

³ See Criminal Legislation in the Appendix.

without which this research would have been lacking.

The NGO partners in selected states, which are named in the Preface, proved invaluable for their contributions to this project. Their commitment to improving the situation of human rights in their countries and advocating for the protection of the most vulnerable sectors of society inspired the development of investigations. As the constant on-ground eyes and ears for this project, their significance cannot be overstated. Special mention should also be made of Mr. Romeo Magaña, who assisted researchers in Belize, and the Offices of the National Human Rights Ombudsman in Santa Rosa de Copán, San Pedro Sula, and La Ceiba, which provided invaluable support and assistance for research in Honduras.

Lastly, IHRLI would like to express its appreciation and gratitude to DePaul University for its financial support of this project and, in particular, to its President, the Rev. John Minogue, C.M., and to Ambassador John Kordek, Associate Vice President for External Relations, for their support in so many ways. The University Research Council of DePaul University also generously supported the project. In addition, the Institute extends its sincere thanks to the Jeanne and Joseph Sullivan Foundation, which supports the Jeanne and Joseph Sullivan Program for Human Rights in the Americas.

CODA: A SURVIVOR'S NARRATIVE¹

A young boy named A. from “*El Viejo*” called me. He spoke with me, and he told me that if I could go work somewhere, I would earn more. But he never told me directly where, if it was a business for women or anything. Instead he told me that it was a *maquila* where he was working and earning well. There was a girl named R. where I was working also, and [A.] came and ... took us to Guatemala. [R.] went without documents, and I went with my identification card. When we reached the border, we crossed but R. stayed. She couldn't cross because they asked for her documents. Well, he went to leave with me and the other girl, but R. stayed at the border. When we reached the place in Guatemala City, we saw that it was a brothel located in Zone 6. The next day I asked for [R.], for the girl, and the owner of the business told me that we were going to return to the border where she had stayed, to bring [R.], because if she didn't appear, I would have to pay the money that he had paid A. for us.

How much money did they give him?

He gave him 1,500 quetzal [approximately US \$190] for three of us. Once we were there, we headed toward the border with the owner's wife. Once we reached the border, we asked for [R.], and a boy that exchanged currency told us she was in a business and that he had left her there. We went to the business and [the wife of the owner to where we had been sold] entered inside with me. By telling lies, they let us see [R.] and she left with us. We left the business and reached the other one where [A.] had sold us. The three of us were there, and [A.] disappeared, and we never saw him again. We stayed there. We weren't well because we always had to be with men, obligated because it was a business, and we weren't accustomed to that type of business. We had to do it because the owner forced us to do what the clients wanted. The clients called us; they invited us for beer, for drinks, and things of that sort. We had to do it because it was a business, and it was forced labor. The owner would tell us we had to do it. Once we were there, we wanted to leave.

¹ Transcript of a video-recorded victim statement to police officers in Nicaragua. The video was provided by Nicaraguan law enforcement and is on file at the International Human Rights Law Institute. Translated from the Spanish. All names have been changed to protect the identities of the individuals.

[...]

We worked every day. We slept and went with ten men. And it was obligated; it wasn't our choice but rather it was obligated in order to repay the money they had given [A.] when we were sold. We had to do it because we couldn't leave, not even by escaping. When they took us to leave, we had to go with the same workers and return to the same spot so they could lock us up again. He mistreated us. We weren't well. The food was bad...

What is the owner's name?

The owner's name is R.C. and his wife's name is B.C. She was also part of the business. He took her from one business and was with her. She is Salvadoran.

The name of the person?

The name of the person who took me is A. ... He deceived me by telling me that I was going to work at a factory where he was working in Guatemala, that it was a *maquila* and I would be earning well. ... And he told us that we could come along without a problem, that he would pay for all the expenses, food, travel and everything, that we shouldn't worry about that, that we should only worry about the ID card, because I had an ID card and the other girl didn't, because by then they couldn't give her an ID card. She didn't have an ID card, and he had only given her a birth certificate that was not hers—who knows whose it was. She didn't use it. She became nervous, and then at the border they asked her for documents, and that's how they stopped her. But at the same time a person who exchanges currency took her to a business and hid her so she could cross the border.

[...]

Other than yourself and the girl you mentioned, were there more people there from Nicaragua or from other places?

No, where I was staying—where they took me—there were only three Nicaraguans, but there were also Salvadorans, Hondurans, and Guatemalans.

In Guatemala, ... how many people were there, more or less, that the person had captive beside yourself?

When they took me, there were about thirty minimum, could have been more possibly, because there were a lot of women, more Salvadorans and Guatemalans.

When they told you that you would work there and you went there, what was ... the situation presented and what reaction did you have when you discovered it wasn't what you expected?

We felt bad when we got to the place because [A.] told us that we had to remain there and we would stay there to wait for the owner, the owner of the factory, and then we entered the business where there were a lot of women. It was strange to see so many women when he had told us we were going to a factory. We felt strange. We asked the owner why we were there. He asked us if we knew where we were going. Then I answered that I didn't know because he had told us that we would work in a factory and that in reality we did not know, we didn't know if it was a business made up of women. By then we were ... inside and everything, and we couldn't leave, because when we wanted to leave, they locked us up and then they didn't let us leave.

We had to do what the owner told us that same day. We got to Guatemala in two days at seven at night, we arrived at the place and, at that moment, the owner told us to go get ready, to put on short clothes so that we could come out to the room to work. I was not used to that environment. We began to cry. They took us upstairs where there were some rooms. We stayed there talking with other women, and they told us that if we wanted to stay, we had to do what they did because otherwise the owner would give us what we deserved, and then we did the things, but not voluntarily or anything, but rather forced. We had to do it.

[...]

There were more than thirty women and six male workers and the one that operated the disco. Because of him I managed to escape because supposedly he says that he fell in love with me. He helped me and told me that if I didn't want to do it, I shouldn't do it, but secretly. Because if the owner found out that he was helping me then he would fire him and lock me up forever.

[...]

What happened to R.?

She stayed. She is now at another business because where we were [was sold]. The owner of the business ... has two more in Zone

12. He stayed with his other two businesses. But she left, and they took her to another business. It was in Zone 11.

[...]

Now she has a child. The child doesn't have papers, and neither does she, and she's still there.

Did you have any communication with her?

Yes, before leaving I maintained contact with her. I spoke to her and everything, and she also asked me for help, if I would do her the favor of bringing her child, but I couldn't bring him because the child did not have papers.

How much time did you stay there in that type of profession?

They kept me captive a year and a half.

[...]

[At the other bar, the owner] sells drugs, and he sells to the same women being held captive. There are many young girls there.

Are they minors?

Yes. They are into drugs.

What age are we talking about?

There are young girls of all ages, they are 15, 16, 18. Since he doesn't ask for papers, what he likes is the women, then that's why he accepts women without papers. And he supports many women because he manipulates them and he supports them there because he also gives them drugs. He has them dance naked with the clients.

Did they attempt this with you?

With me they tried various times, but because I didn't want to, I was always bad with him, because he always forced me to do what I wasn't used to. I didn't like it. I also didn't use any type of drug. That is why the young man felt sorry for me and was able to get me out of there.

Besides being subjected to this against your will were you satisfied with the money that those people gave you to do this?

When we would ask about the sum, how much we owed or something, [the owner] never told us anything. He never said, 'This is how much is left, this is yours, you earned this' or anything. The

clients arrived and would ask us how much we charged. We would say fifty quetzal [US \$6.45]—fifteen for the house and thirty-five for us. We never had the chance to use the money we had earned.

There were clients who didn't sleep with us or didn't arrive at the room because we would tell them our situation, what we were going through. You see, we were there like this, but then I managed to escape because of that boy and, thanks to him, I managed to leave and discovered new places in Zone 19 in the "Florida" district where there are businesses and many women that go through the same thing.

And the places?

These businesses are in the same zone, in the same block, businesses with many women who are known from here, who are from Nicaragua, that maybe I can't give the exact names because they only have nicknames.

[...]

Some girls from "*El Viejo*" who are my friends asked me if I had been there in Guatemala. I told them yes, and they told me that A. had told them to go. I told them no, why should they go if he was a mafia man? He was there to sell them. Why should they go with him? They shouldn't pay attention to him.

Afterword

According to police authorities in Nicaragua, the woman who provided this statement requested that a formal complaint not be filed. Accordingly, her case was not pursued.

I

**TRAFFICKING IN CENTRAL
AMERICA AND THE CARIBBEAN**

Edited By Elissa Steglich

EXECUTIVE SUMMARY

The trafficking of women and children for the purpose of sexual exploitation is an everyday reality for the Central American and Caribbean region. It affects each country uniquely, presenting a different combination of challenges to relevant government agencies, non-governmental service providers and society as a whole. Research findings for this regional investigation indicate the following:

- Traffickers in the region work primarily by means of deception, with false promises of decent and lucrative employment in *maquilas*, restaurants, bars, hotels, and homes, among other places. Following these promises of prosperity, women and children are pressed into sexual servitude in order to work off transportation fees and additional debts. Control is maintained through: violence and threats; debts and fines; restricted access to earnings; physical restraint; use of armed guards; and demonstrations of impunity through open collaboration with authorities. The initial investment in migration and the lack of viable alternatives once transported leave many women and children without options. The risk of deportation, return, or institutionalization (in the case of minors) keeps many victims silent as to their condition.
- Numbers are not available. Quantification of trafficking has been complicated by several factors: lack of a uniform definition and understanding; absence of direct indicators and registries aimed at identifying the magnitude of the problem; the extremely low number of prosecutions due to investigative limitations (human and technical capacity) and absence of complaints/reports of trafficking-related criminal activity; and difficulties in the identification of trafficked persons.
- With the exception of the Dominican Republic, trafficking has not been incorporated into the national agendas of the countries in the region.
- Government representatives in all eight countries recognize trafficking as a problem, and often as an increasing one. Some serious efforts are being taken to combat the problem, although on an *ad hoc* basis. In most cases, it is a single official supporting the effort.

- All countries except El Salvador have criminalized international sex trafficking, although these laws are rarely applied. Most jurisdictions use the crime of procuring (*proxenetismo*) to counter sex trafficking, although the number of prosecutions is still extremely low. Investigation and prosecution is often compromised by the need to have a complaint registered before pursuing a case. Anti-smuggling legislation is increasingly being applied in El Salvador, Honduras, and Guatemala, although distinctions between trafficking and smuggling are not made. As a result, victims' needs are ignored.
- Thus far, government response mechanisms have been non-existent or inadequate. Disinterest, corruption, and constrained resources plague law enforcement and immigration sectors, severely limiting their effectiveness. Child and women's welfare agencies offer little to no services adequate to meet the needs of survivors of trafficking.
- Special protections or attention for child trafficking victims have been legislated in most of the countries, either through reforms or special laws on child sexual exploitation. Many of these assistance plans are unfunded, however, so they do not exist or are woefully inadequate in practice. Integration and rehabilitation programs were particularly lacking.
- In many countries, the media has begun to report on cases of trafficking, although investigative reporting on the issue is still rare.
- Overall, the region suffers from an absolute lack of prevention, protection, suppression, and integration strategies. Nascent attention has been drawn to the trafficking of children, but lack of funding and other obstacles have stalled implementation of targeted programs.

A. Country Overviews

Belize: Despite the lack of prosecutions, government representatives (health, immigration, law enforcement) and consulates reported trafficking of women and minors from Guatemala, Honduras, El Salvador, and Nicaragua. Occasional arrests and deportations of trafficked women occur for immigration violations following police raids of brothels.

Costa Rica: Trafficking of women and minors occurs from Colombia and the Dominican Republic. Minimal trafficking from Nicaragua appears to exist, although its incidence may be obscured by the general migration flow, which is significant. Rumors of trafficking from Thailand and Eastern Europe were documented. Significant internal trafficking of Costa Rican minors for sexual near tourist points and ports.

Dominican Republic: International trafficking of women from the Dominican Republic to Argentina, Costa Rica, Panama, nearby Caribbean islands (St. Martin, Curacao), and Europe is widely recognized. Internal trafficking of minors for sexual exploitation from the interior to tourist areas occurs, and some trafficking cases of Dominican and Haitian girls along the border also have been reported.

El Salvador: Women and children are trafficked to El Salvador from Nicaragua and Honduras. Some transit of women and minors to Guatemala and other northern points occurs. Salvadorans themselves are also victims of trafficking to Guatemala and Mexico. Most of the recent prosecutions have been under new general smuggling legislation, which does not distinguish or specifically contemplate situations of trafficking.

Guatemala: The rate of trafficking into, within, and out of Guatemala is alarming. Strong border controls by Mexico, a high level of corruption, and a large number of migrants seeking opportunities to travel north foster conditions that allow for trafficking. In addition to the usual method of trafficking through false promises of work ending in forced prostitution, female migrants who may have arrived independently or with assistance of smugglers are coerced into prostitution. Immigration and police have increased arrests for smuggling, but identification of trafficking cases is not pursued.

Honduras: Honduran nationals are trafficked to the neighboring states of El Salvador, Guatemala, and Belize and then on to Mexico and the United States. Trafficking from Nicaragua also passes through Honduras. Internal trafficking for purposes of sexual exploitation occurs from interior points to the northern coast cities of San Pedro Sula, Puerto Cortes, Tela, and La Ceiba, among others. Few trafficking or procuring cases reach the justice system.

Nicaragua: A strong trafficking route to the north begins in Nicaragua. Researchers documented cases of trafficking to El

Salvador, Honduras, Guatemala, and Belize. Young women and girls leave with promises of jobs in hotels, as domestics, factory workers, etc. Some cases have been reported and investigated, but weaknesses in the justice system have resulted in delays, dismissals and lack of follow-up. Victims are often unwilling to participate in judicial proceedings due to fear of reprisal and lack of confidence in the judicial system.

Panama: Women and girls are trafficked from the Dominican Republic and Colombia to Panama. In recent years, prosecutors investigated a case of Panamanian women and girls being trafficked to Israel. Trafficking assumes a cover of legality under a visa program for “*alternadoras*” (escorts), which is managed by the Directorate of Migration and the Ministry of Labor. In 2000, over 700 women from Colombia were granted such visa for temporary work. While female migrants may be aware of the type of work they will be entering, deception as to the conditions of work is common. In theory, these women work under a contract and can seek protection under local labor laws. The exploitation and abuse, however, is consistent with situations of trafficking—documents are seized, women have no freedom of movement or access to earnings, and many work under threat of deportation.

TRAFFICKING: A REGIONAL OVERVIEW

A. INTRODUCTION

The phenomenon of trafficking of women and children for purposes of commercial sexual exploitation is not new to the Americas. In the wake of World War I, the League of Nations embarked on a three-year investigation of trafficking around the world, concluding that “Latin America is the traffic market of the world....”¹ Markets have shifted over time, moving the trafficking trade through different regions, but the practice is well entrenched and remains a significant problem in the hemisphere.

Despite its long history in the region, trafficking in persons has failed to receive government attention or be the subject of coordinated action toward its eradication. The international community’s early efforts to curb trafficking in women for the purposes of prostitution through the passage of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949) passed largely without notice in or participation of the Latin American and Caribbean states.² Similarly, these early international efforts failed to trickle down into the national laws and policies of Central American countries.

The failure of governments in the region to acknowledge and/or respond to trafficking activity over the years has resulted in the near invisibility of the issue in policy, official records, and state action. None of the countries included in this study have mechanisms in place that permit trafficking activity to be accurately registered. This absence of record has fortified a willful ignorance of reality; policy priorities

¹ H. WILSON HARRIS, HUMAN MERCHANDISE: A STUDY OF THE INTERNATIONAL TRAFFIC IN WOMEN 187 (1928).

² Of the eight countries included in this report, only Honduras has ratified the Convention. *See* International Legal Protections included in the Appendix.

have followed the belief that “if I don’t see it, it doesn’t exist” (“*si no lo veo, no existe*”).

Despite the lack of concrete data, the trafficking of women and children for sexual exploitation in Central American and the Caribbean has become a very visible phenomenon on the ground. It affects each country individually and the extended Central American region as a whole. Women and children are being trafficked into sexual exploitation within countries, within the region and internationally. In interviews, both governmental and non-governmental sources alike noted patterns of trafficking: young women and minors being promised employment in factories or homes, or being offered educational or modeling opportunities only to be pressed into sexual servitude. These offers have become more attractive as labor alternatives remain unavailable in many areas, especially for women. This increase in supply of women and adolescents is met with an unchecked demand for sexual services. In addition, the lack of governmental response, particularly in the area of law enforcement, has allowed trafficking networks and individual traffickers to practice with impunity.

A myriad of factors contribute to these characteristics, producing a wide range of sex trafficking scenarios and posing challenges to finding an adequate response. On the supply side: continuing gender stereotypes limit options for women and minors in the workplace; prevailing attitudes toward women and children contribute to their vulnerability; cultural tolerance of sexual abuse and domestic violence limit access to social services; and the pursuit of the “American dream,” combined with limited possibilities for legal migration to the United States, Canada and Europe generate a market for illegal immigration. On the demand side: the legalization of adult prostitution and other commercial sexual activities creates an open market for sexual services; male migrants (seasonal workers, truck drivers, undocumented migrants en route to the United States, Canada, and elsewhere) contribute to demand; and the existence of sex tourism in some areas has generated new needs.

Smuggling and trafficking networks mediate supply and demand by readily exploiting the region’s most vulnerable citizens through their economic needs and ambitions for a better life. The behavior of these criminal networks at all levels of organization and sophistication remains largely unchecked, further fueling the trafficking trade. Children, many who have suffered past sexual abuse, remain

particularly unprotected against domestic and international exploitation rings, encouraged by a growing child prostitution market.

The information collected over the course of this research paints a disturbing picture of criminals acting with near-absolute impunity and an absence of identification, treatment, and protection of victims. Many fora for action, advocacy, and attention are currently under-utilized, in part because trafficking in persons has not been placed on the national agenda of most countries in the region. If mobilized, they could generate awareness, help to harmonize data collection from different institutions and countries, contribute research, draft policy and legislative reform, and articulate strategies for victim protection and integration.

This report begins with a description of the study and its methodology in Part B, which examines the definitions and the conceptual framework used in the elaboration of investigation and analysis. Part C offers a socio-economic profile of the region and the general patterns of migration through the territory, which in many ways inform current trafficking activity. Part D provides an overview of the characteristics of trafficking in women and children for purposes of sexual exploitation in the expanded Central American region. Trafficking routes, risk factors, root causes, conditions and consequences are all explored. International commitments, national policies and relevant domestic legislation are analyzed in Part E, along with identified obstacles to effectively combating trafficking in the region. Conclusions and recommendations are presented in Parts F and G.

B. A PROJECT IN THE AMERICAS

Since 1998, the International Human Rights Law Institute (IHRLI) of DePaul University College of Law has monitored the rapidly growing problem of trafficking of women and children for purposes of commercial sexual exploitation. Preliminary studies revealed a surprising lack of reliable and comprehensive data available on trafficking, despite increasing international attention to the subject. In response to this deficiency, IHRLI sought to implement a research initiative aimed at providing governments, regional bodies, organizations, and advocates with the information necessary to create concrete action plans to combat trafficking and its effects worldwide.

The study was conducted in conjunction with the Inter-American Commission of Women and the Inter-American Children's Institute of the OAS.

The Project in the Americas sought information from government institutions, civil society organizations, academic institutions, and individuals directly involved and impacted by trafficking practices in order to present a social, economic, political and legal analysis of trafficking of women and children for commercial sexual exploitation. Thematically, the study explores two distinct human rights concerns: first, the trafficking of women and children; and second, commercial sexual exploitation. The broader categories of trafficking in persons and commercial sexual exploitation (prostitution, pornography, sex tourism, etc.) have been the subject of recent international scrutiny and legislation, and many organizations have dedicated efforts toward looking at the problems individually. IHRLI, however, decided to adopt a broad focus due to the interrelated nature of these problems.

In April 2000, after IHRLI had conducted an extensive review and analysis of relevant laws, treaties and governmental and UN reports relating to trafficking, IHRLI and the Inter-American Commission of Women hosted a Meeting of Experts to examine the issue of trafficking in the Americas and to solicit recommendations on a proposed methodology.³ Participants included US government representatives, experts from non-governmental organizations (NGOs) and international organizations, and officials from OAS agencies and missions. With contributions from this meeting, a pilot project was developed to study nine countries: Brazil and an extended Central American sub-region (Belize, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua and Panama).

The project was designed to assess the prevalence of sex trafficking in Latin America and the Caribbean, to survey existing programs and policies responsive to the problem, and to identify local and regional needs to formulate effective strategies to combat the problem. It seeks to break the cycle of inaction, especially in light of the availability of new strategies to combat trafficking developed by the international community in partnership with human rights organizations in other areas of the world. It is an explorative work, with conclusions based on documentary research and extensive interviews with

³ See Meeting of Experts documents in the Appendix.

government authorities, international organizations, non-governmental organizations, independent experts, and individuals involved in the trafficking sphere.⁴

i. Methodology

The Trafficking Project included four key elements: (1) collaboration with counterpart organizations in each participating country; (2) initiation of public debate on the issue of trafficking through a national consultation in each participating country; (3) general assessment of the trafficking of women and children for purposes of sexual exploitation; and (4) use of the study's findings and conclusions to recommend concrete measures at regional and national levels to respond to trafficking. In actual project implementation, South America and the expanded Central American region were separated. This portion of the report presents an overview of the results of the study that concentrated on Central America and the Dominican Republic.⁵

Between March and May 2001, National Consultations were held in each participating country to introduce the project, conceptualize and discuss terms, identify possible sources of information, and raise public awareness on the issue of trafficking. These meetings included the participation of national NGOs, state agencies, international organizations, academics and the media.

Following national consultations, organizational partners in each country except Belize initiated a nine-month period of investigation on the trafficking of women and children for sexual exploitation in each of their countries. Counterparts collected all available written materials on trafficking and its related issues, including relevant legislation and media coverage. Investigators sought information from representatives of government institutions, NGOs, academics, and others who might have pertinent information, using a common questionnaire developed by IHRLI.⁶

A second period of investigation was conducted between February 4-13, 2002, and April 7-June 14, 2002, through country visits by researchers from IHRLI and the Inter-American Commission of Women of the Organization of American States. Researchers spent between four and ten days in each country meeting with government

⁴ See Consulted Institutions and Organizations in the Appendix.

⁵ For each country, a national assessment was completed. These national reports are available separately from IHRLI.

⁶ See Questionnaire in the Appendix.

actors (police and immigration officials, judges, prosecutors, offices of the ombudsman, institutions of child welfare and women's issues, ministries of labor and health, legislatures, and foreign consulates); and staff members at NGOs working in the field and international organizations such as UNICEF, the International Labor Organization (ILO), International Organization for Migration (IOM), INTERPOL, and Save the Children. Where possible, researchers visited areas most affected by trafficking, such as border points and locations of recruitment and exploitation.

The study in the expanded Central American region aimed to assess trafficking in the region based on reliable information and data. Yet, the collection of accurate data posed a great challenge to researchers. First, as a result of the violence, abuse, coercion, trauma, and stigma associated with trafficking, victims are inclined to maintain their silence—as is common for most victims of gross human rights violations. Institutional disincentives, such as policies that criminalize rather than protect victims and judicial proceedings, tend to revictimize trafficked persons, further encouraging the silence. Second, public accusations of social and political leaders are rare. As a social taboo, the sex industry is kept veiled. Equally so, cultural norms including notions of sexuality and gender foster an acceptance of the sexual exploitation in trafficking. These elements together ensure that knowledge of trafficking activity remains anecdotal. Third, as is the nature of the black market, essential information is guarded. Traffickers work ahead of law enforcement, whose investigative capacities are extremely limited by human, technical and financial constraints. Corrupt police, immigration, other public functionaries and the more powerful sectors of communities who in certain locations have been shown to be involved in the trade also protect information. Finally, the scant data that reaches government offices is often lost in poor and inadequate management and coordination systems.

The most reliable and consistent information available to researchers was from consulates, who often directly intervene in cases of international trafficking affecting their nationals, and health service providers—both public and private—who have regular access to and contact with individuals in the commercial sex industry, including trafficked persons and traffickers. Even these sources admit that they cannot offer a complete picture of the problem. In general, consulates see only those individuals who have escaped their trafficking experience; health officers, for their part, attend to only the most visible

populations who work in streets, parks, markets, relatively open bars and other establishments. From all indications, the sector that includes the greatest number of trafficking cases—women and minors who are trapped and/or are forced to remain undetected—is the least accessible.

This overview seeks to examine key features of trafficking for sexual exploitation in the region. These include: root causes and vulnerabilities, trafficking networks, routes, existing responses by government institutions and civil society, and applicable domestic and international legislation. While the government and civil society responses to trafficking have been minimal, researchers encountered a keen interest and willingness from both these groups to participate in formulating and implementing eradication strategies. Many of the proposals offered by interviewees are reflected in the recommendations. This research initiative was a first step in bringing to light the brutal realities of sex trafficking in Central America and the Caribbean. More targeted research remains necessary to strengthen and complete our understanding of this modern practice in slavery.

ii. Definitions and Key Concepts

It is widely agreed in principle that trafficking in persons is a crime and a human rights violation. Further delineating its elements, however, has and continues to pose challenges to researchers, advocates and government actors. The long history of combating trafficking, especially for purposes of sexual exploitation, has been marked by an absence of unified understanding of the issue. The consultations that initiated research in the region made clear that a common view regarding trafficking does not yet exist.

Recent actions at the international level, however, have brought us closer than ever to a baseline definition. In December 2000, a UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,⁷ supplementing the UN Convention against Transnational Organized Crime⁸ was adopted, which for the first time supplied an international, legal definition of the trafficking

⁷ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, Report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime on the work of its first to eleventh sessions, UN Doc. A/55/383 (2000), Annex II [hereinafter UN Trafficking Protocol].

⁸ United Nations Convention Against Transnational Organized Crime, opened for signature 12 Dec. 2000, U.N. GAOR 55th Sess., Annex 1, Agenda Item 105, at 25, UN Doc. A/55/383 (2000) [hereinafter Organized Crime Convention].

phenomena. This definition suffers limitations, but does assist in identifying the core characteristics of trafficking.

As a basic framework, this study adopts the UN Trafficking Protocol's general definition, which identifies trafficking as:

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 exploitation⁹

The UN Trafficking Protocol imposes several requirements that were modified for the purposes of this study. Recognizing that trafficking can and does occur within a country's borders, cases and circumstances of internal trafficking were considered to be within the scope of the project. Further, researchers and investigators examined trafficking activity regardless of the number or nature of traffickers identified as participants.¹⁰

This study was designed to examine trafficking for purposes of commercial sexual exploitation as it affects both women and children (female and male). Because of the qualitative differences between these populations and the separate legal regimes and protection policies to which each is subject, it was necessary to formulate further qualifications to the definition of sex trafficking relative to each group.

Women

Issues of agency and consent have complicated a clear definition of the trafficking for sexual exploitation of adult women. A central inquiry is under what circumstances, if any, can a woman migrate into a position in the commercial sex industry without being trafficked.

⁹ UN Trafficking Protocol, *supra* note 13, art. 3(a).

¹⁰ The UN Trafficking Protocol only applies to acts perpetrated by an organized criminal group, which under the Convention means "a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit." Organized Crime Convention, *supra* note 14, art. 2(a).

The UN Trafficking Protocol sets out that “the consent of a victim of trafficking in persons to the intended exploitation ... shall be irrelevant where [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 vulnerability¹¹ or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person] have been used.”¹² While exploitation includes “exploitation of the prostitution of others” and “sexual exploitation,” neither of these terms is defined. This leaves open the possibility that non-coerced sex work should be included under the rubric of “sexual exploitation,” but does not mandate it.

In all of the countries under study, adult prostitution and other commercial sexual activities are legal. Respectful of the existing legal framework, the study used a definition of “sexual exploitation” limited to circumstances where the individual participated in prostitution, the production of pornographic materials or other remunerated sexual activities as a result or due to the Protocol-defined means of threats, force, coercion, abduction, fraud, deception, abuse of power or position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person. This definition includes situations where debt bondage, threats of exposure to deportation, arrest or other punishment, and other control mechanisms are used against women to prohibit their leaving.

Children

The definitional issues regarding child trafficking are different from those related to adult women. Specifically, following the UN Trafficking Protocol and basic human rights standards, the issue of consent for minors engaged in commercial sexual activities is always irrelevant.¹³ Instead, the questions relate to the nature of the prohibited act (*e.g.* sexual exploitation) and status.

First, the international community has outlined several basic norms that help shape an understanding of commercial sexual exploitation. In 1996 and 2001, UNICEF, in partnership with other organizations, hosted the First and Second World Congresses against

¹¹ “The *travaux préparatoires* should indicate that the reference to the abuse of a position of vulnerability is understood to refer to any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved.” Interpretative Notes, UN. Doc. A/55/383/Add.1, para. 63 (2000).

¹² UN Trafficking Protocol, *supra* note 13, art. 3(b).

¹³ *Id.*, art. 3(c).

Commercial Sexual Exploitation of Children. The general definition of commercial sexual exploitation adopted in the Declaration and Action for Agenda of the World Congress Against Commercial Sexual Exploitation of Children (1996) states:

The commercial sexual exploitation of children is a fundamental violation of children's rights. It compromises sexual abuse by the adult and remuneration in cash or kind to the child or a third person or persons. The child is treated as a sexual object and as a commercial object. The commercial sexual exploitation of children constitutes a form of coercion and violence against children, and amounts to forced labor and a contemporary form of slavery.

Accordingly, the study examined all circumstances of "recruitment, transportation, transfer, harboring or receipt" of children for prostitution, the production of pornographic materials, or other commercial sexual activities (stripping, table dancing, "*barra show*," etc.).

Second, determining whether or not an individual is a "child" or minor arises as a significant concern. Variations exist within the region as to when a child comes of age. Thus, in some countries, a child over the age of twelve or fourteen is considered an adult whereas in other countries anyone under eighteen years of age is considered a minor. For purposes of this study, researchers considered a child to be any person less than eighteen years of age, consistent with the UN Convention on the Rights of the Child and the UN Trafficking Protocol.¹⁴

C. SOCIO-ECONOMIC CONTEXT: POVERTY AND MIGRATION

The trafficking of women and children detected in the region occurs within the context of larger migratory movements and economic struggle. These characteristics form an important backdrop to trafficking activity, as they affect the supply of women and children,

¹⁴ UN Convention on the Rights of the Child, G.A. Res. 44/52, U.N. GAOR, 44th Sess. (1989) (entered into force Sep. 2, 1990), art. 1; UN Trafficking Protocol, *supra* note 13, art. 3(d).

the demand for available sexual services, and the quality of the government response.

i. Status of Development

Central America is easily considered a single territory. The countries, which share numerous economic, historical, social and political characteristics, enjoy a variety of regional inter-governmental bodies and forums, and since the early 1990s, have been negotiating toward economic and trade integration. Within the hemisphere, it is one of the more impoverished regions; over 70% of the region's population lives below the poverty line.¹⁵ These longstanding economic woes have been exacerbated by the recent natural disasters of Hurricane Mitch in 1998 that significantly impacted Nicaragua and Honduras and earthquakes in El Salvador in 2001.

Women, in particular, face enormous challenges, as they increasingly assume sole responsibility for families. From 1988 to 1999, in Costa Rica, the percentage of women as head of the house rose from 19.3% to 27.9%. During the same time period in Honduras, the number of women increased from 27.9% to 30.3%. From 1991 to 1998 in Panama, the percentage of women as heads of a household increased from 26.0% to 30.6%. In 1997, women headed 30.2% of the houses in El Salvador. In that same year in Nicaragua, the percentage was 36.6% and in the Dominican Republic it was 31.4%. In 1999 in Guatemala, women ran 24.3% of the households.¹⁶

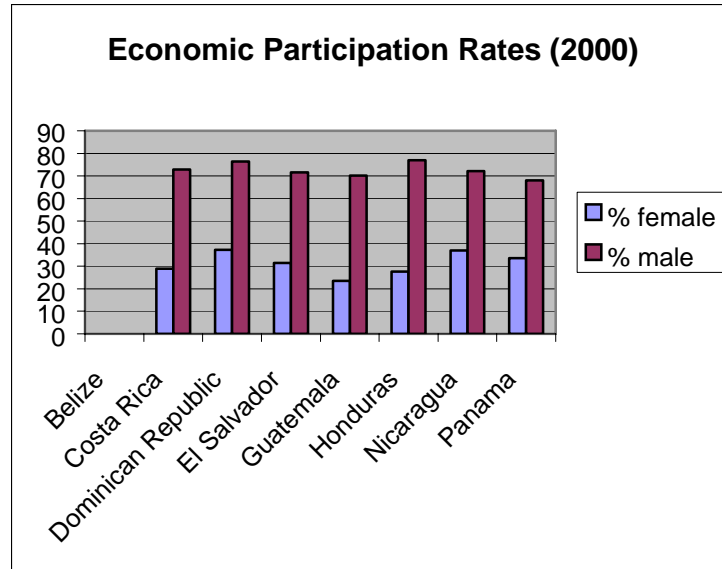
With this increased responsibility, women are seeking jobs and active earning lives. In all eight countries of the region, the participation rates for women have risen steadily since 1995 and are projected to continue along the same incline.¹⁷ Despite these developments, women continue to participate less in the marketplace and earn far less than their male counterparts.

Graph 1

¹⁵ Luis Solis and Patricia Solano, *Central America: The Difficult Road Towards Integration and the Role of Canada*, FOCAL POLICY PAPER (May 2001) <http://www.focal.ca/summary/summary_central.htm>.

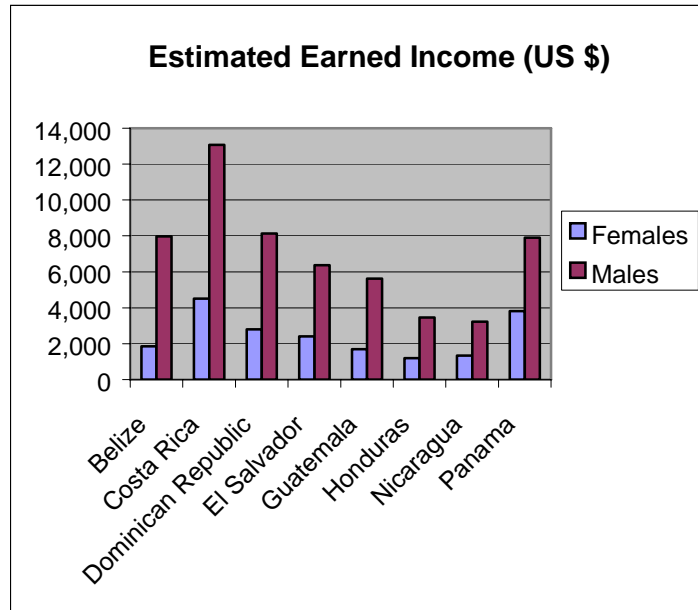
¹⁶ COMISIÓN ECONÓMICA PARA AMÉRICA LATINA Y EL CARIBE (CEPAL), *STATISTICAL YEARBOOK FOR LATIN AMERICA AND THE CARIBBEAN 2001 58* (2002).

¹⁷ *See id.*



Source: *Comisión Económica para América Latina y el Caribe (CEPAL)*, Statistical Yearbook for Latin America and the Caribbean 2001 (2002).

Graph 2



Source: CEPAL, Statistical Yearbook for Latin America and the Caribbean 2001 (2002). Earning based on non-agricultural wages for 1999.

Girls, too, struggle against lower earnings potential as a significant number assume roles of caretaker at early ages. Teenage birth rates throughout the region are high:

Table 1
Birth Rates in Adolescent Girls¹⁸

Country	Births per 1,000 women aged 15-19
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¹⁸ The global average was 50 births per 1000 women; in less developed regions the average was 54 births, and for least developed countries averages were 127 births. UNFPA, STATE OF WORLD POPULATION 2001, available at <<http://www.unfpa.org/swp/2001/english/indicators/indicators1.html>>.

Belize	79
Costa Rica	81
Dominican Republic	93
El Salvador	87
Guatemala	111
Honduras	103
Nicaragua	138
Panama	75

Source: UNFPA, State of World Population 2001.

Women and girls in the region continue to be impacted by reduced educational opportunities and job access.

Table 2
Development Indicators

	Belize	Costa Rica	Dominican Republic	El Salvador	Guatemala	Honduras	Nicaragua	Panama
GNP per capita (in US \$)	3110	3810	2130	2000	1680	860	400	3260
Total population (millions)	0.2	3.8	8.4	6.3	11.4	6.4	5.1	2.9
% Female	49.6	50.1	49.2	50.9	49.6	49.7	50.2	49.5
Female Primary enrollment rate (%)	99	89	N/A	87	80	N/A	N/A	N/A
Youth illiteracy (male) (% aged 15-	2.7	2	9.6	11	14.5	17.8	29	2.8

24)								
Youth illiteracy (female)	1.3	1.4	8.1	12.6	27.2	15.4	27.7	3.6
Female labor (%)	24	31	31	37	29	32	36	35
Female unemployment	20.3	8.2	N/A	6	N/A	3.8	14.5	16.9

Source: World Bank, Statistics for 2000.

ii. Migration Flows

In the last ten years, the Central American states have experienced migration phenomena at all levels. A rural to urban transfer has largely resulted from a weakening agricultural sector and the move to larger cities in search of work. Intra-regional migration patterns also emerged. Nicaraguans flowed in significant number to Costa Rica such that currently, some eight percent of the population of Costa Rica is comprised of Nicaraguan nationals.¹⁹ The temporary and permanent movement from El Salvador, Honduras and Guatemala into Belize has also been recorded. The figures from the 2000 census in Belize show that the foreign-born population in the country (just under 14% of the total population) is comprised of Guatemalans (42.5%), Salvadorans (17.6%) and Hondurans (14%).²⁰ Finally, migration outside the region to Mexico, the United States and Canada has also increased.

The strongest and most visible migration in the region is to the United States. Movement of all kinds occurs alongside the land route north. Some of the more obvious migrations include the following:

- Nicaragua has experienced significant emigration, with its citizens destined for Costa Rica and points north (Honduras, El Salvador, Guatemala, Mexico and the United States). The migration is both legal and illegal. Nicaraguans have constituted roughly 3% of the Central Americans apprehended by immigration authorities along the southwest border of the United States from 1999-

¹⁹ STATE OF THE NATION PROJECT, A BINATIONAL STUDY: THE STATE OF MIGRATION FLOWS BETWEEN COSTA RICA AND NICARAGUA 11 (2001).

²⁰ BELIZE CENTRAL STATISTICS OFFICE, POPULATION CENSUS 2000: MAJOR FINDINGS (2001).

2001.²¹

- Migration from Honduras flows to Belize, El Salvador, Guatemala, Mexico and the United States. Belize and Guatemala host many Hondurans as temporary agriculture workers. In addition, it is estimated that 108,000 Hondurans transit through Guatemala annually.²² Hondurans comprised 36% of all border apprehensions in Mexico in 1999²³ and 46% of the Central Americans apprehended by immigration authorities along the southwest border of the United States from 1999-2001.²⁴
- Salvadorans migrate to Guatemala as temporary agricultural laborers. They also use Guatemala as a transit point into Mexico and the United States. An estimated 36,000 Salvadorans passed through Guatemala in 2001.²⁵ Salvadorans comprised 19% of all border apprehensions in Mexico in 1999²⁶ and 32% of the Central Americans apprehended by immigration authorities along the southwest border of the United States from 1999-2001.²⁷ Migration to Belize also occurs.
- Guatemala sends between 100 and 120 thousand temporary agricultural workers into Mexico a year. In addition, many Guatemalans attempt to cross into Mexico illegally and are likely to continue to the United States. Guatemalans comprised 43% of all border apprehensions in Mexico in 1999²⁸ and 19% of the Central Americans apprehended by immigration authorities along the southwest border of the United States from 1999-2001.²⁹ Guatemalan migration has also been registered to Belize.

²¹ UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE, MONTHLY STATISTICAL REPORT (1999-2001)

<<http://www.ins.gov/graphics/aboutins/statistics/workload.htm#monthly>>.

²² MINISTRY OF PUBLIC HEALTH, GUATEMALAN SOCIAL SECURITY INSTITUTE, AND OPS-OMS, VII REGIONAL CONFERENCE ON MIGRATION (2002).

²³ ELENA AZAOLA, BOY AND GIRL VICTIMS OF SEXUAL EXPLOITATION IN MEXICO 69 (2000).

²⁴ U.S. INS, *supra* note 27.

²⁵ MINISTRY OF PUBLIC HEALTH, *supra* note 28.

²⁶ AZAOLA, *supra* note 29.

²⁷ U.S. INS, *supra* note 27.

²⁸ AZAOLA, *supra* note 29.

²⁹ U.S. INS, *supra* note 27.

**Table 3
General Migration Flows in Central America**

	Nicaragua	Honduras	El Salvador	Guatemala	Belize	Mexico	United States
Nationals of Nicaragua		T	T	T D	D	T	D
Nationals of Honduras			T	T D	D	T	D
Nationals of El Salvador	T	T		T D	D	T	D
Nationals of Guatemala					D	D	D

T=Transit; D=Destination.

The Central American Commission of Migration Directorates has estimated the Central American migrant population to be nearly five million.³⁰ The income generated through these migrants has developed into an important source of wealth for the Central American countries.

³⁰ STATE OF THE NATION PROJECT, *supra* note 25.

Remittances, which have increased consistently over the last ten years, now contribute a significant amount to the region's resources:

Table 4
Remittances

Country	Remittance (in millions)	As % of GNP
El Salvador	\$1,920	17
Nicaragua	\$610	22
Guatemala	\$584	3.1
Honduras	\$460	7.5
Dominican Republic	\$1,807	10

Source: Manuel Orozco, Inter-American Dialogue, "Remittances to Latin America and its Effect on Development."

Much of the regional and international migration is illegal. For unskilled workers, including many women and adolescents, few legal migration opportunities exist, forcing them to explore illicit means of transportation.³¹ Family reunification is also being conducted outside the law, with undocumented immigrants in destination countries lacking legal means to bring their spouse and children into their country of illegal residence.

Women in Migration

Women's participation in migration is increasing. A recent survey of individuals in the process of migration in Central American countries reported female participation ranging from 10% in Guatemala to 43% in the Dominican Republic.³² This so-called "feminization of migration" includes young single women and women with primary earning responsibility. Motives include reunification with family members abroad and the search for job opportunities.

³¹ Only one formal temporary unskilled work program was identified in the region to which women had access. The Dominican Republic and Spain recently established the program offering temporary work visas to qualifying Dominicans for employment as domestic laborers in Spain.

³² FLACSO, SEGUIMIENTO A LA VIOLACION DE LOS DERECHOS HUMANOS Y SITUACIONES DE RIESGO QUE VIVE LA POBLACION MIGRANTE (preliminary results) (2002).

More so than any other country within the region, the Dominican Republic has a unique and longstanding history of female migration. Academics have identified three significant periods of female migration from the Dominican Republic since the 1960s:

- Between 1961 and 1973, women participating in migration toward the United States, principally motivated by domestic political strife.
- From 1974 to 1984, women began to move to other destinations.
- Since 1985, female migration has been directed toward Europe, provoked by economic crisis and decreased opportunities to migrate to the United States due to changes in immigration policy and legislation. Spain has been the most frequent destination.³³

According to various studies, women account for approximately 60% of the migration flow from the Dominican Republic.

Children in Migration

A recent study on child migrants in the countries of Central America, the Dominican Republic, Mexico, the United States and Canada, concluded that the number of unaccompanied children in the migration process is increasing, with a growing percentage of girl children.³⁴ While most of these movements are under informal family unification programs, many are adolescents moving independently.

D. SEX TRAFFICKING IN THE REGION

Trafficking of women and children for commercial sexual exploitation in Central America and the Caribbean is an undeniable reality that is occurring within and without national borders. The following overview will explore the most salient features of the practice.

³³ GINA GALLARDO RIVAS, TRAFICO DE MUJERES Y EXPLOTACION SEXUAL EN LA AGENDA PUBLICA DOMINICANA (1999).

³⁴ ACTION CANADA FOR POPULATION AND DEVELOPMENT, MENORES MIGRANTES: DERECHOS HUMANOS, PROTECCION Y SERVICIOS EN LOS PAISES MIEMBROS DE LA CONFERENCIA REGIONAL SOBRE MIGRACION, RESUMEN EJECUTIVO (2002).

i. Risk Factors

Relating to the Individual

Throughout the region, government and private practitioners identify the same bundle of individual factors that contribute to making certain persons vulnerable to trafficking and sexual exploitation. None of these factors are determinative, but their existence in a field littered with demand for commercial sexual services and criminal networks functioning with impunity increases the risk of falling into a trafficking cycle. Studies in other regions of the world have also identified these elements as contributing to trafficking; their degree of intensity in Central America and the Caribbean directly contribute to the level of trafficking activity that occurs.

For women, the pursuit of the basic needs of food, clothing and shelter and the lack of employment alternatives at home are primary elements contributing to their vulnerability. Compounding economic need are other factors such as sole responsibility for children, illiteracy or minimal education, and lack of training or technical skills. A history of physical or sexual abuse also appears to contribute to a risk of being trafficked.

The economic and educational factors are clearly illustrated on a macro-level. Just within the region, source countries (Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua) suffer from the lowest gross national product relative to the destination points for their nationals (Costa Rica, Panama and Belize). Comparatively, countries of origin also face the highest youth illiteracy rates and the lowest female primary school entrance rates.

Many of the individual researchers and service providers consulted commented on the need for real employment alternatives to reduce the risk of women being trafficked and, especially, re trafficked. Victims of sex trafficking are being paid, and while the level is poor, in many cases it remains significantly higher than other options. Where female labor training programs do exist, they have focused on beautician skills, sewing and cooking. Most advocates reported that these programs are largely ineffective.

<p>In 1995, a study on adult prostitution in Panama concluded that “the lack of housing, unemployment and economic reasons were the most common causes among those interviewed, representing 42.5% of the total. Another important indicator is the corruptive influence that the</p>

[sex worker] was a victim to by friends, neighbors or familiar persons, reflecting 26%; family disintegration and abandonment also were part of the principal causes of her current lifestyle, registering 22% and 16% respectively. Sexual abuses were other diversion motives, but to a lesser extent, with 12%.”³⁵

For children, issues related to sexual abuse, physical abuse, family disintegration, school abandonment, teenage pregnancy, homelessness, gang participation and drug use appeared to combine with economic need (of the child and of his/her caretakers) to create a risk of being trafficked. Homosexuality, transvestitism and transexuality among males are also risk factors.

The majority of young women in prostitution in Guatemala had been sexually abused by family members with their first sexual contact occurring between the ages of 8 and 11.³⁶

In Honduras, a survey of 100 children being sexually exploited showed that 42% had their first sexual relations between 12 and 13. 50% of the children in the study were victims of sexual violence between 10 and 13 years old.³⁷

A sample of 166 women and minors in prostitution in Belize revealed that the majority had their first sexual experience between the ages of 13 and 15.³⁸

A study in Panama focused on victims of child sexual exploitation showed that “around 50% of interviewees fled their homes, due to different abuses.”³⁹

In Costa Rica, a recent survey of 100 children in situations of sexual exploitation indicated that 55% of girls interviewed in the capital San

³⁵ GREGORIO VILLARREAL V., ANÁLISIS SOCIO-JURÍDICO Y CRIMINOLÓGICO DE LA PROSTITUCIÓN (1995). Original in Spanish. Translation by IHRLI.

³⁶ TERRE DES HOMMES, CENTRAL AMERICA: CHILD TRAFFICKING IN GUATEMALA, EL SALVADOR AND NICARAGUA (2000).

³⁷ UNICEF, LA EXPLOTACIÓN SEXUAL INFANTIL EN SAN PEDRO SULA (1999).

³⁸ NCFC/UNICEF, STUDY ON THE SEXUAL EXPLOITATION OF WOMEN AND CHILDREN SEX PROVIDERS (2001) (unpublished manuscript on file with IHRLI).

³⁹ ENRIQUETA DAVIS, EXPLOTACIÓN SEXUAL COMERCIAL DE NIÑOS, NINAS Y ADOLESCENTES EN PANAMÁ (2001).

Jose and 50% of girls in the port city of Limon were victims of sexual abuse prior to the age of twelve.⁴⁰

Unfortunately, the vast majority of these issues remain unattended. Child abuse and family disintegration are under-prioritized areas in government attention. Legal sanction and protection measures are generally ineffective and social services for victims are nascent. In several of the countries studied, complaints about the exceedingly poor functioning of child welfare agencies were common. Immediate protection measures for children are often unavailable due to limited working hours and the absence of 24-hour shelters; counseling and rehabilitation programs are ill equipped and understaffed; and treatment is often generalized without considering the particular needs of the child.

Relating to Outside Circumstances

Numerous external conditions also contribute to an environment conducive to sex trafficking. Interviewees commonly credited trafficking to the existence of gender discrimination, prevalent attitudes which objectify children, weak immigration controls, corruption and the impact of globalization policies. The demand for sexual services and the existence of trafficking networks are elements that will be explored later.

Trafficking and migration

Traffickers are keenly aware of the immigration policies, legislation, and practices, often operating through legal processes for illicit purposes. Police and immigration authorities, who function jointly along international borders in the region, recognize that sex trafficking occurs. In interviews, authorities pointed to several obstacles that inhibit their capacity to combat trafficking, including the existence of vast unmonitored border areas, lack of adequate personnel, lack of computerization or efficient information sharing systems, lack of specialized training, and corruption.

Many individuals consulted also mentioned the CA-4 Plan as a contributing factor to the rise in trafficking activity. This agreement revolutionized movement between its participating states: Nicaragua, Honduras, El Salvador and Guatemala. Under the plan, an adult national of any of the four countries can remain in one of the other

⁴⁰ MARIA CECILIA CLARAMUNT, COSTA RICA – EXPLOTACION SEXUAL COMERCIAL DE PERSONAS MENORES DE EDAD: UNA EVALUACION RAPIDA (2002).

countries for a period of 90 days before having to depart or seek permission to remain. A simple identification card, rather than a passport, is used to pass across borders. For intra-regional trafficking, this liberalized movement allows traffickers and their victims to travel undetected.

Trafficking and globalization

Many experts have linked the liberalization of markets and the structural adjustment strategies of the World Trade Organization, World Bank and Inter-American Development Bank with an erosion of human rights guarantees. Globalization has also been noted as a contributing cause of trafficking in persons. In 2001, the UN Secretary-General requested information on globalization and its impact on the enjoyment of human rights from Member States. The solicitation included a question on the perceived relationship, if any, between “processes of globalization and negative aspects of international trade such as trafficking in people, arms and the increase in international crime.” Of the countries under study, only Costa Rica responded, stating that

...[G]lobalization has encouraged trafficking in people and arms and has led to an increase in international crime and drug trafficking in particular. These new illicit activities are further facilitated by new technologies and modern means of communication. However, these technologies should also be used to combat them.⁴¹

The Government also responded that “[g]lobalization of the economy should be followed by globalization of genuine human rights. If globalization is to promote dignity and human rights and itself become consolidated and permanent, people must be at the center of the effort, and their social, legal and cultural rights must be guaranteed.”⁴²

**Table 5
Risk Factors Contributing to Sex Trafficking**

Individual factors	Outside factors
• Poverty (self or family / guardians)	• Gender discrimination • Objectification of children

⁴¹ *Globalization and its impact on the full enjoyment of all human rights, Report of the Secretary General*, UN Doc. A/56/254/Add.1 (Oct. 2, 2001), paras. 41-42.

⁴² *Id.* at para. 45.

<ul style="list-style-type: none"> • Lack of economic alternatives • Dependents (children) • Illiteracy / minimal education • Physical or sexual abuse • Family dissolution • Homelessness • Drug use • Gang membership • Sexual orientation 	<ul style="list-style-type: none"> • Ease of migration (CA-4) / weak border controls • Globalization policies • Public corruption • Existence of trafficking networks • Existence of demand (prostitution / stripping / sex tourism)
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ii. Forms of Trafficking: Entering the Cycle

Recruiting strategies and entrance into sex trafficking appear in numerous forms throughout the region. The following means of induction were detected:

Deception/False Promise of Employment – This strategy of recruitment of women and adolescents is by far the most common. Known and unknown persons present attractive offers for jobs as waitresses, dancers, bartenders, factory workers (*maquiladoras*), domestic laborers, and models, among other positions. Adolescents may travel with legitimate parental permission, the families having been victim of the deception as well. This type of trafficking was detected for domestic and international destinations.

Misadventure – Increasingly, women and adolescents in pursuit of employment or adventure will seize opportunities to be transported outside their home country. Young women petition for rides with truck drivers traveling north to Mexico and the United States. Migrant smugglers are also used. In both these circumstances, authorities reported that abandonment of the women was frequent. Far from home and lacking finances, many of these women and adolescents are pressed into prostitution. In one case, a bar owner reportedly paid for the release of a young woman in custody for immigration violations, and upon that debt forced the adolescent into prostitution.⁴³ In Tecún Umán, one local NGO reported that residents serve as recruiters for women. Reportedly, the recruiters are paid according to the amount of time the woman stays.

⁴³ *Pesadilla a la mexicana*, LA PRENSA (Honduras), May 12, 2002, at 28A.

Abduction – Reports of children being abducted and trafficked for commercial sexual exploitation were received, although it appears to occur to a lesser extent than other means of trafficking.

Gang-related – In Honduras and El Salvador, young women and adolescent gang members were reported to have been trafficked for sexual exploitation in order to raise capital for the gang.

Peer-influenced – Trafficking of children, often homeless, runaways or seeking an escape from a troubled home, was reported to occur as a result of peer recruitment. Such cases appeared to be largely limited to domestic movement.

Family controlled – A few reports of parents or guardians allowing their children to enter into circumstances of sexual exploitation were reported, but this appears to occur only on a very minor scale. More often, family members who may have been trafficked themselves or are in the sex trade become recruiters for younger relatives. This latter case was particularly evident in the Dominican Republic.

Marriage fraud – In the Dominican Republic, foreign men have been reported to pursue marriages with local women in order to take them abroad for purposes of prostitution.

Visa system – Panama presents atypical circumstances of a state-sponsored migration program for sex workers. This system is commonly abused and participating women are trafficked as a consequence. In most cases, it appears that there is material deception as to the conditions of employment. While women are recruited under guaranteed contract provisions, none of the terms are met upon arrival. In addition, passports and other travel documents are confiscated and earnings are often withheld.

iii. Participants in Trafficking Activity

The forms of trafficking outlined above exist at the hands of a wide variety of actors. Traffickers include known and unknown persons, state and non-state actors. The limited information available on traffickers and their *modus operandi* suggests that small and large criminal organizations largely contribute to trafficking, but do not control the entire market.

Private actors

The networks that facilitate and maintain trafficking for sexual exploitation involve a variety of private sectors, including transportation, tourism, media/communications, entertainment and legal.

- Taxi drivers, rickshaw drivers (*tricicleros*), and truck drivers participate in the movement of women and children to and between places of exploitation. Often, drivers add to the exploitation by forcing sexual favors for their service. They may also be engaged as recruiters, working under agreements with establishment owners or independently.
- Throughout the region, the media was a noted method of recruitment through classified and radio advertisements. Increasingly, the Internet is being used to support and encourage the demand for commercial sexual services, through web-based tourism operations, sex tourism guides and chat rooms.
- Hotels and motels are often used as “safe houses” for those in a migration process (which may be for the purpose of sexual exploitation) and also to support prostitution.
- The legal profession has been implicated in trafficking activities by arranging for false documentation to allow children to travel without parental permission and fixing immigration status in destination countries. In Nicaragua, researchers were told that fifteen attorneys were suspended in 2001 for producing fraudulent documents to allow minors to leave the country. Lawyers have also been tied to trafficking in Panama and Costa Rica, where fraudulent marriages are used to arrange resident status of predominantly Dominican women.
- Owners and managers of the bars, nightclubs and brothels where trafficked women and minors are exploited and pressed into sexual servitude most obviously participate in the trafficking. Owners receive and control the majority of profits from trafficking, money which secures the owner’s position in the community and guarantees a certain degree of impunity.

At the moment, the tourism industry and associated transportation services are the only sectors beginning to participate in efforts to combat trafficking related to child sex tourism and child prostitution. In Costa Rica, for example, the government tourism institute has launched a campaign against child sexual exploitation in partnership with the Association of Costa Rican Hotels (*Camara Costarricense de Hoteles*). Several hotels in San Jose, Costa Rica also organized a campaign against such behavior, posting public warnings that child sexual exploitation would not be tolerated.

Public actors

In many cases, immigration, police and other civil servants aid traffickers. Public participation has been identified in providing fraudulent birth certificates and other documents, arranging for illegal border crossings, protecting bar and brothel owners from investigation or prosecution, and becoming clients.

Immigration and police officials with whom researchers consulted did not deny the presence of official corruption. Some countries have installed disciplinary measures to be used against corrupt officers. The numbers, however, seem to suggest that these procedures are ineffective. For example, Belizean immigration authorities reported disciplinary proceedings against six agents implicated in migrant smuggling. All were disciplined but kept their jobs. Similarly, Belizean police authorities attempted to dismiss two officers for alleged corruption involving illegal entry of immigrants. Their dismissals were reversed. Guatemala has reportedly attempted to curb large-scale corruption along its northern border by rotating police officers every three months. Such efforts appear not to have had much impact; one diplomatic officer observed that the rotations are only succeeding in sharing the wealth obtained through corruption. An immigration representative in Guatemala confided that one of his agents specifically requested to be transferred to Tecún Umán (a heavy trafficking area) due to emergency financial needs. According to a police official in Nicaragua, Chinandega has one of the highest corruption rates in the country. It is also a recognized area of recruitment.

Sources in Nicaragua cited the ease of “repositioning” identities through obtaining birth certificates misrepresenting ages and identities. A majority of these documents are likely to have been obtained through legitimate processes, because national and local institutional weaknesses create opportunities for abuse. In Honduras, a *Casa Alianza* study reported the suspected involvement of employees of the National Registry of Persons in providing falsified documentation to minors.⁴⁴

Clients

The root cause of trafficking is demand for commercial sexual services, without which trafficking for purposes of sexual exploitation

⁴⁴ CASA ALIANZA, INVESTIGACION REGIONAL SOBRE TRAFICO, PROSTITUCION, PORNOGRAFIA INFANTIL Y TURISMO SEXUAL INFANTIL EN MEXICO Y CENTROAMERICA: HONDURAS 70 (2001).

would dissolve. The demand connected to trafficking in the region is predominately for prostitution and stripping. While some advocacy groups, most notably *Casa Alianza*, have investigated and denounced pedophiles, child pornography rings and internet sites promoting the sexual exploitation of minors, the information available does not yet draw a clear line of connection between trafficking activity and the production of pornographic materials in the region.

Demand within the region is concentrated in “zones of tolerance,” tourist areas, ports, along international trucking routes, and in certain agricultural areas where migrant laborers are predominantly male. The growth of the tourism industry and the increasing number of gambling establishments in the region have also opened markets for the industry. Varying forms of prostitution also occur in public markets and border areas. Bar owners, taxi drivers, hotel managers, market vendors and independent pimps all serve the demands of clients.

Table 6
Trafficking in Central America
and the Dominican Republic:
Forms and Agents

Forms	Countries Implicated	Agents
Deception / False promise of Employment	All	Recruiters Intermediaries Bar/Brothel owners
Misadventure	Nicaragua Honduras El Salvador Guatemala	Smugglers Truck drivers
Abduction	Nicaragua Costa Rica Honduras El Salvador Guatemala Belize	Common criminals
Gang-related (domestic)	El Salvador Honduras	Gang members
Peer-influenced (primarily	Nicaragua Costa Rica	Friends Adolescents

domestic)	Honduras El Salvador Guatemala Belize Panama	
Family-controlled	Honduras Dominican Republic	Parents and other family members Intermediaries
Marriage fraud	Dominican Republic Costa Rica Panama	Independent males from Europe Lawyers
Visa system	Panama	Bar owners State agents (immigration/labor) Recruiters

iv. Trafficking Routes

Trafficking activity was detected at all levels. The reported domestic, intra-regional and extra-regional routes are described below. The one characteristic common to all is that they move from poorer areas towards areas that are, at least relatively, more prosperous.

**Map 1
Intra-Regional Routes**



Nicaragua, Honduras, El Salvador, Guatemala and Belize

In terms of trafficking networks, the Central American region can be divided roughly along a North-South axis, with Nicaragua serving as a point of origin for trafficking flows in both directions. A trafficking experience beginning in Nicaragua would likely move through Honduras, possibly El Salvador, and end in Guatemala, Belize or southern Mexico. Following this route, women and minors are recruited in Honduras for establishments in El Salvador, Guatemala and Belize; El Salvador is a source country for Guatemala, Mexico and Belize; and Guatemala is a source country for southern Mexico and Belize. From the cases and testimony collected, trafficking from Nicaragua north to Mexico is principally over land routes. The northward push is eased by the free transit agreement (CA-4) between Nicaragua, Honduras, El Salvador and Guatemala and relatively weak border monitoring. With economic development and perceived job opportunities increasing with each country up from Nicaragua, recruiters can make credible-sounding offers of employment.

Commercial truck drivers traveling along the Pan-American Highway contribute to the demand and provide transportation. The ports along the Atlantic and Pacific coasts also generate demand and attract trafficking activity. Prostitution near border areas and in larger

cities further increases the demand, caused by local patrons, male migration north, and migrant worker populations.

The Passage North

Heightened immigration requirements in Costa Rica and Mexico have essentially boxed in the trafficking phenomenon from Nicaragua to Guatemala. With the promise of employment and the “American dream” pulling greater numbers north, trafficking activity is perhaps the most visible and concentrated along the Guatemala-Mexico border at Tecún Umán. Well deserving of its “New Tijuana” name, Tecún Umán was referred to by many government and non-governmental representatives as indicative of the grave problem of trafficking in the region.

The situation of Tecún Umán illustrates the nature of trafficking and the major elements that contribute to a fertile environment for trafficking activity. First, the availability of women and children is extremely high. Many sources indicated that Tecún Umán has served as the principal crossing point for migrants—both legal and illegal. Migrating women and minors will often find themselves at the border with insufficient funds to secure their further progress. In addition, the Central Americans who have crossed without success are returned to the Guatemalan side of the border, rather than to their countries of origin. Many desire to try again, for which money is necessary.

The demand for sexual services is provided by male migrants, finding themselves in similar situations of waiting at the border for a first or subsequent attempt to cross into Mexico. In addition, international truckers who often must wait days to cross provide a consistent floating population. The existing demand supports a reported sixty-seven establishments offering sexual services in Tecún Umán alone.

Innumerable criminal networks function in the area, trading in persons, cattle, vehicles, drugs and other illicit goods. The trafficking of women and children into prostitution is easy business. The networks involved in sex trafficking include establishment owners, rickshaw drivers (*tricycleros*), and migrant smugglers. Corruption of municipal public officials, and police and immigration authorities is reported as being extremely high. The corruption—in the form of bribes, payment through sexual services, and direct participation—has secured total impunity for traffickers.

Costa Rica, Panama and the Dominican Republic

The relative economic well being of Costa Rica, Panama and the Dominican Republic give these countries distance from the rest of Central America. The trafficking situations in each of these countries are very different, although routes have been found to run between them. Dominican women have been trafficked to Costa Rica and Panama, and suspected trafficking activity occurs along the border between Costa Rica and Panama. In contrast to the other five countries in the region, Costa Rica, the Dominican Republic and Panama have been implicated in extra-regional trafficking to a greater degree. Routes from the Dominican Republic reach into the Caribbean (Aruba, St. Martin, Curacao), to South America (Argentina), and to Europe (Austria, Switzerland, Germany, Italy, The Netherlands, and Spain, among others). Trafficked women from the Dominican Republic and Colombia have been brought to Costa Rica, and unconfirmed reports of trafficking activity from Bulgaria, Russia and the Philippines were also noted. According to media reports, Costa Rican women have been recruited into the sex sector in Canada. From Panama, trafficking activity was identified through Egypt and to Israel. Colombian and Dominican women have been trafficked to Panama. The trafficking activity from, to and between these countries requires air or sea

transport, which appears to have reduced the numbers of child victims, in comparison to the rest of Central America.

Domestic Trafficking Routes

The detection of domestic trafficking routes in the region is significantly more difficult than cross-border behavior. Lack of appropriate legislation, public perception and the characteristics of victims all complicated visibility of domestic manifestations of trafficking. The crime of trafficking (*trata de personas*) in all countries except Nicaragua apply only to instances of cross-border movement. Domestic trafficking cases are therefore prosecuted as other crimes, such as pimping or pandering, and inquiries regarding forced movement or migration are not made. In the media and as a topic of public concern, domestic trafficking activity is overshadowed by the sexual exploitation itself—prostitution, pornography, sex tourism and other forms. Finally, by virtue of shared nationality, trafficked persons are not as easily identified.

Nevertheless, internal trafficking was noted, generally flowing from rural and poorer areas to large cities or tourist centers, and from there among the cities. In Guatemala, for example, researchers were informed of routes moving women and minors between establishments in Izabal, Escuintla, and Retalhuleu. In Honduras, one NGO reported a case of a girl trafficked from Comayagua to a bar in Progreso. San Pedro Sula, La Ceiba and other places along Honduras' northern coast also appeared to be destination points for predominately adolescents from more rural towns—Progreso, Yoro, Santa Barbara, Copan, Ranchito, Tocoa, Colon, Masita among others. The Dominican Republic also contains internal routes, from rural locations to tourist areas along the coast.

Several unique characteristics of domestic trafficking are worthy of note:

- Particularly in the Dominican Republic, domestic trafficking appears to involve children to a much greater degree than international traffic.
- The participation of gangs in Honduras and El Salvador in domestic trafficking was noted, with gangs appropriating young women and girls for their own purposes and to prostitute for financial gain.
- Mobility and sexual exploitation mark the experience of street children in all countries under study. This population is

extremely vulnerable to sex trafficking. The movement of this community is often peer-influenced.

v. Conditions and Consequences

Regardless of form, a trafficking experience will include numerous human rights abuses and other sufferings. These violations result from the mechanisms of control and coercion that traffickers use to keep victims in situations of sexual exploitation. Most commonly, traffickers exercise control in the following ways: retention of identification, travel and required health documents; imposition of debts for transportation, clothing, lodging, food, and other basic needs; threats of reporting immigration status to authorities; beatings and other physical abuse; and the posting of guards and other means of restraining liberty. The physical distance and isolation from support networks further secures complacency. These measures have serious physical, emotional and health consequences for victims. The resulting trauma is rarely treated, heightening the risk of being re trafficked for those who do escape.

Debt Bondage

A consistent feature in reported cases of trafficking is the imposition of a debt on the trafficked person. Initial values are established based on transportation fees or the “purchase price” of the victim. Amounts are increased for the cost of clothing, makeup, housing, food, drugs, condoms, and health testing (required in most countries). Time spent not working is often charged and added to the debt. House fines for improper behavior were also reported as being levied.

In a recent case of trafficking to the United States involving women and girls from Honduras, women were forced into prostitution to repay a \$10,000 transportation fee. In two other cases of trafficking within the region, family members had to pay bar owners the “price” of girls to secure their release.

In most cases, these debts never diminish. Service providers report that pimps, hotels and other establishments usually charge or keep a majority percentage of client revenues. Victims become entirely dependent on bar owners.

Restriction of Movement

Another common feature of trafficking in the region is the limitation of movement once in conditions of sexual exploitation. In most cases, this is achieved through confiscation of documents, which leaves victims vulnerable to deportation. Reports were also received of

armed guards being placed outside of private brothels (*casas de cita*). Even where restrictions are more lenient, women must purchase their free days or free time, contributing to their debt bondage.

In Panama, immigration officials, health officers and advocates all reported that women's passports and return tickets are regularly retained by bar owners, even if the woman has a valid "*alternadora*" visa. It was reported that in practice, women having "*alternadora*" visas are not permitted to leave Panama without the bar owner's release. Bar owners in Belize also are in the practice of retaining passports and travel documents.

According to a recent survey of women and minors in prostitution in Belize,

...[W]orkers [in the Corozal district] feel that they are not able to leave as they desire. Respondents noted that it is possible to purchase free days. Many of the workers are brought to work on a contractual basis. This contract involves the owners paying for transportation to Belize, which need to be repaid by the girls as they are working. Those girls living in rooms at established locations pay a percentage of their earnings to the employer. Their free day if they have any is to purchase any needed accessories or such. Time off is not given to those who have children but rather that time must be bought, as it is a loss of earnings to the employer.⁴⁵

Often, justifications are created for retaining documents. In Belize, one brothel manager stated that such practice was necessary to prevent them from being robbed from the women and in case of immigration revisions. An immigration official in Panama attempted to explain why most bar owners demand documents, citing the need to secure against the women finding other employment for the duration of the visa and to guarantee the bar owner's investment.

Threats and Use of Force

More infrequently, traffickers rely on threats and use of force to ensure their power over victims and to guarantee their silence. Some reports of bar owners beating victims were received. In three identified cases, threats of violence were used to discourage reporting and participating in trial proceedings. One Colombian woman was cut on her face after complaining to authorities in Panama of her condition.

⁴⁵ NCFC/UNICEF, *supra* note 44.

Upon her return to Colombia, she was attacked, her assailants reportedly stating: “This is for what you did in Panama.”

Forced Drug Use

On occasion, it was reported that bar owners used drugs to control women and children and to make them more compliant. They are also a means to induce dependence on the owner and to increase the debt of the victim. Even at its most benign, women and children are regularly expected to drink with clients. This daily high-volume intake of alcohol often has health consequences. Alcohol and drugs in many instances become coping mechanisms for women and children.

Physical Health Implications

The health consequences to trafficked women and children in the region are serious. Victims have reported physical and sexual abuse by clients and law enforcement. Trafficked women and children also appear to be at greater risk of HIV/AIDS and other sexually transmitted diseases (STDs) due to a relative ignorance of sexual health and contraception and the lack of access to health services. They are also in less of a position to be able to negotiate with clients regarding condom use. The occurrence of unwanted pregnancies and unsafe abortions was also detected.

One NGO that counsels women in prostitution in Guatemala informed researchers that their staff has found it necessary to introduce informal classes on proper condom use, especially to trafficked women and adolescents from El Salvador, Nicaragua, and Honduras, who neither anticipated working in a brothel nor were familiar with how to use a condom.

A survey of 100 sexually exploited girls and boys in San Pedro Sula, Honduras found that 68 had suffered an STD, 29 of whom had contacted an STD more than once. One quarter of these children self-treated their symptoms.⁴⁶

According to UNICEF, 67% of sexually exploited girls and boys in San Pedro Sula, Honduras suffered some type of abuse that produced an injury. The children identified clients and municipal/national police as aggressors.⁴⁷

A recent survey of 100 minors in Costa Rica in conditions of sexual exploitation showed that 86% drank alcohol, 82% smoked tobacco,

⁴⁶ UNICEF, *supra* note 43.

⁴⁷ *Id.*

80% used marijuana, and 34% and 41% consumed cocaine and crack, respectively.⁴⁸

Due to the nature of their circumstances, trafficked women and children are more likely to have these health conditions go undetected and untreated. Despite the mandatory health revision requirements for sex workers in the region, the establishment owner usually controls access to health services. Even if available, not all trafficked women are willing to participate in testing. In many cases, trafficked women are undocumented and will evade such controls for fear of deportation. Similar fears keep women from seeking medical treatment for injuries. In addition, the private organizations that provide health screenings to sex workers report that they do not have access to many establishments, especially private homes that are used as brothels, and thus probably are not seeing the majority of trafficked women. The situation of children is particularly acute. Since child prostitution is illegal in all countries of the region, medical centers are prohibited from registering children in sex worker health programs and thus from providing regular health exams.

Mental Health Implications

Little information regarding the specific emotional health consequences to trafficked women in the region was discovered. It can be assumed that the violence, isolation, and dependence associated with trafficking results in depression and lowered self-esteem, among other conditions. Groups working with sex workers in the region commented on the low self-worth and inability to participate in a healthy partnership that many female sex workers exhibit. Damage to adolescent and child victims is more pronounced, with effects of sexual exploitation lasting into adulthood and interrupting full emotional development.

Exit

Relatively limited information exists about the exit of trafficked women and children from conditions of sexual exploitation. Police, immigration, prosecutors and juvenile judges have facilitated a small number of rescues of trafficked children through coordinated raids. Immigration raids and counter-smuggling activities have also extricated women from trafficking situations, who in turn usually face deportation. Some reports of independent escapes were received.

⁴⁸ MARIA CECILIA CLARAMUNT, *supra* note 46.

Finally, bar owners sometimes release victims if diagnosed with disease or pregnancy (although many women have had children while remaining in conditions of exploitation).

E. RESPONSE MECHANISMS: POLICY AND LEGISLATION

The problem of trafficking remains almost completely hidden and largely ignored in the region. In terms of institutional responses, the Dominican Republic alone has effectively placed the trafficking of persons on the national agenda; no other government has directed resources to specific programs or policies on the issue. Initial steps have been taken against child trafficking for sexual exploitation, but concrete initiatives have not yet been developed and plans remain without funding. Within the ambit of their duties, consular missions and law enforcement have provided assistance to victims and prosecution of traffickers. Punishment efforts, however, can only be described as minimal. In some countries, Offices of the Human Rights Ombudsman have positively intervened in cases and have conducted minor investigations within the scope of their mandate. Finally, some encouraging developments toward articulating national and regional responses to trafficking were noted.

In an area where civil society has traditionally been strong, few groups have focused on sex trafficking for women and children or advocated the issue within a human rights framework. Nevertheless, region-wide efforts against child trafficking and other forms of commercial sexual exploitation of children are beginning, and many positive partnerships between non-governmental organizations and official agencies have resulted. These relationships are precarious, however, and are in need of further strengthening.

Services for trafficked persons, whether by government or other sources, are non-existent, with the exception of in the Dominican Republic where important orientation, assistance, protection and health services are available through NGO providers. This lack of attention has left women and child survivors at greater risk of being re trafficked. Overall, the deficiencies in consciousness, articulation, and coordinated response strategies to trafficking in both women and children have

facilitated continuation of trafficking activity in the region and the reinforcement of a culture of impunity.

i. International Legal Obligations

The region as a whole has assumed important legal obligations ensuring the protection of women and children against trafficking. All eight states are party to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women,⁴⁹ the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women,⁵⁰ and the ILO Convention No. 182 on the Worst Forms of Child Labor.⁵¹ Together, these treaties require states to take meaningful action against trafficking, especially that of women and children. Under CEDAW, States Parties must act to suppress “all forms of traffic in women and exploitation of prostitution of women.”⁵² Trafficking and forced prostitution are specifically recognized as constituting violence against women under the Convention of Belem do Para, under which States Parties agreed to condemn such activity and to pursue policies to prevent, punish and eradicate trafficking.⁵³

With special regard to children, the Convention on the Rights of the Child obligates States to take measures to prevent trafficking of children and to ensure their protection against all forms of sexual exploitation.⁵⁴ Further, appropriate measures should be taken to promote physical and psychological recovery and social reintegration of child trafficking victims.⁵⁵ The ILO Convention No. 182 specifies that State Parties are to take immediate and effective measures to secure the prohibition and elimination of child trafficking as well as to provide necessary and appropriate direct assistance for the removal of

⁴⁹ Convention on the Elimination of All Forms of Discrimination against Women, 1249 U.N.T.S. 13 (1979) (entered into force Dec. 18, 1981) [hereinafter CEDAW].

⁵⁰ Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (1994) (entered into force Mar. 5, 1995) [hereinafter Convention Belem do Para].

⁵¹ ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, *adopted by* ILO Conference, 87th Sess., June 17, 1999 (entered into force Nov. 19, 2000) [hereinafter ILO Convention No. 182]

⁵² CEDAW, *supra* note 55, art. 6.

⁵³ Convention of Belem do Para, *supra* note 56, arts. 2(b), 7.

⁵⁴ Convention on the Rights of the Child, *supra* note 20, arts. 34-35.

⁵⁵ *Id.*, art. 39.

children from situations of sexual exploitation, for their rehabilitation and for their social integration.⁵⁶

Several states are party to the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography and the Inter-American Convention on International Traffic in Minors, which both outline important provisions on child trafficking. Under the Optional Protocol, which has been ratified in half of the countries under study, States Parties commit to preventing and punishing the sale of children into prostitution and other forms of sexual exploitation.⁵⁷ Appropriate measures are to be adopted “to protect the rights and interests of child victims” in judicial processes.⁵⁸ States Parties further are required to make all efforts to ensure appropriate assistance to victims, including programs aimed at their social reintegration and physical and psychological recovery.⁵⁹ The Inter-American Convention on International Traffic in Minors specifically requires States to prevent and punish international trafficking in minors for “unlawful purposes” including prostitution, sexual exploitation and servitude.⁶⁰

Within the region, Honduras is the lone party to the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. This treaty obligates States Parties to penalize trafficking for purposes of prostitution and other associated acts,⁶¹ among numerous other provisions aimed at the control and eradication of sex trafficking.

None of the states have yet ratified the UN Convention on Transnational Organized Crime and its Trafficking Protocol, with the exception of Nicaragua which has only ratified the Convention. Several states have signed both documents, however, and are in the process of reviewing these instruments for possible ratification.⁶²

⁵⁶ ILO Convention No. 182, *supra* note 57, arts. 1, 3 and 7(2).

⁵⁷ Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, G.A. Res. 54/263, U.N. GAOR, 54th Sess., Supp. No. 49, at , U.N. Doc. A/54/49 (2000), arts. 1, 3, and 9(1) (entered into force Jan. 18, 2002) [hereinafter Optional Protocol].

⁵⁸ *Id.*, art. 8.

⁵⁹ *Id.*, art. 9.

⁶⁰ Inter-American Convention on International Traffic in Minors (1994), art. 2.

⁶¹ Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 9 U.N.T.S. 271 (1949), art. 2.

⁶² For a complete list of relevant treaties and ratification status, see International Legal Protections in the Appendix.

The region is failing in its international commitments, especially with respect to prevention, protection and integration measures regarding adult women. Throughout the region, the counter-trafficking provisions of the CEDAW and the Convention of Belem do Para are completely ignored. While the Convention of Belem do Para specifically defines trafficking as a form of violence against women, only the Dominican Republic has trafficking incorporated into policy and legislation on gender violence.

In general, and despite obligations, periodic reports by States Parties to the various UN monitoring mechanisms have not contained information on trafficking, an omission commented on by the Committee on the Elimination of Discrimination Against Women.⁶³ Regardless of these urgings, researchers saw little evidence of steps being taken toward the collection of evidence on trafficking activity.

UN and OAS mechanisms have been underutilized with respect to trafficking in the region. The visit of the UN Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography to Guatemala in 1999 was a promising signal of international intervention on the issue. Her report includes many valuable and important recommendations regarding trafficking, although Government action on these points has not been immediate.⁶⁴ Within the Inter-American system, the Special Rapporteur on Migrant Workers of the Inter-American Commission on Human Rights asked states to provide information on trafficking but received few responses. Comments provided reference to relevant legislation but did not assess its application. Finally, groups in the region have not yet turned to UN forums for civil society participation and the Inter-American Commission and Court on Human Rights to advocate or register concern for sex trafficking.

ii. Policy

While institutionalization of counter-trafficking initiatives has yet to occur, a few common policy platforms are beginning to emerge in the region that may support more targeted response strategies. International mobilization against the commercial sexual exploitation of children, the worst forms of child labor, and violence and

⁶³ See *Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Nicaragua*, UN Doc. A/56/38 (July 31, 2001) paras. 314-15, 317.

⁶⁴ *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Ofelia Calcetas-Santos*, UN Doc. E/CN.4/2000/73/Add.2 (Jan. 27 2000).

discrimination against women have encouraged the creation and adoption of national plans in these areas. In great measure, these platforms follow the principles established in the Declaration and Agenda for Action against the Commercial Sexual Exploitation of Children (World Congress in Stockholm, 1996) and the international instruments mentioned in the previous section. In addition, the IOM, through its country offices, has been supporting coordinated national policy responses to issues related to migration although, with the exception of the Dominican Republic, none have focused on trafficking.

Table 7
Policies, Platforms and Forums on Trafficking Related Issues

Country	Commercial Sexual Exploitation of Children	Violence against Women	Child Labor	Immigration
Belize	---	---	---	---
Costa Rica	National Plan against Child Sexual Exploitation; National Council against Child Sexual Exploitation (CONACOES)	---	International Program for the Eradication of Child Labor	Permanent Forum of Migrants
Dominican Republic	National Plan; National Commission on the Eradication of Commercial Sexual Exploitation of Children	Inter-Institutional Committee for the Protection of Migrant Women (CIPROM)	International Program for the Eradication of Child Labor	Inter-Institutional Committee for the Protection of Migrant Women (CIPROM)
El Salvador	National Plan; ECPAT Network	National Policy on Women	National Plan for the Eradication of Child Labor;	Migration Forum

			International Program for the Eradication of Child Labor	
Guatemala	National Plan against Commercial Sexual Exploitation of Children; Articulating Group	National Policy on the Promotion and Development of Guatemalan Women; National Commission on the Prevention of Violence against Women (CONAPREVI)	National Plan for the Eradication of Child Labor; International Program for the Eradication of Child Labor	Proposed National Plan; National Table on Migration (MENAMIG)
Honduras	---	National Plan	International Program for the Eradication of Child Labor	National Forum
Nicaragua	Public Policy against the Commercial Sexual Exploitation of Children and Adolescents; National Board for Integrated Attention and Protection of Children and Adolescents (CONAPINA)	National Plan for the Prevention of Domestic and Sexual Violence	International Program for the Eradication of Child Labor	Nicaraguan Forum on Migration (FONIMI)
Panama	---	---	---	---

Unfortunately, the existence of these plans has not necessarily translated into action. Concerning the National Plans against the Commercial Sexual Exploitation of Children, none of the countries that

adopted such plans have obtained the necessary funding for implementation. Instead, application is dependent on the availability of already strained resources of participating government and civil society institutions. Most of the child sexual exploitation policies also lack operational plans. Guatemala and Nicaragua are the only countries beginning the process of transforming the policy principles into concrete projects through their inter-institutional, coordinating bodies.

Maintaining coordinating bodies has also proved an overwhelming challenge. After successfully articulating guidelines, the mixed forums in El Salvador and Costa Rica have nearly dissolved, essentially halting implementation of drafted plans. None of these National Plans has resulted in the creation of a trafficking-specific program or project.

Policies directed toward issues of violence against women have predominately focused on domestic abuse, and none specifically address trafficking of women. Nevertheless, several women's institutions in the region expressed eagerness to incorporate counter-trafficking platforms into existing policies.

The region-wide ratification of the ILO Convention No. 182 has enabled UNICEF and the International Programme on the Eradication of Child Labor of the ILO, among others, to help governments establish common policies and programs combating child labor and elaborate measures against child sexual exploitation, as one of the worst forms of child labor. These programs generally highlight enforcement capabilities of the respective Ministries of Labor against child employment in corrupting environments.

In practice, the contributions of these programs against trafficking have been minimal, largely due to extremely limited inspection capabilities. Even if inspection occurs, victim attention is not a priority. For example, the Ministry of Labor in Nicaragua has implemented a pilot project monitoring nightclubs and other establishments where children may be sexually exploited. Under the plan, a preliminary investigation is conducted undercover. If a suspected minor is found, the inspector formally notifies the owner and confirms the age of the child. If shown to be a minor, the owner is informed of the violation and requested to cease the practice. A formal second inspection is scheduled for a later date. Labor inspectors provide no services to the child, do not remove her or him from the exploitative situation, and in practice, do not inform police or other authorities of the activity.

Lastly, regional integration plans, the formation of regional coordination and consultation bodies for immigration issues, and the activities of the IOM national offices have prompted some progress toward the development of national migration plans. Guatemala is currently considering a National Plan, which includes provisions for human rights protection mechanisms for migrants. El Salvador and Honduras, while not working under a national plan, have created inter-institutional coordinating bodies that assist in the development and implementation of immigration-related programs.

The most promising of these bodies is the Inter-Institutional Committee for the Protection of Migrant Women (CIPROM) in the Dominican Republic. Focused exclusively on issues affecting migrant women, its activities have centered on combating trafficking in the country. CIPROM currently supports programs for consular training on trafficking in persons; a certificate program in trafficking and gender for government and non-governmental representatives; awareness programs; legislative reform; and other activities.

iii. Criminal Legislation

While no country in the region has legislation against all forms of trafficking in persons, or specifically against trafficking for the purposes of commercial sexual exploitation, virtually all countries in the region—with the exception of El Salvador—do have laws in their penal codes that punish trafficking activity for the purposes of prostitution. While these laws bear a general resemblance to one another, they do vary from country to country. Notable differences in these laws include: various countries' definition of what acts constitute trafficking; the characteristics a victim of trafficking must possess to receive protection under these laws; the scope of geographic coverage contemplated by each law; the purposes for which trafficking is prohibited; and the strength of the penalty imposed when trafficking has occurred. The crime of trafficking is not explicitly identified in all countries. For example, in Belize and the Dominican Republic, trafficking is best characterized as a modality of the crime of "procurement." Other countries have criminalized trafficking for prostitution in name—*trata de personas* or *trata de blancas*.

Trafficking Victims

The various pieces of trafficking legislation contemplate three basic characteristics an individual might need to possess to be considered a victim of trafficking. These characteristics consider gender, age, and nationality. Regarding gender, all laws except for

those of Belize are gender-neutral; that is, both males and females can be victims of trafficking. Some laws establish this gender neutrality via express provisions in the trafficking law; for example, Honduras's and Costa Rica's laws explicitly include "people of either sex," and the Dominican Republic's law includes "persons, men or women" Laws which do not contain such express gender provisions, such as those of Nicaragua and Panama, contain general terms such as "victim," "foreigners," and "nationals," which can all be read to be gender-neutral. In contrast to the rest of the laws in the region, Belize's trafficking legislation applies only to "women."

Without exception, the trafficking provisions in these criminal codes contemplate that both adults and minors can be trafficked. As with the provision on gender, different countries use different statutory language to include/acknowledge minors as potential trafficking victims. For example, the Dominican Republic explicitly refers to "minors" in the text of the law, while Honduras explicitly offers protection to "people of...any age." Guatemala, Nicaragua, and Panama do not expressly refer to minors in their codes; however, as mentioned above, the general language used in these countries' trafficking provisions can be understood to include both adults and minors. In many cases, age and/or status as a minor is considered as an aggravating factor in the crime as described below.

Most of these trafficking provisions can be understood to apply both when certain acts are carried out upon nationals of a country and also when they are carried out upon foreigners. In Belize, Costa Rica, Guatemala, Honduras, and Panama's legislation, this is implied by the fact that the provisions contemplate that trafficking can include both a person's entry into and exit from the national territory. In the cases of Nicaragua and the Dominican Republic, it is less clear whether these countries' trafficking provisions apply both when the victims are nationals and foreigners. Nicaragua's law includes those who are trafficked for prostitution "within or outside of the country," and the Dominican Republic's law encompasses those situations where victims of procuring have been submitted or incited to engage in prostitution "outside of national territory," "upon their arrival abroad," or "on their location prior to their arrival abroad."

Table 8
Victims of Trafficking

Country	Both Men and Women Protected	Minors Protect-ed	Both Nationals and Foreigners Protected
Belize		•	•
Costa Rica	•	•	•
Dominican Republic	•	•	unclear
Guatemala	•	•	•
Honduras	•	•	•
Nicaragua	•	•	unclear
Panama	•	•	•

Defining Acts

With the exception of Costa Rica, every country in the sub-region with trafficking legislation specifically limits the crime of trafficking to acts that are done for the end purpose of prostitution. Costa Rica’s law further applies to trafficking for “sexual servitude.” In only one country is “prostitution” further defined, and it remains unclear whether trafficking for other forms of sexual exploitation such as pornography, sex tourism, and stripping would be covered.

A comparison of the laws of this region shows both similarities and differences in the specific acts that constitute trafficking. In Costa Rica, Guatemala, Honduras, and Panama, for example, the act of trafficking is defined as “promoting” and/or “facilitating” a victim’s entry into or exit from national territory for purposes of prostitution. In the Dominican Republic, trafficking is defined as “delivering” or “inciting” victims to engage in prostitution abroad, and in Nicaragua, “recruiting” or “enlisting” people for the purpose of prostitution are the acts which the law regards as trafficking.

Table 9
Acts that Constitute Trafficking

Country	Acts That May Constitute Trafficking	Purpose of Act (Required for Act to Constitute Trafficking)
Belize	<i>Procuring</i> victims' exit of country or abandonment of regular residence	Prostitution
Costa Rica	<i>Promoting, facilitating or encouraging</i> victims' entry to or exit from country	Prostitution, Sexual Servitude or Forced Labor
Dominican Republic	<i>Delivering or inciting</i> victims to engage in prostitution abroad	Prostitution
Guatemala	<i>Promoting, facilitating, supporting</i> victims' entry to or exit from country	Prostitution
Honduras	<i>Promoting, facilitating</i> victims' entry to or exit from country	Prostitution
Nicaragua	<i>Recruiting and enlisting</i> victims (within or outside country)	Prostitution
Panama	<i>Promoting or facilitating</i> victims' entry or exit from country	Prostitution

Penalties

All states in the region that have trafficking statutes penalize trafficking activities with prison sentences. In addition to imposing a prison sentence on traffickers, the statutes of the Dominican Republic, Guatemala, and Honduras also provide that a monetary fine will be imposed. Comparing the severity of penalties across States, the statutes which carry the lightest penalties are found in Guatemala (1-3 years in prison plus a fine) and Panama (2-4 years in prison). The rest of the statutes under review here carry substantially similar penalties (see table below). While most of the statutes make no mention of attempt, Belize and the Dominican Republic expressly establish the attempt to commit the crime as punishable to the same extent as the successful completion of the trafficking act.

In all states except for Belize, the Dominican Republic,⁶⁵ and Honduras, the penalty for trafficking is increased when aggravating factors are present. The most common aggravating factors found in the trafficking statutes in this region are where the trafficking victim is a minor, and where the acts which constitute trafficking are carried out using coercion, deceit, violence, or abuse of authority. Other aggravating factors include: when the perpetrator is a close relative or caregiver; when the act of trafficking is done with an intention to make a profit or satisfy the desires of a third person; or when as a consequence of being trafficked, the victim suffers a deprivation of liberty abroad, has a crime committed against them, or dies due to violent causes. The table below illustrates which aggravating factors correspond to the statutes of the various countries in the region.

Table 10
Criminal Penalties for Engaging in Trafficking

Country	Basic Penalty	Penalty if Aggravating Factors Present	Aggravating Factors	Penalty for Attempt
Belize	5 years	N/A	N/A	Yes
Costa Rica	3-6 years	4-10 years	<ul style="list-style-type: none"> ▶ Victim is under 18 ▶ Use of coercion / fraud / violence / abuse of authority / abuse of victim's situation of need / any other form of intimidation ▶ Perpetrator is a relative or caregiver 	No
Dominican Republic	2-10 years plus fine of 100,000-	N/A	Trafficking itself is an aggravating factor of the crime of pimping. Additional aggravating factors:	Yes

⁶⁵ The legislation of the Dominican Republic presents a special case in that the crime of trafficking is itself an aggravating factor of the crime of procuring.

	1 million pesos		<ul style="list-style-type: none"> ▶Victim is a minor ▶Use of threats / violence / abuse of authority / fraud 	
Guatemala	1-3 years plus fine of 2,500-15,000 quetzals	Penalty increased by 2/3	<ul style="list-style-type: none"> ▶Victim is under 12 ▶Act done with intention to make a profit or satisfy the desires of a third person ▶Use of deceit / violence / abuse of authority 	No
Honduras	5-8 years plus fine of 100,000-200,000 lempira	N/A	N/A	No
Nicaragua	4-10 years	Max. penalty	<ul style="list-style-type: none"> ▶Victim is under 14 ▶Victim is married to or in a stable common law union with the perpetrator 	No
Panama	2-4 years	6 years	<ul style="list-style-type: none"> ▶Victim is under 12 ▶Act carried out for profit ▶Use of deceit / violence / abuse of authority / any other means of intimidation or coercion ▶Perpetrator a close relative or guardian 	No

As discussed briefly above, a survey of the trafficking laws in the region illustrates that in all countries, minors are afforded protection from trafficking, and in most countries, the penalty for trafficking at least some subgroup of minors is higher than that for trafficking adults. The main difference in the various countries' statutes is that while some regard the trafficking of *any* minor as an aggravated offense, others only define a trafficking offense as aggravated if the minor is younger

than a certain cut-off age. For example, Nicaragua does not consider the trafficking of a minor to be an aggravated offense unless the minor is under the age of 14. Honduras, Panama, and Nicaragua have chosen an even younger cut-off age: under their trafficking statutes, a victim who is a minor must be under 12 years old for the offense to qualify as aggravated. By contrast, in Costa Rica, the trafficking of minors under 18 constitutes an aggravated offense.

The inclusion of these laws in the various penal codes of the region represent improvements—many of them recent—over the attention previously given to the issue of human trafficking in these countries. It is important to mention, however, that by and large these laws are rarely enforced, and even more rarely do they result in the conviction of traffickers.

Criminal Legislation Against Procuring and Pandering

Individuals who traffic women and children for the purposes of commercial sexual exploitation can also be prosecuted for their actions under domestic pimping and pandering prohibitions. As with the trafficking laws discussed above, these crimes focus almost exclusively on acts connected to prostitution; unlike trafficking legislation, they are concerned primarily with acts that do not involve the crossing of international borders.

Procuring

The procurement laws within the region are quite similar from country to country. While the exact language varies somewhat from statute to statute, each of these laws have at their core the criminalization of the acts of promoting or facilitating the prostitution of another person. In all countries except for Belize, which limits the application of its procurement law to situations where the person being prostituted is female, the law applies regardless of whether the victim (or would-be victim) is male or female. In all countries except for Guatemala, a conviction for procurement carries a possible prison term (see table below for exact penalties). Just as Guatemala's penalty for trafficking is the most lenient in the region, its penalty of a fine and no prison term is the most lenient penalty for procuring that exists in the sub-region.

As is illustrated in the table below, all countries in the sub-region except for Belize contemplate increased penalties for the crime of procurement when aggravating factors are present. While some countries include these aggravating factors in the basic provision on pandering, other countries have established a separate crime entitled

“aggravated procurement.” The most common aggravating factors for pandering include the following: where the victim is a minor (in countries where prostitution is legal for adults); where deceit, violence, abuse of authority, or coercion are involved; where the perpetrator is a partner, close relative or guardian; and where the perpetrator is a repeat offender or vested with public authority.

A handful of other differences in the scope of these provisions prohibiting procurement are significant enough to be highlighted. For example, Panama and Guatemala limit the definition of procuring to apply only to those individuals who promote or facilitate prostitution for profit or to satisfy the desires of others. The Dominican Republic, on the other hand, expands the basic definition of pandering to include individuals who “by threats, pressure, or any other means disturb the prevention, assistance and re-education activities of those qualified organizations working with males and females engaged in or at risk of engaging in prostitution.” Finally, Honduras includes in the scope of its procuring law the individual who “prevents or impedes another person from abandoning prostitution.”

Pandering

Living off the profits of a person engaged in prostitution is another crime under which traffickers can be prosecuted. The crime of pandering is nearly identical in the countries that have this crime, which includes all countries in the region except for El Salvador and Honduras. To be guilty of pandering, it is not necessary that an individual makes his or her entire living off of others’ prostitution; rather, the provisions in this region explicitly provide that maintaining oneself—even if only in part—off of a person engaging in prostitution is sufficient. The Dominican Republic, while it does not have a specific provision on pandering, does include in its definition the broad phrase “whoever receives benefits from the exercise of prostitution.” Arguably, this phrase could include pandering activities.

Table 11
Criminal Penalties for Procuring and Pandering

Country	Penalty for Basic Procurement Offense	Penalty for Procurement Aggravating Factors Present	Penalty for Pimping	Attempt Punishable Same Penalty
Belize	5 years	N/A	1 st Conviction: Fine up to BZ \$100 or up to 6 months Subsequent conviction: up to 1 year	•
Costa Rica	2-5 years	4-10 years	2-8 years 3-9 years where victim is 12 to 18 4-10 years where victim is under 12	
Dominican Republic	6 months-3 years and fine of 50,000-500,000 pesos	2-10 years and fine of 100,000-1,000,000 pesos	N/A	•
El Salvador	2-4 years	2-4 years and fine of 50-100 days' pay	N/A	
Guatemala	Fine of 2,500-10,000 quetzals	Penalty increased by one-third	Fine of 2,500-15,000 quetzals	
Honduras	5-8 years and fine of 50,000-100,000 lempiras	Penalty increased by half	N/A	
Nicaragua	3-6 years	10 years	2-4 years	
Panama	2-4 years	3-5 years	2-4 years	

iv. Treatment of Trafficked Persons under Domestic Legal Regimes

Trafficking and Prostitution

Trafficking for purposes of sexual exploitation is intimately related to prostitution itself. As was discovered in the region, individuals offering sexual services are considered to be prostitutes, regardless of age, the circumstances of their involvement, or current conditions. Similarly, the demand for sexual services does not discriminate between coerced and voluntary service—between service providers who may have been trafficked and maintained under debt bondage, coercion and violence, and those who may enjoy a greater sense of agency. The response from state actors—police, prosecutors, judges, immigration officers, public health workers, social service agents—is equally informed solely by an individual’s position in the commercial sex industry, rather than answering to the particular circumstances of the woman, adolescent or child or whether they have been trafficked. In the expanded Central American region, the legislation, regulation and policies toward prostitution provide a working context for sex trafficking.

In the absence of specific trafficking legislation or programs offering victim services, trafficked persons are subjected to the particular laws and regulations regarding prostitution, including health controls.

The following chart summarizes the regulatory regime of each country in the region:

Table 12
Status and Regulation of Prostitution

Country	Relevant Legislation	Health Controls
Belize	Adult prostitution is legal except for solicitation in public areas; procuring, trading on prostitution, and owning a brothel are prohibited. Facilitating the movement or exit of a woman for prostitution is illegal. Child prostitution is illegal.	Ministry of Health provides STD and HIV/AIDS testing. Considering instituting required health exams and issuing health cards.
Costa Rica	Adult prostitution is legal. Pimping and pandering are	Required health exams through the

	prohibited. Facilitating the entry or exit of a person for prostitution is illegal. Child prostitution is illegal.	Ministry of Health. Required to carry health card. NGOs offer testing as well.
Dominican Republic	Adult prostitution is legal. Pimping and pandering are prohibited. Facilitating the exit of a person for prostitution is illegal.	Regular testing is required.
El Salvador	Adult prostitution is legal; solicitation in public areas is punishable by fine in San Salvador and other municipalities. Pimping and pandering are prohibited. Induction into prostitution is a crime. Child prostitution is illegal.	Health exams are provided by Ministry of Health and several NGOs.
Guatemala	Adult prostitution is legal. Pimping and pandering are prohibited. Facilitating the entry or exit of a person for prostitution is illegal. Child prostitution is illegal.	Health checks are required and offered by the Ministry of Health. An NGO in Guatemala City offers testing and education to women inside bars and brothels.
Honduras	Adult prostitution is legal; solicitation in public is punishable under municipal police code. Pimping and pandering are prohibited. Facilitating the entry or exit of a person for prostitution is illegal. Child prostitution is illegal.	Health checks required. Ministry of Health issues cards.
Nicaragua	Adult prostitution is legal. Pimping and pandering are prohibited. Facilitating the entry or exit of a person for prostitution is illegal; inducing prostitution is also a crime. Child prostitution is illegal.	N/A
Panama	Adult prostitution is legal; solicitation in public is punishable under municipal police code. Pimping and pandering are	Mandatory weekly testing. Required to carry health cards.

	prohibited. Facilitating the entry or exit of a person for prostitution is illegal, unless accomplished by petitioning for a special “ <i>alternadora</i> ” visa, regulated by Immigration and the Ministry of Labor. Child prostitution is illegal.	
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Enforcement of procuring and pandering crimes is extremely poor. In most countries, bar and brothel raids are conducted where child prostitution is suspected, but adults found in circumstances of prostitution, even as a result of coercion, deception, force, etc. are ignored. Further, law enforcement and prosecution sources in the region reported obstacles to successful raids—either minors are counseled to lie about their age or carry false identification, or children are removed from the premises having been forewarned of police activity. Police complicity is certain. In addition to being clients, many sources suspect police involvement in notifying owners of planned inspections and raids. Throughout the region, judges, prosecutors, police officers, and forensic doctors acting together often perform raids. Some sources complain that this level of coordination inevitably results in information reaching suspected criminals.

Trafficking and Health

The increasing numbers of persons suffering from HIV/AIDS in the region have prompted the creation of special legislation on HIV/AIDS treatment and rights of its victims, the establishment of inter-sectorial AIDS commissions involving state and non-state participation, and the emergence of regional forums for information sharing and coordination. These bodies recognize not only the particular vulnerabilities of the community of commercial sex providers, but also the dangerous implications of migration of both sex providers and their clients. Unfortunately, these groups have not yet addressed the particular health needs of trafficked persons or identified trafficked persons as a separate vulnerable group apart from sex providers.

Many health professionals consulted explained their compromised position: often, they are forced to choose between reporting a crime and providing for the health needs of trafficked women and children in prostitution. One NGO in Guatemala explained that sharing any information with women and minors regarding their

rights would result in bar owners automatically restricting access to their establishments. Health professionals have convinced bar owners that it is in their business interest to maintain the health of the women and minors but cooperation extends no further than that.

Trafficking and Illegal Immigration

Immigration policies and legislation have a profound impact on victims of trafficking and the trafficking trade. As a function of being trafficked, many victims are often in destination points illegally. Their legal status has made them vulnerable to deportation and the threat of reporting is a frequent control mechanism used by traffickers. Within the region, the legal status of trafficked persons was most frequently an issue in Belize and Panama, and to a lesser extent Guatemala and Costa Rica.

The application of immigration and related criminal provisions most often further victimizes trafficked women and children. Victims face fines, imprisonment and/or deportation. Currently, none of the countries have formal procedures in place to identify trafficked persons. According to immigration sources in Panama, for example, women who claim to have been trafficked are allowed to report the crime to law enforcement authorities. In practice, because identification mechanisms are not in place, trafficked women are not informed of their legal rights as a victim. Threats, stigma and a general unwillingness to cooperate with authorities also keep women quiet as to their experiences, so options, even if available, are rarely used. Protection measures were similarly undeveloped, although instances of positive intervention by consulates of the trafficked individual were noted.

The destination countries of Belize and Panama presented the most visible reliance on immigration measures to respond to foreign women and children found in situations of prostitution and other forms of sexual exploitation. In Belize, for example, women from Guatemala, Honduras and El Salvador discovered in brothels are arrested and prosecuted for being illegally in the country. This offense is punishable by six months imprisonment and a \$500 fine. Immigration authorities in Belize stated that immigration law is being used to control prostitution because such offenses are easier to prosecute successfully than procurement and related crimes, which would hold traffickers responsible. In Panama, women are also subject to deportation through immigration proceedings. Consulates, who have largely proven to be the sole instances of protection for trafficked

women in the region, are sometimes able to secure early release of their nationals.

v. Major Obstacles

In consideration of the above policies and legislative schemes that are available to combat trafficking, it is important to highlight how these measures have been applied in practice. Overall, implementation of existing protection measures is weak, contributing to impunity for traffickers and rendering trafficking victims and survivors without necessary services. One of the most significant problems is the scarcity of available resources—human, technical and financial. A vast majority of the region’s police and immigration units are working without adequate equipment (computers, vehicles, video cameras, tape recorders, phones, faxes, etc.). With the limited technology available, activities such as strict border monitoring and undercover operations are extremely compromised. Many sources indicated the need for increased personnel—in law enforcement, immigration, and protection and welfare services. Understaffing has kept pressing issues ignored and has not allowed for the specialization that is required, especially when responding to trafficking activity. Finally, financial limitations overall have required government services to prioritize. Because of the lack of information on trafficking, minimal reporting (via *denuncia*), lack of political pressure and other factors, the issue loses in the competition for scarce resources.

Certain incentives exist in maintaining the status quo. As recent experience has taught many countries in other areas of the world, an effective response to trafficking must not only target the criminal behavior, but also provide protection, recovery and integration services to victims. It has been recommended that these human rights protection measures include provision of shelter, legal assistance, medical attention and counseling, temporary visa programs in states of destination to allow victims to recover and participate in judicial proceedings, and continued support services and vocational training programs for those who return to countries or regions of origin. For already impoverished infrastructures, these financial obligations may be too overwhelming to assume.

While appreciative of such resource constraints, this alone does not explain the extent of the neglect. Many other factors contribute to existing inaction, the most visible being the following: (1) scarcity of information on trafficking and a minimal reporting level by victims; (2) absence of the issue on regional and national agendas; (3)

weaknesses in enforcement mechanisms; (4) lack of expertise and specialized services; and (5) minimal coordination between relevant actors at all levels (within agencies; between institutions; and between governments). These elements often occur together, consequentially reducing the possibility of positive intervention against trafficking, and increasing the potential for continued victimization or revictimization of trafficked women and children.

Information Needs

The process of consultation and investigation in the region has revealed how relatively unfamiliar government institutions and, to a lesser extent, non-governmental agencies, are with trafficking. This lack of knowledge is not surprising, given the vast information gaps that have kept the issue largely hidden.

Existing data systems do not produce information that would assist in formulating a clear understanding of the phenomenon. Law enforcement and court records on trafficking and related crimes only reflect those cases that resulted from complaints, which for many reasons is extremely rare. Child welfare reports use the most basic classifications to register children—either as juveniles in conflict with the law or at risk. Information that may be revealed in the course of treatment does not filter into generalized databases. Statistics on migration, where they exist, are rarely disaggregated by sex and/or age and do not report the conditions of exit or return. The health monitoring systems of sex workers and programs focused on HIV/AIDS, while providing consistent information, offer only indirect indicators about trafficking. Further, these records are not likely to include the population of trafficked women and children in the most extreme circumstances—those unable or unwilling to access services. Currently, no statistics are available to accurately quantify the magnitude of trafficking in the region or within particular countries.

The little information that is being collected is not being meaningfully circulated. Throughout the region, researchers were told of instances where crucial information was not shared with appropriate authorities. For example, labor inspectors who knew of children working in bars and nightclubs did not coordinate intelligence with police and prosecutors; judicial authorities have failed to inform consulates of trafficking cases involving their nationals, either as defendants or victims; consulates, in turn, have overlooked notifying law enforcement authorities in their home countries, even when recruitment and other activities occurred there. Lists of suspects

involved in international trafficking are often unavailable to all border posts. Finally, NGO and civil society sources have valuable information that does not always reach government actors.

A final challenge is that it appears from interviews that intelligence, even government-generated, is often more easily accessible on the black market than through official channels. In several states, prosecutors and advocates complained of the inability to respond quickly enough to reports. Coordinated raids of establishments would often find that the bar had been closed or an absence of minors that had been reportedly working there just hours earlier. Authorities suspect corruption, but little action has been taken to address the problem.

Absence of Political Commitment

Perhaps due to the lack of information, the issue of trafficking in persons, and particularly trafficking of women and children for commercial sexual exploitation, has not been adopted as a significant priority in national agendas. Some attention is beginning to emerge through policy initiatives against the commercial sexual exploitation of children. But even where counter-trafficking language is included in such platforms, it does not benefit from full explanation. Recommendations for action rarely respond to the particular nature of trafficking—the coerced movement and dislocation that differentiates it from other exploitative practices. Furthermore, these policies have struggled with lack of independent funding and frequent destabilization of their coordinating bodies throughout the region. Attention is even weaker for trafficking of women. Out of all eight states, the Dominican Republic is the only one to have assigned institutional resources to combat female trafficking.

In absence of strong policy statements, attention to the issue has been difficult to obtain. Law enforcement, immigration and welfare institutions, which juggle many competing priorities, turn to other issues. In addition, coordination between agencies is difficult absent a clear, unified vision that can recognize the appropriate roles of each institution and of civil society.

Enforcement Challenges

The application and enforcement of criminal and administrative penalties against traffickers is extremely weak in the region for a variety of reasons. First and foremost is the problem of reporting. The prevailing attitude in policing and prosecution is that the crime of trafficking does not occur unless it is reported. In many

cases, this position reflects a legal requirement that permits investigation of adult trafficking only upon receipt of an official complaint.⁶⁶ Since reports and complaints of trafficking involving women rarely occur, time and resources are diverted elsewhere. Even in the case of child trafficking, independent investigations do not happen unless prioritized, which rarely is the case. In addition, units are ill equipped to perform undercover operations due to lack of training, time, and technical equipment.

In practice, trafficking cases are prosecuted on the basis of a victim's statement and little else. Cooperation after initial proceedings often falters, and the majority of cases are dismissed for want of evidence. States are particularly incapable of handling trafficking cases where the victim is a non-national and lacks independent means to remain in the country. Cases will commonly be opened with an initial victim statement but abandoned after the individual is deported or returned to her country of origin. It is up to the victim to find the means to return to testify in court at the proper time.

As applied, police and enforcement actions usually result in greater consequences (positive and negative) to the victim than the trafficker, since laws applicable to the victim's circumstances are easier to apply. More regularly, instead of prosecuting traffickers, law enforcement simply remove victims. They focus on immigration-based arrests of adults, many of who may be victims, and protection-based rescues of child victims. Since criminal charges related to trafficking and other crimes have proved difficult to prosecute, especially with material witnesses unavailable, the trafficker remains unpunished.

⁶⁶ However, prosecutors can initiate independent investigations into suspected trafficking of children and child prostitution.

Child Trafficking

The trafficking of minors incurs a greater responsibility and burden on governments and service providers than adults due to the particular vulnerabilities of this population. The rising number of unaccompanied children in the migration process will only increase the number of potential child victims of sex trafficking.

Based on interviews, identification of children in trafficking has grown more difficult with the use of false identification documents and the counseling of minors to report to authorities that they are of age. Once identified, children rarely get the necessary attention and treatment appropriate to their experience. Government institutions charged with caring for children were ranked as some of the worst in the region, suffering from poor financing, lack of human resources (in numbers and quality) and poor organization. As reported by *Casa Alianza*, trafficked girls rescued from brothels in Guatemala City in early July 2002, were placed in prison “for their safety.” Institutions rarely offer integration programs and little to no follow-up is given to cases.

Specialization Needs

While police and law enforcement have been advancing toward establishing specialized units to handle such crimes as violence against women, child sexual exploitation, and organized crime, most of these units are poorly funded and few reach beyond the capital city of each country. Additional problems arise when one branch is specialized but investigative or other key branches remain generalized. Information is often lost or misdirected in the necessary handoffs between them.

Specialized training in organized crime, including trafficking of persons, is beginning with the assistance and cooperation of countries such as the United States and Spain. Many of those consulted, however, noted that once trained, the individuals often are not placed in positions where the training can be used, or the training is given to individuals who already handle different matters.

Changes in administration often hinder continuity in policies and services. In the course of this investigation, Nicaragua, Costa Rica and Honduras hosted presidential elections, which radically altered the governmental framework. Programs in place from a prior administration, even of the same political party, were interrupted for

evaluation, if not discontinued. A high percentage of political and technical staff was replaced, sacrificing any capacity building that occurred under the prior administration.

Lack of Regional or International Cooperation and Coordination

Trafficking in the region most commonly involves transnational movement; yet coordinated law enforcement activities across these borders do not exist. Facilitated rescues of foreign minors may prompt an investigation by police and prosecutors in the destination country, but case information is never transmitted to law enforcement agencies in the country of origin. Even along border areas, government officials have not engaged in any bi-lateral enforcement activities. As noted by a police investigator in Nicaragua, communication between counterparts is crucial not only for information sharing, but also to better understand the human and technological resource strengths and limitations of the partner country. None of the police and prosecuting units consulted had the ability to make international telephone calls or transmit faxes. INTERPOL assists to a limited extent by providing lists of international fugitives, but few of the agents consulted view INTERPOL as sufficiently active.

Primary means of regional information sharing are through consulates, Human Rights Ombudsman's offices and non-governmental organizations. Consulates have served important liaison functions between complainants, such as parents of missing minors, and the local enforcement agencies of the host country. Complaints received through Human Rights Ombudsman's offices in one country are usually shared with the counterpart institution in the concerned country. Finally, the loose network of human rights organizations that accept complaints on these issues regularly correspond and rely on each other to investigate, transmit complaints to local authorities, or report it to media sources. These communication networks have proved extremely effective and are well poised to provide necessary protection and integration services to victims. Nevertheless, they are limited in significant ways: the organizations and institutions often are constrained in their ability to continue with additional investigations and have no competence to pursue and arrest traffickers. Absent similar coordination between law enforcement agencies, the region's trafficking problem will only be treated but not solved.

F. CONCLUSIONS

Trafficking is a crime and a human rights violation that affects each country individually and the extended Central American region as a whole. Women and children are being trafficked into sexual exploitation within countries, within the region and internationally. Smuggling and trafficking networks readily exploit the region's most vulnerable citizens' economic needs and ambitions of a better life. The behavior of these criminal networks—existing at all levels of organization and sophistication—remains largely unchecked, further fueling the trafficking trade. Children, many who have suffered past sexual abuse, have become particularly unprotected against domestic and international exploitation rings, encouraged by a growing child prostitution market.

Traffickers work primarily by means of deception, with false promises of decent and lucrative employment in *maquilas*, restaurants, bars, hotels and homes, among others. Following these promises of prosperity, women and children are pressed into sexual servitude in order to work off transportation fees and additional debts. Control is maintained through violence and threats, debts and fines, a restriction of access to earnings, physical restraint and use of armed guards, and demonstrations of impunity through open collaboration with authorities. The initial investment in migration and the lack of viable alternatives once transported leave many women and children without options. The risk of deportation, return or institutionalization (in the case of minors) keeps many victims silent as to their condition.

In the course of trafficking, traffickers violate the following human rights of their victims:

- the right not to be held in slavery, involuntary servitude, or slave-like conditions;
- the right to be free from exploitation;
- the right to be free from cruel and inhumane treatment;
- the right to be free from violence;
- the right to be free from discrimination based on gender;
- the right to health;
- the guarantee of freedom of movement.

Societal tolerance of the commercial sexual exploitation of women and children, taboos regarding sexuality, and a culture that

discourages the reporting of suspected trafficking and sexual exploitation activity contribute to the invisibility of the phenomenon.

Thus far, government response mechanisms have been non-existent or inadequate. Disinterest, corruption and constrained resources plague law enforcement and immigration sectors, which have severely limited their effectiveness. Criminal prosecutions for sex trafficking and related crimes are minimal and convictions are rare. Child and women's welfare agencies offer little to no services adequate to meet the special needs of trafficking survivors.

Overall, the region suffers from an absolute paucity of prevention, protection, suppression and integration strategies. Nascent attention has been drawn to the trafficking of children, but lack of funding and other obstacles have stalled implementation of targeted programs.

The information that is available paints a disturbing picture of criminals acting with near-absolute impunity and an absence of identification, treatment, and protection of victims. Many forums for action, advocacy and attention are not being utilized at the moment, in part, because trafficking in persons has not been placed on the national agenda of the majority of countries in the region. These fora, if mobilized, can generate awareness, help to harmonize data collection from different institutions and countries, contribute research, draft policy and legislative reform, and articulate strategies for victim protection and integration, prevention and sanction.

G. RECOMMENDATIONS

In order to be effective, efforts to address trafficking require that the states adopt tactics that respond to the specific dynamics of the problem. Trafficking involves both intra-state and international activities involving vulnerable populations largely unable to avail themselves of existing protection mechanisms. This requires a state strategy that attacks the problem from a regional, international and local level.

i. At the Regional Level

1. Create a Regional Framework. As this research and the long history of sex trafficking in this region reveals, a common understanding of trafficking and agreement on basic principles does not

yet exist. Yet the necessary coordinated response cannot proceed without such an agreement. Since a variety of international instruments provide a useful framework through which to address this problem it is recommended that governments:

a. Adopt the UN Convention on Transnational Organized Crime and its Trafficking Protocol. The UN Convention on Transnational Organized Crime and its Trafficking Protocol, already adopted by the international community and expected to enter into force in the near future, can be used to introduce a uniform language to facilitate the creation and implementation of regional strategies. Ratification of these documents will give meaningful guidance to States as they begin to address trafficking in the region.

b. Implement Existing Related Treaties. Recognizing that the Organized Crime Convention and Trafficking Protocol were designed to assist states in combating international crime, the provisions of the Trafficking Protocol should be understood as complementary to the human rights protections related to trafficking contained in treaties universally ratified by the region's states: Convention on the Rights of the Child, ILO Convention No. 182, Convention on the Elimination of All Forms of Discrimination Against Women, and the Inter-American Convention of Belem do Para. Toward this end, the Recommended Principles and Guidelines on Human Rights and Human Trafficking issued by the UN High Commissioner for Human Rights will offer important guidance.

c. Adopt the Inter-American Convention on International Traffic in Minors and the UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

d. Coordinate through the Central American Parliament (PARLACEN). Given the similarities in existing legislation on trafficking, bringing existing laws into conformity with each other and enhancing those laws where necessary may be facilitated through PARLACEN and the development of model legislation against trafficking that includes all forms of exploitation.

2. Regional Coordination. Trafficking in the countries that participated in this study has been shown to have a heavy regional dynamic. Particularly between the states of Nicaragua, Honduras, El Salvador, Guatemala and Belize, trafficking occurs in a manner ignorant of the borders that lie between the states. As has been shown, the required institutional responses from law enforcement, immigration departments, courts, child welfare agencies, women's protection

agencies and others are still constrained by national boundaries. In order to address these problems it is recommended that:

a. Bilateral and Multilateral Agreements. Regional mechanisms and bi- and multi-lateral agreements in these areas are necessary tools that work despite the physical separation of states. Based on current trafficking activity, priority issues for regional agreements include:

- law enforcement and immigration cooperation and exchange of intelligence;
- safe and secure return of trafficked citizens;
- special procedures for interventions, treatment, protection and return of trafficked children within the region;
- mechanisms for the participation of non-national material victim-witnesses in criminal and other legal proceedings; and
- regional information collection systems and databases.

b. Bilateral Forums and Organizational Collaboration. Existing regional mechanisms and forums⁶⁷—governmental, non-governmental and mixed—can play an important role in facilitating dialogues between the States. In addition, the coordination between non-governmental organizations that currently contribute to combating trafficking can be further encouraged; partnerships between state and non-state actors should also be enhanced.

ii. At the National Level

The trafficking of women and children for purposes of commercial sexual exploitation in the region has demonstrated itself to be a complex and sensitive matter affecting the core dignity and human rights of its victims. Accordingly, strategies to combat trafficking activity will need to engage and address the diversity of issues that contribute to its existence. Broad, coordinated actions between all relevant actors in law enforcement, immigration, social services, health, education, labor, foreign affairs and human rights will assist in responding to this characteristic of trafficking.

1. Create a Comprehensive Information System. In order to develop policy and measure the expenditures of resources and the achievement of identified goals, it is necessary to first develop accurate reporting systems to measure the problem. To do this, it is

⁶⁷ See Regional Mechanisms in the Appendix.

recommended that governments create a centralized information management system to collect, assemble, analyze and distribute reliable data on trafficking. Such a data collection system must be sensitive to how information is kept in other systems, including that:

- Information can be registered by a number of different institutions: law enforcement, migration authorities, health and labor departments, ombudsman's offices, and the justice sector.
- Data may be hidden or obscured by the particular registry systems of an institution.
- Available information may not be collected due to incomplete forms and other deficiencies.

2. Establish an Integrated, Policy Framework. Broad, coordinated actions between all relevant actors in law enforcement, immigration, social services, health, education, labor, foreign affairs and human rights will assist in responding to the multidimensional characteristics of trafficking. As has been done on the issue of commercial sexual exploitation of children and child labor, a National Action Plan on Trafficking in Persons can contribute to awareness, encourage reporting, articulate clear policy aims and assist in information sharing between institutions. It is also a means to further strengthen and enforce international legal obligations effective throughout the region such as those found in the Convention on the Rights of the Child, ILO Convention No. 182, CEDAW and the Inter-American Convention of Belem do Para. Plans can also reinforce existing trafficking provisions in National Plans against Commercial Sexual Exploitation of Children and other policies.

3. Provide Effective Public Leadership. Experience with policy development and implementation in the region has demonstrated the importance of strong, independent leadership of a coordinating body and the need for independent financial resources to underwrite the plan. An independent, staffed and financed technical group to oversee and manage this process is important. Given the constantly changing features of trafficking, it will be crucial to periodically review and update policies, plans and initiatives.

4. Tailor Programs to Meet the Needs of Trafficked Persons. As repeatedly noted, the evils of trafficking cannot be fully addressed—either in terms of prosecuting traffickers or remedying the harms of trafficking—without careful attention to the needs of the

trafficking victims. It has been well documented that the specific needs of trafficked persons are unique as compared to other crime victims. In particular, the fact that trafficking involves dislocation results in the unavailability of the victim's usual sources of protection. This includes government services that are unavailable to victims trafficked abroad.

a. Training Officials. The first challenge is to identify victims and direct them towards appropriate care. Sensitive and trained protection officers at all points of a trafficking experience (from recruitment to recovery) can help ensure that needs are recognized and responded to. Training should target those officials most likely to come in contact with victims including:

- Consular Officials: Consular officials have been shown to work at the forefront of this problem. Those likely to interact with victims should receive appropriate training.
- Service Providers: Training for child social workers in areas of welfare agencies where child victims may receive evaluation and attention.

b. Provide Transition Integration Programs. Programs such as the following need to be developed:

- Well-funded and effective integration programs to meet the specific needs of trafficked victims. Participation of adult trafficked persons should be voluntary.
- Tailored health services for returning women and children including physical and psychological care.

c. Develop Supports for Victim Participation in Prosecutions. Many victims are unable to participate in prosecution efforts due to ignorance or problems relating to their status within the country to which they have been trafficked. Programs need to be developed to counterbalance these circumstances, including:

- Consular treatment protocols. Consulates should establish a uniform protocol to handle trafficking cases. This would include adopting measures to register cases and facilitate victim participation in legal proceedings against traffickers, if they so desire.
- Services to provide orientation and accompaniment through legal proceedings.

II

STUDY ON TRAFFICKING IN WOMEN AND CHILDREN FOR COMMERCIAL SEXUAL EXPLOITATION IN BRAZIL

Edited by David E. Guinn

*Adapted from the National Report by Maria Lucia Leal
and Maria de Fatima Leal*

A. INTRODUCTION

Efforts to study the trafficking of women and children for purposes of sexual exploitation in Brazil face many challenges. As is the case throughout the rest of the world, trafficking is a complex and multifaceted problem mired in numerous controversies over how it is to be understood and studied.¹ Many aspects of trafficking for purposes of sexual exploitation are illegal and, therefore, hidden. Moreover, whether described as corruption or undue influence, the political and economic relationships between trafficking and traffickers, on the one

¹ For example, trafficking is a contested term, with many activists advocating a broad definition to target any form of coercive movement of individuals combined with exploitation of the person in any form (including forced labor, etc.) For purposes of this study, we have limited our focus to trafficking of women, children and adolescents for purposes of sexual exploitation. Therefore, any use of the term trafficking refers to this specific type of trafficking involving this group of vulnerable individuals (i.e. women, children and adolescents.)

hand, and the government on the other creates disincentives for enforcement. Finally, many of the social organizations trying to mobilize society to combat this problem have faced disillusioning setbacks that have sapped energy from the movement.

Nonetheless, in early 2000, the Brazilian government responded to the pressures brought to bear by interested national and international organizations and joined forces with domestic civil society organizations within Brazilian society to support research on the problem of trafficking in women, children and adolescents for commercial sexual exploitation. This effort was buttressed by local and international organizations interested this issued who have provided support for this study.

The goal of the study is to promote greater attention to a problem far too often downplayed by state bureaucracy, silenced by corruption and hidden by commercial interests. It is intended to help understand trafficking within its social, gendered, racial and ethnic context.

Traditionally work on this problem has focused on the victim/offender relationship. While that will inevitably be a central feature of any effort to study trafficking, the problem must also be contextualized. Trafficking constitutes a criminal violation of human rights. This demands a response that not only places responsibility on the aggressor, but also on the State, market and society that have in one way or another contributed to the vulnerability and exploitation of the trafficked individuals.

From the outset, this study focused on encouraging social participation in the research and the development of accurate information on this topic through multidisciplinary research techniques. At the same time it encouraged participating organizations to identify and advocate ways to combat the phenomenon of trafficking drawing on principles of human rights. This study also represents a strategic effort to develop new political practices that can be used to resolve this problem, not only in Brazil, but also in other Latin American and Caribbean countries and, hopefully, support the creation of a new Inter American Convention on trafficking.

In Brazil, the study is the result of a partnership developed by the International Human Rights Law Institute of DePaul University College of Law with the Inter American Commission of Women and the Inter American Children's Institute of the OAS. It was part of a larger, regional study within Latin America and the Caribbean.

CECRIA (Reference, Study and Actions Center for Children and Adolescents) was engaged to develop the project for Brazil.

This study was nationally coordinated by a group of non government organizations (NGOs) under the direction of CECRIA , in partnership with the International Human Rights Law Institute, supported by the Ministry of Justice and international agencies in the country, such as: (a) *North Region* CEDECA Reptiblica de Ematis and the International Labor Organization (ILO); (b) *Northeast Region* Forum de Enfrentamento da Exploração Sexual Comercial de Crianças e Adolescentes, Save the Children Sweden and POMMAR/USAID; (c) *Southeast Region* Pacto de São Paulo and World Childhood Foundation (WCF); (d) *Central West Region* IBISS /CIRCO and Ministry of Justice/Department of Children and Adolescents (DCA/MJ); (e) *South Region* Subcomissão de Direitos da Criança e do Adolescente, Legislative Assembly of Porto Alegre and USAID.

The study, identified by the acronym PESTRAF, was initiated in June 2001. Regional teams began with workshops addressing the conceptual, theoretical, methodological and operational issues relating to the project. Work in the North Region commenced at that time, followed by the Northeast Region in July, the Southeast Region in September, the Central West Region in October, and the South Region in March of 2002. A total of twenty states, cities and approximately 130 researchers contributed to this study.

Regional and/or national coordinators constantly monitor the progress of regional teams through monthly research progress reports. Government/judicial organizations furnished key data for this study (such as investigations and legal proceedings), and case studies were taken from primary and secondary data supplied by NGOs and the media from 1996 to 2002.

Since the media has an important role in gathering information on trafficking in Brazil, a comprehensive research of major national newspapers was conducted and evaluated according to: (a) relevance of the source of data; (b) instruments used in gathering information; and (c) the methods used by each State within Brazil to deal with the trafficking. Among the media sources used was a journalistic database, from 1996 to 2001, organized by the national project coordinators that contained significant, comprehensive and relevant country wide information.

The PESTRAF team confronted many challenges including: the geographical, social, economic and cultural diversities within and

between the regions; different levels of cooperation and mobilization within Brazilian civil society and the local, regional and national governments with respect to trafficking; and weak government information systems.

In this report, we begin by developing a working definition of the problem and some of the methodological and conceptual challenges in researching it. We then map the overall characteristics of trafficking in Brazil, including the socio-economic and cultural conditions that create vulnerable populations and drive trafficking. We use the tool of identifying trafficking routes as a method of quantifying the scope of the problem and some of the transactional aspects of trafficking. We then turn to legal efforts to address the problem and conclude by suggesting possible avenues by which to improve Brazilian efforts against trafficking.

B. TRAFFICKING: DEFINING THE PROBLEM

This study presents a broad portrait of trafficking in women, children and adolescents for commercial sexual exploitation. The goal of this national research was not simply to collect statistics on the problem, but also to situate it within the larger social and demographic context of Brazil, the region, and the world.

Trafficking became a part of the Brazilian public agenda due to the efforts of civil society organizations specializing in topics relating to women, children, and adolescents. These efforts grew out of and were supported by larger initiatives undertaken by the United Nations, and the Organization of American States. Specifically, beginning in the nineties, NGOs and intergovernmental organizations mobilized to work against commercial sexual exploitation (i.e. trafficking for sexual exploitation; pornography; sex tourism; and prostitution)² of children and youth. This resulted in a series of international events including: Fourth World Conference on Women in Beijing (1995); Seminar Against the Sexual Exploitation of Children

² The Inter American Children's Institute/OAS in 1998 classified four types of commercial sexual exploitation: trafficking for sexual purposes, prostitution, sex tourism and pornography. This classification was incorporated in the international agendas related to the commercial sexual exploitation of children and adolescents Leal, M.L.P. *Exploração Sexual Comercial de Meninos, Meninas e de adolescentes na América Latina e Caribe: Relatório Final – Brazil*. Brasília: CECRIA, 1999: 23.

and Adolescents in the Americas, held in Brasilia (1996); the UN Convention Against Transnational Organized Crime, in Palermo (2000), and the First and Second World Congresses Against the Commercial Sexual Exploitation of Children, held in Stockholm (1996) and Yokohama (2001).

The First World Congress Against Commercial Sexual Exploitation of Children, held in Stockholm in 1996, approved a declaration defining “commercial sexual exploitation of children as a fundamental violation of children’s rights, which includes sexual abuse³ by adults or payment to a boy or girl and to a third person or several third parties. The child is treated like a sexual object and a commodity. Commercial sexual exploitation of children is a form of coercion and violence against children, that may include forced labor and modern forms of slavery.”

When the International Human Rights Law Institute of DePaul University started its work in the area, it broadened this focus to include women. As noted in its report with the OAS (2000), all of these “... victims belong to the most vulnerable social segments of society and are in greater need of assistance. In general, people who are subjected to this violence are marginalized, instead of being considered people whose rights have been violated. Consequently, they are less legally protected when authorities investigate the commercial nature of the problem.”

This study advances that effort. While women and female children and adolescents are the primary targets of commercial sexual exploitation, male children have also been involved and are included in this study.⁴ However, while evidence suggests that other vulnerable or disadvantaged social groups, such as transgender and certain adult and adolescent males (homosexuals, transvestites and others) are also

³ SEXUAL ABUSE CONCEPT CHILD AND ADOLESCENT SEXUAL ABUSE Sexual act or game in which the adult person subjects the child or the adolescent (unequal power relationship) in order to sexually stimulate or satisfy himself, using physical force, threat or seduction, either by words or gifts (ANDI. O Grito dos Inocentes: uma análise do tratamento jornalístico dos crimes sexuais. Brasília: revista nº 12, Mar/2002: 44).

⁴ PESTRAF/CECRIA, *Study of Trafficking in Women, Children and Adolescents for the Purposes of Commercial Sexual Exploitation*, 2002; Investigación Regional sobre Tráfico, Prostitución, Pornografía Infantil y Turismo Sexual Infantil en Mexico y Centroamérica, Casa Alianza y ECPAT International, 2001; Tráfico de Mujeres, Niños, Niñas y Adolescentes para la explotación Sexual Comercial en República Dominicana, Centro de Investigación para la Acción Femenina, Santo Domingo, República Dominicana, 2001.

suffering such prejudice, exploitation and violence including trafficking, it was decided not to include them in this project. Future research needs to consider these groups as well.

In order to develop a working definition for the term trafficking, international legislation was used as the initial point of reference.⁵ Of particular significance are the provisions of the Palermo Trafficking Protocol which provides that: "... trafficking in persons shall mean recruiting, transporting, transferring, harboring or receiving persons, by means of threat or physical force, or other forms of coercion, abduction, fraud, deception, abuse of power or the person's vulnerable position, as well as giving or receiving payments or benefits to get a person's consent and having control over another person, for the purpose of exploitation."⁶

There are a number of problems with this definition. First, it defines trafficking exclusively as an international problem, ignoring the fact, as supported by this study, that trafficking can and does take place within a single country. The essence of trafficking is the movement of an individual away from their community of origin into a community in which they lack social support, may be isolated by language, culture and/or ethnicity, and where they make lack legal standing. While international trafficking creates these conditions, the movement of vulnerable individuals from an indigenous community or an isolated rural community into a urban environment can create the same conditions. Thus for the purposes of this study, we have applied the

⁵ The international community has repeatedly condemned forced slavery, violence against women and other trafficking elements, through declarations, treaties, resolutions and United Nations reports, including the Universal Declaration of Human Rights (G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948) , the Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutions and Similar Practices, in 1956; the North American Declaration of the Human Rights and Duties, 1948; ILO Convention No. 105 concerning the Abolition of Forced Labor, in 1957; International Covenant on Civil and Political Rights; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Resolutions 50/167, 51/66 and 52/98 of the United Nations General Assembly; First World Congress Report Against Commercial Sexual Exploitation of Children, 1996; IV World Conference on Women (Peking 1995); Moscow Document on the Organization for Security and Co operation in Europe, in 1991.

⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, G.A. Res. 25, U.N. GAOR, 55th Sess., Annex II, Supp. No. 49, at 60, U.N. Doc. A/45/49 (2001)

above referenced excerpted definition without reference to transport across international state lines.

Second, the Palermo Protocol is attached to the International Treaty on Organized Crime. It therefore focuses upon the involvement of criminal organizations. This study attempts to research the entire phenomena of trafficking including participation by individuals not affiliated with a formal international organized crime organization. The research seeks to situate trafficking within the general social and cultural context – not just limited to the context of organized crime.

Third, the Protocol covers all forms of exploitation, including forced labor and involuntary servitude. While acknowledging the legitimate concern for these areas and the resemblances among these differing types of trafficking, for strategic purposes it was deemed necessary to restrict the focus of this research to trafficking for purposes of sexual exploitation.

Finally, as noted by Ann Jordan, the Protocol does not require that governments guarantee protection and assistance to the victim of trafficking.⁷ While this does not alter the definition of trafficking as a criminal offense, it does fail to recognize that the protection against trafficking should be treated as a human right that carries with it related rights of care and rehabilitative support. Thus, for purposes of this study, one feature of the research will examine how domestic law can correct this failure within the international community's efforts.

Another aspect of the law concerns the term "consent." The issue of consent has proved to be a significant source of contention and controversy.

"This issue includes the debate on whether women can consent to prostitution. Some are of the opinion that they cannot....Their arguments are based on the irrefutable assumption that no agreement can be made to the practice of prostitution and to the forms of sexual labor that profit from that activity. Others support this view, because they consider consent to prostitution as a result of economic coercion or abuse of the economic vulnerability of the person. Those that are on the opposite side of the debate support the idea that women may freely consent to becoming sexual workers and this choice must be

⁷ Jordan, Anne. Tráfico de Seres Humanos: escravidão ao nosso redor. In *Questões Globais: Relatório do Conselho da Europa sobre Escravidão Doméstica, submetido à Comissão de Oportunidades Iguais para Homens e Mulheres pelo relator John Connor*. Available at: <http://stars.coe.fr/doc/doc01/EDOC9102.htm>.

respected. There is consensus regarding a minor's inability to give valid consent to this kind of exploitation, but discussion is still ongoing as to an actual age for giving such consent in light of the world's cultural diversity.⁸

After closely analyzing and reflecting upon this debate, researchers for this study rejected the idea of focusing upon consent of the woman in the abstract. Rather, they elected to focus upon the behavior of the exploiter through adoption of the term "induced consent." Within many areas of law, it is a crime to abuse someone's inexperience, simplicity or inferiority when one knows that the proposed activity is or will be injurious to that person. In this sense, "induced consent" shifts the question away from the victim and towards the concept of control and abuse by a dominant group, in this case, those who promote commercial sexual exploitation, in relation to a vulnerable person or a group of people.

Admittedly, it is difficult to discern when this type of control occurs, since in many cases the dominant individuals or groups will ostensibly comply with the "rules of the game" in portraying the transaction as voluntary. Furthermore, those who have made their own "choices" generally use the coercive group's arguments as their own. Nonetheless, given the current state of the research, the project adopts the presumption that consent is illegally induced when the victims are drawn from a vulnerable population.

This does, however, raise an additional problem in terms of how society views the subject of trafficking. From a juridical perspective, a person that is trafficked for the purposes of sexual exploitation is considered a "victim". In other words, this person is a nonactive "object" of the criminal behavior and/or a person to whom a crime or criminal act has been committed against. Assuming induced consent, to a certain extent, adopts this same perspective.

The problem with this approach is that it further "victimizes" the subject of trafficking (by treating them as an object or abstract subject) while directing attention away from moral culpability of the larger society for creating the conditions that lead to the victimization. Thus, use of terms such as "victim" to define a person, creates a conceptual trap that gives more value and individual meaning to the exploiter-exploited relationship while exempting the government,

⁸ BASSIOUNI, Cherif M. *Tráfico de Mulheres e Crianças para fins de Exploração Sexual*. Anais do Colóquio Internacional do Rio de Janeiro, Rio de Janeiro, 2002: 03

society, and the market from accepting the responsibility of not confronting the issue of trafficking. While it is accurate that at the end of the process, when the individual is in the hands of the trafficker/exploiter, he or she is a “victim” of the trafficking phenomenon, what is critical is that researchers must not allow this end stage to restrict their analysis of the characteristics and cultural and socio-economic factors that lead to this result.

C. MAPPING THE CONTURES OF TRAFFICKING IN WOMEN, CHILDREN AND ADOLESCENTS IN BRAZIL

In any effort to regulate the problem of trafficking, the first task is to develop an accurate understanding of the phenomena. How is it structured? How does it work? Who are its victims? What are its consequences in terms of human costs? This section will draw a rough map of the problem.

In its simplest form, trafficking involves three classes of actors: the women or children who are the subjects of trafficking; those consumers of the services provided by the trafficked women or children thereby creating a demand for them; and the traffickers who service the consumers by connecting the trafficking subjects with the consumers. While the consumers who create the demand for women and children are a crucial feature of the trafficking phenomena, they are not the subject of this study. The problem of demand has been and is being addressed by the International Human Rights Law Institute through a series of conferences entitled: *Demand Dynamics*.⁹

This study focuses upon two sides of the triangle: the women and children who are the subjects of trafficking; and the traffickers and their support structures. It is designed to analyze trafficking by linking social indicators affecting the women and children subject to trafficking (such as mobility, poverty, family break-up, intra-family violence etc.) with industry specific indicators as to how trafficking is organized and operates (e.g. recruitment, coercion, transport, harboring etc.). The types of social indicators examined were selected based on prior research suggesting links between particular social factors and

⁹ See www.law.depaul.edu/institutes_centers/ihri/_downloads/demand_dynamics.pdf

trafficking or the sexual exploitation industry. Industry specific data was drawn from a careful review of available materials and original research.

For this project, researchers began work by reviewing and analyzing arrest records and court cases arising under Article 231 of the Brazilian Criminal Code, the statute prohibiting prostitution, which provides the most direct protection against trafficking. This was supplemented by interviews with different governmental officials and non-governmental organizations active in this area as well as information obtained from the media. Researchers also collected and analyzed a series of case studies of the subjects of trafficking. Finally, this information was then correlated with additional socio-economic research in order to present an integrated picture of the problem.

i. Socio-Economic Factors

Brazil is the fifth most populous country in the world with a large contingent of young people. In the year 2005, according to projections by the Brazilian Institute for Geography and Statistics (IBGE), the country had a population of 184,184,264 made up of 50.8% female and 49.2% male. It is principally constituted by five ethnic groups: Caucasians (55.2%); Mixed Race (38.2%); Blacks (6.0%);¹⁰ Asian (0.4%) and Native Indians (0.2%). The South and Southeast regions have the largest population of Caucasians, while North, Northeast, and Central West populations have a larger concentration of Afro descendents and Native Indians.

The country is divided into five geographical regions (from most populous to least): Southeast, Northeast, South, Central West and North. Economic migration, both domestically and internationally, has contributed to this demographic variation, with the Southeast attracting over 14.9 million migrants of which more than 8.5 million (approximately 55.5%) are from the Northeast. From the total amount of domestic immigrants, 72.9% reside in the Southeast region (IBGE, 1999).

¹⁰ It is also worth mentioning that social movements, specifically the Black Movement, have questioned the methodology used by the IBGE, the government agency responsible for conducting a National Census in the country. Many have stated that the census contains distorted information. For these groups, Blacks and Mixed Races derive from the same ethnic group descendents of slaves that were brought to Brazil during colonial times. They have been lobbying the government to recognize and accept the term “afro descendent” and no longer want to separate the population between Blacks and Mixed Races.

Economically, Brazil is considered a developing country while at the same time it is considered the tenth largest economy of the world. Through the 20th Century, it has benefited from an extensive modernization program involving a range of development projects: roads, highways, waterways and railroad constructions; implementation of agricultural projects; construction of electric energy plants; strengthening of commercial sectors; and expansion of technology, communication and tourism. At the same time, pressure from international financial institutions forced economic restructuring that resulted in lower working standards, increased migration (including illegal migration),¹¹ territorial divisions, resurgence of traditional and new forms of work exploitation, and the emergence of clandestine and illegal markets involving organized crime.

In 1998, Brazilian per capita reached US\$6,625.00, while the GDP (Gross Domestic Product) reached US\$ 775 billion. Although this places the country as one of the richest in Latin America (which helps account for the migration of labor into the country), it nonetheless suffers the worst human development conditions within the sixteen countries of the region, such as Chile, Uruguay, Mexico, Venezuela and Costa Rica. In 1999, 15.1 million people (9% of the population) lived on a dollar a day, with an additional 37 million (22%) below the poverty line, living with an average monthly income of less than R\$60.00 (US\$16.39), for a total of more than 50 million poverty stricken individuals.¹² The 40% poverty rate is distributed unequally

¹¹ SEYFERTH, Geralda. *Imigração e Nacionalismo: O Discurso da Exclusão e a Política Imigratória no Brasil*. Brasília-DF: CNPD – Comissão Nacional de População de Desenvolvimento. Seminário Internacional sobre Migrações Internacionais: Contribuições para as políticas, 2000.; OLIVEIRA, Juarez de Castro. *Return of international migration as a component of Brazilian photographic dynamics when will it end*. Brasília-DF: CNPD - National Commission for Population and Development, International Seminar: International Migration: Contribution to Politics, Brazil 2000.; FREITAS, Carlos Eduardo Soares de. *Precarização do Trabalho e Estrangeiros no Brasil em um Contexto Neoliberal*, Seminário Internacional - Migrações Internacionais - Contribuições para as políticas – Brasil 2000. Brasília: CNPD – Comissão Nacional de População de Desenvolvimento; 06 e 07 de dezembro de 2000.; LEITE, Maria Jaqueline de Souza. *Gênero e Turismo Sexual Experiências Brasileiras no Exterior e de Casos no Brasil: Serviço de Prevenção*. Brasília-DF: CNPD – Comissão Nacional de População de Desenvolvimento. Seminário Internacional sobre Migrações Internacionais: Contribuições para as políticas, 2000.; SAZAKI, Elisa Massau & ASSIS, Gláucia de Oliveira. *New Immigrants From and To Brazil: A Balance of Bibliographic Production* Brasília-DF: CNPD - National Commission for Population and Development, International Seminar: International Migration: Contribution to Politics, Brazil 2000.

¹² Associação Internacional de Direito Penal -AIDP. *Relatório Sobre o Tráfico*

throughout the national territory. There are greater proportions of poverty in the Northeast and North regions as compared to the South and Southeast regions.

The situation worsened in the 1990s. Interest rates became the highest in the world; the country debt increased 10 times leaving Brazil one of the world's largest debtor nations.

From 1989 to 1998, the unemployment rate increased 3% to 9.5%. In absolute numbers, this means that in 1989, there were approximately 2 million unemployed people in the country, while at the end of the decade this group increased to more than 7 million. In industrial and agricultural sectors, for instance, approximately 1.4 million jobs simply disappeared.¹³

Because of this economic stress, in addition to the internal migration discuss above, external migration increased as well. In 2001, the Brazilian State Department discovered that there were approximately 2 million Brazilians living abroad, mostly in the United States (600,000), Paraguay (350,000) and Japan (300,000). Moreover, the number of female migrants grew significantly. Illustrative of this, in 1999, Spanish authorities deported 491 Brazilian citizens for overstaying their legal visas. The majority were women working as prostitutes.

These economic conditions have created a complex migratory flow. As a relatively strong economy within the region, Brazil has attracted significant migration into the country. The uneven distribution of economic development within the country created significant internal shifts of population from poorer to more prosperous areas. Finally, due to the overall limitations of the economy and high unemployment, a significant flow of Brazilian migrants to other countries has also emerged. As noted by the UNODCCP migration is intimately related to trafficking in human beings.¹⁴

Women

While the economic and social situation is difficult for a majority of Brazilians, it is, as expected, worse for women. Over 31 million women (58.2% of women) are in the work force (compared to a

Internacional de Mulheres e Crianças: aspectos regionais e nacionais. Rio de Janeiro: AIDP, 2002.

¹³ CUT. *A CUT contra o Trabalho Infantil. Secretária Nacional de Políticas Sociais e Comissão Nacional de Defesa dos Direitos da Criança e do Adolescente.* São Paulo, 2000

¹⁴ United Nations Office for Drug Control and Crime Prevention, *Trafficking of Women into the South African Sex Industry.* ECPAT 2001.

rate of 85.5% of men) and, although some regional differences exist, most women work in lower paid, traditionally female positions in the service industry.¹⁵ Moreover, according to the National Survey by Household Sampling report, the female head of household with children under 14 years old has increased dramatically. Given the fact for a significant number of men, a couple's separation also represents an end to their paternal obligations, this increase in head of household statistics represents a significant increase in female poverty. Approximately 9.1 million Brazilian children live in families with an income of less than R\$75.50 (at that time US\$ 41.10).¹⁶

Adding the issue of race/ethnicity to the gender indicator, an even greater disparity emerges. The vast majority of women of color find themselves in substandard jobs and working in the more informal sector of the economy.¹⁷ Most have received limited education (maximum of 4 years) and many do not have signed work documents required by the state placing them at grave risk for abuse.

In spite of the formal equality of rights included in the Constitution of 1988, the situation of women in rural areas is also blemished by discrimination, indicating that there are barriers to accessing land, credit, professional training and formal education.

Health statistics are also troubling. According to UNICEF and World Health Organization estimates (2000), the maternal mortality rate in Brazil has reached 260 deaths for every 100,000 births. The National Commission on Development (CNPD) shows that in 1995, 13% of the deaths of young women between the ages of 15 and 19 were birth-related. Similarly, HIV/AIDS incidence in Brazil has increased among women. IBGE (2000) reports the ratio of female to male cases has risen dramatically from one female case for every twenty four male in the early eighties, to a current ratio of one for every two. Vertical and perinatal transmission of AIDS increased at an alarming rate. In 1990, the figure was 15.4%; by 1998 it had reached 32.7%.

¹⁵ IBGE – Instituto Brasileiro de Geografia e Estatística 1999/2000 *available at* <http://www.ibge.gov.br> [hereinafter IBGE]

¹⁶ PNAD – National Household Sample Survey, 1999, *available at* <http://www.ibge.gov.br/english/estatistica/populacao/trabalhoerendimento/pnad99/default.shtm>

¹⁷ Oficina Internacional del Trabajo Programa Internacional para la Erradicacion del Trabajo Infantil, 1998 *available at* <http://www.ipec.oit.or.cr/ipec/region/paises/costarica.shtml>

Children and Adolescents

Along with an increase in the number of women, there has also been observed increase in the percentage of juveniles in the population, who now make up 33.5% Brazil's population (30,459,277 girls/31,282,275 boys).¹⁸ Here again, the distribution by region is disproportionate: North (42.7%), Northeast (40.6%), Central-West (36.3%), South (34.5%) and Southeast (32.5%).

Education statistics suggest serious problems exist. A report by PIDESEC reveals that in Brazil approximately 28 million people are in the age group of 7 to 14 years.¹⁹ Since official data shows that 95.5% of children between the ages of 7 to 14 years attend core educational programs, it can be concluded that there are approximately 1.26 million children between the ages of 7 and 14 that are not attending school. Drop out rates were at 3.9% while illiteracy rate stands at 17.2% for children between the ages of 7 and 10, and 15.7% for children above 10 years old. With regards to pre-school children, only 33% of the population between the ages of 4 and 6 attend some form of pre-school.

Child labor is also a serious concern, with 10,232,926 currently in the work force, including 3.4 million children between the ages of 5 and 14 and with 2,276,920 children between the ages of 10 and 17 working 40 or more hours a week. According to estimates from IPEC, 37.0% of child workers between the ages of 7 and 14 working in urban centers in activities considered degrading, dangerous or unhealthy are in the Southeast region, while 34.8% are in the Northeast, 12.0% in the North, 9.6% in the South, and 6.5% in the Central-West region.²⁰ The type of work performed by these children include working in waste dumps, illegal activities, in outdoor markets and small food stands, as shoe-shiners; and distributing newspapers and magazines.

Regional disparities continue, with child labor (children between 7 and 9 years old) is predominant in the Northeast region (42.55%) and the Southeast (26.2%). The Southeast heads the list for the 10 to 14 year-old age group. However, in all regions, the "waste dump" activity has the highest incidence of child labor (44.3%), followed by "illegal activities" with 38.4%, with the exception of the Northern region where the percentage for "outdoor markets and small

¹⁸ IBGE - 2005 projections.

¹⁹ PIDESEC. Report on Brazil's compliance with the International Covenant on Economic, Social and Cultural rights. BSB 2000.

²⁰ IPEC - International Programme on the Elimination of Child Labor, 2001

food stands” is greater than “illegal activities” (IPEC 2001). Similarly, the Northeast region accounted for the highest rate of children between the ages of 10 and 14 (52.7%) and youths between the ages of 15 and 17 (36.8%) in the workforce, followed by the Southeast and South region. The lowest rate, however, was in the North and Central-West regions.

With regards to the increase in AIDS cases among children and adolescents in Brazil, the Southeast region is by far the leading area, followed by the South, Northeast, and North regions. The disease is spreading at a much higher rate among teenage girls; in the thirteen to nineteen year old age group, six girls are infected for every boy.²¹

Violence and Sexual Exploitation

Different forms of sexual exploitation exist in Brazil, although some are more predominant in certain regions than in others. This exploitation includes prostitution, sexual role-playing (e.g. bondage and discipline), massage parlors, sex tourism, pornography and stripping. The sex industry has adapted over time to exploit changing technology, with, for example, the internet now providing strong support for the industry.

The characteristics of those being exploited by the industry has also evolved. According to studies, while women are the primary victims of sexual exploitation, men are also victims. Similarly, while the sex industry has typically preyed upon the poor and marginalized within society, there also is evidence that the number of middle-class women, children and adolescents involved in the industry has increased.

Data on children and adolescents in the sex industry and in trafficking is sketchy and deserves more in depth research. What can be noted is that the typical age of the children and adolescents involved varies both within and among the five regions of Brazil, though overall, most fall between 12 and 18 years old. A majority of these children are Afro-descendants, who either migrate within the country or are sent abroad.

Studies further indicate that women, children and adolescents found participating in the sex industry generally have suffered some type of family violence (sexual abuse, rape, seduction, negligence, abandonment, physical and mental abuse or violence) or other types of

²¹ Mario Osava, *AIDS Spreading Six Times Faster Among Teenage Girls*, Inter Press Service, at <http://www.aegis.com/news/ips/2004/IPO40307.html> (Mar. 10, 2004)

violence (structural and interpersonal violence).²² Generally, the aggressor is a male, although cases exist where women, homosexuals and other adolescents were involved.

Among the most predominant forms of sex crimes committed against women in Brazil are rape, criminal assault, seduction and eliciting criminal sexual behavior. Data obtained from the National Council for Women's Rights in 1999 and published in "Psi" newspaper (Jan./March 2002), showed 411,216 registered cases of serious and simple assault.

ii. Personal Factors: Women, Children and Adolescents

In order to understand trafficking, it is necessary to examine the victims or objects of trafficking – the women, children and adolescents involved. While social indicators create the context for trafficking and sexual exploitation, one must consider how that finds expression in the individual.

Women (Adult/Adolescents)

Who are the women (adults and adolescents) recruited for purposes of sexual exploitation and trafficking? What are they like? Based on media reports analysis, trafficking for sexual purposes in Brazil is predominantly made up of dark-skinned and Afro-descendent women and girls between the ages of 15 and 25. As previously noted, these are among the poorest and most marginalized individuals in Brazil. Ten case studies conducted by PESTRAF reveal that two opposite types of women are recruited. The first is a naive and humble person. She is typically suffering financial difficulties and can be easily deceived. The second type is a woman who feels that she is in "control of the situation." She evaluates the risks involved and accepts those risks in order to earn money. Generally, all of the women are poorly educated and economically depressed. They live in the outlying areas of urban centers, with no sanitation or transportation (and lacking other social benefits of the community). They may live with a relative, have children and work in low-level positions.

These women work by providing housekeeping services (maid, domestic servant, cook, maintenance) and commercial activities

²² Oliveira, Dijaci David de et al, (orgs), *Primavera já Partiu; retrato dos homicídios femininos no Brasil*.MNDH, Petrópolis, 1998; LEAL, Maria Lucia P. – *A Mobilização das Ongs no Enfrentamento à Exploração Sexual Comercial de crianças e Adolescentes no Brasil*. São Paulo: 2001. 271 f. Tese (Doutorado em Serviço Social) Pósgraduação em Serviço Social, Pontifícia Universidade Católica de São Paulo.

(general services, waitress, supermarket clerk, store clerk, sales representative, etc.). They hold low-income jobs and usually their work documents are not officially registered. Their rights are not guaranteed and job turnover is high. They suffer from long working hours, exhaustive routines and no possibility of career development. As reported by one case study participant:

"I came from Juiz de Fora to Rio to work as a maid. After that, I worked in a supermarket. Then I started selling memberships to the Hotel Clube do Brasil. I worked in retail and then I found out I had no inclination to work for a boss. I used to get tired, stressed out and upset. I didn't like any type of job, because none met my expectations and I didn't like the conditions I was offered. Then, I would never come back. I only have resentments!" ("D" Statement- case study)

These women are not only stigmatized by their social, racial/ethnic and sexual conditions, forcing them into this type of frustrating work environment, ironically, those characteristics make them desirable as exotic and erotic commodities. Third world" women in European countries are considered as erotic and enchanted objects because of their cultural, racial and ethnic differences.

Adolescents and Children

Data on adolescents and, particularly, children is limited. Media reports serve as one of the most important resource for studying trafficking – but they suffer from some limitations. Most information in the media about trafficked girls is derived from police sources, almost always focusing on age, place of arrest, and the type of exploitation they were subjected to. Thus, the data may be distorted by the enforcement priorities of the police or social polices directed towards victim protection. For example, the police may have a policy of withholding information about children. Many reports involving children fail to list their ages or to provide quantitative numbers when mixed groups were involved, instead simply referring to trafficking in women, adolescents and children.

What can be said is that, according to data obtained from media reports, girls from the ages of 15 to 17 are the most trafficked age group. However, here again, given the phenomena that a person legally transitions from "adolescence" to "adulthood" at the age of 18, the numbers within this group must also be questioned as possibly too low. Traffickers may seek false documents so as to avoid the

additional complications posed by dealing in underage children. Indeed, information provided by the media shows that forgery of documents is a common practice, especially in the cases of international routes. The objective is to “turn” the adolescents into adults in order to facilitate their entry into and out of the country.

Adolescents and children who become involved in trafficking also share a number of characteristics. First, and perhaps most importantly, this study shows that in general, these adolescents and children have previously suffered some kind of family violence (sexual abuse, rape, seduction, indecent assault, seduction of minors, abandonment, negligence, physical abuse, etc.) or intimate community violence outside of the family (similar to family violence though occurring at schools, shelters, sexual exploitation networks and in other relationships). Related to this, these adolescents and children primarily come from dysfunctional families, who are either the source of the violence or are otherwise incapable of providing protective support. Thus, the children can not find refuge in either the family or the intimate social environment (schools, shelters, etc.).

For example, while the prospect of payment is relevant, particularly when trafficking initiates in the rural part of the country, issues of survival and the need to escape family violence appear crucial. As noted in one reported case, for example:

“A 16-year-old Brazilian girl was rescued from a brothel the night before last, in Catuetê, Paraguay, 150 kilometers from Ciudad Del Este, bordering Brazil, by deputies of the Human Rights Commission of the municipal council... The girl left her parent’s house in Foz do Iguacu nine months ago... Mother and daughter acknowledged that she left her home because she was constantly beaten by her father, who also tried to rape her...” (Globo-RJ, Nov. 13, 1997).

For the young women being trafficked within the more economically developed and major metropolitan regions (e.g. São Paulo, Rio de Janeiro, Porto Alegre, etc.), survival was also identified as a major motivation, though many of the girls also admitted to being attracted to the large amounts of money offered by the recruiters. These young women are enchanted with the possibility of earning a lot of money abroad, the main point of seduction by these traffickers.

Second, prior to the traffickers’ recruitment of these girls, the majority came from low income districts located in rural areas of the country. Among those who lived in capitals or in the cities within

metropolitan regions, the great majority lived in suburban areas and districts. This pattern of recruitment and movement mirrors the general migratory trends based upon economic needs.

Finally, based upon an analysis of trafficking routes (to be discussed below), it appears that trafficking in children is significantly less frequent than trafficking in adolescents or women.

iii. Traffickers / Demand / Trafficking Networks

In attempting to analyze the trafficker's side of the trafficking triangle, it is useful to divide the subject up by examining three features or characteristics. First, we will review the nature of the overall trafficking operations that have developed, what we will refer to as *Trafficking Networks*. Second, we will categorize those Trafficking Networks according to the general focus or characteristics of their operations. Finally, we will briefly consider the chief actors on the trafficking side: the *Agents and Recruiters*.

Trafficking Networks

Trafficking networks for commercial sexual exploitation are organized like a web of actors who perform different roles (recruiters, owners, employees and other intermediary players) with the goal of exploitation for material goods or profit. These networks are hidden behind legal and illegal commercial companies, such as tourism, entertainment, transportation, fashion, cultural, and the pornographic industry of service agencies (massage parlors, escort services...), as well as other markets that facilitate trafficking activities for commercial sexual exploitation.

Obviously, because the practices are illegal, it is difficult to identify trafficking networks. Nonetheless, the nature and range of their activities and areas of operations can be inferred from a careful examination of examples that have been uncovered by the media. These inferences can be based upon direct assertions or upon circumstantial evidence. For example, circumstantial inferences come into play in the case of a Venezuelan flagrantly arrested in January 2001. The facts clearly suggest that he belonged to a large international syndicate, since his legal counsel, while headquartered in Venezuela, also had offices in Margarita, Jamaica and Trinidad and Tobago. The same case, however, also provides direct evidence that governments are frequently complicit in trafficking networks. Specifically, according to statements given by Brazilian women who had been trafficked to police in Roraima, members of the Venezuelan Guard were involved as facilitators of being trafficked. Their vessels also serve as a

transportation service in the prostitution of young girls and a ‘sexy-taxi’ service.” (North Region Report)

Other inferences can also be made. Many commercial trafficking networks maintain contacts with international organized crime syndicates. This has been verified by the detection of Mafia groups (Yakuza, Russian and Chinese Triad, et. al.) working in Brazil engaged in the international trafficking in women.

“International Organized crime groups such as those associated with Russia, China, Japan, Italy, Israel, Spain, and Mexico use ‘tourist trips’ and the Internet to sell girls, relying on the complicity of some individuals from the Civil and Military Police, as well as top model agencies, child service agencies, and airport employees.” (Rio de Janeiro Report)

“...The way the Russian and Chinese Mafia work is very similar. Here in Brazil, they have, let’s suppose, a group that works to lure these girls in. They are Brazilians who have everything prepared in key places and attract these girls. They draw up contracts to convince them and even go to their family’s home... Just looking at the operations, it’s perfect...” (de Janeiro Report)

The connection of these Brazilian and foreign recruiters to established networks in the receiving countries of the trafficked women and adolescents itself evidences a transnational connection (Media/PESTRAF, 2002:62).

Finally, reports suggest that these networks are technologically sophisticated, facilitating the rapid exchange of information and the management and control over recruitment, transportation, lodging, and control over those they traffick. With this, they can quickly set-up and dismantle their operations with the complicity of other “actors” or players that are “above any suspicion.” They are also very sophisticated users of the media for marketing trafficked women and children (or the pornography created through their exploitation.)

A Typology of Trafficking Networks

Different trafficking networks have been identified both at the domestic and international levels. They can be roughly subdivided into a number of different categories based upon their principle methods of recruitment (e.g. how they recruit; how they deceive the women/adolescents, etc.) and/or by how they market the subject of trafficking (e.g. marriage brokers; tour agents, etc.). While this

division provides some insights, these typologies of networks are not absolute, with individual networks often interacting with or sharing features with networks categorized under a different typology. The types of network and examples of the statements taken during the field research are provided below:

(a) Entertainment network: shopping malls, nightclubs, bars, restaurants, motels, beach tents, fast-food restaurants, show-houses, samba gatherings, brothels, massage parlors.

Trafficking financed by nightclubs, bar owners and other “entertainment” sources constitute the most common type of trafficking network. Typical of these are those described by the Rondônia research team. According to statements provided by their informants, nightclub owners finance the girls’ interstate trips, their maintenance in the destination city, and provide them with alcohol and drugs, as well as their first clients. The recruited girls are bonded to them until their debts for transportation and survival are paid off. However, rules change from one nightclub owner to another. Some nightclubs place the girls in a restrained environment, literally locking them up in the nightclub. Others allow the girls to go out, under constant vigilance, as long as they come back on a daily basis and pay for their day’s work. They are subjected to physical threats, and were relatively defenseless since they are under 18 and unfamiliar with the city. (Rondônia Report)

Reports from other areas are similar:

“... Two sisters stated that more than 40 women from Pará are working as prostitutes in Suriname....Both ... were invited by their cousin, Raimunda, to work in Suriname, where she lives. Raimunda offered them R\$ 200,000 to have their passports issued in Belém. Upon arrival, they were taken to “Diamond” nightclub ... where they would have to pay US\$100 a day for lodging. They discovered the place was a brothel that held shows with more than 100 women from several countries. The women were beaten and even raped in the club. ‘We were desperate and extremely hungry... our cousin told us we would have to stay in the club until our debts were paid off, and we should not try to escape, because they would hunt us and probably kill us!’ (Newspaper *Diário do Pará*, 5/19//00 “Mulheres denunciam cárcere e prostituição” - Women denounce incarceration and prostitution). (Pará Report)

“...in July 2000, the Federal Police destroyed in the cities of Boa Vista and Iracema , a syndicate of traffickers working in bars and restaurants, where young girls (between the ages of 16 and 17) from Amazonas were taken with the promise of employment and good salaries. In the city of Iracema (680 km

from Manaus), the girls were kept locked up, assaulted and forced to have sexual intercourse with truck drivers and gold miners, sometimes in exchange for two daily meals. They worked at “Malocão Zanz-s BAR” and were only able to escape after a truck driver took them to the Civil Police of Boa ‘Asta. The girls were subjected to torture and death threats... and had their documents taken away to avoid escape...” (North Region Report)

(b) Fashion market network: modeling agencies (photography, videos, and movies)

Modeling agencies provide traffickers with great access to particularly attractive or appealing women and girls. Throughout the world, modeling agencies have served as a primary entry point into pornography. They have served a similar purpose for trafficking networks

“[O]ne of the models, a 16-year-old, told the story of two friends who received deceitful proposals when they went to São Paulo. One of them, a 17-year-old, accepted the offer and traveled to Spain without her family. As time passed, the family lost contact with her. The other one, a 15-year-old girl refused the offer, went back to Rondônia, and quit the modeling business.” (Rondônia Report)

(c) Employment Agencies Network: domestic servants, baby-sitters, travel escort and artistic jobs (dancers, singers...)

Given the strong connection between trafficking and economic migration, employment agencies are often used as a front for recruitment.

“Forms of recruitment also differ according to the border control....[M]ost of the Brazilian women enter the country after receiving job offers as domestic servants and end up enslaved by diplomats.” (Rio de Janeiro Report)

(d) Marriage Agency Network

Among all the forms of trafficking networks, marriage agencies are the most difficult to characterize. According to a study conducted by CEAP in 1997, there are at least two types of trafficking through marriage: either the women are attracted by advertisements or by sex tourism.²³ In either case, the foreign man comes to Brazil to pick

²³ CEAP, *Tráfico de mulheres é crime! Um Sonho, um passaporte, um pesadelo*. Universidade do Estado do Rio de Janeiro, 1995

up the female candidate. She often leaves the country not knowing that there is a contract between the agency and her prospective husband.²⁴ She is actually put into a three-month “test” period, and he has the right to return the woman in the event he is not satisfied.

“Within the group of trafficked women, those who go to other countries married or with the promise to marry a foreigner see their expectations of a “better life” abroad vanish by violent situations, like race discrimination, psychological, physical and sexual abuse and deprivation of their citizenship rights within the laws of the foreign country.” (Bahia Report)

“Then, all the cute girls who have someone interested in them, taking their picture and so on... they are losing a lot, because a foreigner (gringo) has already gotten her picture a while ago while still in his country. They have no idea and have never seen the man, but he has already seen their pictures, and the nightclub owner says ‘I want this one or that one...’ and then she comes and gets married, even takes on a false name. They already married German guys, then they go to another city and get married...” (Maranhão Report)

(e) Tourism Industry Network: travel agencies, hotels, health spas/resorts, tourist transportation

Tourism plays two different roles in trafficking. First, tourism, and especially sex tourism (where the object of the trip is to have sex with a local), fuels the demand for women and children who are trafficked to service this demand. While this would most often be the destination for domestic trafficking, it would also be a destination point for international trafficking coming into Brazil. Second, tourist areas often serve as a jumping off point for international trafficking (including marriage brokers) taking advantage of the travel facilities that bring tourists to the resort area to transport women and children overseas.

(f) The Taxi Connection

While not a network in themselves (in the sense of a complete connection between recruitment and destination) taxi drivers serve a number of different functions within the broader field of trafficking.

²⁴ FILHO, Aziz. *Marriage agency in Germany offers Brazilian women for US\$ 5 mil.* Rio de Janeiro, O Globo, 7 Mar 1997; MELAZO, Fernanda. *Brazilian girls are placed for sale in Europe.* Brasília, 7 Mar 1997, p. 9; BORGES, Carla. *Sexual Commerce in Europe exploits Brazilian women.* O Popular, Goiânia, 4 Mar 1997, p. 6.

First, taxi drivers may serve as recruiters for traffickers by identifying women or children for possible trafficking. This would arise particularly in connection with those women who have already entered the migrant labor movement and find themselves isolated in a new environment.

Second, taxi drivers often act as the transporters of trafficked individuals.

“...according to testimony, the individuals in charge of the delivery of these girls (many of whom are under 18) either pay for the taxi service or even steal the vehicle. However, most of the time, these people don’t have a professional driver’s license to operate a commercial vehicle. Taxi service is frequently used in inter-city trafficking, transporting girls from nightclubs located in a certain city to another city in the state. (South Region Report)

Finally, taxi drivers may actually link the women or children with the “john.”

“According to field research in Foz do Iguacu, taxi drivers have the following agreement with local brothels: the client chooses a girl (sometimes a minor) by looking at a book of pictures... then, the girl is contacted and the taxi driver picks her up to meet the client...” (South Region Report)

(g) Recruitment Agencies for Infrastructure and Development Projects Network: recruitment for agriculture, highway and waterway construction, gold mining and others

Large infrastructure projects (Tucuruí) and mining operations (Trombetas, Barcarena and Carajás), as well as the ‘gold rush’ in the South and Southeast part of the State (Carajás and Tapajós), made the State of Pará serve as a shelter to vast amounts of people in the 1980’s and 1990’s. The prostitution market developed following the same logic: it followed the migratory flow, increasing and decreasing according to construction and gold mining operations.²⁵

Agents and Recruiters

Careful review of the data obtained by the researchers from media reports on trafficking provides some detail about the agents and recruiters of women, children and adolescents for trafficking. It reveals

²⁵ Dimenstein, Gilberto. *Meninas da Noite: prostituição de meninas escravas no Brasil*. [Girls of the Night] São Paulo: Ática, 1993; Dias, Luiz Carlos de Carvalho ed allii. *Prostituição & adolescência: Prostituição juvenil no interior do Pará*. Belém: Cejup, 1997.

that majority of the agents are men (59%) between the ages of 20 and 56. Forty-one percent of the recruiters were women between the ages of 20 and 35 (Media Research/PESTRAF 2000).

Of the total number of recruiters (161) identified in media reports, 52 are foreigners (from Spain, Netherlands, Venezuela, Paraguay, Germany, France, Italy, Portugal, China, Israel, Belgium, Russia, Poland, United States and Switzerland) and 109 are Brazilian.

The Brazilian recruiters, most of them male, belong to different social classes and are between the ages of 20 and 50. Taking into consideration the general data of this research, some belong to the economic elite, either own or work for nightclubs or other places that belong to the trafficking networks. For example:²⁶

“...in Ahalego, Netherlands, there are nightclub owners and drivers who take the girls from one place to another, and there are those who look for girls from country to country. They are known as ‘sueta’²⁷... In the nightclubs there are the bodyguards, who are responsible for watching the women... They control them and prevent them from having contact with other people and even boyfriends... The nightclub owner, the bodyguard and drivers may occasionally act as ‘sueta’.” (Maranhão Report)

Many have public jobs in the cities where women, children and adolescents are being trafficked:

“...In Guajará Mirim (Rondônia), we notice a recruiting network that goes beyond nightclub owners. Girls under 18 controlled by international trafficking are recruited by men who are well respected in the city or have a lot of money, encouraging dreams of financial accomplishment. According to statements from those who assist the victims of this type of recruiting, the names of politicians and public city figures are quite evident in the girls’ report. [Many] are connected to the areas of justice and security....” (North Region Report)

According to the media, Brazilian males are the main recruiters of international trafficking. Women are also involved in trafficking by recruiting other women.

²⁶ The statements shown do not represent an exclusive characteristic of the region or of the state indicated as the source, but an example of the phenomenon, that may also occur in other regions or states.

²⁷ Term used by trafficked women when describing the recruiter.

“... Girls who travel to the Netherlands, Germany and Italy, and stay there for a long time, are forced to invite their sisters to visit them, through fake letters and phone calls, because they cannot tell them the truth. They are invited and the guys send everything ...when they arrive, the guys take their passports and they are in the same situation....
(Rio de Janeiro Report)

The recruiter’s profile corresponds to the requirements of the trafficking market for sexual purposes. It varies to fit the opportunities presented.

Routes Used for Trafficking in Women, Children and Adolescents for Commercial Sexual Exploitation

Trafficking is a complex form of trade involving the movement of significant numbers of people both from region to region within a country (Brazil) and internationally across multiple borders. This presents numerous logistical challenges for traffickers including both the physical demands of moving individuals from place to place and issues of regulatory compliance or avoidance. To answer these challenges, those involved in trafficking develop routinized practices incorporating paths of movement, methods of travel, means of addressing regulatory challenges and so forth. For convenience, collectively these practices can be identified as trafficking routes.

Studying trafficking routes represents a particularly useful and important means by which to research trafficking. First, while there is some evidence that a significant amount of international trafficking is operated by organized crime which controls the process from the woman or child’s point of entry into the trafficking system up through their final disposition (either through a one time sale to a “consumer” or placement in a brothel controlled by the criminal organization), it is also possible that a trafficking route may be constituted by a less formal association of unrelated independent agents whose operations are limited to one small segment within the chain. For example, while we know that individuals are passed between internal trafficking networks within Brazil and international networks that move those individuals to foreign countries, the linkage between the two may be nothing more than that of a seller (the internal trafficker) and buyer (the individual or group responsible for introducing the trafficked person into that particular trafficking route at that particular point of contact.)

Second, studying trafficking routes may provide insights as to the points of entry and potential points of vulnerability to legal and/or

social intervention. For example, in another studies conducted by the International Human Rights Law Institute in Central America, it was found that many women who were economic migrants (following the routes developed for illegal immigrants) became victims of trafficking when they were intercepted within the illegal immigrants system and diverted into the trafficking system.²⁸

Third, determining the exact numbers of individuals being trafficked is, of course, quite difficult. It is an illegal activity which has, in many cases, been shielded by governmental complicity. One possible alternative of assessing the magnitude of the problem is to measure the number of routes being used for trafficking. By definition, a route involves multiple transports of individuals. Ergo, the more routes being used—the more victims being trafficked from or through that area.

Fourth, studying trafficking routes allows researchers to discriminate among those being trafficked. That is to say, the type of trafficking route used and its destination often varies according to the type of person being trafficked. For example, the logistics of moving children or adolescents, because it is likely to be more difficult to transport them across borders, will demand a different type of network from that of moving women. Similarly, the end markets for trafficking may prefer one ethnic, racial, cultural or age group over others. That preference would inform the network created to meet that demand.

Finally, identifying the routes of trafficking followed by individuals who have been identified as being trafficked helps guide governmental and non-governmental monitors in the disposition of their limited resources to attempt to and measure the movement of individuals within the trafficking system.

Domestic Trafficking Routes

As previously noted, one of the reasons for including the Brazil study within the larger program of research on trafficking in the Americas was that Brazil represented a major economic power in the region, with a large population and covering a expansive geographic territory. Prior research had demonstrated that even within some of the smaller countries in Central America, internal trafficking could be observed in the movement of individuals from one part of the country to another for purposes of sexual exploitation.²⁹ This study has found

²⁸ *In Modern Bondage: Sex Trafficking in the Americas* (David E. Guinn & Elissa Steglich eds., Transnational Publishers 2003)

²⁹ *Id.*

that internal trafficking represents a major phenomena within Brazil. In order to study it effectively, the country was divided into 5 geographic region and routes were mapped within and between regions.

MAP 1 INTERSTATE ROUTES OF THE TRAFFICKING IN WOMEN, CHILDREN AND ADOLESCENTS FOR SEXUAL EXPLOITATION (1996 – 2002)



In studying these routes and characteristics of the individuals trafficked in these routes, many features conform to common sense expectations and the findings of prior research. In Brazil, most trafficking routes originate in rural areas of the states and move towards the large urban centers or international border regions (which serve as either a step off point for international trafficking or as a destination for sex tourism). Similarly, routes develop to serve dramatic changes in the economic environment created by development. For example, in the Northeast region, significant trafficking routes have developed to transport primarily Amer-Indian women to serve the railroads and gold mining zones.

Economic conditions help drive trafficking, with trafficking routes running from economically disadvantaged areas moving towards areas that are, at least relatively, more economically prosperous. Thus the poorest areas, the North (with 36 routes) and the Northeast (with 20) regions have the most domestic trafficking routes, with the South (9), Central-West (8) and Southeast (5) having *significantly* fewer domestic trafficking routes.

Methods of transporting trafficked individuals domestically do reveal some interesting features that might be of use in enforcement. Specifically, while Brazil is a large country with a large navigable system of waterways, the primary method of domestic transport is overland, with taxis and trucks the preferred vehicles for transport, followed by cars and trucks. Interestingly, what limited domestic trafficking occurs utilizing airplanes as the method of transport is used almost exclusively to transport adolescents.

Finally, as previously noted, analysis of the domestic routes reveals that adolescents are the primary subjects of domestic trafficking, followed by women. Data on child trafficking is, unfortunately, extremely limited.

International Trafficking Routes

PESTRAF was able to identify 131 international trafficking routes to 17 different destination countries for women and children. Here again, certain characteristics are of note.

MAP 2

INTERNATIONAL ROUTES OF THE TRAFFICKING IN WOMEN AND ADOLESCENTS FOR SEXUAL EXPLOITATION (1996 – 2002)



- | | |
|--|--|
| <p>North Region
 Amazonas → Spain, Germany
 Amazonas → Venezuela, Colombia, French Guiana, Suriname and Netherlands
 Acre → Bolivia, Venezuela and Peru
 Pará → Suriname, Netherlands
 Pará → French Guiana, Germany, Spain
 Roraima → Venezuela, French Guiana, Netherlands and Suriname
 Tocantins → Spain
 Amapá → Suriname, Guianas, Spain
 Amapá → French Guiana, Venezuela
 Rondônia → Bolivia, Spain</p> | <p>South Region
 Paraná → Paraguay (Hernandéis)
 Paraná → Rio de Janeiro à Europe
 Rio Grande do Sul à Argentina, China, Paraguay, Portugal and Spain
 Paraná → Paraguay, Argentina and Chile</p> |
| <p>Northeast Region
 Pernambuco → Japan, Israel, USA, Suriname
 Pernambuco → Ceará → Rio de Janeiro → Spain, Netherlands, Italy and Switzerland
 Pernambuco → Portugal, Spain, Israel and Germany
 Maranhão → Netherlands, Suriname, French Guiana, Spain, Portugal and Italy
 Bahia → Argentina, Spain, USA, Italy, Switzerland
 Rio Grande do Norte à Spain
 Ceará → Spain, Israel, Italy</p> | <p>Southeast Region
 São Paulo and Rio de Janeiro → Germany
 São Paulo and Rio de Janeiro → Israel (Tel Aviv)
 São Paulo and Rio de Janeiro → Spain (Salamanca), Italy
 São Paulo and Rio de Janeiro à Japan
 São Paulo → Hong Kong, Taiwan, Netherlands, Israel, Paraguay, Switzerland
 Rio de Janeiro → Portugal, Italy, USA, Netherlands, Israel, Switzerland
 Minas Gerais → Alemanha, Espanha, EUA
 Espírito Santo → Espanha</p> |
| | <p>Central-West Region
 Goiás → Rio de Janeiro to Spain and Portugal
 Goiás → Switzerland, Italy, Germany, Netherlands
 Mato Grosso do Sul (Campo Grande and Dourados) → Spain (connection with Goiás)
 Mato Grosso do Sul → Bolivia, Paraguay, Chile, Italy and Spain
 Mato Grosso → Italy, Bolivia</p> |

As was the case with domestic routes, those regions under the most economic stress are also the points of origin for the most

international trafficking routes. However, the distribution among the regions is less disproportionate, than with domestic routes. For example, while the South has one quarter as many domestic trafficking routes (13) than the North (45), it has half as many international routes (15 vs 31). However, due to geographic considerations, while the North has the most domestic routes (45), the Northeast has the most international routes (35 vs 31.) One can explain the proportionate increase of the South, Southeast and Central-West in relation to international routes in two ways. First, the southern 3 territories are more urbanized and have significant international airports and international transportation links to serve in trafficking. Second, it appears that these three regions serve as transit links between domestic routes and international routes. In many cases individuals are domestically trafficked in to serve the demands of these regions and then, given the market demand for “fresh faces,” they are then trafficked out of the region into the international system.

Among the destination countries, Spain is by far the most common destination country for Brazilian women. It is followed by the Netherlands, Venezuela, Italy, Portugal, Paraguay, Switzerland, the USA, Germany, Suriname, Israel, Hong Kong, Bolivia, Japan, French Guiana, Peru, and Taiwan.

Unlike domestic trafficking, where adolescents were among the most frequently trafficked, international routes are primarily allocated to trafficking women. However, once again in evaluating this phenomena, these statistics must be considered in light of the tendency when trafficking older adolescents to identify them as being 18 years old or older.

Finally, the linkage between trafficking and organized crime appears most clearly in connection with international trafficking. For example, trafficking to Spain (the most popular destination) almost always involves the “Iberian Connection,” a collaboration of a number of criminal organizations, of which the Russian Mafia appears dominant. The Russian Mafia is reported to make US\$8 billion per year through its brothels in Portugal and Spain.

D. THE LAW AND TRAFFICKING IN BRAZIL

In 2005, subsequent to and possibly in small part as a consequence of this study, Brazil enacted a number of reforms to improve its laws relating to trafficking. However, in doing so, it did

not enact a comprehensive and/or specialized law on trafficking. Instead, it regulates the problem through individual articles included in provisions of the penal code related to prostitution or children. As noted by the US Department of State, these provisions remain inadequate.³⁰³¹

i. The Law

Recent changes in Brazilian criminal law now criminalizes trafficking under two rubrics. The first and original formulation of the law in Brazil, trafficking was strictly an international activity, defined as:

Promoting or facilitating the entry of women who practices prostitution in the national territory, or the exit of women who will practice prostitution abroad.³²

Since 2005, Brazil plugged a gapping hole in the law by proscribing domestic trafficking, which it defines as:

To promote, to intermediate or to facilitate, in the domestic territory, the conscription, the transport, the transference, the lodging or the shelter of the person who comes to practice prostitution.³³

For both crimes, the statute provides a penal sanction of three to eight years of imprisonment for this basic crime plus fines. Punishment may be extended based upon a number of aggravating factors. The punishment may be extended (four to ten years) if “the victim is older than 14 and under 18 or the person who is responsible for her education, treatment and guardianship.”³⁴ It may be extended (five to twelve years) if there is “use of violence, serious threat or fraud,”³⁵ if the woman has “mental problems...[or cannot] offer resistance for any other reason...and the offender is aware of that.”³⁶ If

³⁰ U.S. State Department, *Trafficking in Persons Report*, at <http://www.state.gov/documents/organization/47255.pdf> (June 2005) [hereinafter U.S. State Dept Report]

³¹ Brazilian Lei nº 11.106, de 2005, Código Penal [C.P] Art. 231

³² C.P. Art 231.

³³ C.P Art. 231-A.

³⁴ C.P Arts. 231(1) and 227(1).

³⁵ C.P Arts 231(2).

³⁶ C.P Arts 224

the trafficking involved children and adolescents under fourteen years of age,³⁷ or if violence was used against children between the ages of 14 and 18,³⁸ the penalty can be extent to 12 to 25 years.

If the trafficking was for purposes of making a profit, not an element of the basic crime, the perpetrator is also subject to a fine.³⁹

Complementing these trafficking provisions, Article 244A of the Statute on Children and Adolescents prohibits the subjection of children and adolescents to prostitution and sexual exploitation (regardless of whether or not they have been trafficked) while Article 251 considers the act of promoting or facilitating the entrance into or exit out of the country of children and adolescents (regardless of intent or purpose) an administrative violation if it does not comply with the provisions set forth under Articles 83, 84 and 85 (complying with requirements for travel authorization, for example).

In recent years, international law has increasingly begun to address trafficking. This presents some interesting questions as to what affect they may have in Brazil. Under Brazil law, international law (in terms of treaties, etc.) is inferior to the constitution. This raises questions as to whether or not a treaty is self implementing within Brazil. The answer may turn on whether trafficking is considered a violation of human rights – or a criminal infraction. According to some authorities, human rights treaties are an exception because, upon ratification, they become part of the fundamental rights protected by the Brazilian constitution.

With respect to the primary treaty on trafficking, the first Additional Protocol to the International Convention Against Transnational Organized Crime,⁴⁰ the question recently took on renewed importance when Brazil ratified both the International Convention and the first Additional Protocol on Jan 29th 2004. Advocates against trafficking must consider the affects of this ratification and whether recent implementing legislation will be effective. In making this assessment, it must be stressed that interpretation of the current statute suggests that the object of the law is to protect the public sexual morality of society – not the trafficked person. Hence, it is not treated as a human right that, under Brazilian

³⁷ Id.

³⁸ C.P. Arts 223 and 224.

³⁹ C.P Art. 231.

⁴⁰ G.A. Res. 25, U.N. GAOR, 55th Sess., Annex II, Supp. No. 49, at 60, U.N. Doc. A/45/49 (2001)

law, would have received automatic and probably greater protection than that provided under other categories of law.

In contrast, the situation with respect to children appears to treat the issue of protecting children as a human rights issue, with the Brazilian Ministry of Foreign Affairs analyzing the trafficking in children and adolescents from the point of view of international agreements signed by Brazil indicating broad coverage for this protected group. The country is a party to the Protocol on the Sale of Children, Child Prostitution and Child Pornography, which considers the sale of a child “any transaction act in which a child is transferred to another person or group of people upon payment or any other form of compensation.”⁴¹ Brazil has also signed and ratified the “Convention on Protection of Children and Cooperation in respect of Inter-country Adoption”⁴² and the “Convention on the Civil Aspects of International Child Abduction,”⁴³ two of the most advanced judicial texts for combating child trafficking. Finally, under the Tenth Ibero American Commission held in Panama in 2000, participating countries agreed to include a clause in their final document related to child trafficking. Item 10, letter “C”, states that the presidents and governments of the 21 participating countries agree to encourage legislative actions and adopt severe measures to punish those who participate or collaborate in trafficking, abduction, sales of body organs, commercial sexual exploitation of children and adolescents and/or any other unlawful activity that may harm the dignity of human beings or make them vulnerable.

In evaluating the existing law on trafficking for purposes of sexual exploitation, one finds both positive and negative features within the existing system. On the positive side, the law defines the crime in ways that facilitate prosecution by limiting the required elements of the crime or removing problematic defenses. The law removes the moral character of the victim from consideration of the basic crime. Thus, the fact that the person is or is not an “honest” and virgin woman, under 18, or a prostitute may only be considered when punishment is applied.⁴⁴ Similarly, the contentious question of consent by the woman

⁴¹ G.A. Res. 263, U.N. GAOR, 54th Sess, Annex II, Art 2(a) Supp. No.49, U.N. Doc. A/Res/54/263 (2001)

⁴² May, 29, 1993, 32 I.L.M. 1134, 1139

⁴³ Oct, 25, 1980, 1343 U.N.T.S. 89

⁴⁴ C.P Art 231(1) and 321-A

or child is irrelevant.⁴⁵ This does not mean that enforcement officials do not evaluate consent – merely that the law does not consider consent relevant. Finally, the law avoids imposing an obligation to prove the trafficking act is part of a larger organization or conspiracy. Proving the crime of trafficking requires only the identification of one victim and one perpetrator.⁴⁶ It does not require proof of a criminal organization nor even that it be practiced for profit. Finally, recent changes have filled gapping holes in prior efforts to proscribe trafficking by, for example expanding the scope of the law to proscribe internal trafficking and to, at least theoretically, include the possibility of proscribing trafficking in males as well as female.

The law, however, is seriously flawed in a number of ways. To a certain extent, these problems arise out of the piece meal nature of the legislation, where efforts to address trafficking are incorporated in differing laws with differing foci (i.e. laws on prostitution versus the special laws against the sexual exploitation of children.) These include the following.

First, the trafficking of women must be linked to prostitution, not simply to sexual exploitation and the perpetrator must be aware that the trafficking was for purposes of prostitution. Thus trafficking to facilitate the production of pornography, for the sale of women through marriage broker networks or other types of sexual exploitation may not be prosecutable as trafficking. (These requirements are not applicable to children who are protected against all forms of sexual exploitation.)

Second, trafficking is exclusively a matter of public criminal process. On the positive side, this means that it does not require the participation of the victim or the victim's representative. Conversely, it also means that the action is dependent upon state action to enforce it and subject to the discretion of enforcement officials.

Enforcement

Legislation, of course, merely lays the groundwork for efforts to eradicate trafficking. The second requirement is that the government must effectively enforce those statutes. According to this and other research efforts, that enforcement has been limited and inadequate. As noted by one researcher, “[A]lthough existing since 1941, this criminal offence (art. 231) has rarely been applied.”⁴⁷

⁴⁵ Id.

⁴⁶ C.P Art. 231.

⁴⁷ Luisa Nagib Eluf, “Crimes contra os costumes e Assédio Sexual” Ed Jurídica Brasileira, São Paulo, 1999.

Measuring enforcement efforts is extremely difficult. Governmental representatives have not always cooperated in supplying information. Traffickers may have been charged with related but not trafficking offences. Finally, in the case of children and adolescents, they are prosecuted under a totally different provision of the penal code and therefore not included in obtainable trafficking statistics. Nonetheless, a number of indicators suggest that enforcement remains extremely limited and rare.

For example, this research has identified over 241 trafficking routes, of which 131 are international (qualifying for coverage by Art. 231.) Given the reasonable assessment that each of these routes represent the movement of a significant number of trafficked persons, linked with current estimates that there are over 70,000 Brazilians, mostly women, engaged in prostitution in foreign countries,⁴⁸ the number of potential cases is extremely high. Nonetheless, during the period of this project, researchers were only able to identify a total of 86 police enquiries nation wide. At that time there were 68 cases that had been brought resulting in 14 convictions. Indeed, the situation appears to have deteriorated. In 2005, the US State Department report on trafficking noted that only 3 convictions had been handed down that year for international trafficking for sexual exploitation.

There are a number of possible explanations for the discrepancy between the apparent levels of trafficking activities and enforcement efforts including the availability of adequate resources and the exercise of resource allocation judgments valuing the prosecution of some crimes higher than that for trafficking. Additionally, and more troubling, this research reveals problems of corruption, where police and government officials have been implicated in trafficking, and misunderstandings of the law, whether based on bias or ignorance. For example, while strong evidence exists that males and male children have been trafficked for purposes of sexual exploitation, these situations were uniformly classified as other sexual crimes, such as pimping, corruption of minors, sexual exploitation, and false documents.

iii. Prevention and Protection

While critically important, criminal enforcement represents only one method of addressing the problem of trafficking. The state should also seek to prevent trafficking through social intervention and

⁴⁸ US State Dept Report.

protect and/or rehabilitate those who have been victimized through trafficking. In this regard, since the completion of this research as noted in the US State Department report on trafficking⁴⁹, Brazil has initiated a number of programs in this area. Indeed, the research itself reflected an early step in this direction, in part, as an effort supported by the government to raise awareness of the problem as a first step in prevention.

In terms of prevention, Brazil has sought to educate the public as to the dangers of trafficking. The President of Brazil has declared the fight against trafficking a national priority and the federal government has established a Comprehensive Program for the Prevention and Fight Against Trafficking. It has funded a broad ranging multi-media national public information campaign against child sex tourism and trafficking for purposes of commercial sexual exploitation. State anti-trafficking offices established in Rio de Janeiro, Sao Paulo, Ceara, and Goias in 2004 are working to coordinate this effort and to provide or facilitate training programs for civil society, including businesses and those in the travel industry.

The criminal law also serves as a deterrent – but that preventative function occurs only if the crime is properly recognized and publicly prosecuted. As previously noted, whether from bias or ignorance, many trafficking cases are prosecuted under other legal prohibitions. In order to address this, the Ministry of Justice has for a number of years provide training for judges, police, social workers, and psychologists on recognizing and combating trafficking. This effort targets those who may be in an especially helpful position to identify and refer cases of trafficking to the authorities (i.e. social workers and psychologists) as well of the enforcement officers responsible with properly investigating and charging the crime.

Brazil has also initiated a number of programs to provide protection and rehabilitation services to the women and children who have been subjected to trafficking. This effort has involved significant collaboration between the state and civil society, including providing funding for NGOs and other civil society organizations who provide services to victims of exploitation and screen victims or those at risk and referring them to civil society organizations, the police or other government agencies for assistance. While directing most attention to domestic victims or at risk individuals, the State of Sao Paulo opened

⁴⁹ US State Dept Report

an office at the Sao Paulo international airport to assist repatriated Brazilian trafficking victims.

E. CONCLUSIONS AND RECOMMENDATIONS

Trafficking in women and children for purposes of sexual exploitation in Brazil is a large and complex problem. Addressing this problem will require a multi-faceted response, some of which Brazil has recently undertaken.

i. Socio-Economic Factors

As demonstrated in this research, trafficking is driven by a number of socio-economic factors that need to be addressed. These may be characterized as push factors and pull factors. Push factors are those economic and social conditions which create a population at risk of becoming the objects of trafficking. Pull factors relate to the markets that create the demand for trafficked persons. The research reveals no surprises. Both conform to common sense expectations.

Push Factors

Push factors may be divided into discrete categories: poverty; violence; discrimination; and break up of the family and/or social support network. However, despite their differences, in many cases these categories frequently interact either exacerbating a problem or acting as its cause. For example, poverty frequently causes or exacerbates problems of violence, discrimination and/or break up of the family.

Poverty The most obvious characteristic of trafficking is that it flows from areas of lower economic opportunity to areas of relatively higher economic status. At the most extreme level, the need to survive drives trafficking. In other cases, aspirations for a better life may take precedence.

Sexual and Domestic Violence A large percentage of women and a majority of children and adolescents trafficked for sexual exploitation come from home environments where they were the victims of sexual or psychological violence. Being trafficked represents a survival response.

Discrimination Discrimination against women, homosexuals, and bisexuals as well as racial or ethnic discrimination frequently exacerbates conditions of poverty and/or violence. As previously demonstrated, women and children are generally poorer than their male

counterparts, with fewer opportunities and suffering greater health problems.

Break up of the Family and Social Support Systems Social dislocation has placed enormous strain on the family. Family break up frequently impoverishes women and their children. Similarly, vulnerability increases for children subjected to violence without a support system to help them address that violence.

Pull Factors

Demand creates the market for the victims of trafficking. The sexual exploitation industry serves to satisfy the market. The details of that aspect of trafficking were beyond the scope of this research.

Recommendations

Efforts to address push factors must recognize the two dimensions within those factors: that of survival and that of aspiration. For those women and children aspiring to a better life and lured into trafficking through deception, education programs to explain the risks and realities of trafficking may be effective. However, where these socio-economic factors represent a direct threat to survival of the individual, such educational efforts will not suffice. The state must develop programs to rectify these conditions in order to give the at-risk individual a viable alternative to being trafficked. One needs targeted job programs, educational and job training programs, and social support programs along with a larger effort to combat discrimination.

ii. The Law

Brazil's recent efforts to reform the law on trafficking represent important advances, expanding the coverage of the law to cover a wider range of potential victims and the type of trafficking involved. Nonetheless, it continues to address the problem of trafficking in a piecemeal manner. Moreover, as currently drafted, the law potentially creates a situation of psycho-social harm through the treatment of the trafficked person as the secondary object of the law—as simply a victim rather than focusing upon the human rights of the individual involved.

Recommendations

Brazil should adopt a new law on trafficking that adopts a clear and coherent approach to the problem. It should include the following essential features:

Rights Based Approach The law should conceptualize trafficking as a violation of human rights so that the trafficked person becomes a primary object of the law. This facilitates the larger

understanding that the state not only must seek to punish the trafficker, but also that the state has ongoing obligations to the subject of trafficking in terms of protection and rehabilitation.

Protected Class The law should protect all individuals from vulnerable classes within society (i.e. those subject to severe discrimination). The law must continue to reject consent as a defense against trafficking. Moreover, categorization of a victim as coming from a vulnerable class (not just children and adolescents) should be deemed prima facie evidence of coercion or violence (insofar as coercion or violence may be a required element of the crime in internationally based actions.)

Comprehensive Prohibition Since the harm to the individual does not vary, the law should reject the current distinction between domestic and international trafficking.

Purposes of Trafficking The line between trafficking for purposes of sexual exploitation and trafficking for purposes of forced labor or involuntary servitude is not necessarily clear. There are indications that the two may operate in tandem and that vulnerable groups (particularly women) are often sexually abused while being held in positions of domestic service. The law should address both problems allowing prosecutors greater freedom in terms of their prosecution strategies.

Private Enforcement In order to overcome the potential resistance of government prosecutors and/or corruption, the law should include a private enforcement option. This would allow the victim or the victim's representative to, at a minimum, sue for damages or compel government prosecutors to undertake criminal prosecution or justify its refusal.

iii. Enforcement

As noted in the US State Department report on trafficking, current efforts at enforcement are inadequate. There have been a very limited number of successful prosecutions and, as determined by researcher for this project, many trafficking incidents are prosecuted under other statutes. Finally, there are significant concerns about the effect of corruption on trafficking enforcement.

Recommendations

Training In order to assure effective identification and charging, Brazil needs to continue its current efforts to provide training for the governmental agents (including police, judges and prosecutors)

charged with enforcement along with those social services providers who are likely to discover trafficking victims.

Research and Data Collection Trafficking cannot be effectively addressed without adequate information about the range and scope of activities. Enforcement agencies in coordination with civil society organizations who have, to date, been among the most effective monitors of trafficking, need to develop standardized methods for identifying, collecting, coding and analysis of data on trafficking.

Coordination and Information Sharing Trafficking is a multifaceted operation often covering multiple jurisdictions. Both in terms of data collection and investigation and prosecution, the government needs to encourage greater cooperation and collaboration among enforcement agencies each of whom may only touch on or interact with one piece within the larger chain of trafficking. This would include immigration officials, labor officials, trade officials, the highway patrol, and social services officials.

International Cooperation Given the international dimensions of trafficking, Brazil needs to continue to develop and enhance its relationships with international enforcement agencies (like Interpol), international NGOs and the enforcement agencies of other national governments that are the source or destination for trafficking victims.

iv. Protection and Preventions

Brazil has initiated a number of programs since the completion of research for this project to enhance protection and prevention services. These have primarily focused upon public education efforts directed towards prevention and some service provider support in terms of protection. These efforts have not specifically linked prevention to socio-economic reform.

Recommendations

Socio-Economic Factors The Brazilian government has undertaken a number of prevention measures. However, ultimately, prevention will require the state to confront the fundamental underlying socio-economic factors addressed above.

Civil Society To date, efforts to address trafficking have been led by civil society actors. These organizations have promoted public discussion, conducted research, monitored enforcement activities and provided counseling, support and rehabilitation services for victims. Brazil needs to continue to support and encourage the further development of these resources. They must also seek to integrate these

organizations more closely within the enforcement network where appropriate and or where such a relationship would not otherwise compromise the civil society organization.

Cooperation and Collaboration A variety of programs exist in civil society and government to address social problems directly or indirectly related to trafficking, including programs against sexual violence, and discrimination. The government should work with civil society actors involved in these efforts to promote cooperation and collaborated over shared concerns. Similarly, in terms of providing remedial or rehabilitative services for the victims of trafficking, the government should promote greater cooperation and collaboration among social services agencies (both governmental and non-government) to assure the adequate provision of these services.

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A GLOBAL PERSPECTIVE ON TRAFFICKING

By M. Cherif Bassiouni

To most people, slavery is a terrible relic of the past; yet approximately two million women and children are presently held in sexual servitude throughout the world, half of who are estimated to have been trafficked by force, deceit, or economic coercion. In addition, sources suggest that between 100,000 and 200,000 women and children, some as young as six years old, are trafficked across borders for the purpose of sexual exploitation each year. Many of these individuals never reach the age of thirty. They die of AIDS and other sexually transmitted diseases, ill health, physical and psychological abuse, violence, and drug abuse. Trafficking in persons is one of the most compelling human rights problems of our time, yet this tragic situation has prompted minimal to no response from most governments around the world.

The phenomenon is fueled by several factors, among them poverty, conflict and political upheaval, gender attitudes leading to inequality in opportunity, and the general indifference to the plight of women and girls. The advent of globalization has exacerbated the problem by creating what some call market opportunities for traffickers and exploiters in human beings. Liberalized borders and the ease of movement of people across them have increased opportunities for irregular migration. When this illegal smuggling of human beings across borders is connected to their sale into sexual servitude, the activity becomes significantly more profitable. Trafficking in persons constitutes the third most lucrative international criminal activity after drugs and arms trafficking.

Current government policies around the world only encourage or facilitate trafficking and further victimize trafficked persons. While the underground nature of trafficking makes prosecution of those responsible for the trade almost impossible without the cooperation of the trafficked individual, most victims have no incentive to collaborate with governments in identifying those who have exploited them. In turning to authorities, they risk detention, their own prosecution for prostitution and other crimes, involuntary deportation or repatriation, and reprisals from traffickers. They rarely receive or have access to legal assistance, medical attention, and other support. This policy of criminalizing women in sexual servitude not only re-victimizes them, it often forces them to remain under the control of their exploiters.

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Because of the high profitability of this activity, it has become part of small and large criminal organizations in many countries. Smaller organizations limit themselves to cross-border illegal smuggling of persons or combine that activity with the sale of women and children to other organizations. Larger organizations that directly exploit trafficked persons may also involve themselves in the cross-border smuggling activity.

Regional distinctions in form, incidence and manifestations exist. The patterns of trafficking from Africa to Europe differ from those within Latin America, Southeast Asia or the Indian Sub-Continent. Invariably, however, the end result is that women and children become hopelessly trapped in sexual slavery without much chance to extricate themselves from it.

Unfortunately, much of the energy channeled into combating this horrendous practice continues to be absorbed by the ongoing debate over consent. Some argue for an irrefutable presumption of invalidity to any agreement to engage in prostitution and other forms of sex work, based on the exploitative nature of the job. Others support this stance by viewing agreements to work as a sex provider as the result of economic coercion or abuse of the economic vulnerability of the individual. Those who stand on the opposing side of the debate believe that women can voluntarily agree to be sex workers and that their choice should be recognized.

Unlike the case with women, consensus does exist as to the inability of a minor to give valid consent to sexual exploitation. Even this certainty, however, is loosened by the differing ages of majority and social conceptions of when a child becomes an adult around the world.

Many governments are reluctant to acknowledge the existence of sexual servitude and trafficking in their countries. Other nations avoid the subject so as not to embarrass countries where the practice is significant, yet untreated. In countries where prostitution is legal or tolerated, sex trafficking is hidden by a pervasive assumption that all prostitution is consensual sex for money. As a result, sexual servitude is given the appearance of legitimacy.

A lack of concerted attention and response to trafficking around the world has occurred for several reasons. Among them are the following:

First, victims rarely denounce traffickers. Trafficked persons are held in locations far from any support networks, often have their

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identification papers and travel documents withheld, and may be threatened by their keepers. In addition, traffickers have power over their victims because in many instances they are from the same country of origin and have the capability of threatening or harming members of the victim's family.

Second, trafficked women and children often are from the lowest economic and social strata of their societies, and their families have neither the economic nor the political capability of bringing about pressure on public authorities to try to save their loved ones from this terrible fate. In some societies, it is in fact poverty that drives families to sell their children into what they frequently believe are legitimate jobs.

Third, national laws, policies, and practices have engendered a series of disincentives against aggressively combating trafficking. Most national criminal laws are inadequate to deal with this contemporary phenomenon. Even when such laws are sufficient, policy considerations make it difficult to reach the traffickers, exploiters, and pimps. Law enforcement and prosecutorial authorities in most countries place prostitution at the lowest end of their enforcement priorities. Corruption of law enforcement and immigration officials also contributes to the lack of investigation and prosecution. Furthermore, many of these victims may be in need of medical and social services which states are reluctant to provide.

Finally, economic, racial, and gender prejudices are the unarticulated premise for the neglectful way in which national laws and policies respond to this widespread criminal phenomenon. This is particularly true in developing and least developed countries, where women and children are generally the weakest members of society.

Whether as a result of desperate economic conditions or in the hope of acquiring better ones, women and children are deceived into believing that offers of work in another country are legitimate. The lure of a relatively well paying job in a foreign country which does not require language or other skills, such as domestic help, is enough to lead many unsuspecting women and children into the hands of recruiters and traffickers.

No matter how these women and children are recruited, they find themselves transported across borders into unfamiliar countries, where they have no support or contacts, and whose language they do not speak. They are then forced into sexual servitude in places such as brothels, bars and massage parlors, from which most of them cannot

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leave. Their exploiters beat them, mistreat them, and decide what type of sexual services they are to perform and the manner they are to perform them. They determine their dress, food, working hours, and everything else that touches their lives. Brothel or bar owners decide if, when, and what type of medical treatment the women will receive in case of illness, venereal disease, and pregnancy. All associated costs usually are charged to the trafficked woman or child, further increasing the debt to exploiters. Owners also sell them to other sexual exploiters. In most cases, these women and children can never break out of their bondage. A common practice of traffickers is to addict these victims to drugs as a way of subduing them and as a means of control. In short, the hope and promise of a legitimate job turns into an abhorrent form of modern slavery.

Sometimes, these women and children rebel, either before entering into the cycle of bondage or during its course. If they do, they may be subjected by their captors to severe beatings and terrorizing acts such as rapes involving additional physical torture. If resistance continues and the victim is killed, no one questions it; they are considered to be disposable human beings.

Exploiters benefit from almost total impunity. Victims have no one to turn to for help. Law enforcement officials frequently act in collusion with traffickers and exploiters. Even if a victim succeeds in escaping, the agents from which she seeks protection often return her to her captors. The resulting despondency and despair is beyond description.

The absence of empirical data has allowed governments to deny this criminal phenomenon and systematic human rights violation. The United States is among the few countries to have taken ambitious steps toward eradicating trafficking of all forms within its borders. After a Central Intelligence Agency report estimated that 50,000 women were illegally trafficked into the United States for sexual exploitation, Congress reacted with new legislation designed to penalize traffickers, protect victims and prevent future trafficking activity. The resulting Trafficking Victims Protection Act was signed into law in 2000. As a result, the U.S. Department of State has established a new office staffed by experts to monitor this activity abroad and develop means to combat it. In June 2002, the State Department issued its second annual report on trafficking in persons around the world. These and similar efforts should be fully supported

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through proper funding and staffing and encouraged as models for other nations.

In December 2000, the United Nations adopted the Convention on Transnational Organized Crime that includes a Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Addressing all forms of trafficking in persons, including for purposes of sexual exploitation, forced labor and organ removal, the Protocol is the most comprehensive international instrument to date. Despite its restricted applicability to trafficking of a transnational nature that involves an organized criminal group, it will be a valuable tool in the campaign against this exploitative practice. Unfortunately, neither the Convention nor the Protocol is in force. As of October 2002, only twenty-four nations had ratified the Convention and eighteen nations had ratified the Protocol. Forty ratifications are needed to bring the Convention into effect.

Other conventions dealing with slavery, slave-related practices, traffic in persons, and the international exploitation of prostitution have proven inadequate. A telling sign is that only twenty-five percent of the world's countries have ratified the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

The United Nations, European Union and European Parliament have expressed concern for human trafficking activity, as have a number of national governments, which has engendered an increased interest in combating this worldwide phenomenon. This attention should incorporate programs to more fully document the realities of trafficking. Empirical data will make it impossible for governments to avoid facing this criminal phenomenon and the terrible toll it takes on the lives and dignity of the world's most vulnerable people—women and children. Only a surge of public indignation by civil society can lead to putting an end to this cruel form of modern human slavery.

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PROGRAM 1

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**Meeting of Experts on Trafficking of Women and Children
for Sexual Exploitation in the Americas**

B. April 11, 2000

Remarks of Dean Claudio Grossman
First Vice-President, Inter-American Commission
on Human Rights¹

First of all, I would like to thank the Inter-American Commission of Women, the Inter-American Children's Institute and DePaul University for inviting me to be here in my position as Vice-President of the Inter-American Commission on Human Rights. I welcome and join the initiative to place a fundamental human rights issue on the table and to also reinforce the importance of that issue: the trafficking of women and children for sexual exploitation in the Americas.

The Inter-American Commission (IACHR) develops distinct initiatives aimed at promoting and protecting human rights. I would like to mention some of them in order to introduce some means of action into the discussion regarding what can be done when faced with human rights violations as flagrant as the ones that we deal with at this meeting today.

Firstly, one of the activities of the Inter-American Commission is to conduct on-site visits to specific countries. The use of on-site visits by the Commission during a period of systematic and massive violations of fundamental political rights is one way to plant the human rights flag in a country and to mobilize and affect public opinion about what is happening in that country. On this subject, it is always important to present legitimate and accurate reports about events; consequently, the Inter-American Commission's public report is a way to establish that there were disappearances and summary executions in the face of denial by many countries that these acts occurred. With the change in the region's conditions, the on-site visits, except in those cases with massive and systemic violations of political

¹ This text is based on oral remarks presented at the Meeting of Experts on April 11, 2000 at the OAS in Washington, DC. The presentation and original text were in Spanish. Translated by the International Human Rights Law Institute.

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rights, have been redefined and are now devoted primarily to specific categories of rights or are linked to our case system. It is not inconceivable that in the future there could be an on-site visit of the Inter-American Commission to investigate the issue of trafficking of women and children for sexual exploitation, if a serious problem is alleged in a particular country. I am pleased to tell you that during its periodic sessions in February-March [2000], the IACHR conducted a hearing on the subject of child exploitation at the request of different non-governmental organizations (NGOs). This was at the specific request of the NGOs. At the time, the NGOs requested the realization of on-site visits to Central America to observe this subject. Accordingly, the topic was placed on the agenda.

A second activity of the IACHR is to administer a system of cases or individual petitions from individuals who consider their rights violated under the American Convention or the American Declaration. Twenty-seven countries have ratified the Convention, and the rest can be supervised under the American Declaration. The case system is managed according to the juridical tradition: there are hearings; there are attempts to reach a friendly settlement; and afterwards there is a report. If the country decides not to implement the recommendations of the Commission, there are two possibilities: take the case to public opinion; or bring the case before the Inter-American Court of Human Rights, which can only be done when countries have accepted the Court's contentious jurisdiction. The Commission has taken more than thirty cases to the Inter-American Court. Again, the use of cases is a way to place the subject in the public eye and to achieve binding decisions obligating State compliance. I wanted to mention a case relating to children—I am not referring to sexual exploitation—that has gone before the Inter-American Court of Human Rights: one such case is *Amstraum Villagrán Morales and Others* against the State of Guatemala for the killing of children, street children who beg, etc. In this case, the Commission's position was that business owners paid the police to exterminate these children so that their businesses would not suffer. There are hundreds of thousands, if not millions of street children and one way to promote and achieve change is through the Court's decisions and advancements in this direction. Again, cases involving sexual exploitation of children and women could fall within the individual petition system and could proceed all the way to the Inter-American Court of Human Rights, which is the most effective component within the system.

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These types of proceedings fulfill different roles, above all to avoid harm. In this region we have seen the emergence of a political system where relatively free elections occur in the majority of the countries within the framework of judicial powers that are neither modern nor efficient; police who do not obey the law and resort to methods that are incompatible with democracy; overarching poverty; the existence of vulnerable groups like women, children, indigenous populations, and disabled persons; and a culture built on the systematic denial of values by authoritarian governments, and what has occurred far back into history. In this context, the case system is not only a way to provide an early warning that a country has begun to deteriorate and could once again open up possibilities of having extra-constitutional actors intervene in the country's affairs, but it is also a way to begin broadening democracy, to begin extending democracy, and to transform the Inter-American System into a system that permits the expansion of values. There have been many advances in this sense—in terms of the modification of norms of contempt that gag the press, of the illegitimate searches of women who visit their loved ones in the prisons, in terms of what is detention and a reasonable period of time to be detained, etc., with a jurisprudential impact that will broaden and strengthen democracy.

Again, cases concerning sexual exploitation of women and children could succeed in broadening IACHR's manner of action. The cases that are taken could be based on express provisions of the American Convention of Human Rights. In reviewing all the Convention's provisions, the trafficking of women and children violates the following: 1) the right to juridical personality (this will deal with children of course); and 2) the right to personal integrity, as stated in Article 5, paragraph 1: "Everyone has the right to have their physical, psychological and moral integrity respected". Paragraph 2 states: "No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment." When a country offers no adequate protection to infants and children who are the repeated objects of violations and of sexual abuse and are given in to corruption, in a sense, we see cruel, inhumane or degrading treatment, which could lead to torture.

The Inter-American Commission was one of the first bodies to establish that rape is a form of torture—an issue that has been dealt with by international tribunals for international crimes. Here, the right to personal integrity is compromised, and even though a case has not

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arisen on this issue to date, it could be addressed and resolved jurisprudentially. Article 6 [of the American Convention] prohibits slavery and servitude. Article 7, the right to personal liberty, deals with the freedom of movement, and if the laws of a State do not provide this guarantee, that could also be challenged—the principle of legality, the laws of a country should prohibit child trafficking. Again, non-compliance with the law violates Article 9 of the American Convention. Article 11, according to which every person has a right to have their honor respected and dignity recognized intrinsically becomes vulnerable. Family protection (Article 17) is also made vulnerable. The right to one's name in specific cases (Article 18) could also be violated. Rights of the child (Article 19) specifically states that every minor child has the right to some measure of protection because of his condition as a minor, on the part of his family, society and the state. I would like to hear of a case involving trafficking of children that does not involve a violation of Article 19. Without any prejudgment, it does not seem, in the abstract, that someone could make an argument that child trafficking does not violate this article of the American Convention. Article 23 on political rights is also pertinent. Sometimes a superficial vision exists as to what a political right is, *e.g.* to vote and to be elected. But Article 23, paragraph 1, states “Every citizen shall enjoy the following rights and opportunities to take part in the conduct of public affairs....” Could children that are exploited or transported to different countries participate in those public affairs? No, it does not appear so. This is the principle of equality before the law, of legal protection, and so on.

In addition, I would like to call your attention to the following: Article 29 of the American Convention makes other international treaties, even treaties concluded outside the hemisphere, applicable to the interpretation of the Convention's norms. In addition, the Commission and the Inter-American Court have jurisprudentially developed the principle that human rights treaties should be interpreted in accordance with their object and purpose, which reflects the norms of the Vienna Convention on the Law of Treaties, and that the purpose and object of a human rights treaty is the protection of the human person. In case a doubt exists as to interpretation, it is resolved in favor of the people and not the State. Accordingly, there are jurisprudential norms that validate an interpretation within the terms of the Convention that protect children and women. In addition, the drafters of the American Convention gave importance to those subjects in that they

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established that certain rights could not be restricted, even in situations of emergency, when the continuation of civilized life in a country is threatened. It is interesting to read Article 27, paragraph 2 of the American Convention that makes Article 19 on the rights of the child non-derogable even in an emergency situation. (Other similarly protected rights include: the right to nationality; the principle of legality; the right to recognition of juridical personality; the right to personal integrity; and the prohibition of torture and other cruel, inhumane and degrading treatment.)

I also wish to point out that under Article 1, paragraph 1 of the American Convention, the Inter-American Court of Human Rights established the following ruling in the case of *Velasquez Rodríguez*: that it is the duty of the State to not only abstain from violating human rights but it is the duty of the State to create a legal order in which compliance with the human rights established by the American Convention is actually guaranteed. In this way, state responsibility exists when these rights are violated and also exists if a legal order does not exist that requires and guarantees compliance with human rights. This includes women who are objects of the sex trade and children who are objects of sexual exploitation in the region.

Now, I could continue by giving you a legal analysis with respect to the American Declaration of Human Rights that also contains similar norms, or the Additional Protocol of San Salvador that has come into force and also contains norms that are violated, as well as the Belem do Para Convention among other agreements. I won't bore you with respect to that. But I would like to point out that it is fundamental to understand that legal norms exist which allow the case system to function. Allowing on-site visits of the Inter-American Commission to be redefined, in a way that makes such visits available and specifically aimed at the issue of sexual exploitation would be an important step. Regarding on-site visits, I also want to say that the following must be achieved: that when there is a on-site visit to evaluate the human rights situation in general in a country, a chapter regarding the issue of exploitation of women and children should be added to the report. The Commission has been expanding the reports it provides regarding its on-site visits, and it not only refers to the situation of civil and political rights in a country, but it also refers to the economic, social, and cultural rights. For example, the issue of women and children's rights has been incorporated. I believe that including the issue of sexual exploitation, specifically, is another very important way

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of placing it on the agenda, and there have been some movements in this direction. But this needs to be done as a central procedure.

I would like to say that another possibility is for the Inter-American Commission on Human Rights to offer up its system of rapporteurships through the Rapporteur on Children's Rights and the new Rapporteur on the Rights of Women, Marta Altolaguirre. I served in that position for several years, and we issued a report regarding the compatibility and incompatibility of the laws and practices of the hemisphere with the Convention and American Declaration of Human Rights. The advantage [of the rapporteurship] is that because it deals with freely established treaties, norms exist that can be mobilized. Currently, the Rapporteur on Children's Rights is Hélio Bicudo, current President of the Human Rights Commission, and I believe that he could also be involved in some activities. I would like to tell you, nevertheless, that one who lacks priorities does not have a program, and there is only one component of the Inter-American system that can do things that no other part can do. And one of the things that we can do that no other component can do is manage the case system.

Facing insufficient resources, many times we face what some of us call a situation of "Sophie's choice." I don't know if you saw this movie where a mother has to decide which of her two children will die. But many times we find ourselves in that situation: there are close to 600 cases presented annually to the Inter-American Commission and with inadequate resources, but with very important support from democratic states in the hemisphere, and with a significant legitimacy regarding men and women from this hemisphere, the Commission has a voice that would otherwise not exist to correct domestic problems. But at the crux and center of all these things a tendency exists to immediately attack the Commission, in circumstances where cases are before the Inter-American Commission, and there is a threat of maintaining the Commission in light of continuous efforts by some to reduce its legitimacy, and other sectors of the Organization of American States. As an early warning system, we are first in line to face cases that arrive and begin to show that things are going poorly. Afterwards, others will join, but those first moments are very stormy, I would say. Nevertheless, our significant legitimacy has allowed us to progress, even with sizeable resource problems that force us to respond to all our cases in only two sessions annually. The Inter-American Court has announced that it is suspending its June session due to budget cuts. Therefore, I believe all these issues should also be discussed.

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I would like to conclude my commentary with the following: to begin with, I believe discussing matters on hemispheric terms is positive because it calls attention to the issue, it defines the agenda, captures imaginations, and makes things a priority. At the same time, the hemisphere has had an extensive imagination and tradition, combining excellent declarations with a totally incompatible practice—that is fundamental. This is derived from the time when laws and orders were received from the King of Spain, and they were placed on one's head, and they said, "It is obeyed but not carried out." At that time, great creativity existed in having declarations without practice. Now, this does not imply that we should not have declarations because if there are no declarations or other normative instruments then there is a legal void. But I believe things need to run parallel, because many times we set out in one direction that results in the creation of a document and the provisions of that document are not carried out. With the knowledge that non-compliance occurs, I believe we should work in a parallel fashion regarding declarations with mechanisms of supervision and control. With respect to the mechanisms of supervision and control, one possibility is the use of the Inter-American Commission's case system with the goal of resolving ten to fifteen cases regarding the exploitation of children.

There is an important quality to the legal strategy of the case system: that issues of abstract character are transformed into concrete situations containing a first and last name. In addition, there is a very important component to mobilizing public opinion: that is placing a first and last name on every individual that suffers a violation of rights. In case of the disappeared, one of the reasons why the Chileans who fought for democracy in Chile managed to mobilize international public opinion regarding the disappearances is because they managed to place a first and last name along with a historical account on every single disappearance. And if all people count, placing a name on all of these women and children is also very important, and these should not be abstract. Now a strategy of cases allows this; it permits the discussion of concrete stories that both capture the imagination and provoke the horror of humanity. Then, I believe that concurrent with any resolution, a strategy of cases that mobilize public opinion must be considered.

I believe it is also important to think in terms of instruments or institutions that work together because unfortunately these problems are not resolved at one time. What are permanent institutions or

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instruments? We have the Inter-American Commission of Women, the Children's Institute, DePaul University, NGOs, and the Inter-American Commission on Human Rights. Organizing an annual action-oriented conference that takes note of or revises our current status—where we are going—and mobilizes and coordinates efforts in one direction, is another idea worth considering. Around that strategy meeting, a press conference could also be held so as not to waste time. And many organizations would seek to participate even without resources.

I would like to end by expressing the following: we have heard many times that poverty is a structural issue, and endemic, offering an excuse for everything. Traffickers are not poor. Traffickers are not in this because of poverty, but because of exploitation and the desire to reap big fortunes. The penalization and criminalization of those who do this cannot be further delayed. Poverty cannot be used as an excuse. Ortega y Gasset once said that every one of us is “ourselves and our circumstances,” but this expression leaves room for individual freedom as well as the ability to change the circumstances. Not only is this a matter of great importance, of priority importance, but the future of this region is on the line, and therefore I believe we should give it the importance it deserves. Once again, I appreciate the invitation to speak here today.

Many thanks.

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**Meeting of Experts on Trafficking of Women and Children
for Sexual Exploitation in the Americas
April 11, 2000**

Remarks of Guillemette Meunier
United Nations Children's Fund (UNICEF)¹

I am very pleased to join you today for this important meeting of experts and to have this opportunity to offer UNICEF's perspective on trafficking—particularly with regard to the implementation of international standards and their impact on the study that will be conducted on trafficking of women and children for sexual exploitation.

The issue of trafficking of children and women, especially related to sexual exploitation, has attracted increasing attention from the international community as a whole. Today, trafficking in human beings has become a large-scale industry, especially in its most virulent form—the trafficking of children for sexual purposes. As UNICEF stressed in its 1997 Progress of Nations, more than one million children, overwhelmingly female, are forced into prostitution every year. Built on greed and the abuse of power, the commercial sexual exploitation of children and women has become a worldwide, multi-billion-dollar industry, fueled by extreme poverty, a growing demand for the kind of cheap and easily exploitable labor and the rapid expansion of trafficking operations, often aided and abetted by organized crime. Colleagues fight over the question of definition, claiming that it is not always appropriate to associate trafficking of children with trafficking of women. I will focus on children.

In many places, younger and younger children are being sought for sex in the mistaken belief that clients can lessen their risk of HIV infection. Further, it should be noted that this trafficking of children and women for sexual purposes is increasingly international in nature, with women and children trafficked across borders. Such flagrant violations of children's rights constitute a modern form of slavery, and there is an urgent need for international cooperation to counter this illicit trade.

¹ This text is based on oral remarks presented at the Meeting of Experts on April 11, 2000 at the OAS in Washington, DC.

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The children most likely to be targeted for sexual exploitation are girls, especially members of ethnic minorities, stateless children, and children in refugee camps. But both boys and girls are vulnerable to sexual exploitation. The situations they wind up in are tantamount to slavery. Forced labor, forced prostitution, illegal adoptions or involuntary marriage cause human beings to be stripped of their rights. Often, they have little recourse in the law; they are too fearful of further abuse, including abuse from authorities.

The effects of sexual exploitation of children are profound and may be permanent. Normal sexual, physical and emotional development is compromised. Self-esteem and confidence are undermined. Violence, drugs and sexually transmitted diseases only heighten their vulnerability. Even if trafficked children return home, they are likely to be stigmatized, ostracized by their families and communities. At the same time, the vast majority of sexually exploited children are denied their right to education.

Four years ago, in Stockholm, scores of governments represented at the World Congress against the Commercial Sexual Exploitation of Children sent a clear and unequivocal message: that this gross violation of the human rights of children cannot be allowed to continue. Governments and civil society came together to affirm, without compromise, that children are not property to be bought and sold; that their human rights are to be regarded with utmost seriousness and that their voices must be heard in the fulfillment of those rights.

At the same time, it was recognised that there is no single remedy to the complex problem of child commercial sexual exploitation and that solutions must arise from the diverse national, local and cultural realities in which the commercial exploitation of children is grounded.

In its standard-setting activities, the international community has also demonstrated concern for sexual exploitation, forced labor and related issues, including contemporary forms of slavery with specific reference to children. These instruments have been drawn up in different contexts from human rights to humanitarian law. Thus, various international instruments are relevant to the consideration of the question of trafficking of persons generally.

It must be recalled that different international instruments already exist:

- the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others

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continues to be the main international convention on the subject;

- the 1979 Convention on the Elimination of All Forms of Discrimination against Women; and
- the Convention on the Rights of the Child (CRC), which is almost universally ratified (191 states). Trafficking in children, for any purpose and in any form, is explicitly prohibited under articles 34 and 35 of the CRC.

Articles 34 and 35 of the CRC call on all States Parties to take all appropriate national, bilateral and multilateral measures to prevent and address these flagrant violations of children's rights. Such measures must include law reform, improved law enforcement, increased educational opportunities for disadvantaged children (particularly girls), recovery and social reintegration programmes for child victims of trafficking, support to families at risk and appropriate social welfare and the training of law enforcement officials and judicial authorities.

In its monitoring activities, the Committee on the Rights of the Child has on many instances expressed its concerns about the different forms of trafficking in children. For example, the Committee has raised concern about the trafficking of children for the purposes of child labor, adoption, sexual exploitation and for involvement of children in armed conflicts.

Mention should also be made of the 1926 Slavery Convention and the 1956 Supplementary Convention on the Abolition of Slavery, the ILO Conventions, including the new ILO Convention concerning the prohibition of and immediate action on the elimination of the worst forms of child labor (adopted by the ILO Conference in June 1999) and the 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption.

In addition to the relevant international instruments, some initiatives have documented the different forms that the traffic of children may take: the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography adopted by the Commission on Human Rights and the Programme of Action for the Elimination of the Exploitation of Child Labour. The Programmes recommend that legislation be reviewed to ensure that all forms of trafficking in children are penalized. A Special Rapporteur of the

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Commission on Human Rights on the sale of children, child prostitution and child pornography has also been appointed.

At the regional level, mention should be made of the Inter-American Convention on International Traffic in Minors and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Para).

An Optional Protocol to the Convention on the Rights of the Child has recently been adopted by the Commission on Human Rights and a proposed UN Convention on Transnational Organized Crime is being drafted with a special protocol on trafficking. Throughout that process, UNICEF has emphasized the importance of not criminalizing children themselves and protecting the victims of trafficking – especially children, who require special protection consistent with their age and needs, including legal assistance and help in reintegrating into their homes and communities. These international texts offer definitions or perspectives of definitions of trafficking and sexual exploitation.

Different activities have been undertaken in other regions. I would like in this regard to mention the work that has been done by the South Asian Association for Regional Cooperation (SAARC) countries, especially the drafting of a regional convention on trafficking of women and children. The adoption of this Convention has been postponed due to criticism from NGOs and other bodies working in this area. The criticisms have focused on the narrow definition of trafficking (only for prostitution) and the absence of distinction between the trafficking of women and the trafficking of children.

Thus, it could be problematic to limit the scope to the specific problem of commercial sexual exploitation since trafficking, as demonstrated, can exist for different reasons. Trafficking for the purpose of sexual exploitation and forced labor or even for illegal adoption are harmful activities and constitute contemporary forms of slavery.

Any new legislative activity should be closely linked with other international conventions. It is important to ensure that any new legal instrument not only enhances existing standards, but also that it complements and reinforces the human rights obligations contracted by States in relation to individuals under their jurisdiction, particularly children and women, ensuring that they are fully observed by countries of origin, transit and destination.

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In addition, one of the major goals is to promote and reinforce cooperation among Member States—that they may deal effectively with the various aspects of prevention and suppression of trafficking in persons for sexual exploitation. The criminal aspects cannot be separated from the other important aspects, including the prevention of trafficking and the protection of victims. In this area, it is essential to ensure that the child victim is not criminalised and to consider adequate programmes intended to promote the child's physical recovery and social reintegration, as well as adequate compensation.

It is also vital to ensure that child victims of sexual trafficking have access to assistance that meets their needs, such as legal aid, protection, secure housing, economic assistance, counseling, health and social services, physical and psychological recovery services. Special assistance is especially important for those suffering from HIV/AIDS. Emphasis should be placed upon family and community-based rehabilitation or placement in foster families rather than institutionalisation.

In view of the transnational dimension of these activities, close cooperation between national policies and national judicial authorities become of decisive relevance to ensure the effective prosecution and punishment of the perpetrators or to ensure their extradition, as appropriate, as well as the necessary identification, protection, return and reintegration of the child victim.

In conclusion, raising and keeping children on national and international agendas is a major priority for UNICEF. Guided by the Convention on the Rights of the Child, we are attempting to decrease the risks of sexual abuse and exploitation. UNICEF's strategy for combating child trafficking is focused on four main areas: raising public awareness of the problem; providing economic support to families; improving access to quality basic education; and advocating for the rights of the child.

This has translated, for example, in a number of countries and in cooperation with governments and NGOs, into numerous programmes such as preventive education for girls and their families in rural communities in northern Thailand and police training in Nepal; a multi-media campaign in Brazil to raise awareness; financial support provided to NGO counseling services and community rehabilitation in Philippines; and support to studies on child prostitution carried out by local NGOs in Costa Rica. The country office has initiated a project to design and disseminate intervention strategies and methodologies for

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the prevention of child prostitution, the treatment of the child victims, as well as monitoring.

Despite attempts, we have made few in-roads into the eradication of situations where children are used in sexual activities—including for profit making purposes. Why do such realities remain to a large extent hidden? Why do they constitute a social taboo and yet are persistently present and damaging for the lives of so many children? And how can we improve our policies and programmes and meaningfully translate our commitments into effective action?

There is certainly a long way to go before the values of equity, solidarity, social justice and non-discrimination are fully upheld, before all decisions are fully guided by the best interests of the child, before children stop to be used as modern slavers, or simply ignored.

Together, we must find ways of ensuring that the sexual exploitation of children is an issue which remains high on political and policy agendas and is never again allowed to slip into the unspoken world which has so protected abusers and “tolerators” until very recently.

Thank you.

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QUESTIONNAIRE

The Trafficking of Women and Children for Commercial Sexual Exploitation

Country:
Counterpart Organization:
Legal status of the organization:
Legal representative:
Designated project coordinator:

Brief description of the work of the counterpart organization on the topic of trafficking of women and children for commercial sexual exploitation. When was the organization founded? Does it have any relationship with the government or other political institutions? Indicate the number of organization staff members and their positions.

A. Conceptualization and Articulation of the Problem

1. Based on the opinion of different sectors, what is the history of the problem of trafficking of women and children for sexual exploitation in your country? Please include sources of the information.
2. What forms of trafficking exist in your country? (prostitution, pornography, domestic work, sexual tourism, others)
 - a. Do you consider that the situation has varied in the last ten years? If so, due to what circumstances have these changes occurred?
3. In what areas, provinces or regions of your country is the problem of trafficking most visible?
 - a. What is the common knowledge regarding the problem in these areas?

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4. What are the risk factors that influence the problem of trafficking (*e.g.*, internal or external migration, national or international criminal networks, unemployment and labor situations, education, domestic violence)? Distinguish responses by type of source: (a) government; (b) non-governmental; (c) civil society/general public information; (d) academic; (e) other.

B. Statistical Aspects

1. Is a quantification of women and children that are being sexually exploited available? If possible, distinguish between (a) women; (b) girls; and (c) boys.
 - a. Are any direct statistics available? *E.g.*
 - no. persons trafficked by age, gender, nationality
 - no. reports / investigations / prosecutions / convictions for trafficking & related crimes with information on victim age, gender, nationality; defendant age, gender, nationality; summary of facts; penalty, if any
 - b. Are any indirect statistics available? *E.g.*
 - no. sex workers by age, gender, nationality
 - no. known or licensed establishments related to sex industry with breakdown of type of activity in each establishment (official and unofficial)
 - no. entertainment/artist visas issued by gender and age
 - no. visas issued for unaccompanied minors
 - no. deportations and repatriations by age, gender, nationality
 - statistics on health of sex workers
 - no. reports of missing children by age, gender

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- no. requests to consular office/embassy for assistance with missing person
- no. consular facilitated repatriation
- no. persons deported following prostitution-related conviction

2. What instruments are used or have been used in the country to measure the incidence and prevalence of the problem of trafficking (*e.g.*, survey, polls, census, registries, complaints)?

Type of Instrument	Applied by? When? Coverage?	Results (please provide copies of final documents)	Sources and Means Utilized

3. What is the perception of different sectors regarding the problem of trafficking of women and children for sexual exploitation? Distinguish responses by type of source: (a) government; (b) non-governmental; (c) civil society/general public information; (d) academic; (e) other.
4. What individuals, groups or organizations have financed studies, research or other data on the subject of trafficking of women and children for sexual exploitation? What were the objectives of these studies?

C. Social Aspects

1. What policies exist that address the problem of trafficking of women and children for sexual exploitation? Divide in the following categories: (a) awareness; (b) investigation and research; (c) training; (d) victim attention and treatment; (e) rehabilitation.
2. Are there any government institutions, councils, ministries or other agencies that address, either alone or inter-institutionally, the issue of trafficking of women and children for sexual exploitation? Include information on membership, main objectives, activities, and achievements to date.

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3. What portion of the national or local budget is assigned to combating the problem of trafficking of women and children for sexual exploitation? What is the actual amount available or spent?
4. What government programs and projects have existed over the past ten years for the assistance and protection of women and children trafficked? Include the implementing agency, program/project description, results obtained, geographical target or scope.
5. What resources exist for victim and family assistance (including prevention) for women and children that are sexually exploited? Include information on services offered, name of the coordinating institution or organization, results obtained, and funding.
6. Are any reintegration programs (short and long term) offered including provisional treatment of minors? Are these or other services available to foreign women and minors?
7. What civil society organizations work directly with the issue of trafficking of women and children for sexual exploitation in your country?
 - a. What type of work do they do?
 - b. Since when have they worked with this issue?
 - c. Are they based on principles contained in the Convention on the Rights of the Child, the Stockholm Declaration or other international treaties?
 - d. Do they receive state/official funding?
 - e. Are there situations or practices that constitute obstacles to their work?
8. Have there been any reports, evaluations or assessments regarding the work, programs and projects on the issue of trafficking of women and children for sexual exploitation? Describe.

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9. Please provide case studies, anecdotes or other information—both official and unofficial—regarding the issue. All stories are important, as long as they have a source.

D. Legal Aspects

1. Is sexual exploitation and the trafficking of women and children considered a crime in your country? Is consent taken into account? How is consent understood? Is it taken or seen as an attenuating factor?

Type of crime	Frequency with which it occurs	Penalty	Statistical relationship between cases reported and sanctions

2. Are there other crimes typified in your country that relate to trafficking of women and children for sexual exploitation?
3. What is the age at which children become adults? Does this coincide with the criminal age? Do minors have the legal capacity to denounce? What are the procedures?
4. What laws, proposed legislation, reforms or amendments to the law currently exist regarding trafficking of women and children for sexual exploitation in your country?

Law or Bill #	Date of approval or current status	General content	Objectives

5. Do these laws respond to the principles of the Convention on the Rights of the Child, the Stockholm Declaration or other international treaty obligations?
6. How is prostitution treated in legal terms (criminalization / regulation / tolerance)?

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7. Are trafficked persons vulnerable to criminal charges or other administrative penalties? Do they have access to legal assistance or translation? Witness protection? Access to medical treatment and counseling? Shelter?
8. In circumstances of international trafficking, how are victims treated (*e.g.* deportation, temporary stay based on cooperation with authorities, option for voluntary repatriation, etc.)? What agencies are responsible? Is the treatment different for minors?

E. International Protection

1. Has your country ratified the following international human rights instruments?
 - UN Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949)
 - Slavery Convention (1926)
 - UN Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutions and Similar Practices (1956)
 - UN Convention on the Elimination of All Forms of Discrimination Against Women (1979) & its Optional Protocol
 - UN Convention on the Rights of the Child (1989) & Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000)
 - UN Convention Against Transnational Organized Crime & its Protocol to Prevent, Suppress and Punish Trafficking of Persons, Especially Women and Children (2000, not in force)
 - International Covenant on Civil and Political Rights (1966) & its first Optional Protocol
 - International Covenant on Economic, Social and Cultural Rights (1966)
 - ILO Convention No. 29 concerning Forced Labor (1930)

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- ILO Convention No. 105 concerning the Abolition of Forced Labor (1957)
- ILO Convention No. 182 concerning the Worst Forms of Child Labor (1999)
- OAS American Convention on Human Rights (1969)
- OAS Inter-American Convention on International Traffic in Minors (1994)
- OAS Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (“Belem do Para,” 1994)

Others?

2. How are these treaties being implemented with respect to trafficking?
3. Have other legislative measures been adopted to adjust domestic legislation to these norms?
4. Have any complaints against the government been presented before international organs for the violation of rights regarding sexual exploitation in any of its forms during the past five years? If so, please describe them as well as the results to date.
5. Has your country been included in any report of international organizations regarding the generalized and systematic violations of rights caused by sexual exploitation in any of its forms during the past five years? If so, please list the causes and reports.
6. Has the government participated in any international or regional cooperation or intelligence sharing programs relating to trafficking? Does the government work with INTERPOL? Provide information on activities.

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CONSULTED INSTITUTIONS AND ORGANIZATIONS

BELIZE

Government Agencies

Ministry of Human Development, Women and Civil Society

Ministry of Human Development – Women’s Division

Ministry of Human Development – Human Services Department

National Committee for Families and Children

Central Statistics Office

Office of the Commissioner of Police

Office of the Director of Migration

Ministry of Labor

Office of the Deputy Public Prosecutor

Ministry of Health - National HIV/AIDS Program

District Court (Belize City, Orange Walk)

Family Court (Belize City)

Office of the Attorney General – Solicitor General’s Office

Belize Tourism Board

Office of the Ombudsman

National HIV/AIDS Commission

Office of the Mayor (Orange Walk)

Police Prosecutor (Orange Walk)

International Organizations

UNICEF

Non-Governmental Organizations

SPEAR

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National Organization for the Prevention of Child Abuse: NOPCA	Embassy of Guatemala
Human Rights Commission of Belize	Embassy of Mexico
	<i>Other</i>
<i>Media</i>	British Army
Red Sweeney, Radio Journalist	Site visits to four bars in Orange Walk Town during which researchers spoke with six women working as sex providers and one bar owner.
<i>Diplomatic Missions</i>	
Embassy of Honduras	
COSTA RICA	
<i>Government Agencies</i>	
Dirección General de Migración	Comisión Nacional contra la Explotación Sexual (CONACOES)
Poder Judicial - Fiscalía de Delitos Sexuales	Instituto de la Mujer
Ministerio de Seguridad Publica – Unidad contra la Explotación Sexual	Instituto Costarricense de Turismo
Ministerio de Justicia – Dirección Nacional de Prevención de la Violencia y el Delito	Ministerio de Educación Pública
Organismo de Investigación Judicial (OIJ) - Estadística del Poder Judicial	Ministerio de Trabajo y Seguridad Social
	Policía Especial (Guanacaste, Liberia)
	Policía de Migración (Liberia)

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Patronato Nacional de la Infancia (PANI)	Promotores de Turismo (Acoprot)
PANI (Liberia, Nicoya, San Carlos, Osa, Pérez Zeledón, Santa Cruz, Puntarenas, Esparza, Paquera, Monteverde, Miramar, Chomes, Quepos, Turrialba, Sixaola, Siquirres, Heredia, Limón, Cartago, Golfito, Alajuela, Coto Brus) Alcaldía (Santa Cruz, Guanacaste, Pérez Zeledón, Liberia, Puntarenas y San Carlos)	Asociación de Trabajadoras del Hogar (Astrodomes)
Oficial de la Ciudad (Neyli, Liberia y Guanacaste)	Casa Alianza
<i>International Organizations</i>	CEFEMINA
International Labor Organization (ILO)	CEJIL Mesoamérica
International Organization for Migration (IOM)	El Productor
UN High Commissioner for Refugees (UNHCR)	Fundación PANIAMOR
Visión Mundial (Guanacaste)	Fundación PROCAL
<i>Non-Governmental Organizations</i>	FUNDESIDA
Agenda Política de Mujeres	Liga Internacional de Mujeres Pro Paz y Libertad
Asociación Costarricense de	Redes de Atención de la Violencia Intrafamiliar
	<i>Media</i>
	Marianella Argüello, Periodista
	<i>Diplomatic Missions</i>
	Consulate of Colombia
	Consulate of the Dominican Republic

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Consulate of Nicaragua	Universidad de Costa Rica, Facultad de Derecho
<i>Others</i>	Universidad Nacional, Centro de Estudios Económicos

DOMINICAN REPUBLIC

C. Government Agencies	the System of Protection of Children and Adolescents
Secretaria del Estado de la Mujer/ The Secretary of State of Women	COPRESIDA CIPROM/Inter-institutional Committee on the Protection of Migrant Women
Dirección General de Migraciones/ Office of General Migration	Policia Nacional/National Police
Secretaria de Estado de Relaciones Exteriores/Secretary of State of Foreign Affairs	Secretaria de Estado de Salud Publica/Secretary of State of Public Health
Fiscalia General de la Nación/ District Attorney of the Nation	Secretaria de Estado de Trabajo/ Secretary of State of Labor
Procuraduría General de la Nación, Departamento de Mujer, Adolescentes y Menores/ Attorney General of the Nation, Department of Women, Adolescents and Minors	Consejo Nacional de la Niñez/ National Council for Children Corte de Apelación Penal (Distrito Nacional)/Court of Appeals (National District)
Organismo Rector del Sistema de Protección de Ninos, Ninas y Adolescentes/Lead Office of	Secretaria de Estado de Turismo/ Secretary of State of Tourism

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PARLACEN, Representantes para la Republica Dominicana /Representatives for the Dominican Republic	(MODEMU)/Movement of United Women
D.	Pastoral de la Movilidad Humana, Iglesia Catolica/Pastoral of the Human Mobility, Catholic Church
E. <i>International Organizations</i>	Proyecto Caminante (Boca Chica)/ Project in Motion
IOM	Movimiento de Autodesarrollo de la Solidaridad Internacional (MAIS)/ Movement for Self Development and International Solidarity
UNICEF	
<i>Non-Governmental Organizations</i>	
Centro de Investigación para la Accion Femenina (CIPAF)/Center of Investigation for Female Action	Instituto de la Famlia (IDEFA)/Family Institute
	F.
	G. <i>Individual Experts</i>
Centro de Orientación e Investigación Integral (COIN)/ Center of Orientation and Integral Investigation	Gina Gallardo Rivas
	Denise Paiewonsky, Technical Institute of Santo Domingo
Movimiento de Mujeres Unidas	Dr. Frias Agramante
EL SALVADOR	
<i>Government Agencies</i>	ISPM - Centro Reducativo Rosa Virginia Peletier
Instituto Salvadoreño de Protección al Menor (ISPM)	Juzgado Primero de Menores de San Salvador

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Juzgado Tercero de Familia de San Salvador	Procuraduría para la Defensa de los Derechos Humanos - Procuraduría Adjunta para la Defensa de los Derechos de la Niñez
Fiscalía General de la República - Unidad de Delitos contra Menores y la Mujer en su Relación Familiar	Procuraduría para la Defensa de los Derechos Humanos - Procuraduría Adjunta para la Defensa de los Derechos Humanos de la Mujer
Unidad Técnica Ejecutiva para el Sector Justicia	
Dirección de Migración - Ministerio de Gobernación	CORSATUR
Cancillería	Asamblea Legislativa - Carmen Elena Calderon de Escalón, Miembra de la Comisión Interamericana de Mujeres, de la Comisión de Relaciones Exteriores, Integración Centroamericana y Salvadoreños en el Exterior y de la Directiva del ISDEMU
Ministerio de Trabajo y Previsión Social	
Ministerio de Salud Pública y Asistencia Social	
Consejo Nacional de Seguridad Pública	
Fiscal General de la República	Asamblea Legislativa - Blanca Flor America Bonilla, Presidenta de la Comisión de la Familia, La Mujer y la Niñez y miembra de la Comisión de Relaciones Exteriores, Integración Centroamericana y Salvadoreños en el Exterior
Policía Nacional Civil (PNC) - Departamento de Fronteras de la División de Finanzas y Fronteras	
PNC - Policía Comunitaria	
PNC - Departamento de la Familia	Ministerio de Educación
Instituto Salvadoreño de Turismo	Instituto Salvadoreño de Mujeres (ISDEMU)

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Alcaldía Municipal de San Salvador	Fundación Nueva Vida Pro Niño y Niña de la Calle
Cuerpo de Agentes Metropolitanos, San Salvador	Centro de Estudios de la Mujer (CEMUJER)
<i>International Organizations</i>	Asociación de Mujeres Flor de Piedra
Save the Children - Sweeden	Red ECPAT
UNICEF	Fé y Alegría
Terre des Hommes Alemania (Tierra de la Humanidad)	Comité Nacional de Mujeres (CONAMUS)
GTZ (Cooperación Alemana)	FUNDE
Organización Panamericana de la Salud (OPS)	FUNDASIDA
Programa Internacional para la Erradicación del Trabajo Infantil IPEC- OIT	Asociación Entre Amigos
Federación Luterana Mundial	Asociación para la Autodeterminación y el Desarrollo de las Mujeres (AMS)
INTERPOL (Policia Internacional-PNC)	Fundación Dolores Médina
Médicos del Mundo-España	Las Dignas
<i>Non-Governmental Organizations</i>	<i>Diplomatic Missions</i>
Fundación Olof Palme	Consulate of Nicaragua
Defensa del Niño Internacional (DNI)	Consulate of Honduras

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GUATEMALA

Government Agencies

Secretaría de Bienestar Social Programa de Prevención y Erradicación de la Violencia Intrafamiliar	Gobernadora Deptal. de Guatemala
Secretaría de Obras Sociales de la Esposa del Presidente	Subsecretaria de la Paz
Defensoría de la Niñez (PDH)	Dirección General de Migraciones
Defensoría de la Mujer (PDH)	Congreso de la República - Comisión de la Mujer, el Menor y la Familia
Dirección General de Servicios de Salud	Fiscal General de la Republica
Programa Nacional de SIDA	Ministerio de Seguridad Publica
Ministerio de Educación	Policia Nacional
Secretaría Presidencial de la Mujer	Jueza de Menores
Procuraduría General de la Nación	Magistrada de Menores (CSJ)
Procuraduría de Menores (PGN)	<i>International Organizations</i>
PGN - Unidad de la Mujer	PARLACEN – Comision de la Mujer
PGN - Procuraduria de Familia	IOM
Comisión Presidencial de Derechos Humanos (COPREDEH)	<i>Non-Governmental Organizations</i>
	Casa Alianza

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Grupo Ceiba	Comision Nacional contra el Maltrato Infantil (CONACMI)
CIPRODENI	
Oficina de Derechos Humanos del Arzobispado de Guatemala	Casa de la Mujer (Tecun Uman)
Pastoral Migratoria Arquidiocesana	Media
Asociación de Salud Integral (ASI) – La Sala	La Cuerda
Hogar Manchén	Diplomatic Missions
OASIS	Embajada de México en Guatemala
Gente Positiva	Consulado de México en Tecun Uman, Guatemala
APAES/Solidaridad	
AGES	Consulado de Honduras en Guatemala
Red de Periodistas La Cuerda	Consulado de Nicaragua en Guatemala
ECPAT/Guatemala	Consulado de El Salvador
HONDURAS	
<i>i. Government Agencies</i>	
ii.	Special Prosecutors in the areas of Human Rights, Children, Women and Organized Crime (Tegucigalpa)
iii. Principal Delegate, Inter-American Commission of Women	
National Congress - Commission of Women	Special Prosecutor for Children (San Pedro Sula)

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Prosecutor (La Ceiba)	Ministry of Public Health - Programa Mujer, Salud y Desarrollo
Secretariat of Foreign Relations	
Office of the Ombudsman (<i>Comisionado Nacional de Derechos Humanos</i>) (Tegucigalpa, San Pedro Sula and La Ceiba)	iv. v. <i>International Organizations</i> vi. vii. IOM
National Police (<i>Policia Preventiva</i>) Police Judges (<i>Juez de Policia</i>) (San Pedro Sula, La Ceiba)	Save the Children – UK viii. ix. x. <i>Non-Governmental Organizations</i> xi. xii. Casa Alianza
General Directorate of Criminal Investigation (DGIC) (La Ceiba)	OFALAN (<i>Oficina de Asistencia Legal de la Ninez y Mujer Desprotegida</i>)
General Directorate for Population and Migratory Policy (<i>Direccion General de Poblacion y Politica Migratoria</i>)	CIPRODEH (Tegucigalpa, La Ceiba)
National Women’s Institute (INAM)	Fundación Amiga de los Ninos Centro de Estudios de la Mujer
Women’s Office (San Pedro Sula)	Centro de Derechos de la Mujer
Honduran Children and Family Institute (IHNFA)	Comunidad Gay Sampedrano (San Pedro Sula)
Juvenile Judges (Tegucigalpa, San Pedro Sula, La Ceiba)	COCSIDA (La Ceiba) Coordinadora de Instituciones Privadas Pro los Niños y sus Derechos (COIPRODEN)

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PRODIM

Movimiento Visitación Padilla

CODEH

NICARAGUA

Government Agencies

Departamento de Migración y
Extranjería – Managua y
Guasaule

Ministerio de Salud (MINSA)

Instituto Nicaragüense de la
Mujer (INIM)

Ministerio de la Familia
(MIFAMILIA)

Ministerio de Educación,
Cultura y Deporte (MECD)

Ministerio de Trabajo

Procuraduría de Derechos
Humanos - Procuraduría de la
Niñez y la Adolescencia

Procuraduría de Derechos
Humanos - Procuraduría de la
Mujer

Consejo Nacional de Atención
y Protección Integral de la
Niñez y Adolescencia
(CONAPINA)

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National Congress – Commission on Women, Children and Family	Instituto de Medicina Legal – Corte Suprema de Justicia
National Police – Chinandega y Gausaule	Procuradoras Auxiliares de Managua
Ministerio Publico	<i>International Organizations</i>
Juez Penal de Adolescentes Managua	Save the Children – Canada
Juez VIII de Distrito del Crimen de Managua	<i>Non-Governmental Organizations</i>
Procurador Especial de la Niñez y Adolescencia	Instituto Nicaraguense de Promocion Humana (INPRHU)
Juez V de Distrito del Crimen de Managua	Casa Alianza Nicaragua
Director Nacional Escuela Judicial Corte Suprema de Justicia	Visión Mundial Nicaragua
Juez VII de Distrito del Crimen de Mangua	Dos Generaciones
Juez IV de Distrito del Crimen de Mangua	Asociación TESIS
Magistrada Tribunal de Apelaciones – Presidenta Sala Laboral	Comunidades Eclesiales de Base
Magistrada Tribunal de Apelaciones – Sala Penal	INHJAMBIA
	Centro Nicaragüense de Derechos Humanos (CENIDH)
	Fundación de Protección de los Derechos de Niños, Niñas y Adolescentes infractores de la ley y su reintegración social (FUNPRODE)

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Red de Mujeres	Asociación de Mujeres de Estelí
<i>Diplomatic Missions</i>	Comisión Municipal de la Niñez
Consulate of El Salvador	Acción YA
<i>Other Sources</i>	<i>In Rivas</i>
Universidad Politécnica de Nicaragua (UPOLI)	Migración y Extranjería
Mujeres Empresarias	Policía
	MIFAMILIA
<i>In Granada</i>	MINSA
Comisaría de la Niñez	Casa de la Mujer
Ministerio de la Familia	
Policía Nacional	<i>In Chiandega y Somotillo</i>
Casa de la Mujer	MIFAMILIA
	Policía
<i>In Esteli</i>	MINSA
Comisaría de la Mujer	Casa de la Mujer
Policía	Promotoría del MILAVF
Ministerio de la Familia	Migración y Extranjería
MINSA	Comisión Municipal de la Niñez
Red de Mujeres	Reportero Municipal

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	Alcaldía
<i>In Masachapa</i>	Comisaría de la Mujer
Policía	Migración
Mi Familia	Policía Nacional
MINSA	CEDEHCA
<i>In Puerto Cabezas</i>	<i>In Ocotal</i>
Ministerio de la Familia	Ayuda en Acción
Procuraduría de la Niñez	Policía
Policía Nacional	CISAS
Comisión Municipal de la Niñez	Migración y Extranjería
Migración y Extranjería	<i>In Somoto</i>
Ministerio del Trabajo	Policía
	Migración y Extranjería
<i>In Bluefields</i>	Comisaría de la Mujer y la Niñez
Ministerio de la Familia	
PANAMA	
<i>Government Agencies</i>	Institucional de Bocas del Toro
Caja de Seguro Social / Directora	Consejo Nacional de Estadísticas Criminales

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Defensoría del Pueblo	Ministerio de Salud / Programa Nacional de VIH/SIDA
Dirección Nacional de Migración	Ministerio de Trabajo, IPEL / Programa Mujer Trabajadora
Dirección Regional de Migración - Bocas del Toro	MINJUMNFA / Dirección Nacional de la Mujer
Fiscalía Primera Fiscalía Séptima del Primer Circuito Judicial	MINJUMNFA / Dirección Nacional de la Niñez
Fiscal Juzgado Segundo de Niñez y Adolescencia	MINJUMNFA / Dirección Regional de Bocas del Toro
Foro Mujer y Desarrollo (Alcaldía de Panamá)	Policía Nacional
Foro Mujer y Desarrollo (Instituto de la Mujer)	Policía de Menores
Grupo Género (Caja de Seguro Social)	Policía de Menores - Bocas del Toro
Juzgado de Niñez y Adolescencia - Chiriquí	Policía de Menores - Chiriquí
Juzgado de Niñez y Adolescencia - Bocas del Toro	Policía Técnica Judicial / Departamento de Delitos Sexuales
Ministerio de Educación / Programa de Oficina de Asuntos de la Mujer	Policía Técnica Judicial - Bocas del Toro
Minsiterio de Educación / Dirección Regional de Bocas del Toro	Tribunal Superior Niñez y Adolescencia
Ministerio de Salud / Programa Salud, Mujer y Desarrollo	International Organizations
	Organización Panamericana de la Salud
	UNICEF

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Non-Governmental Organizations

Consulado de República
Dominicana

Asociación Panameña de
Planificación Familiar

Casa Esperanza

Centro de Estudios y
Capacitación Familiar (CEFA)

Comité de America Latina y
del Caribe para la Defensa de
los Derechos de la Mujer
(CLADEM)

Foro Mujer y Desarrollo
(Consejo de la Mujer)

Foro Mujer y Desarrollo
(Ceaspa)

Foro Mujer y Desarrollo
(Cealp)

Foro Mujer y Desarrollo (Clara
González)

Foro Mujer y Desarrollo
(Justicia y Paz)

Red Contra la Violencia
Diplomatic Missions

Embajada de Colombia en
Panamá

Consulado General de
Colombia

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Media

Diario Crítica Libre /
Periodista

Universidad de Panamá /
Instituto de la Mujer

Universidad de Panamá /
Departamento de Criminología

Other

Universidad de Panamá /
Maestría Género y Desarrollo

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REGIONAL MECHANISMS

The following regional bodies and networks are some of the many forums available for counter-trafficking initiatives and/or development and coordination of strategies.

Forum	Action
PARLACEN: Commission on Women, Children and Family	Legislative assistance
Central American Police Organization	Policy and coordination
Central American Council of Human Rights Ombudsmen (<i>Consejo Centroamericana de Procuradores de Derechos Humanos</i>)	Policy and coordination
Central American Commission of Migration Directors (OCAM) and the Regional Conference on Migration	Policy and coordination
International Organization for Migration	Technical assistance
Save the Children	Financing and coordination
International Program for the Eradication of Child Labor (ILO/IPEC) – Regional program against child sexual exploitation	Financing and technical assistance
UNICEF	Financing and coordination
ECPAT (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes)	Advocacy
<i>Casa Alianza</i> (Costa Rica, Guatemala, Honduras and Nicaragua)	Advocacy and victim assistance
Local NGO Networks	Advocacy, coordination, victim assistance

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BEST PRACTICES

The following initiatives take meaningful steps toward establishing an effective strategy to reduce, control and combat the trafficking of women and children for sexual exploitation in the Americas.

Prevention:

- Campaign Viajera (Dominican Republic): The NGO COIN has produced multiple information and awareness materials for potential and actual female migrants. The materials include: a booklet with NGO and consular contacts in traditional destination countries and basic legal protections; and a comic book of stories of trafficked women, based on actual experiences.
- Police Warnings (Guasaule, Nicaragua): Police stations at the border in Guasaule inform young female migrants traveling alone of the dangers of trafficking. Written advisory materials (press reports) are distributed.

Protection:

- Consular Training (Dominican Republic): Trafficking and gender issues have been incorporated into the foreign service training curricula. In addition, posted consuls in Europe were specially trained on trafficking and related issues.
- Mobile Health Services (Belize, El Salvador, Guatemala): Public health officials in Belize and independent NGOs in El Salvador and Guatemala provide direct health services, HIV/AIDS and contraceptive use awareness, and self-esteem courses to women in their locations of employment/captivity (streets, parks, bars and brothels).
- Police Training (Honduras): Save the Children-UK has trained over 500 police officers on combating child sex trafficking and related issues of child sexual exploitation.

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Investigation & Prosecution:

- Gender-Sensitive Policing (Nicaragua): The Nicaraguan Women's Institute together with the National Police have opened offices to assist women and children who are victims of violence. Legal orientation and assistance, accompaniment, and basic medical attention are offered.
- Trafficking and Sexual Exploitation Investigation Unit (Chiandega, Nicaragua): Police created a special unit of female officers to investigate trafficking and other crimes related to sexual exploitation. The unit works in consultation with an NGO women's network, Red de Mujeres. [A similar unit exists in San Jose, Costa Rica within the Ministry of Public Security.]
- NGO Partnerships (Costa Rica, Nicaragua, Honduras, Guatemala): *Casa Alianza* has worked directly with law enforcement partners to assist in detection and investigation of trafficking activity. These partnerships have been especially successful. The pooled resources yield stronger investigations and improved victim protection.

Integration:

- *Casa de la Mujer* (Guatemala): Offers shelter and educational opportunities to trafficked women and girls.
- *Casa Alianza* (Nicaragua, Honduras, Guatemala): Provides shelter, vocational training programs and specialized counseling to child victims of trafficking.
- COIN (Dominican Republic): Offers orientation and health services to trafficked women.

Awareness:

- Certificate Program on Trafficking and Gender (Dominican Republic): CIPROM and FLACSO offer a certificate program for public officials and NGOs on issue of Gender, Migration and Trafficking in the Dominican

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Republic. A similar program has been incorporated into diplomatic corps curricula.

- *La Cuerda* (Guatemala): A network of women journalists. Members, acting individually and through the network's publications, have published sensitive reports on trafficking and child sexual exploitation.
- Association of Relatives of Missing Migrants (Progreso, Honduras): Hosts a weekly radio broadcast, "Without Borders," on issues of migration including trafficking and other migration risks.
- Campaign against Child Sexual Exploitation (El Salvador): The Office of the Human Rights Ombudsman launched a campaign against the commercial sexual exploitation of children. A symbolic pin of an orange triangle was distributed to be worn in a public showing of protest against child sexual exploitation.

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INTERNATIONAL LEGAL PROTECTIONS

International treaties have significantly contributed to providing a framework and guidance for domestic legislation. For the extended Central American region, the impact of the UN Convention on the Rights of the Child, the UN Convention on the Elimination of All Forms of Discrimination against Women, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (“Belem do Para”), and the ILO Convention No. 182 on the Worst Forms of Child Labor have been particularly effective. Each of these instruments contain provisions against trafficking in some form; together they offer potential tools in combating the proliferation of trafficking.

CENTRAL AMERICA & THE DOMINICAN REPUBLIC	Belize	Costa Rica	Dominican Republic	El Salvador	Guatemala	Honduras	Nicaragua	Panama
UN Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949)						•		
Slavery Convention (1926)					s		s	
► Protocol amending the Slavery Convention (1953)					•		•	
UN Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutions Similar Practices (1956)			•	s	•		•	

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UN Convention on the Elimination of All Forms of Discrimination Against Women (1979)	•	•	•	•	•	•	•	•
► Optional Protocol to CEDAW (1999)		•	•	s	s			•
UN Convention on the Rights of the Child (1989)	•	•	•	•	•	•	•	•
► Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000)	s	•			•	•		•
UN Convention Against Transnational Organized Crime (2000, <i>not in force</i>)		s	s	s	s	s	•	s
► Protocol to Prevent, Suppress and Punish Trafficking of Persons, Especially Women and Children (2000, <i>not in force</i>)		s	s	s				s
International Covenant on Civil and Political Rights (1966)	•	•	•	•	•	•	•	•
International Covenant on Economic, Social and Cultural Rights (1966)	s	•	•	•	•	•	•	•
ILO Convention No. 29 concerning Forced Labor (1930)	•	•	•	•	•	•	•	•
ILO Convention No. 105 concerning the Abolition of Forced Labor (1957)	•	•	•	•	•	•	•	•

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ILO Convention No. 182 concerning the Worst Forms of Child Labor (1999)	•	•	•	•	•	•	•	•
OAS American Convention on Human Rights (“San Jose,” 1969)		•	•	•	•	•	•	•
► Additional Protocol in the Area of Economic, Social and Cultural Rights (“San Salvador,” 1988)		•	s	•	•		s	•
OAS Inter-American Convention on International Traffic in Minors (1994)	•	•						•
OAS Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (“Belem do Para,” 1994)	•	•	•	•	•	•	•	•

• = ratification; s = signature only. Status as of October 4, 2002.

Special Note on the UN Convention on Transnational Organized Crime and Supplemental Protocol on Trafficking

The UN Convention on Transnational Organized Crime and its supplemental Trafficking Protocol is still relatively unknown in the region. In almost all interviews with relevant government and non-government officials, interviewees expressed their ignorance as to its existence and/or terms. Nicaragua has been the first country in the region to ratify the Convention, and only four countries have signed the Protocol. Nevertheless, signs do exist of its increasing support. In Honduras, the Special Prosecutor on Organized Crime has encouraged the government to take steps toward signature and ratification of all three instruments – the Convention and both its protocols. In the Dominican Republic, the inter-institutional working group, CIPROM,

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together with the IOM hosted a seminar in June 2002 to discuss national trafficking legislation in the context of the Trafficking Protocol. In addition, a university in Costa Rica hosted a seminar on the UN Convention and its protocols. Finally, ratification of the Convention and its protocols has been placed on the agenda of the Regional Conference on Migration, and ratification status was discussed at its last meeting of ministers in May 2002.

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H. Criminal Legislation¹

TRAFFICKING FOR SEXUAL EXPLOITATION	
I. Central America and the Caribbean	
A. Belize	Limited provision against trafficking for sexual exploitation as a form of procuring. <i>See below.</i>
B. Costa Rica	<p>Article 172 (Criminal Code), Trafficking in Persons (<i>Trata de personas</i>)² - “One who promotes, facilitates or encourages the entry to or exit from the country of persons of either sex to practice prostitution or to hold them in sexual slavery or forced labor, shall be punished by imprisonment of three to six years. The penalty shall be four to ten years if any of the circumstances listed in aggravated procurement [Art. 170] are present.”</p> <ul style="list-style-type: none"> ▪ Such circumstances include whether the victim is a minor; when coercion/fraud, violence, abuse of authority, or other form of intimidation or coercion was involved; and whether the perpetrator was an ancestor/offspring, husband/wife, brother/sister, teacher/one charged with education/care/custody of victim. In none of these cases may the consent of the victim be taken into account. <p>Article 374 (Criminal Code), Crimes of International Character (<i>Delitos de carácter internacional</i>)³ - “Ten to fifteen</p>

¹ Excerpts of legislation from Belize are original. For all of the countries, the original text is in Spanish. Unofficial translation prepared by the International Human Rights Law Institute.

² As reformed by Law No. 7899 on Commercial Sexual Exploitation of Minors (1999).

³ As reformed by Law No. 8127 (2001).

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	years prison shall be imposed on those who direct organizations of international character dedicated to the trafficking of slaves, women or children, stupefying drugs or their parts, commit acts of extortionist kidnapping or terrorism and infringe provisions contained in treaties on human rights protection to which Costa Rica is a party.”
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C. Dominican Republic	Limited provision against trafficking for sexual exploitation as an aggravating factor of procuring. <i>See below.</i>
D. El Salvador	None.
E. Guatemala	<p>Article 194 (Criminal Code), Trafficking in Persons (<i>Trata de personas</i>) - “Whoever, in whatever form, promotes, facilitates, or supports the entry or exit of women from the country so that they shall engage in prostitution, shall be sanctioned with imprisonment of one to three years and with a fine of 2,500-15,000 Quetzals.</p> <p>Whoever engages in the activities referred to in the preceding paragraph with males shall incur the same penalties.</p> <p>The punishment will be increased by two-thirds if any of the circumstances mentioned in Article 189 of this Code are found to coincide with such activities.”</p> <p>The aggravated circumstances in Article 189 include: if the victim is under twelve years; if the act was done with the intention to make a profit or satisfy the desires of a third person; the use of deceit, violence, or abuse of authority; a perverse or excessive sexual act; the perpetrator is an ancestor, sibling, or guardian; or an habitual act.</p>
F. Honduras	<p>Article 149 (Criminal Code) – “Whoever promotes or facilitates the entry into the country of persons of either sex or any age in order that they engage in prostitution, and whoever promotes the exit from the country of persons so that they may engage in prostitution abroad, will be punished with imprisonment from five to eight years and a fine of from 100,000-200,000 lempiras.”</p>

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<p>G. Nicaragua</p>	<p>Article 203 (Criminal Code), Trafficking in Persons (<i>Trata de personas</i>) – “One who recruits or enlists a person with their consent or through the use of threat, offers, misrepresentations or other similar manipulation so that they might engage in prostitution within or outside of the country, or introduces into the country persons to engage [in prostitution] commits the crime of trafficking in persons. This crime shall carry a penalty of four to ten years’ imprisonment. The maximum penalty shall be imposed where the perpetrator is married or in a stable de facto union with the victim, or where the victim is under fourteen years of age.”</p>
<p>H. Panama</p>	<p>Article 231 (Criminal Code) – “One who promotes or facilitates the entry or exit of a person from the country so that they might engage in prostitution shall be sanctioned with imprisonment for two to four years. The penalty shall increase to six years if any on the circumstances described in article 227 are present.”</p> <ul style="list-style-type: none"> ▪ The aggravated circumstances under article 227 include: if the victim is less than twelve years of age; if done for profit; if carried out by deceit, violence, abuse of authority or other means of intimidation and coercion; the perpetrator is a relative or guardian.
<p>II. Brazil</p>	
<p>A. Brazil</p>	<p>Draft Bill. Proposal to be presented for approval of the cities. Rio Grande do Sul, Porto Alegre, [s.d.]. Establishes penalty for establishments that shelter children and adolescents without their parents or legal guardians. Campanha Nacional pelo Fim da</p>

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	<p>Exploração, Violência e Turismo Sexual Contra Crianças e Adolescents. (National Campaign for the End of Sexual Exploitation, Violence and Tourism against Children and Adolescents).</p> <p>Decree n°. 1.212, of August 3rd, 1994. Promulgates the Convenção Interamericana sobre a Restituição Internacional de Menores (Inter-American Convention on the International Restitution of Minors), Montevideo, on July 15th, 1989. Diário Oficial¹, Brasília, August 4th, p.11665/11667.</p> <p>Decree n°. 2.429, of December 17th, 1997. Promulgates the Inter-American Convention on Conflict Laws Concerning the Adoption of Minors (Convenção Interamericana sobre Conflito de Leis em Matéria de Adoção de Menores), completed in La Paz, on May 24th, 1984. Brasília, [s.d.].</p> <p>Decree n°. 3.087, of June, 21st, 1999. Promulgates the Hague Convention on the Protection of Children and the Cooperation on International Adoption (Convenção Relativa à Proteção das Crianças e à Cooperação em Matéria de Adoção Internacional), completed in the Hague, on May 29th, 1993. Brasília, [s.d.].</p> <p>Decree n°. 3.174, of September 16th, 1999. Designates the central authorities responsible for the enforcement of the law imposed by the Convention on the Protection of Children and Cooperation on</p>
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¹ The newspaper published by the Brazilian government to inform the population about everything that happens in the Legislative and Executive branches.

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	<p>International Adoption (Convenção Relativa à Proteção das Crianças e à Cooperação em Matéria de Adoção Internacional), creates the National Program for International Adoption Cooperation and creates the Council of the Central Administrative Brazilian Authorities (Conselho das Autoridades Centrais Administrativas Brasileiras). Brasília, [s.d.].</p> <p>Decree n.º. 22/99. Substitutes the “Plano de Cooperação e Assistência Recíproca para a Segurança Regional” (Plan for Reciprocal Cooperation and Assistance), approved by Decision CMC N.º 5/99, in the "Plano de Segurança para a Tríplice Fronteira" (Plan for the Security of the Triple Border). Plano Geral de Cooperação e Coordenação Recíprocas para a Segurança Regional (General Plan for Reciprocal Cooperation and Coordination for Regional Security). Agreement n.º. 13/99 of the MERCOSUR Meeting of the Ministers of the Interior. Conselho do Mercado Comum (Common Market Council), Minas Gerais. [s.d.].</p> <p>Decree n.º. 23/99. Substitutes the “Plano de Cooperação e Assistência Recíproca para a Segurança Regional”, approved by the Decision CMC n.º. 6/98 and the “Plano de Segurança para a Tríplice Fronteira”. Plano Geral de Cooperação e Coordenação Recíproca para a Segurança Regional no MERCOSUR (General Plan for Reciprocal Cooperation and Coordination for the Regional Security in MERCOSUR), Republic of Bolivia and Republic of Chile. Appendix II of Agreement n.º. 14/99 signed</p>
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² The federal government body similar to the US House of Representatives.

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	<p>by the MERCOSUR Ministers of the Interior, Bolivia and Chile. Conselho do Mercado Comum (Common Market Council), Minas Gerais. [s.d.].</p> <p>Decree n°. 6/00. Complements the Plano Geral de Cooperação e Coordenação Recíproca para a Segurança Regional em matéria de Tráfico de Menores (General Plan for Reciprocal Cooperation and Coordination for Regional Security Regarding the Trafficking in Minors). Decision CMC n°. 22/99. O Conselho do Mercado Comum (Common Market Council), Minas Gerais. [s.d.].</p> <p>Decree n°. 7/00. It still has the design, incorporation and implementation of new operational actions, like the ones related to the trafficking in minors. Plano Geral de Cooperação e Coordenação Recíproca para a Segurança Regional (General Plan for Reciprocal Cooperation and Coordination for Regional Security), by Decision CMC n°. 23/99. Conselho do Mercado Comum (Common Market Council), Minas Gerais. [s.d.].</p> <p>Decree n°. 14/00. Decision CMC n°. 18/99 The basis for the implementation of the Regime de Trânsito Vicinal Fronteiriço (border area highway traffic regime) was established. Conselho do Mercado Comum (Common Market Council), Minas Gerais. [s.d.].</p> <p>Decree n°. 15/00. Decision CMC n°. 19/99 The basis for the implementation of the Regime de Trânsito Vicinal Fronteiriço (border area highway traffic regime) was</p>
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	<p>established. Conselho do Mercado Comum (Common Market Council), Minas Gerais. [s.d.].</p> <p>LEGISLATIVE Decree nº. 1, 1999. Approves the text of the Convenção Relativa à Proteção das Crianças e à Cooperação em Matéria de Adoção Internacional (Convention on the Protection of Children and Cooperation Regarding International Adoption), completed in the Hague, on May 29th, 1993. National Congress, Brasília, [s.d.].</p> <p>LEGISLATIVE Decree nº. 178, 1999. Approves the texts of the Convenção 182 (Convention 182) and the Recomendação 190 da Organização Internacional do Trabalho sobre a Proibição das Piores Formas de Trabalho Infantil (Recommendation on the Prohibition of the Worst Forms of Child Labor – ILO) and Ação Imediata para sua Eliminação (Immediate Action for its Elimination). Diário Oficial, Brasília, December 15th, 1999, Year CXXXVII nº. 239-E.</p> <p>LEGISLATIVE Decree nº. 179, 1999. Approves the texts of Convenção 138 (Convention 138) and the Recomendação 146 da Organização Internacional do Trabalho (OIT) sobre Idade Mínima de Admissão ao Emprego (Recommendation 146 of the ILO on the Minimum Age for Admission to Jobs), adopted in June 1973, in Geneva. Diário Oficial, Brasília, December 15th, 1999, Year CXXXVII nº. 239-E.</p> <p>ECA – Estatuto da Criança e do Adolescente (Statute on Children and</p>
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	<p>Adolescents). Marco Legal da Violência Sexual contra Crianças e Adolescentes: A Constituição Federal, o Código Penal e o Estatuto da Criança e do Adolescente (Legal Landmark on Sexual Violence against Children and Adolescents: the Federal Constitution, the Penal Code and the Statute on Children and Adolescents). [s.d.].</p> <p>Draft Law n°. 4.104-A, 1993. Provides new text to the sole paragraph of article 213 of the Penal Code, specifically when it refers to punishment. Senate, Brasília, August 26th, 1993.</p> <p>Draft Law n°. 1.069, 1995. Cancels articles 217 and 218 of Decree n°. 2.848, of December 7th, 1940 – Penal Code. Câmara dos Deputados² Brasília, October 10th, 1995.</p> <p>Draft Law n°. 1.070, 1995. Deals with crimes related to the distribution of pornographic material through computers. Câmara dos Deputados, Brasília, 1999.</p> <p>Draft Law n°. 1.195, 1995. Provides new text to articles 218, 219 and 229 of Decree n°. 2.848, December 7th, 1940 – Brazilian Penal Code. Câmara dos Deputados, Brasília, 1995.</p> <p>Draft Law n°. 1.674-B, 1996. Changes the items of Decree n°. 2.848, December 7th, 1940 (Penal Code). Câmara dos Deputados, Brasília, [s.d.].</p> <p>Draft Law n°. 1.807, 1996. Deals with crimes against habits, changing articles 225, 227, 228, 229, 230, 231 and 232 of Decree</p>
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	<p>nº. 2.848, of December 7th, 1940 – Brazilian Penal Code. Câmara dos Deputados, Brasília, April 23, 1996.</p> <p>Draft Law nº. 1.954, 1996. Deals with the sexual exploitation of children and adolescents, adding paragraphs to the articles 228 and 229 of Decree nº. 2.848, of December 7th, 1940 – Penal Code. Câmara dos Deputados, Brasília, May 22nd, 1996.</p> <p>Draft Law nº. 2.129, 1996. Changes the Law nº. 8.069, of July 13th, 1990, that “provides for the Statute on Children and Adolescents, and other provisions”. Câmara dos Deputados, Brasília, [s.d.].</p> <p>Draft Law nº. 2.773, 1997. Changes the text of article 231 of Decree nº. 2.848, December 7th, 1940 – Penal Code. Câmara dos Deputados, Brasília, February 20th, 1997.</p> <p>Draft Law nº. 3.189-A, 1997. Changes the text of article 224 of Decree nº. 2.848, of December 7th, 1940 (Penal Code); having the approval of the Comissão de Constituição e Justiça e de Redação (an official commission in the legislative chamber) as being constitutional, legal, technical and, for the subject, being approved, with amendment. Câmara dos Deputados, Brasília, June 2nd, 1997.</p> <p>Draft Law nº. 3.268, 1997. Limits the distribution of pornography through electronic mail and Internet. Câmara dos Deputados, Brasília, [s.d.].</p> <p>Draft Law nº. 3.498, 1997. Forbids the use of the Internet for distributing pornographic</p>
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	<p>material. Câmara dos Deputados, Brasília, 1997.</p> <p>Draft Law n°. 4.412, 1998. Adds some articles to Law n°. 8.069, of July 13th, 1990, (Statute on Children and Adolescents), to deal with crimes of sexual abuse. Câmara dos Deputados, Brasília, April 16th. 1998.</p> <p>Draft Law n°. 60, 1999. Deals with the assistance to victims of sexual violence. Câmara dos Deputados, Brasília, February 23rd, 1999.</p> <p>Draft Law n°. 96, de 1999. Deals with the publication which specifies in the newspapers with national circulation. Câmara dos Deputados, Brasília, February 24th, 1999.</p> <p>Draft Law n°. 101, 1999. Deals with the sexual exploitation of children and adolescents, adding paragraphs to articles 228 and 229 of Decree n°. 2.848, of December 7th, 1940 – Penal Code. Câmara dos Deputados, Brasília, February 25th, 1999.</p> <p>Draft Law n°. 134, 1999. Deals with the obligation of motels and similar places to require the filling out of a control form before providing lodging, in order to stop the entry of adolescents (under 18 years old). Câmara dos Deputados, Brasília, March 2nd, 1999.</p> <p>Draft Law n°. 235, 1999. Changes Law n°. 8.069, July 13th, 1990, which “provides for the Statute on Children and Adolescents and other provisions”, establishing penalties for</p>
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	<p>the distribution of child pornography and for information distribution networks, especially the Internet. Câmara dos Deputados, Brasília, [s.d.].</p> <p>Draft Law n°. 243, 1999. Adds an item to article 1, of Law n°. 8.072, July, 25th, 1990, changed by Law n° 8.930, of September 6th, 1994, which deals with hideous crimes, according to article 5, item XLIII, of the Federal Constitution. Senate, Brasília, April 1999.</p> <p>Draft Law n°. 267-A, 1999. Talks about the institution of May 18th as the National Day to Combat Sexual Abuse against Children and Adolescents; having the approval of the Comissão de Seguridade Social e Família (an official commission in the legislative chamber) with amendments (author: Dep. José Linhares). It is still waiting for the approval of other two official commissions: Comissões de Finanças e Tributação and of Constituição e Justiça e de Redação. Câmara dos Deputados, Brasília, [s.d.]</p> <p>Draft Law n°. 436, 1999. Changes article 241 of Law n°. 8.069, of July 13th, 1990. Câmara dos Deputados, Brasília, March 25th, 1999.</p> <p>Draft Law in°. 438, 1999. Changes the items of Decree n°. 2.848, of December 7th, 1940 – Penal Code and Law n°. 8.072, of July 25th, 1990, which deals with heinous crimes. Câmara dos Deputados, Brasília, March, 25th, 1999.</p> <p>Draft Law n°. 546, 1999. Adds a sole paragraph to article 241 of Law n°. 8.069, of</p>
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	<p>July 13th, 1990, Statute on Children and Adolescents. Câmara dos Deputados, Brasília, [s.d.].</p> <p>Draft Law n°. 590, 1999. Adds an article to Law n°. 8.069, of July 13th, 1990, which deals with the Statute on Children and Adolescents. Câmara dos Deputados, Brasília, April 8th, 1999.</p> <p>Draft Law n°. 631, of 1999. Changes article 241 of Law n°. 8.069, of July 13th, 1990, criminally characterizing child pornography in data communication networks, including the Internet. Câmara dos Deputados, Brasília, April 4th, 1999.</p> <p>Draft Law n°. 644, 1999. Changes the items of Law n°. 8.069, of July 13th, 1990, which “provides for the Statute on Children and Adolescents and other provisions”, forbidding the public display of erotic images on magazine covers and video cassette tapes. Câmara dos Deputados, Brasília, April 15th, 1999.</p> <p>Draft Law n°. 00905, 1999. Provides for the crimes of family violence and other provisions. It defines violence within the family, psychological violence, bodily harm or psychological harm; classifying bad treatment, rape committed against a spouse or partner, incest rape and incest sexual abuse. Câmara dos Deputados, Brasília, [s.d.].</p> <p>Draft Law n°. 1.278, 1999. Deals with the assistance to victims of sexual violence. Assistance shall be immediate and multidisciplinary to control the treatment</p>
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	<p>from the physical and emotional points of view of the victim. Câmara dos Deputados, Brasília, [s.d.].</p> <p>Draft Law n°. 3.413, of April 14th, 2000. Promulgates the Convenção sobre os Aspectos Cíveis do Sequestro Internacional de Crianças (Convention on the Civil Aspects of International Child Kidnapping), completed in the Hague, on October 25th, 1980. Diário Oficial, Brasília, April 17th, 2000, 179th year of Independence and 112th of the Republic.</p> <p>Draft Law of Senate n°. 135, 1999. Changes articles 240 and 241 of Law 8.069, of July 13th, 1990 – Statute on Children and Adolescents. Senate, March 16th, 1999.</p> <p>Draft Law of Senate n°. 342, 1999. Changes articles 215, 216 and 231 of Decree n°. 2.848, of December 7th, 1940 – Penal Code, suppressing and replacing terms whose restriction and vague sense makes the interpretation of items difficult. Senate, Brasília, [s.d.]. Available at: www.senado.gov.br/web/senador/lucalc/1999/projetos/termvago.htm [visited on: 09/04/00].</p> <p>PENAL Code. Title VI: Crimes against habits. [s.d.].</p>
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PROCURING/PANDERING	
A. Belize	<p>Section 49 (Criminal Code, Ch. 101), Procuration – “Every person who procures or attempts to procure</p> <ul style="list-style-type: none"> (a) any female under eighteen years of age, not being a common prostitute or of known immoral character, to have unlawful carnal knowledge either within or without Belize with any other person or persons; or (b) any female to become, either within or without Belize, a common prostitute; or (c) any female to leave Belize, with intent that she may become an inmate of or frequent a brothel; or (d) either within or without Belize, any female to leave her usual place of abode in Belize (such place not being a brothel), with intent that she may, for the purposes of prostitution, become an inmate of or frequent a brothel either within or without Belize <p>shall be liable to imprisonment for five years.” <i>(Emphasis added.)</i></p> <p>Section 18(1), Trading on Prostitution – “A person who</p> <ul style="list-style-type: none"> (a) being a male person, knowingly lives wholly or in part on the earnings or prostitution; or (b) being a male person, in any public place persistently solicits or importunes for immoral purposes; or (c) loiters about or importunes any person in any street or other place for the purpose of prostitution <p>is guilty of an offence and is on summary conviction liable</p> <ul style="list-style-type: none"> (i) in the case of a first conviction, to a fine not

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	<p>exceeding one hundred dollars [US\$50] or to imprisonment for a term not exceeding six months; and</p> <p>(ii) in the case of a second or subsequent conviction, to imprisonment for a term not exceeding twelve months.”</p> <p>Section 50, Procuring defilement of female by threats or fraud or administration of drugs – “Every person who</p> <p>(a) by threats or intimidation or any other method of compulsion, procures or attempts to procure any female to have unlawful carnal knowledge, either within or without Belize; or</p> <p>(b) by false pretense or false representation, procures any female, not being a common prostitute or of known immoral character, to have any unlawful carnal knowledge, either within or without Belize; or</p> <p>(c) applies, administers to, or causes to be taken by, any female any drug, matter or thing, with intent to stupefy or overpower her so as thereby to enable any person to have unlawful carnal knowledge with such female,</p> <p>shall be liable to imprisonment for three years.”</p>
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<p>B. Costa Rica</p>	<p>Article 169 (Criminal Code), Procuring (<i>Proxenetismo</i>)⁴ – “Whoever promotes the prostitution of persons of either sex or induces the exercise of prostitution or maintains a person in prostitution or recruits for the purpose of prostitution shall be sanctioned by a penalty of prison of two to five years. The same penalty shall be imposed on whoever maintains another person in sexual servitude.”</p> <p>Article 170, Aggravated Procuring (<i>Proxenetismo agravado</i>)⁵ – “The penalty shall be four to ten years in prison when, in addition to the occurrence of one of the acts outlined in the previous article [procuring], one of the following circumstances exists:</p> <ul style="list-style-type: none">(1) If the victim is under eighteen years old;(2) When there is deceit, violence, abuse of authority, or any other means of intimidation or coercion;(3) If the perpetrator is an ancestor, husband, sibling, legal guardian, or in charge of the education, care or custody of the victim;(4) If the accused abused a relationship of trust with the victim or family, regardless of blood relation.” <p>Article 171, Pimping (<i>Rufianería</i>)⁶ – “Whoever maintains oneself, even partially, by a person who exercises prostitution, exploiting the profits provided by such activity, shall be sanctioned by a penalty of prison of two to eight years. The penalty</p>
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⁴ As reformed by Law No. 7899 on Sexual Exploitation of Minors (1999).

⁵ As reformed by Law No. 7899 on Sexual Exploitation of Minors (1999).

⁶ As reformed by Law No. 7899 on Sexual Exploitation of Minors (1999).

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	shall be: (1) Four to ten years if the victim is under twelve years old. (2) Three to nine years if the victim is between twelve and eighteen.”
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<p>C. Dominican Republic</p>	<p>Article 334 (Law No. 24-9, Law Against Domestic Violence⁷), Procuring (<i>Proxenetismo</i>): “The following persons will be considered a procurer:</p> <ol style="list-style-type: none">1. One who in any manner helps, assists, or harbors persons [men or women] with a view to prostitution or to the recruitment of people with a view towards sexual exploitation;2. One who from the exercise of that practice, receives benefits from prostitution;3. One who, related to prostitution, cannot justify/explain the means corresponding to his/her way of life;4. One who consents to the prostitution of his/her partner and obtains benefits from such;5. One who hires, trains, or supports a person [male or female, minor or adult] with a view to prostitution, even with their consent; submits them to prostitution or to the licentiousness and moral laxity of such customs;6. One who serves as an intermediary, by any title, between persons [male or female] who dedicate themselves to prostitution or to the relaxation of customs or the individuals who exploit or remunerate prostitution and the relaxation of the customs of another;7. One who by threats, pressure, or maneuvers, or by any other means, disturb the actions of prevention, assistance, or habilitation carried out by qualified organizations to help persons
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⁷ Amending the Code of Criminal Procedure of the Dominican Republic. These articles have the same content and numbers as the corresponding articles in the Criminal Code of the Dominican Republic.

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	<p>(men or women) who are engaging in prostitution or who are at risk of becoming prostitutes.</p> <p>Procuring is punishable by six months to three years in prison and a fine of 50,000-500,000 pesos.</p> <p>The attempt to carry out the infractions discussed in the present article will be punished with the same penalty as the completed act.”</p> <p>Article 334-1 : “The penalty will be two to ten years in jail and a fine of 100,000-1,000,000 pesos in the following cases:</p> <ol style="list-style-type: none">1. When the infraction has been committed upon a child or adolescent of either sex, without prejudice to that set forth in Articles 126-129 and 187-191 of the Code for the Protection of Children and Adolescents;2. When the infraction has been accompanied by threats, violence, by de facto, abuse of authority, or fraud;3. When the perpetrator of the infraction was carrying arms (open or hidden);4. When the perpetrator of the infraction was the spouse, cohabitor, or parent of the victim or belongs to one of the categories established in Article 303-4;5. When the perpetrator is vested with public authority, or when, because of such vesting, he/she is called to participate, due to the nature of his/her functions, in the fight against prostitution, protection of health, or the maintenance of public order;6. When the infraction has been committed upon multiple persons;
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	<p>7. <i>When victims of the infraction have been delivered or incited to dedicate themselves to prostitution outside of national territory;</i></p> <p>8. <i>When victims of the infraction have been delivered or incited to dedicate themselves to prostitution on their arrival abroad or on their stop over point;</i></p> <p>9. When the infraction has been committed by various perpetrators, co-perpetrators, or accomplices.</p> <p>The penalties set forth in Article 334 and in the present Article will be passed even when the many acts which comprise the elements constituting the crime have been committed/carried out in different countries.</p> <p>The attempt to commit these acts will be punished with the same penalties as the completed act.</p> <p>In none of the cases set forth in the first paragraph of the Sexual Aggressions [including 334 and 334-1] can the aggressor benefit by taking refuge in attenuating circumstances.” <i>(Emphasis added.)</i></p>
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<p>D. El Salvador</p>	<p>Article 169 (Criminal Code), Inducement, Promotion, and Facilitation of Prostitution (<i>Induccion, promocion y favorecimiento de la prostitucion</i>) - “One who induces, facilitates, promotes, or fosters the prostitution of persons under eighteen years of age shall be punished by imprisonment of two to four years. When any of these modalities is carried out taking advantage of the superiority stemming from any relationship, a fine of 50-100 days shall also be imposed.”</p> <p>Article 170 (Criminal Code), Determination of Prostitution (<i>Determinacion a la prostitucion</i>) - “One who imposes the practice of prostitution on a person coercively, or abusing of a situation of need, or keeps her in it, shall be punished by imprisonment of one to three years. When any of these modalities is carried out taking advantage of the superiority stemming from any relationship, a fine of 50-100 days shall be imposed along with the criminal punishment. The prison term shall be two to four years when the victim is less than eighteen years of age.”</p>
<p>E. Guatemala</p>	<p>Article 191 (Criminal Code), Procuring (<i>Proxenetismo</i>) - “Whoever, with aim to profit or to satisfy another’s desires, promotes, facilitates, or supports prostitution, without distinction as to sex, will be penalized by a fine of 2,500-10,000 Quetzals. Whoever, for their own benefit, engages in the activities referred to in the preceding paragraph, will be sanctioned with a fine of 1,500-5,000 Quetzals.”</p> <p>Article 192 (Criminal Code), Aggravated Procuring (<i>Proxenetismo agravado</i>) - “The</p>

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	<p>punishment set forth in the above Article will be increased by one third in the following cases:</p> <ol style="list-style-type: none"> 1) if the victim is a minor; 2) if the perpetrator is a legal relative, a relative within the degree established by law, guardian, or in charge of the education, custody, or care of the victim; 3) If violence, deceit, or abuse of authority is involved.” <p>Article 193 (Criminal Code), Pandering (<i>Rufianería</i>) - “Whoever, without being covered in the prior articles of the present chapter, lives, in full or in part, off the expenses of a person or persons who engage in prostitution or off the profits that come from such activities, will be sanctioned with a fine of 2,500-15,000 Quetzals.”</p>
<p>F. Honduras</p>	<p>Article 148 (Criminal Code) – “Whoever habitually or in abuse of their authority or confidence or with the goal of profit promotes or facilitates the prostitution or corruption of persons of either sex in order to satisfy the sexual desires of another, will be punished with prison from five to eight years plus a fine of 50,000-100,000 lempiras.</p> <p>This penalty will be increased by half if the victim is less than eighteen years of age.</p> <p>Whoever prevents another person from abandoning prostitution will be punished in the same manner.”</p>

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<p>G. Nicaragua</p>	<p>Article 202 (Criminal Code), Procuring / Pandering (<i>Proxenetismo / Rufianería</i>) – “The following persons commit the crime of procuring or pandering:</p> <ol style="list-style-type: none"> 1. whoever creates or exploits places of prostitution or, with intent to profit, through physical or moral violence, abuse of authority or position, by deceitful strategies or by making use of any other similar scheme, causes a person to enter such places or obligates him or her to remain there or to dedicate him or herself to any other form of sexual commerce. This person will be sanctioned with three to six years’ imprisonment. 2. whoever, with intent to profit or to satisfy the desires of others, promotes, facilitates, or supports prostitution. This person will be sanctioned with three to six years’ imprisonment. The maximum penalty will be increased to ten years if the perpetrator is united in marriage or a stable de facto union with the victim. 3. whoever, without right to claim support from a person, shares in his or her earnings from the practice of prostitution and whoever, having this right, obligates that person by force to surrender all or part of these earnings. The penalty for this crime will be two to four years’ imprisonment. <p>Prostitution means the exercise of sexual commerce for money between persons of the same or different sexes.”</p>
<p>H. Panama</p>	<p>Article 228 (Criminal Code) – “One who, for profit or to satisfy the desires of others, promotes or facilitates the prostitution of persons of either sex shall be punished by two to four years imprisonment.”</p>

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	<p>Article 229 (Criminal Code) – “The punishment for committing the foregoing deed shall be imprisonment for three to five years in the following cases:</p> <ol style="list-style-type: none">1. If the victim is a female less than twelve years old or a male who is less than fourteen;2. When there is deceit, violence, abuse of authority or any means of intimidation;3. When it is committed by close relatives of the victim or the guardian, or any or any other person to whom the care or custody has been entrusted for family reasons, for oversight, upbringing, or education; and,4. When the perpetrator is a repeat offender or professional criminal in these matters.” <p>Article 230 (Criminal Code) – “One who is supported, at least in part, by a person who exercises prostitution, shall be punished by imprisonment for two to four years.”</p>
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MIGRANT SMUGGLING	
A. Belize	<p>Section 32 (Immigration Act, Ch. 156) - “(1) Any master of a vessel who knowingly suffers any prohibited immigrant who arrives in such vessel to land therefrom contrary to the provisions of this Act commits an offence. (2) Any person who knowingly lands or procures to be landed or who aids or assists in landing any prohibited immigrant contrary to the provisions of this Act commits an offence. (3) Any prohibited immigrant who knowingly and willfully lands or suffers himself to be landed contrary to the provisions of this Act commits an offence.”</p> <p>Section 34 (Immigration Act, Ch. 156) – “(1) Any person who, for the purpose of entering Belize or of remaining therein, or of assisting any other person to enter Belize or to remain therein, in contravention of this Act- (a) fabricates or falsifies any passport, permit, certificate or other document; or (b) uses, utters or attempts to use or utter- (i) any passport, permit, certificate or other document which has not been issued by lawful authority or which he is not entitled to use or utter; or (ii) any fabricated or falsified passport, permit, certificate or other document, knowing it to have been fabricated or falsified, commits an offence. (2) Any person who- (a) makes a statement which to his knowledge is untrue in a declaration required to be made by an applicant for the issue of a temporary permit to facilitate him to travel to the Mexican and Guatemalan towns and villages as agreed between the Government of Belize and</p>

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	<p>the Governments of Mexico and Guatemala; or</p> <p><i>(b)</i> obstructs, hinders or opposes an immigration officer or police officer in the execution of his duty under this Act; or</p> <p><i>(c)</i> without lawful excuse knowingly harbours or conceals-</p> <p style="padding-left: 40px;"><i>(i)</i> any other person who is within Belize in contravention of this Act; or</p> <p style="padding-left: 80px;"><i>(ii)</i> any other person who, having entered Belize under the authority of a permit issued under this Act, has contravened or failed to comply with any condition subject to which the permit is granted; or</p> <p><i>(d)</i> fails to comply with or contravenes the conditions under which any permit, certificate or other document has been issued to him under this Act; or</p> <p><i>(e)</i> being a prohibited immigrant, disembarks in Belize without previously obtaining a permit issued under this Act; or</p> <p><i>(f)</i> contravenes or fails to comply with any of the conditions subject to which any permit has been granted under this Act; or</p> <p><i>(g)</i> directly or indirectly, instigates, commands, counsels, procures, solicits or in any manner purposely aids, facilitates, encourages or promotes the commission of any offence under this Act, whether by his act, presence or otherwise; or</p> <p><i>(h)</i> employs any person who is not in possession of an employment permit, commits an offence.</p> <p>(3) Any person who commits an offence against any of the provisions of this Act for which no penalty is prescribed shall be liable</p>
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	<p>on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and term of imprisonment:</p> <p>Provided that the punishment for the first offence under this Act shall not be less than a fine of one thousand dollars, and the punishment for a second or subsequent offence under this Act shall not be less than a fine of three thousand dollars or imprisonment for one year.</p> <p>Provided further that where a person is found guilty of the offence of employing a person who is not in possession of an employment permit, contrary to subsection (2) (h) of this section, the Court shall, in addition to the penalties prescribed above, order that the employer shall pay the expenses of removing such immigrant from Belize.”</p> <p>Section 35 (Immigration Act, Ch. 156) – “Every airline, or the master of a vessel, or the driver of a vehicle, who brings an immigrant into Belize contrary to the entry requirements and other provisions of this Act or the regulations made thereunder, commits an offence and the court shall, in addition to any other punishment specified by law, upon conviction order the convicted person to pay the expenses of removing such immigrant from Belize.”</p>
B. Costa Rica	None.

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<p>C. Dominican Republic</p>	<p>Article 1 (Law 344-98) - “Any person who, from national territory or abroad, dedicates him/herself to the planning, sponsoring, financing, facilitation, or organization, in any form or manner, of the act of transferring/transporting people for illegal entrance to or exit from the national territory, be these people nationals or foreigners, will be penalized with three to ten years in jail and fines of 10,000-50,000 pesos.</p> <p>The attempt to carry out the above will be punished in conformance with the Dominican Penal Code....”</p> <p>Article 2- “If as a result or on the occasion of such illegal travels, the death of one or more persons results, those responsible for any of the actions punishable in this article will be penalized with a prison term of no less than twenty years and no more than thirty years, and a fine of 25,000-100,000 pesos, as well as the obligation to indemnify the families of the victim for harm and damages.”</p>
<p>D. El Salvador</p>	<p>Article 367-A (Criminal Code) Illegal Trafficking in People (<i>Trafico ilegal de personas</i>) - “The person who on his own or via other person[s], in contravention of the law, intends to introduce or actually introduces foreigners into the national territory, or harbors, transports, or guides them, with the purpose of evading migratory controls of this and other countries, will be punished with prison for four to eight years.</p> <p>The person who harbors, transports, or guides nationals with the purpose of evading migratory controls of this or other countries will be punished with the same penalty.</p> <p>People who with false or fraudulent documentation try to or do effectuate the exit of Salvadorans or citizens of any other</p>

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	<p>nationality, or those who use authentic documentation whose bearer is another person, will incur the same punishment.</p> <p>If as a consequence of the commission of this crime, the victims suffer deprivation of liberty abroad, are victims of crimes of any sort, or die due to violent causes or criminal nature, the penalty will be increased by two-thirds.”</p>
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<p>E. Guatemala</p>	<p>Article 103 (Law of Migration, Decree No. 95-98), Illegal Entry of Persons (<i>Ingreso ilegal de personas</i>) - “Whoever promotes or facilitates the entry into the country of one or more aliens without complying with the legal requirements of entry and staying in the country commits the crime of the illegal entry of persons. The person responsible for this crime will be sanctioned with five to eight years in prison, noncommutable.”</p> <p>Article 104 (Law of Migration, Decree No. 95-98), Illegal Transit of Persons (<i>Transito ilegal de personas</i>) - “Whoever promotes or facilitates the entry and transit of one or more persons without complying with the legal requirements of entry and permanence in the country in order to transport them to another country commits the crime of illegal transit of persons. The person responsible shall be sanctioned with five to eight years’ imprisonment, noncommutable.”</p> <p>Article 105 (Law of Migration, Decree No. 95-98), Transport of Illegal Aliens (<i>Transporte de ilegales</i>) - “Whoever conducts or makes available whatever means of transportation for the purpose of transporting foreign persons who have entered or remain in Guatemalan territory in an illegal manner commits the crime of transporting illegal alien. The person responsible for this crime will be sanctioned with three to six years’ imprisonment.”</p> <p>Article 106 (Law of Migration, Decree No. 95-98), Harboring of Illegal Aliens (<i>Ocultacion de ilegales</i>) - “Whoever permits the concealment of foreigners who have entered or remain in Guatemalan territory,</p>
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	<p>without complying with legal requirements, in any movable or immovable property, for the purpose of concealing them in their transit to another country or to facilitate their stay in Guatemala commits the crime of harboring illegal aliens. The person responsible for this crime will be sanctioned with three to six years in prison.”</p> <p>Article 108 (Law of Migration, Decree No. 95-98) - “When the conduct described in the previous articles covered by this Title occur with respect to minors, under conditions or by means which endanger their health, integrity, or life, or when it is committed by a civil servant or a public employee, the penalty will be increased by one-third.”</p>
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F. Honduras	Article 195 (Criminal Code): “Whoever traffics Hondurans or people of any nationality or origin, transporting them or having them transported within national territory, in order to introduce them illegally into another state for any purpose, shall be punished with six to nine years imprisonment. The sanction shall be increased by a third when the perpetrators are public employees or civil servants. If as a consequence of the commission of this crime the subjects of the trafficking suffer deprivation of liberty while abroad, are victims of any sort of crime, or die by violent causes, whether or not accidental in nature, the penalty referred to above will be increased by two-thirds.”
G. Nicaragua	None.
H. Panama	<p>Article 310 (Criminal Code) – “One who directs or forms part of an organization of international character dedicated to human or drug smuggling shall be sanctioned by imprisonment of ten to fifteen years.”</p> <p>Article 310A (Criminal Code) – “One who intervenes in any form of trafficking in persons with the consent of the subjects, fraudulently avoiding or evading, by whatever means, the migratory controls established in the continental territory of the republic shall be sanctioned by penalty of five to ten years’ imprisonment.”</p>

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<u>S/2000/788, A/55/282</u>	Situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia - Report of the Special Rapporteur
<u>A/RES/55/67</u>	Traffic in women and girls
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<u>E/CN.4/RES/1999/40</u>	Traffic in Women and Girls
<u>E/CN.4/Sub.2/1999/16</u>	Note by the Secretariat on systematic rape, sexual slavery and slavery-like practices during armed conflict, including internal armed conflict
<u>A/AC.254/16</u>	Informal note by the UN High Commissioner for Human Rights Ad Hoc Committee on the Elaboration of a Convention Against Transnational Organized Crime
<u>E/CN.4/1999/66</u>	Note by the Secretary-General on the report on trafficking in women and girls
<u>E/CN.4/1999/75</u>	Note by the Secretariat on vulnerable groups and individuals
<u>E/CN.4/RES/1999/40</u>	Traffic in Women and Girls

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<u>E/CN.4/Sub.2/1999/17</u>	Report on the Working Group on Contemporary Forms of Slavery on its 24th session
<u>A/AC.254/16</u>	Informal note by the United Nations High Commissioner for Human Rights Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime
1998	
<u>E/CN.4/Sub.2/1998/13</u>	Report of the Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflict
<u>E/RES/1998/12</u>	Conclusions of the Commission on the status of Women on critical areas of concern identified in the Beijing Platform for Action
<u>E/RES/1998/20</u>	Action to combat international trafficking in women and children
<u>A/53/36</u>	Report of the UN High Commissioner for Human Rights
<u>E/CN.4/1998/66</u>	Report of the Special Rapporteur on the Situation of human rights in the Sudan
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1997	
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<u>E/CN.4/RES/1997/20</u>	Contemporary Forms of Slavery
1996	
<u>E/CN.4/1996/100</u>	Report of the Special Rapporteur on the sale of children, child prostitution and child pornography
<u>E/CN.4/1996/101</u>	Report of the working group on its second session on the question of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as basic measures needed for their eradication
<u>E/CN.4/1996/53</u>	Report of the Special Rapporteur on violence against women, its causes and consequences
<u>E/CN.4/1996/53/Add.1</u>	Report of the Special Rapporteur on violence against women, its causes and consequences: mission to the Democratic People's Republic of Korea, the Republic of Korea and Japan in the issue of military sexual slavery in wartime

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<u>E/CN.4/1996/98</u>	Note by the Secretary-General on Programme of action for the prevention of the sale of children, child prostitution and child pornography
<u>E/CN.4/DEC./1996/107</u>	Systematic rape and sexual slavery during periods of armed conflict
<u>E/CN.4/Sub.2/1996</u>	Report of the Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict
<u>E/CN.4/SUB.2/RES/1996/12</u>	Report of the Working Group on Contemporary Forms of Slavery
<u>E/CN.4/1996/79</u>	Note by the Secretary-General on the traffic in women and girls
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<u>E/CN.4/SUB.2/DEC/1995/109</u>	Draft program of action on the traffic in persons and the exploitation of the prostitution of others
<u>E/CN.4/SUB.2/RES/1995/14</u>	Systematic rape and sexual slavery during periods of armed conflict
<u>E/CN.4/SUB/RES/1995/16</u>	Report of the Working Group on Contemporary forms of Slavery
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I. <u>A/RES/49/166</u>	Traffic in women and children
J. <u>E/1994/76</u>	Report on the suppression of the traffic in persons and the exploitation of the prostitution of others
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K. <u>E/CN.4/1994/71/Add.1</u>	Draft programme of action for the prevention of traffic in persons and the exploitation of the prostitution of others

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<u>E/CN.4/Sub.2/AC.2/1993/7</u>	Development of National and International Measures and Strategies to Prevent and Eliminate Contemporary Forms of Slavery; Encouragement of the Creation of National Institutions for the Prevention of Prostitution and the Economic and Social Integration of Prostitutes

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2000	
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