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# Combating Transnational Human Trafficking of Migrants in the United States

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## Executive Summary

Human trafficking—the exploitation of people for labor or commercial sex acts through the use of force, fraud, or coercion—affects millions of people worldwide ([ILO 2017, 28](#)) and provides billions of dollars to criminal organizations ([ILO 2014, 13-15](#)). The United States is not immune to this barbaric practice. Even though migrants do not make up the majority of victims in the United States, they are especially vulnerable to falling into the hands of traffickers during smuggling or once they are on American soil.

As Mexico and the Northern Triangle countries of Guatemala, Honduras, and El Salvador are unable to properly address violence, corruption, food shortages, or border security in their countries, their citizens seek to leave and use smugglers in the region to head to the United States. Migrants from around the world also use the smuggling networks available in Central America and Mexico to facilitate their journey to the American border. In both cases, these migrants are vulnerable to human traffickers who operate with impunity in the region or who profit from the practice in the United States.

Mexico and the Northern Triangle countries are not the only ones to blame, however. The outdated asylum system in the United States encourages these migrants to make the journey to the American border; ineffective border security allows many of them—including human traffickers and their victims—to successfully enter the country; and sanctuary policies prevent effective law enforcement response to cases of human trafficking. The United States should not outsource its humanitarian and immigration responsibilities but should muster the political will to address its own policy failures.

While many of the necessary measures to combat transnational human trafficking require collaboration with international partners that are unable or unwilling to properly address this issue, there are three fundamental steps that the United States can take unilaterally to help mitigate the problem:

- **Secure areas between ports of entry and extend checks at ports of entry.** This would diminish traffickers' ability to bring victims into the United States undetected.
- **Harden the American asylum system against abuse.** This would prevent traffickers from using the American asylum system to take advantage of victims—especially children.
- **Ban sanctuary policies.** This would increase cooperation between local law enforcement and federal agencies during investigation and prosecution of criminal aliens—including human traffickers—and prevent them from returning to the streets.

## Key Points

- While human smuggling and human trafficking are two distinct criminal activities, migrants are especially susceptible to becoming trafficking victims en route or once in the United States.
- Conditions in Mexico and the Northern Triangle motivate their citizens to flee the region (making them vulnerable to traffickers) and allow trafficking networks and transnational criminal organizations to operate.
- The United States should address structural weaknesses in its asylum system and secure the southern border.

## Introduction

Under U.S. law, human trafficking—also known as trafficking in persons or modern-day slavery ([State Department 2019a, 3](#))—is the exploitation of an individual for the purpose of compelled labor or commercial sex act through the use of force, fraud, or coercion ([State Department 2019b](#)).<sup>1</sup> The United Nation’s Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (most commonly referred to as the Palermo Protocol) defines human trafficking as “the recruitment, transportation, transfer, harbouring 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” ([U.N. Office of the High Commissioner for Human Rights](#)). The United States, along with 174 countries, is a party to the protocol ([U.N. Treaty Collection 2000a](#)). While the Palermo Protocol provides a more detailed definition than U.S. law, both definitions indicate that human trafficking is using diverse methods to exploit victims.

It is difficult to gauge the true extent of human trafficking because it is hard to collect data on illicit activities. Gathering reliable data has become even more difficult with the widespread use of the internet since it has made it easier for traffickers to identify, contact, and entrap people from a larger pool of potential victims while better hiding their identity ([U.N. Office on Drugs and Crime 2018a, 38-39](#)). Nonetheless, it is possible to use estimates or reported cases to have a deeper understanding of the magnitude of the problem. According to the latest figures by the International Labor Office (ILO), there are an estimated 25 million victims of human trafficking globally—of which 15 million are female, and over four million are children. Almost five million, or 20 percent, are trafficked for sexual exploitation. They are almost exclusively female, and 1 in 4 are children. Sixteen million, or 65 percent, are victims of forced labor—with over half of them being female and almost a fifth being children. The rest were trafficked for state-imposed labor ([ILO 2017, 28](#)). It is important to keep in mind, however, that in many cases, victims are subject to both sexual and labor exploitation, not just one or the other.

The most common recorded means of coercion globally, according to the ILO, are withholding wages, threats of violence, physical violence, and repaying debts. Over half of the men and women in forced labor were held in debt

bondage, in which personal debt (such as smuggling fees) is used to coerce exploitation. Women are especially susceptible to coercion by sexual violence and withholding official documents ([ILO 2017, 35-36](#)).

A 2014 ILO report also indicates that sex and labor trafficking is estimated to be a \$150 billion per year industry worldwide. Sex trafficking is the most profitable sector, with \$99 billion being made through sexual exploitation. On average, sex traffickers make \$21,800 per victim per year ([ILO 2014, 13-15](#)). These are actually conservative estimates, as they do not include child pornography or coerced pornography of adult victims ([ILO 2014, 26](#)). The internet has opened up another profit avenue for sex traffickers as victims can be forced into pornography that is distributed online ([May, 27](#)). An example of this is the expansion of child pornography. There has been a surge in the number of child pornography content reported to the National Center for Missing and Exploited Children. In 2019 alone, almost 70 million sexual photos and videos of children were reported—an increase of over 50 percent from 2018 ([Dance and Keller](#)). Previously, child pornography was kept within a close-knit community that did not seek financial benefit from the trade. Now, there are cases of live streaming child sexual abuse for low prices, in which the abuser profits from the magnitude of watchers ([DHS 2020a, 4](#)).

## Smuggling fees are often the means to coerce exploitation.

The other \$51 billion made by human trafficking is from domestic and non-domestic forced labor exploitation, where traffickers withhold a portion or all of the proceeds obtained by the victim ([ILO 2014, 13](#)). When the type of occupation is known, the majority of victims of forced labor worldwide are in the domestic worker, construction, manufacturing, and agricultural and fishing sectors, in that order ([ILO 2017, 11](#)).

According to the United Nations, the number of detected trafficking victims has increased in the Western Hemisphere. The majority of identified trafficking victims in Central America and the Caribbean are female and under-age. Females comprise 80 percent of victims in the region, 55 percent of whom are girls less than 18 years old. The vast majority of the victims there, around 87 percent, are trafficked for sexual exploitation. The situation is similar in North America. Females comprise 85 percent of the victims in the region, but unlike Central America and the Caribbean, the majority of cases (65 percent) are women over 18 years of age. In North America, a little over 70 percent of victims are trafficked for sexual exploitation. Victims

<sup>1</sup> If a victim who is induced to engage in commercial sex is under 18 years of age, the use of force, fraud, or coercion is not required for it to be considered trafficking.



do not only come from within the hemisphere. In fact, many of the victims in the Americas are originally from Southeast Asia ([U.N. Office on Drugs and Crime 2018a, 70-75](#)).

Data on the extent of trafficking in the United States is also limited, and estimates on the number of trafficking victims in the country vary widely. Nevertheless, the National Human Trafficking Hotline provides some useful insight. Since 2007, and as of June 30, 2019, the hotline received 246,267 contacts, and 56,504 cases of human trafficking were reported. In 2018 alone, there were 41,088 contacts to the hotline, and nearly 11,000 cases of human trafficking were reported. Of these cases, the vast majority were related to sex trafficking and were reported by members of the community instead of the victims themselves ([National Human Trafficking Hotline 2018a](#)). The Department of Justice (DOJ) provides possible explanations for these dynamics. First, the DOJ indicates that more sex trafficking cases are reported because, in most instances, the victims of sex trafficking have to come in contact with customers and the services have to be advertised.

On the other hand, labor trafficking victims are more likely to work in isolated locations and to do low-skilled work such as agriculture or domestic service that does not require much public exposure ([DOJ 2017a, 3-5](#)). Second, the DOJ explains that law enforcement in the United States depends on investigations and community information to detect cases of human trafficking because traffickers use intimidation, manipulation, and retaliation to prevent victims from contacting law enforcement. Likewise, victims may also be reluctant to contact law enforcement themselves because they fear the consequences they might face for illegal activities they were coerced to perform or because they are foreign victims who do not possess legal documentation to reside in the United States. ([DOJ 2017a, 2](#)).

Furthermore, most of the trafficking victims identified in the United States by the Human Trafficking Hotline in 2018 were female, Hispanic, and geographically located in California, Texas, Florida, and New York. Almost half of them were foreign nationals ([National Human Trafficking Hotline 2018a](#)). During the same year, job offers, false promises, and smuggling-related causes were identified as the most frequently used recruitment tactics of victims for labor trafficking; and intimate partner/marriage proposal, familial, and posing as a benefactor were the most commonly used recruitment tactics for sex trafficking. The number one risk for human trafficking was recent migration and relocation,

and the most used method of force, fraud, or coercion was isolation and confinements ([Polaris Project 2019, 4](#)).

According to the DOJ, most foreign-born human trafficking victims identified in the United States come from Mexico ([DOJ 2017b](#)). In 2015, the Texas Department of Public Safety stated that human trafficking was the fastest-growing organized crime business in Texas with many victims being smuggled in the country from Central America and Mexico ([Rosenthal](#)). Mexicans and Central Americans are most commonly victims of sex trafficking involving residential brothels, cantinas and bars, and escort services. They also make up the vast majority of labor trafficking victims in the agricultural and construction sectors ([Polaris Project 2017, 23, 35, 42](#)). Still, Mexicans and Central Americans are not the only victims of trafficking in the United States. Women from China, South Korea, and Southeast Asia, for example, make up the majority of trafficking victims that work in illicit massage, health, and beauty businesses ([Polaris Project 2017, 12-13](#)).

## Human trafficking and human smuggling, while interrelated, are two distinct criminal activities.

### Irregular Migration and Human Trafficking

There is a common misconception that human trafficking and human smuggling are interchangeable terms, but while interrelated, they are two distinct criminal activities. Human smuggling is “the facilitation, transportation, attempted transportation, or illegal entry of a person

or persons across an international border, in violation of one or more countries’ laws, either clandestinely or through deception, whether with the use of fraudulent documents or through the evasion of legitimate border control” ([White House 2011, 6](#)). The United Nation’s Protocol against the Smuggling of Migrants by Land, Sea, and Air—the United States and 148 other countries are parties to the protocol ([U.N. Treaty Collection 2000b](#))—defines human smuggling as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident” ([U.N. Office on Drugs and Crime 2018b, 17](#)).

Accordingly, there are three major distinctions between human trafficking and smuggling: the movement of people, the intent of the crime, and the willingness of those involved. Human smuggling requires movement across international borders, but human trafficking does not, as people can be trafficked in their own hometown ([State Department Office to Monitor and Combat Trafficking in Persons](#)). In fact, while transnational human trafficking is

still pervasive, the majority of human trafficking victims in the world, including in the United States, are now trafficked within their country of origin ([U.N. Office on Drugs and Crime 2018a, 73-74](#)). Furthermore, in trafficking, the victim is coerced through fraud or force with the intent of exploitation. Smuggling, on the other hand, is when two or more parties voluntarily—at least initially—come together for transportation across international borders in exchange for financial or material compensation.

According to the U.N., in 2016, there was a minimum of 2.5 million migrants who were smuggled worldwide ([U.N. Office on Drugs and Crime 2018b, 22-23](#)). Smuggling is an especially pervasive tool for individuals seeking to come to the United States. According to the Department of Homeland Security (DHS), in recent years, 80 to 95 percent of those apprehended at the border attempting illegal entry used a smuggler ([DHS 2019a, 62](#)). Smugglers can offer a range of services such as transportation, guiding, and escorting during unlawful border crossing; accommodations along the route; information and payment of corruption; and providing fraudulent travel documents ([U.N. Office on Drugs and Crime 2018b, 6](#)). Even though smuggling is a criminal activity, due to a lack of enforcement, smugglers in smuggling hubs around the world sometimes advertise their services openly using outlets such as social media and even newspapers. They have sophisticated knowledge of routes, American immigration laws, and border security capabilities. They often distort this information to potential clients—lying about the ease of the journey, aspects of American immigration laws, and even the standard of living in the United States—to obtain their business ([U.N. Office on Drugs and Crime 2018b, 43-44](#)).

Central America and Mexico are both the primary origin and transit areas for smuggled migrants traveling to the United States—primarily due to geographical proximity and family and cultural ties ([U.N. Office on Drugs and Crime 2018b, 94](#)). Currently, the vast majority of foreign nationals who attempt illegal entry into the United States and are apprehended at the southern border are from Mexico and the Northern Triangle countries of El Salvador, Honduras, and Guatemala. While citizens of these countries use smuggling networks themselves, migrants from all over the world also use their services. There is evidence of Asian migrants using African airports on their way to South or Central America so they can then be linked with a smuggling network that takes them north via land routes to the United States. There are also cases of individuals from the Caribbean, Middle East, and Africa traveling to South or Central America, often due to more relaxed visa agreements between countries or with fraudulent or altered documents to connect with smugglers there and make the journey

north to the United States ([U.N. Office on Drugs and Crime 2018b, 31, 102](#)).

Smuggling is a highly profitable enterprise. DHS estimates Mexican and Central American migrants may pay smugglers as much as \$1,200 as an initial payment and up to \$8,000 after reaching their final destination in the United States ([DHS 2019a, 62](#)). Other sources estimate that smuggling fees can be much higher. The U.N., for example, indicates that a smuggling operation from Central America across Mexico to Texas can cost as much as \$15,000 ([U.N. Office on Drugs and Crime 2018b, 47](#)). However, these fees are not constant. They fluctuate based on the distance from the starting point to the United States, the route chosen, the means of transportation, the use of fraudulent documentation, the perceived border security capabilities of the countries they need to pass through, among many other considerations ([U.N. Office on Drugs and Crime 2018b, 43](#)). For example, migrants from outside the Western Hemisphere usually pay much more for their journey to the United States, while those who bring a child or indicate that they will claim asylum are known to pay less as they are likely going to turn themselves into immigration enforcement agents instead of trying to bypass them ([Greenfield et al., 9](#)).

Accordingly, these are costly endeavors, especially for people in the region. The most recent data by the World Bank shows that large sections of the population of Mexico and the Northern Triangle countries live in poverty according to their country-specific poverty lines. In Guatemala, around 60 percent of people live in poverty as does approximately 48, 42, and 29 percent of people in Honduras, Mexico, and El Salvador, respectively ([World Bank](#)). The United States Agency for International Development (USAID)—which coordinates American foreign aid and development assistance—has made tens of millions of dollars available for banks and financial institutions in developing countries so they can provide people who claim to need capital to improve their businesses or farms with microfinance. Such a practice in the Northern Triangle is partly intended to help individuals and their families have a sufficient standard of living to dissuade them from migrating to the United States. However, many individuals in the region utilize those loans to pay for a smuggler to take them to the United States instead ([Sieff](#)). In other words, American taxpayers are essentially paying criminal smuggling networks to bring an unknown number of migrants to the American border.

The U.N. estimated that in 2016, smuggling generated between \$5.5 billion and \$7 billion worldwide ([U.N. Office on Drugs and Crime 2018b, 22-23](#)). The RAND Corporation estimates that smuggling networks that smuggled migrants from the Northern Triangle countries to

the United States alone made between \$200 million and \$2.3 billion in 2017 ([Greenfield et al., 35](#)). These organizations are now likely making even more money, as the number of people seeking to come to the United States skyrocketed in fiscal year 2019—peaking in May ([CBP 2019](#)). There is evidence that there are alternatives to monetary payment for smuggling fees, including smuggling illicit drugs or other items across the border or working off debts upon arrival in the United States ([DHS 2019a, 62](#)).

On top of the smuggling fees, there are other financial costs that migrants face during their journey. Gangs in Central America and cartels in Mexico have taken control of various regions that migrants need to pass to reach their final destination, and they charge an informal tax called “*piso*” from anyone—including migrants—who cross through their territory. The RAND Corporation estimated that in 2017, 50 to 75 percent of migrants heading to the United States paid “*piso*” ranging from \$300 to \$700, amounting to a total between \$30 million and \$180 million. Sometimes, criminal organizations involved with drug trafficking force migrants to smuggle drugs across the border with them in place or in addition to the “*piso*” payment ([Greenfield et al., 37](#)).

One smuggling network usually does not provide the whole trip from the point of origin to the United States and typically relies on other independent but loosely connected smuggling networks further along in the journey. In some cases, migrants purchase smuggling services for only part of their total route, stopping along the way to work to get enough money to pay for the next leg of their trip ([U.N. Office on Drugs and Crime 2018b, 24](#)). In most cases, migrants pay a smuggling network to travel from South or Central America to the Guatemala-Mexico border region. There, they rely on another smuggling network for passage from Guatemala into Mexico to avoid immigration control. Once in Mexico, they hire other smugglers to get them to Mexico City, where migrants split three different ways depending on their desired end destination. Some take the Gulf route so they can seek entrance through the Rio Grande Valley or other points in Eastern Texas. Others go the Pacific route, as they intend to cross into Arizona or California. The rest take the Central route, as they seek to enter through New Mexico or Western Texas ([U.N. Office on Drugs and Crime 2018b, 99](#)).

## Migrants who are smuggled into the United States without being trafficked during the journey can still fall into the hands of traffickers in the United States.

Given how many of these operations are loosely connected and lack a hierarchical structure, it is difficult to root them out. Independent smuggling networks that cooperate may have limited information on one another, and even if one operation is disrupted, different groups can step in to fulfill their role ([Greenfield et al., 10](#)). Furthermore, smuggling networks’ leaders are usually based in foreign countries, requiring the American government to collaborate with foreign governments that may be unwilling or incapable of helping disrupt smuggling operations ([Greenfield et al., 41](#)).

When migrants are passed off to another smuggling group in their journey, they can be asked for more money (and therefore be subject to debt bondage) or be trafficked for lack of accountability of the original agreement. Some smuggling networks have links to large violent criminal organizations that they have to pay for passage through their territory or hand over migrants to them for extortion of ransom, robbery, or labor or sexual exploitation ([U.N. Office on Drugs and Crime 2018b, 8](#)). Other migrants

purchase entire trips and leave the whole route decision to the smuggler. Full payment up front makes them more vulnerable for exploitation as the smuggler no longer has the incentive to provide safe travel arrangements ([U.N. Office on Drugs and Crime 2018b, 99](#)).

Accordingly, while smuggling and trafficking are distinct phenomena, as demonstrated above, smuggling can turn into

trafficking. The U.S. State Department has indicated in its annual *Trafficking in Persons Report* that many migrants who go through Mexico and the Northern Triangle countries on their way to the United States become victims of human trafficking during the journey or upon arrival ([State Department 2019a, 185, 216, 226, 327](#)). Migrants may start the journey willingly but, along the way, may be deceived, coerced, or sold into situations of exploitation, which changes the nature of the crime from smuggling to trafficking or both offenses being committed simultaneously. In some cases, human traffickers pose as smugglers, offering smuggling packages to migrants who can be paid off once they have arrived in the United States. However, once they reached a destination, they are informed that the smuggling package is significantly more expensive than previously stated and that they need to work it off in exploitative conditions ([U.N. Office on Drugs and Crime 2018b, 41-42](#)).



Migrants who are successfully smuggled into the United States without being subjugated to human trafficking during the journey can still fall into the hands of traffickers in the United States. Besides the commonly used tools for coercion such as violence or deception, migrants who lack legal status and/or English proficiency may become trafficking victims, as they would be reluctant or incapable of reaching out for help. Other reasons that migrants are vulnerable to trafficking may be due to isolation in the United States, working in the informal economy that is not regulated, and threats against their family back home.

On top of the obvious human toll of human trafficking, the countries of the victims are also negatively affected by the practice. When a foreign national is trafficked in the United States, the country of origin loses human capital without the corresponding remittances that their economies are reliant on since these victims receive little to no money for the work they are coerced to do ([May, 25](#)). Similarly, even if trafficking victims are liberated from their oppressors and have the opportunity to return to society, they may have physical and/or psychological trauma that diminishes their capacity to productively contribute to society ([DHS 2020a, 11](#)).

### Conditions in Mexico and the Northern Triangle Allow Human Trafficking to Flourish

As Mexico and the Northern Triangle countries experience widespread violence, corruption, political suppression, and lack of sufficient food, an increasing number of their citizens have sought to migrate to the United States illegally, making them vulnerable to trafficking on their way to or once in America. On top of that, trafficking and smuggling networks in the region are able to operate with minimal risk of punishment, and transnational criminal organizations based in these countries have begun turning toward human trafficking as a way to diversify and bring in new sources of income.

#### *Violence and Extortion*

Homicide rates in Mexico have reached all-time highs in the last few years. 2019 was the most violent year on record in Mexican history—surpassing the previous record the year before—with 34,582 homicides ([Martin](#)). The weaponry of the Mexican cartels rivals the weapons used by the country's military—including RPGs and armored vehicles with gun turrets and battering rams. While some studies suggest that these criminal organizations largely rely on weapons or weapon parts flowing from the United States, such a high level of armory indicates that they must turn to other sources for their most deadly weapons, such as the Mexican army itself, international arms markets, or leftover from previous insurrections in the region ([Stratfor](#)). A national poll from early in 2019 shows that over half of

Mexicans consider security-related issues the most critical facing the country. This is a significant increase from 2017 and significantly more than other prominent issues such as economic (18.6 percent) or political (10.5 percent) matters ([Zechmeister and Lupu, 68](#)).

Mexican President Andrés Manuel López Obrador's policy of "hugs, not bullets" is clearly not working. While he still maintains his popularity among the Mexican people, he has not been successful in bringing the crippling violence the country faces to a halt. In November 2019, nine American citizens—three women and six children—who lived in a religious community in Northern Mexico were violently murdered. In response, Obrador doubled down on his stance, stating that "violence cannot be confronted with violence" ([Sang](#)). However, a month before this tragedy, another one struck the country after the sons of the notorious Mexican drug lord El Chapo were arrested. The cartel went on to handily defeat government forces, chaos ensued, and the cartel eventually managed to have the two brothers released—one freed by his men and the other released by direct orders from President López Obrador as a way to appease the cartel to stop the violence ([Davidson 2019a](#)).

The increase in violence in Mexico has resulted in a recent uptick of Mexican nationals making their way to the American border. This surge has led to a reversal of the decade-long downward trend of Mexicans being apprehended by Border Patrol. Thus far in fiscal year 2020, Mexico has again become the number one source country of migrants apprehended at the border—surpassing the Northern Triangle countries that made up the majority of cases in the last few years. There has also been a shift back to single adults making up the majority of apprehensions, not family units as it was during the height of the border crisis ([Villagran and Carranza](#)). The U.S. Department of State has indicated that violence in the country has also hampered investigations into human trafficking since victims have reported that they were afraid to identify themselves as trafficking victims or testify against their traffickers for fear of retribution ([State Department 2019a, 325](#)).

Violence is not just a problem in Mexico, however. While conditions in the Northern Triangle countries are improving, these countries are still some of the most dangerous in the Western Hemisphere. The main source of violence and threat of violence these countries face are carried out by gangs, particularly the Mara Salvatrucha (MS-13) and the "18th Street" gang (M-18). They are incredibly violent—for example, the motto of MS-13 is "*Mata, roba, viola, controla*" (kill, steal, rape, control)—and control significant parts of territory in the Northern Triangle ([Lillie, 7](#)).



Women and children are often targets of gang violence—helping explain the massive exodus of these demographics toward the United States ([Seelke 2016b, 6](#)). In the Northern Triangle, the rates of femicide, the intentional killing of women, are among the highest in the world. According to a study conducted by Small Arms Survey in 2016, El Salvador and Honduras were among the top five countries—alongside Syria, Lesotho, and Afghanistan—with the highest levels of femicide with 9.4 and 6 homicides per 100,000 people, respectively ([Widmer and Pavesi, 2](#)).

In 2019, Honduras had 41.2 homicides per 100,000 people—making it the most dangerous country in Central America once again. This was the first time that annual murders increased in the country since 2012. El Salvador had 36 homicides per 100,000 people in 2019. This was a significant decrease from 2018 where there were 51 murders per 100,000 people—which made it the most violent country in the hemisphere outside of Venezuela. Guatemala remains less violent than the other two countries in the Northern Triangle, with a homicide rate of 21.5 homicides per 100,000 ([Asmann and O’Reilly](#)).

Even though homicides rates in the region have improved from earlier in the decade, criminal organizations use the threat of violence to extort money from the community. Businesses, schools, and members of the community must pay a “war tax” known as “*renta*” to gangs for just being in their territory, even though they already do not make a lot of money. If they do not pay, members of the community and their families may be killed ([AEI, 38](#)). Extortionists sometimes use the threat of sexual violence against an individual or a loved one to extract payment or request payments in the form of sexual favors ([The Global Initiative Against Transnational Organized Crime, 24](#)).

Widespread extortion results in many citizens deciding to flee these countries. Internal migration often does not free people from the cycle of extortion since gangs use tools such as WhatsApp to communicate with one another about who leaves or enters their territory. The large profits that result from extortion allows these gangs to have a financial base to venture into other criminal enterprises, such as human smuggling and trafficking ([The Global Initiative Against Transnational Organized Crime, 4](#)). Even when gang members engaged in these illegal activities are incarcerated, many of them can still manage their gang’s day-to-day operations from jail with the help of corrupt guards. Prisons a lot of times actually serve as a recruitment tool for gangs to increase their ranks ([Seelke 2016b, 9](#)).

Besides the human tragedy of violence, its economic cost to these countries is also of significant concern. According to a study conducted by the Institute for Economics and Peace,

in 2018, violence cost 22 percent of the GDP of El Salvador, or \$11,270.1 million (\$1,757.8 per capita); 16 percent of the GDP of Honduras, or \$7,447.9 million (\$790.9 per capita); 10 percent of the GDP of Mexico, or \$240,075.9 million (\$1,836 per capita); and 9 percent of the GDP of Guatemala, or \$12,794 million (\$741.9 per capita) ([Institute for Economics and Peace, 99](#)).

### ***Corruption and Political Suppression***

Corruption and impunity are rampant in Mexico and the Northern Triangle. Transparency International measures corruption levels of 180 countries and scores them from 0, meaning that a country is highly corrupt, to 100, meaning that the country experiences little to no corruption. They calculated the global average of corruption to be 43. As expected, Mexico and the Northern Triangle countries performed very poorly. El Salvador ranked 113th, with a score of 34, and both Honduras and Guatemala ranked 146th, with the identical score of 26. Mexico performed similarly, scoring only 29 and ranking 130th ([Transparency International](#)).

With such high levels of corruption, it is no surprise that these countries also have high levels of impunity. The 2017 Global Impunity Index measured the extent of impunity for 69 different countries using statistical models that calculated the functionality of the security and justice systems, the protection of human rights, and the structural and existing capacity of the countries. From the 69 countries analyzed, 13 countries were found to have a very high impunity index. Mexico, Honduras, and El Salvador were among them. Mexico was the country in the Western Hemisphere with the highest levels of impunity, with only the Philippines, India, and Cameroon having a higher impunity index out of all of the countries in the study ([Ortega and Lara, 9-10](#)). The research indicates that no reduction in violence or in impunity followed the increase in resource allocation to improve the functionality of Mexico’s security forces and the structure of its justice system. The study pointed out that the main reason for this is the corrupted use of resources and a lack of supervision and auditing of nationwide and local institutions ([Ortega and Lara, 9-10](#)). Vetting protocols for law enforcement are mostly only required during recruitment or promotions, not during the whole career of officials, making corruption or collaboration with criminal organizations difficult to detect. There is also a lack of information-sharing between law enforcement offices, making individuals discharged for misconduct able to join other law enforcement agencies elsewhere ([U.S.-Mexico Security Cooperation Taskforce, 5-6](#)). In 2016, 28,000 police officers, or almost 10 percent of police officers in Mexico, failed polygraph, toxicology, and/or skill tests but were still allowed to continue working ([Angel](#)).

Making things worse, cartels in Mexico and gangs in the Northern Triangle exhibit tremendous political influence. By their sheer size, they make up a substantial electoral block. Their territorial control also gives them the ability to influence elections by not allowing specific candidates to campaign in their territory, by coercing people to vote for a particular candidate, or by preventing people from getting to the polls. They have also paid off countless politicians as a way to avoid opposition ([AEL, 40](#)). They are so notorious for engaging in the political process, that corrupt officials seek their support. For example, during the Guatemalan presidential election of 2019, U.S. authorities charged presidential candidate Mario Amilcar Estrada for soliciting campaign funds from the Sinaloa Cartel in Mexico and even asking the cartel to assassinate his political rivals in exchange for “state-sponsored support” in the form of access to Guatemala’s airports and ports to transport drugs and high-ranking government appointments ([Asmann](#)).

Politicians who oppose criminal organizations and seek to root out corruption are in danger for their lives. In 2016, sitting mayors in Mexico were 12 times more likely to be murdered than the rest of the population, and during Mexico’s 2018 presidential and congressional elections, 35 candidates for public office were killed ([U.S.-Mexico Security Cooperation, 4](#)). Similarly, Mexico is also one of the most dangerous places in the world for journalists, with at least 10 reporters being murdered in the country in 2018 alone. Reporters Without Borders indicate that journalists in Mexico and the Northern Triangle countries risk their lives to report on violence and corruption, leading to self-censorship and less transparency. Out of 180 countries that they analyzed, Mexico ranks 144 and Honduras 146 for press freedom—only ranking above Venezuela and Cuba in the hemisphere ([Reporters Without Borders](#)).

These levels of corruption and impunity are very harmful to the welfare of these countries. Transnational criminal organizations are free to operate and sometimes are seen as “alternative providers of governance, security, services, and livelihoods” ([White House 2011, 5](#)), and the national economies suffer. The Baker Institute at Rice University, for example, estimates that the cost of corruption in Mexico ranges from 2 to 10 percent of its annual GDP ([Baker Institute for Public Policy, 11](#)).

## Corruption and institutional deficiencies in the region hamper American efforts to engage with countries to combat transnational criminal organizations, strengthen civil society, and investigate and prosecute human traffickers.

For years, the American government has sought to help these countries better address their domestic issues and combat human trafficking. Through the years, the United States has worked side by side with foreign counterparts in the region investigating and prosecuting transnational human trafficking cases and provided training on best investigative and prosecutorial practices. In the case of Mexico, the country of origin of most of the foreign trafficking victims in the United States, the departments of Justice and Homeland Security launched the U.S.–Mexico Bilateral Human Trafficking Enforcement Initiative in 2009 to enhance collaboration with Mexican law enforcement to more effectively combat transborder trafficking threats. Through this initiative, the involved parties exchange intelligence to strengthen investigations and prosecutions, restore victims, and dismantle trafficking networks through prosecutions in both countries. This initiative has resulted in over 200 prosecutions between the two countries and the extradition of eight defendants from Mexico to the United

States to face charges, rescued over 200 victims, and recovered over 20 victims’ children from the control of trafficking networks ([DOJ 2017b](#)).

Likewise, Homeland Security Investigations (HSI)—DHS’s largest investigative presence abroad—has worked hand in hand with partners in the region ([ICE 2018](#)). In 2015, HSI, in collaboration with Mexican authorities, was able to apprehend Paulino Ramirez-Granados, who was

on ICE’s top 10 most wanted human traffickers, at Tencancingo, Mexico. Members of the Granados family would befriend and romance young Mexican women and then coerce them into prostitution in Mexico and eventually smuggle them to New York City to work as prostitutes there. Paulino Ramirez-Granados was charged in the Eastern District of New York with sex trafficking, alien smuggling, money laundering, and conspiracy to import aliens. HSI agents identified and rescued 25 additional victims—all Mexican nationals—and 19 other traffickers or smugglers ([ICE 2015](#)).

However, corruption and institutional deficiencies in the region hamper American efforts to engage with these countries to combat transnational criminal organizations, strengthen civil society, and investigate and prosecute human traffickers. Corruption on the ground, even at the highest levels of Mexican law enforcement agencies and

military forces, leads to hesitant information-sharing by American organizations due to the fear of leaked information ([U.S.-Mexico Security Cooperation, 6](#)). Furthermore, the U.S. State Department also pointed out that trafficking victims in Mexico have reported that they were afraid to identify themselves as trafficking victims or testify against their traffickers because they distrusted the authorities ([State Department 2019a, 235](#)), and that law enforcement and judicial officials in Mexico and the Northern Triangle do not have the necessary training, resources, and sometimes even personnel to properly investigate and prosecute human trafficking cases ([State Department 2019a, 184, 215, 225, 325](#)). In fact, while the number of trafficking victims identified in the region has increased, their governments are not proportionately convicting as many traffickers ([U.N. Office on Drugs and Crime 2018a, 23](#)).

Training programs provided by the United States and other international entities are limited in their usefulness, as the constant turnover in personnel in law enforcement and judicial agencies limits training effectiveness ([Seelke and Finklea, 13](#)) and low wages for law enforcement personnel encourage accepting bribes and working with criminal organizations. Sometimes they are even threatened with physical violence to accept these bribes ([Rabasa et al., 59](#)). Many smuggling and trafficking networks rely on corruption to be able to work, ranging from small bribes of border control personnel to cooperation with high-level government officials ([Seelke 2016a, 12](#)). The U.S. State Department has highlighted that corrupt government, law enforcement, and military officials in Mexico and the Northern Triangle countries have facilitated the operations of human traffickers, and, at times, government officials were directly involved with trafficking networks ([State Department 2019a, 185, 216, 226, 325](#)).

There have been efforts to root out the culture of corruption and impunity in the region with the introduction of international legal bodies, such as the U.N.'s International Commission Against Impunity in Guatemala (CICIG) and the Organization of American States' (OAS) Mission Against Corruption and Impunity in Honduras (MACCIH), which have investigated and prosecuted high-level corruption cases in those respective countries ([Meyer](#)).

Since its inception in 2007, CICIG targeted more than 1,500 individuals and successfully prosecuted hundreds of politicians (including then-President Otto Pérez Molina, Vice President Roxana Baldetti, and members of their cabinet), judges, police officers and drug traffickers on corruption charges. It has also collaborated in reforming the country's legal system and bolstering the country's investigative and prosecutorial capacities ([Avalos and Asmann](#)). The

United States was the biggest funder of CICIG, providing \$44.5 million between 2007 and 2017—more than a quarter of CICIG's total budget ([Ordóñez](#)). However, the Guatemalan political establishment continually hampered CICIG efforts. In 2017, Guatemalan President Jimmy Morales blocked the entrance of the head commissioner of CICIG into the country, and in 2018 the government sent military Jeeps that they received from the United States to combat violence to the offices of CICIG as an intimidation tactic ([Cuffe](#)). While CICIG received bipartisan support in the United States early on, in recent years, American elected officials have not forcibly pushed back against efforts to undermine the commission's mandate. While the reason for this change of behavior is unclear, it may be due to Guatemala's willingness to move its embassy in Israel to Jerusalem, its consent to an asylum cooperation agreement, or the millions of dollars their government spent in lobbying U.S. Congress members ([Ordóñez](#)). After 12 years, Guatemala did not renew the mandate of CICIG, and the commission was disbanded in September of 2019. Newly inaugurated President Alejandro Giammattei expressed distaste for the anti-corruption body and opposed the establishment of another one ([Avalos and Asmann](#)) even though a 2019 poll revealed that over 72 percent of Guatemalans supported CICIG ([Jenner](#)).

An agreement between the Organization of American States and the government of Honduras established MACCIH in 2016. It sought to help prevent and fight against corruption, reform the country's criminal justice and electoral process, and help improve public security ([OAS 2019a](#)). The body achieved some success, as with the investigation of government officials diverting government funds to the 2013 campaign of President Juan Orlando Hernandez and the conviction of former first lady Rosa Elena Bonilla de Lobo on charges of fraud and embezzlement ([Asmann](#)). However, like the CICIG, it was also hamstrung by entrenched powers. After the mission's establishment, Honduras was slow to find a headquarters for the body, and Congress passed a law that removed a probe from prosecutors' control, which had been initiated by MACCIH and the attorney general's office against several members of Congress ([Dudley](#)). MACCIH's mandate expired at the beginning of 2020, and the Honduran government and the OAS were unable to agree to renew the program—dealing a massive blow to the fight against corruption and impunity in the country ([Palencia](#)). Prior to the dismantling of MACCIH, the U.S. Embassy in Honduras publicly stated the American government's desire for its renewal ([Embajada de Estados Unidos en Honduras](#)), and a bipartisan group of U.S. senators sent a letter of support for the renewal of the agreement to Michael Kozak, the acting assistant secretary of state for Western Hemisphere affairs, stating that the body was imperative for mitigating



factors that lead to irregular migration, promoting the rule of law, and strengthening the justice system ([Hondudiario Drafting](#)).

El Salvador followed the lead of Honduras by accepting an OAS-supported anti-corruption body, the International Commission Against Impunity in El Salvador (CICIES), in September 2019 following the election of President Nayib Bukele. The aim of CICIES is to combat corruption, “including crimes related to public finances, illicit enrichment, money laundering, and national and transnational organized crime” ([OAS 2019b](#)). However, the process seemed to be rushed as Bukele promised to bring an anti-corruption body to the country within his first 100 days in office. Also, the agreement does not provide many details on the jurisdiction of CICIES. Currently, CICIES is under the executive branch since incorporating it into the independent attorney general’s office requires approval by the Legislature, which is controlled by the two traditional parties of the country that oppose the anti-corruption body. Since CICIES is under the executive branch and is therefore only authorized to investigate executive cases, it is unlikely that it will go after corruption scandals in the current administration and will probably only investigate cases of previous administrations ([Call](#)).

With the high levels of crime and limited success in rooting out corruption, democracy in the region is in a fragile state. According to the *Pulse of Democracy* electoral democracy index study performed by Vanderbilt University, in 2018, Honduras and Guatemala had the lowest quality of democracy in the hemisphere outside of Nicaragua<sup>2</sup> ([Zechmeister and Lupu, 10](#)). In both countries, less than 50 percent of people would say that democracy is the best form of government ([Zechmeister and Lupu, 12](#)). Similarly, in Honduras and El Salvador, less than 40 percent indicated that they are satisfied with democracy in their country ([Zechmeister and Lupu, 20](#)). Things have gotten so bad in the region that over 40 percent of people in Guatemala, Honduras, and Mexico have indicated that they would tolerate a military coup when subjected to high crime and corruption ([Zechmeister and Lupu, 14](#)). Due to these conditions and their feelings about their government, individuals in this area seek to flee. For every 100 adults, 7 in Mexico, 9 in El Salvador, 10 in Guatemala, and 19 in Honduras indicate

that they have a strong desire to emigrate ([Zechmeister and Lupu, 26](#)).

### **Transnational Criminal Organizations**

Under U.S. law, transnational organized crime is defined as “self-perpetuating associations of individuals who operate transnationally for the purpose of obtaining power, influence, monetary, or commercial gains, wholly or in part by illegal means, while protecting their activities through a pattern of corruption or violence or through a transnational organization structure and the exploitation of transnational commerce or communication mechanisms” ([10 U.S.C. § 284\(i\)\(6\)](#)). Like a business, transnational criminal organizations (TCOs) seek to maximize profits by diversifying their financial activity to minimize risk. TCOs engage in smuggling and trafficking of drugs, arms, and people; money laundering; and other criminal activities, including extortion and kidnapping for ransom, aimed at increasing profits ([Rabasa et al., 17-18](#)).

**Some Mexican cartels focused on drug trafficking and Central American gangs that rely on extortion are increasingly turning to human trafficking as an additional source of profit.**

The United States recognizes multiple Mexican cartels and Central American gangs as TCOs ([USDT](#)). Some of the Mexican cartels, which have primarily focused on drug trafficking, and Central American gangs, which mainly relied on extortion, are increasingly turning to human trafficking as an additional source of profit. Human trafficking is one of the fastest-growing markets for TCOs because of the high profits that they can make from it and weak or inconsistent penalties that perpetrators face ([May, 21](#)). Victims

are forced into criminal activity, such as selling drugs or prostitution, with the profits sent back to TCOs’ leaders abroad to fund other illicit activities. Applications and software systems have facilitated transnational communication among members of trafficking networks and have made the transfer of payments more accessible than ever ([U.N. Office on Drugs and Crime 2018a, 38-39](#)).

The FBI indicates that an increasing number of child sex trafficking cases involve traffickers who are affiliated with gangs ([DOJ 2017a, 4](#)). In Central America, MS-13 uses its territorial control to extort businesses, families, schools, and other institutions in their area as their primary source of income. However, since sizeable territorial control is not possible in the United States, sex trafficking became a way for their cliques in the United States to sustain themselves in a more clandestine industry ([Silva](#)). Following the trend of human trafficking in Central America, MS-13 especially preys on minor girls. Their cliques in the United States

<sup>2</sup> Venezuela was excluded from the study.



also target newly arrived unaccompanied minors from the Northern Triangle ([Lillie, 12](#)).

MS-13 is especially notorious for being involved in sex trafficking on the west and east coasts of the United States to send money back to its leadership in Central America, using the threat of violence against victims or their families to coerce them into commercial sex ([Lillie, 14](#)). Between 2009 and 2015, social workers and police officers in Maryland, Virginia, and Washington, D.C., detected at least nine child prostitution rings run by MS-13 ([Silva](#)). In 2012, the U.S. attorney for the Eastern District of Virginia prosecuted Rances Ulices Amaya—a member of MS-13 whose gang name was “Murder”—who recruited girls as young as 14 and forced them to engage in commercial sex acts eight to ten times a day, sometimes seven days a week ([NBC Washington](#)).

Supply relations or infrastructure built for drug trafficking by Mexican cartels can serve as the foundation for human trafficking rings ([Rabasa et al., 19](#)). MS-13 has developed a partnership with the Los Zetas cartel to enter the human trafficking trade by relying on them for protection as they bring victims through Mexico ([Lillie, 11](#)) and has formed more direct links with the Sinaloa cartel to be able to continue its illicit activity ([Rabasa et al., 91](#)). In 2015, the Texas Department of Public Safety stated that seven Mexican cartels operated in Texas with the help of gangs to perform their drug and human smuggling and trafficking operations ([Rosenthal](#)).

Nevertheless, some trafficking groups in the region are not connected—at least directly—with the cartels or gangs and still make profits in the United States to fund their operations abroad. In 2019, for example, the DOJ discovered and sentenced members of the Rendon-Reyes Trafficking Organization, based out of Tenancingo, Mexico, which for over a decade smuggled women and girls from Mexico and Central America into the United States and forced them into prostitution, generating hundreds of thousands of dollars that were laundered back across the border. Male members of the organization would target women and girls, some as young as 14, from impoverished areas of Mexico and Central America and lure them into trafficking by tricking them into romantic relationships. They would then smuggle them into the United States and coerce them into prostitution—where they would be forced to perform as many as 45 sexual acts per night—by physical and sexual assaults, psychological attacks, and threats against their families back home ([DOJ 2019a](#)).

**There is a self-reinforcing cycle of criminal activity that profits from human trafficking.**

There is a self-reinforcing cycle of criminal activity that profits from human trafficking. Migrants are terrorized in their home country by criminal organizations, so they pay exorbitant fees to flee the country toward the United States. On the way, they have to pay off criminal organizations and/or corrupt government officials to facilitate passage. Once they get to the United States, they are exploited through forced labor or prostitution (many times because of debt bondage to pay for the smugglers’ service), and the funds gathered by these illicit activities that they are forced to do are sent back to their home country to criminal organizations to restart the process.

### **Food Shortages and Hunger**

Department of Homeland Security officials indicated in 2018 that the number one reason for the border crisis was the number of Central Americans fleeing the area, not because of violence—even though it is pervasive in the region—but because of “food insecurity” that has been sparked by poverty and years of small harvests, droughts, and the effect of the “coffee rust” fungus (since coffee industry employees make up large sections of the population) ([Miroff and Sieff](#)).

According to the 2018 *Americas-Barometer* survey, 2 in 5 households in Honduras ran out of food in the previous three months. This has had a direct impact on people’s intention to emigrate with a little over 45 percent of Hondurans who have experienced running out of food expressing intentions to emigrate, compared to 33.5 percent for those who haven’t ([Zechmeister and Lupu, 29](#)). Numbers from the U.N. paint an even more dire picture. According to the U.N., while around 25 percent of the world and 32 percent of Central American populations suffer from moderate or severe food insecurity, in the Northern Triangle conditions are much worse—with around 40 percent of El Salvadorans, 44 percent of Guatemalans, and 49 percent of Hondurans suffering from moderate to severe food insecurity ([U.N Food and Agriculture Organization, 122, 129](#)).

### **Border Security**

Mexico’s and the Northern Triangle’s historical failure to control their borders have allowed drugs and people to be smuggled and trafficked through their countries. Outside of major crossing points and urban areas, the borders between Guatemala and Mexico, El Salvador, and Honduras are mostly unmonitored. Hundreds of border miles and border communities, especially in the regions that are covered by jungles and mountains, are virtually ignored by immigration and law enforcement, and nonstate actors—including criminal organizations—primarily fulfill government and

security roles. The few official crossing points that are in place lack basic necessities such as electricity or phone services, and officials there do not have proper training and are under-resourced ([Espach and Hearing, 3-4, 6](#)).

Any effort to improve the system faces four obstacles: lack of financial resources, weak government institutions, lack of policy continuity, and widespread corruption. These countries are not able to accurately collect tax revenues, and the revenue that they do receive goes to other areas that are a higher priority for their elected officials such as security in urban areas. Law enforcement agency employees are underpaid, undertrained, and underequipped; customs and migration control agencies are underfunded and understaffed; and judicial institutions are unreliable. To make matters worse, widespread corruption prevents even good and broadly supported policies from fully being implemented ([Espach and Hearing, 4-5](#)).

### The Outdated American Asylum System

Along with the deterioration of the rule of law, security, and living conditions in Mexico and the Northern Triangle countries, the broken and outdated American asylum system also encourages people to come to the United States and allows traffickers to profit from the situation.

Asylum is an avenue for individuals to seek protection in the United States because they have been persecuted or have a well-founded fear of being persecuted in their country of origin due to their race, religion, nationality, membership in a particular social group, or political opinion ([USCIS 2019](#)). It is crucial to keep in mind, therefore, that just because an individual is from a violent country, like Mexico and the Northern Triangle, does not mean the person will be granted asylum status in the United States. Asylum seekers have the responsibility to demonstrate that they are being targeted for one of the five reasons highlighted above and are not just victims of run-of-the-mill violence.

Still, due to structural weakness in the American asylum system, in recent years, hundreds of thousands of foreign nationals have sought asylum not for safe haven but as an avenue to be reunited with family or get a job in the United States. Between 2000 and 2013, less than 1 percent of migrants who encountered immigration enforcement agents at the border claimed asylum. However, in fiscal year

2018, that drastically jumped to 18 percent—a 67 percent increase from the previous year ([CBP 2018](#)).

In fiscal year 2018, credible fear, the first step in the asylum process, was found in over three-quarters of cases as credible fear is a low bar to meet ([USCIS 2018](#)). After a positive finding of fear during the interview, asylum seekers must make their case in front of an immigration judge. However, even the ones who are found not to have a credible fear are allowed to appeal their findings and make their case in immigration court ([USCIS 2015](#)). In other words, anyone who applies for asylum has the opportunity to go to immigration court.

However, there are only approximately 400 immigration judges in the country dealing with all types of immigration cases, including asylum cases ([DOJ 2020](#)). Therefore, there is currently a massive backlog in immigration cases that surpasses one million, with an average wait time for a case to be heard of over 700 days—nearly two years ([TRAC 2020](#)). Even after waiting for years at times for a final decision, most asylum requests are rejected. In fiscal year 2018, 65 percent of all asylum requests reviewed were denied. For those coming from Mexico and the Northern Triangle countries, denial rates are even higher. Asylum requests by Mexicans in fiscal year 2018 were denied over 85 percent of the time, and claims by individuals from El Salvador, Honduras, and Guatemala were denied around 77, 79, 81 percent of the time, respectively ([TRAC 2018](#)).

Thus, foreign nationals are being encouraged to apply for asylum even though they do not qualify for protection because the backlog in the system allows them to stay and work in the country legally for an extended period before even having to go in front of a judge—with some not even showing up in court. Smuggling and trafficking networks, as highlighted above, use these loopholes to enrich themselves by preying on the desperation of people with false promises of expedited release into the United States. Smugglers even provide discounts to those who want to seek asylum instead of attempting to bypass immigration enforcement personnel at the border.

This dynamic changed significantly with the introduction of the Migrant Protection Protocols (MPP)—more commonly known as Remain in Mexico—in December of 2018.

**Along with the deterioration of the rule of law, security, and living conditions in Mexico and the Northern Triangle countries, the broken and outdated American asylum system also allows traffickers to profit from the situation.**

In June 2019, under the threat of tariffs, Mexico agreed to expand MPP to the entire border and tasked their newly created National Guard to help with the enforcement of Mexican immigration laws to those crossing their country on the way to the American border ([Seelke 2019, 2](#)). These measures implemented by the Trump administration and the Mexican government, do appear to have been effective as fewer foreign nationals are attempting entrance into the United States now than they were at the height of the border crisis in fiscal year 2019—down from 144,116 in May 2019 to 37,119 in February 2020 ([CBP 2020](#)).

The Mexican National Guard does appear to have increased the security of Mexico's southern border with Guatemala, as demonstrated by their ability to prevent a caravan from passing through Mexican territory on their way to the United States early in 2020 ([Semple and McDonald](#)). It is still too early to tell if this new law enforcement body will be able to have continual success in halting mass migration from Central America since they are also tasked with general security assignments in an increasingly more dangerous country and have even been tasked with preventing Ubers from picking up passengers at airports ([Navarro](#)).

Likewise, while MPP has been an effective step in helping to alleviate the crisis by discouraging and reducing fraudulent asylum claims, it is not a long-term solution since northern Mexico is not a safe place. The border state of Tamaulipas, for example, has a Level 4 no travel advisory by the U.S. State Department due to crime and kidnapping—the highest level used by the agency and the same level as Iraq, Venezuela, Syria, and North Korea ([State Department 2019c](#)). Asylum seekers who await their court date in northern Mexico are vulnerable to falling into the hands of criminals—including human traffickers—as they reside in a country they are not familiar with, in dilapidated shelters, surrounded by criminal activity. According to Human Rights First, as of February 28, 2020, from the around 60,000 migrants in northern Mexico under MPP, there have been at least 1,001 reported cases of kidnapping, rape, torture, and other violent crimes against migrants under MPP—with at least 228 of them involving the kidnapping or attempted kidnapping of children ([Human Rights First](#)).

Another move by the Trump administration aimed at alleviating the severely congested asylum system was to sign asylum cooperation agreements with all three countries of the Northern Triangle through which asylum seekers in the

United States would be sent back to those countries if they passed through them and did not apply for asylum there first ([Alvarez and Sands 2019b](#)). While these agreements have not been fully implemented yet, they—like MPP—appear to have discouraged individuals from making the trek to the United States as apprehensions at the American border have drastically decreased since their announcements. However, these agreements are not optimal long-term solutions either.

Large swaths of the Northern Triangle, while becoming safer, are still very dangerous places. Sending vulnerable migrants to these countries leaves them vulnerable to being taken advantage of by criminal organizations such as gangs and human traffickers. Additionally, the asylum infrastructures of these countries are not capable of handling large numbers of asylum seekers, as they are underfunded, understaffed, and undertrained, since historically not many people have sought asylum there ([Menchu](#)). Accordingly, these countries are unlikely to be able to adequately process and care for an increased number of asylum seekers.

On top of that, the citizens and the political class of these countries are largely opposed to receiving foreign migrant asylum seekers. For example, new Guatemalan President Giammattei says that the move is “not right for the country,” and a poll in 2019 indicates that over 80 percent of Guatemalans oppose such a measure ([Menchu and Ore](#)).

While effective in the short term, MPP and the asylum cooperation agreements do not ensure lasting results. Overhauling the outdated U.S. asylum system, as called for in the July 2019 [Toward a 21<sup>st</sup>-Century Asylum System](#) study by the Texas Public Policy Foundation, is the best path forward to bring stability back to the system so that it may achieve its goal of providing relief to those genuinely fleeing persecution.

The structural weaknesses in the current American asylum system are especially harmful to the most vulnerable migrants and the biggest targets for human traffickers—children. One of the deficiencies comes from the consequences of the *Flores* settlement—a court settlement by the Clinton administration that has guided the government's administrative protocol toward unaccompanied alien children (UACs) at the border since the mid-nineties. Among other provisions of the settlement, the government agreed to release UACs to a parent, guardian, or adult relative in the United States “without unnecessary delay.” However, in 2015, a federal judge broadened the *Flores* settlement to

## While effective in the short term, Migrant Protection Protocols and the asylum cooperation agreements do not ensure lasting results.



include family units—not only UACs—and interpreted the “without unnecessary delay” provision to mean 20 days—an arbitrary timeline. On the heels of that decision, a massive increase of family units and UACs from the Northern Triangle made their way to the United States to claim asylum. Since it has been impossible for U.S. immigration courts to adjudicate their petitions in 20 days, they were routinely released just a few weeks after entering the country ([Sussis](#)).

Given that kids were seen as “passports” for expedited entrance into the United States, many were subjected to exploitation. There was an increase in “fake family units” attempting to enter the United States ([Arthur](#)), with reports of individuals seeking to purchase children in Mexico to facilitate their entrance ([Fry](#)) and of “child recycling rings” in which a child is given to someone turning themselves in at the border, and after that person has successfully entered the country, that same child is sent back across the border to be used for the entrance of others ([Montes](#)). Before a change in administrative practices in 2019, minors under 14 years of age could not even be fingerprinted or photographed, allowing the same child to be taken advantage of multiple times ([Sands](#)).

The Trump administration has sought to eliminate the *Flores* settlement by allowing families to stay together during the full adjudication of their asylum claim. This move would discourage families from coming to the border to present fraudulent asylum cases and protect children from individuals hoping to use them as a quick way to gain entrance to the United States. Unfortunately, like many other efforts by the Trump administration aimed at improving the American asylum and immigration systems, the implementation of this move has been slowed down by court challenges ([Jordan](#)).

Another deficiency in the American asylum system that disproportionately hurts children comes from an unintended consequence of the Trafficking Victims Protection Reauthorization Act (TVPRA). Currently, UACs from countries that do not share a border with the United States are being treated differently from those from Mexico and Canada. Under TVPRA, UACs from Mexico and Canada are screened within 48 hours to determine whether they are victims of trafficking, whether they are at risk of being trafficked if returned, and/or whether they have a credible fear of returning to their home country. If no such criteria are found, these UACs are sent back to Mexico or Canada

without having to stay in the extended care of the American government ([Davidson 2019b, 8](#)). However, no such system exists for UACs from other countries, including from the Northern Triangle, where most are currently coming from. These minors are instead transferred to the Office of Refugee Resettlement (ORR) at the Department of Health and Human Services (HHS). From there, the UAC is placed in “the least restrictive setting,” which in most cases is with family in the United States. Consequently, in many cases, the American government is assisting with the smuggling of minor migrants by delivering them to families in the United States who are sometimes in the country illegally and who have paid smugglers to bring their children from the Northern Triangle to the American border ([Davidson 2019b, 6](#)).

Also, while ORR is responsible for conducting background checks and other safety inspections of the households that they release UACs to, given the massive number of UACs being presented at the border, such procedures have been relaxed ([Davidson 2019b, 6](#)). Without adequately evaluating

such family connections or safety conditions, children can be placed in exploitive circumstances. For example, the DOJ prosecuted the leaders of a human trafficking network in Ohio who promised jobs and an education to Guatemalan minors, had them smuggled into the United States, had them released to their care by posing as family friends, and then forced them

to work 12 hours loading and unloading crates of chickens, and cleaning and debeaking the animals. The trafficker took their wages and threatened their families back home if they did not comply ([DOJ 2016](#)).

## Recommendations

To combat transnational human trafficking of migrants in the United States, the traditional 4P paradigm—*preventing* trafficking in persons, *protecting* and assisting victims, *investigating* and *prosecuting* trafficking in persons crimes, and *partnering* with national, regional, and global stakeholders—is still the best path forward ([GAO 2018, 16](#)). However, to address these four principles better, three fundamental steps must be taken.

### ***Secure Areas Between Ports of Entry and Extend Checks at Ports of Entry***

The most obvious yet perhaps the most politically challenging step to prevent transnational human trafficking in the United States is securing the southern border. Placing new physical barriers in strategic locations and replacing old

## The structural weaknesses in the current American asylum system are especially harmful to the most vulnerable migrants and the biggest targets for human traffickers—children.



ones, as well as improving and expanding the use of technology to better detect activity at the border, would help prevent trafficking networks from bringing victims into the United States undetected or, at the very least, slow them down, so law enforcement has better ability to respond. Likewise, having Border Patrol personnel focus on their core duty of monitoring the border, instead of humanitarian or administrative responsibilities that they had to carry out during the height of the border crisis in fiscal year 2019, would make human traffickers less likely to successfully cross the border undetected.

Extending DNA testing to all family units apprehended attempting entrance between ports of entry and suspicious family units (because of lack of documentation or varying answers during the credible fear interview) who present themselves to immigration enforcement agents at ports of entry as a way to confirm family relation is another step that could be beneficial in combating transnational human trafficking since there has been an increase in fraudulent family units at the border. Congress already approved such measures with the DNA Fingerprint Act of 2005, but did not implement them under the Obama administration. The Trump administration implemented pilot programs in 2019 to use DNA testing to establish family relations of migrants at the border. The first pilot program, Operation Double Helix 1.0, found 16 out of 84 families were identified as fraudulent based on DNA results. The second pilot program, Operation Double Helix 2.0, found that 79 of 522 family units were fraudulent. Once a fake family unit has been identified, the adults are referred to U.S. Immigration and Customs Enforcement (ICE) for criminal prosecution, and the minors are turned over to the Department of Health and Human Services (HHS) ([Alvarez and Sands 2019b](#)).

The Trump Administration aims to take DNA testing a step further under the authority of the DNA Fingerprint Act by collecting DNA samples of all foreign nationals that are apprehended at the southern border and storing this information at the FBI's Combined DNA Index System (CODIS), where it then can be accessed by law enforcement to search DNA matches found in crime scenes ([Hauslohner](#)). Implementing and storing these tests in the magnitude of hundreds of thousands per year will prove difficult, and such a move is destined to be challenged in the courts. However, while logistical considerations and court battles ensue, the focus should be turned toward using this tool to protect children at the border from those who wish to cause them harm.

### ***Harden Asylum System Against Abuse***

The American asylum system needs to be updated. The Trump administration has already attempted to fix several

weaknesses inherent in the system with limited success.

Three initiatives that would substantially improve the American asylum system are reforming credible fear interviews and asylum processes, replacing or ending the *Flores* settlement, and amending the Trafficking Victims Protection Reauthorization Act (TVPRA).<sup>3</sup>

As demonstrated above, the credible fear interview—the first step in the asylum process—does not reflect how likely an individual is to be approved for asylum. Making the credible fear interview stricter and allowing asylum officers to fully adjudicate asylum petitions with a credible fear finding instead of starting anew in immigration court, would expedite the process and not add to the already massive backlog in immigration court. In turn, this would limit the incentive for people to file specious asylum claims and cut the waiting times for those who are in legitimate need of help ([Davidson 2019b, 6-8](#)).

The *Flores* settlement, which was intended to provide protections to UACs, is, in fact, putting migrant children in greater danger. The reinterpretation of the settlement in 2015, which limited the time UACs and family units may remain in federal custody, has resulted in hundreds of thousands of families undertaking the dangerous journey to the American border and minors being exploited for expedited entrance to the United States. By ending the *Flores* settlement, as the Trump administration has attempted to do, or replacing it with legislation that allows families and children to stay together during their immigration proceedings, migrant children will be better protected from exploitation ([Davidson 2019b, 8](#)).

Reforming TVPRA in order to process UACs from the Northern Triangle countries the same way that UACs from Mexico and Canada are treated would prevent the U.S. government from essentially being complicit in the smuggling of minors to the United States, as well as preventing minors' exploitation in the country. UACs from the Northern Triangle could be scanned for signs of trafficking, the possibility of being trafficked if sent back, and/or fear of prosecution, within two days of entering the United States. If the assessment is negative, they could be sent back to their country of origin without extended stay in the care of HHS at substantial cost to the American taxpayers ([Davidson 2019b, 8](#)).

### ***Ban Sanctuary Policies***

Sanctuary policies, through which local jurisdictions refuse to collaborate with federal immigration agencies once an illegal alien is in the custody of law enforcement, disrupt operations to dismantle criminal organizations that are largely composed of illegal aliens—such as MS-13. Between fiscal year 2014 and fiscal year 2019, ICE-issued detainer

3 For more details on these proposals, see [Toward a 21st-Century Asylum System](#) by John Daniel Davidson.

requests to state and local law enforcement agencies increased by 20 percent, from 137,000 in 2014 to 165,500 in 2019. During that period, a total of more than 58,900 were declined by “uncooperative jurisdictions” ([DHS Office of Inspector General, 9](#)). Without this collaboration, members of criminal organizations who are in the country illegally may seek to reside in these areas, as they are less likely to be identified and detained, and criminal aliens are more likely to be released back onto the streets. Numerous crimes by illegal aliens, including rapes and murders, have happened throughout the nation after local officials refused to contact ICE upon arresting undocumented criminals and subsequently letting them go ([ICE](#)). Once these criminals are released from custody, ICE must attempt to arrest them while they are at large, instead of in a controlled environment at the jail. This increases security risks for officers, arrestees, and the community as a whole ([DHS Office of Inspector General, 10](#)). These practices also have a direct and negative impact on combatting transnational human trafficking since the FBI has indicated that most of the defendants of human trafficking cases have prior criminal records and are prone to traffic again ([DOJ 2017a, 4](#)).

Sanctuary policies are contrary to federal law that prohibits federal, state, or local government entities or officials from withholding information regarding the citizenship or immigration status of any persons from ICE ([8 U.S.C. § 1373\(a\)](#)). The Trump administration has sought to end sanctuary policies throughout the country with a series of bold initiatives such as making it harder for sanctuary jurisdictions to receive federal grants ([Executive Order 13768](#)), deploying tactical Border Patrol agents to sanctuary cities to help ICE enforce immigration laws ([Dickerson and Kanno-Youngs](#)), and suing officials and localities that have adopted sanctuary policies ([Benner](#)). However, the full implementation of these measures have been slowed down by the courts.

States can follow the lead of Texas (among other states) to ban sanctuary jurisdictions themselves. In 2017, Texas adopted a law requiring local city and county officials to assist federal immigration agencies. If they do not, sanctuary cities may face a penalty of \$25,500 each day they violate the law, law enforcement agents can be charged with criminal misdemeanors for not complying, and the state attorney general can file a petition to remove them from office ([Spakovsky and Stimson](#)).

The argument that is often made by proponents of sanctuary cities is that without the shield from deportation they provide, victims of crimes—including human trafficking—will not collaborate with law enforcement. However, the American immigration system already provides diverse methods of immigration relief to crime victims who are in

the country illegally so that they may come out of the shadows and get the support they need without hampering common sense cooperation between local and federal agencies.

For example, human trafficking victims are eligible to receive several types of immigration relief for coming forward and collaborating with law enforcement. One of them is the T-visa, which is exclusively available for illegal aliens who have been victims of sex and labor trafficking. The T-visa allows foreign nationals and certain family members—their children, parents, and unmarried siblings under 18 years of age—to stay in the United States for up to four years, receive work authorization, and be eligible for federally funded benefits and human services (as well as some state resources depending on the state). To receive a T-visa, a victim must help law enforcement investigations or prosecutions and demonstrate that they would suffer harm if removed from the United States. Cooperation with law enforcement is not required for those younger than 18 years of age or if the victim is unable to collaborate due to physical and psychological trauma. T-visas may be extended beyond four years in certain circumstances, but after three years, an individual under this status may apply for permanent residence (green card) ([USCIS 2018a](#)). While the T-visa is capped at 5,000 per year—excluding family members—this limit has never been reached and is more quickly available than other forms of immigration relief. Also, prior criminal or immigration violations that may bar other forms of immigration relief may be waived if they were caused by or were incident to being trafficked, or if it is found to be in the national interest to do so ([Kamhi and Prandini, 2](#)).

Trafficking victims may also be eligible for U-visas. U-visas are available to admissible undocumented aliens who are victims of certain crimes committed in the United States, including human trafficking, who suffered mental or physical abuse, and are helpful or are likely to be helpful to law enforcement or government officials in the investigation or prosecution of criminal activity ([USCIS 2018b](#)). Like T-visas, individuals who receive a U-visa, and qualifying family members, may stay in the United States for four years, are authorized to work in the United States, and may apply for a green card after three years (or extend U-visa status under qualifying circumstances). The cap for U-visas is twice the size of the cap for T-visas, at 10,000 per year (excluding family members), but U-visas do usually hit their yearly limit as they are available to victims of many kinds of crimes ([USCIS 2018b](#)).

When the trafficker is someone that the victim considers a loved one, the victim may not realize that they are being trafficked. Mixed-status households—where one or multiple

family members are U.S. citizens or legal residents and the others are not—open up the possibility of undocumented aliens to be coerced into exploitive scenarios. As a way for these victims to get away from such abusive relationships, the Immigration and Nationality Act (INA), as amended by the Violence Against Women Act (VAWA), allows a battered spouse, child, or parent (regardless of sex) to receive immigration relief ([USCIS 2016](#)).

Therefore, at least in part, the problem is not a lack of immigration relief, but a lack of public awareness of these possibilities. Public awareness campaigns—with publicity, such as posters in locations that trafficking victims are likely to frequent, such as nearby hotels, cantinas, and construction sites, and greater online advertisements—may help increase the number of foreign victims who come forward. Likewise, local law enforcement agents should be given more uniform training to better assist those who come forward in receiving the immigration relief they need. The location of victims should not affect their chances of being granted a T- or U-visa. Federal agencies need to work on the ground, especially in areas where there is a large population of illegal aliens and teach local officials best practices for making the process more efficient and minimally bothersome for victims.

Besides public awareness campaigns and training, obtaining data and conducting studies on cases that resulted in arrests, indictments, and prosecutions from information received by T- and U-visa holders, would give policymakers greater details on how to adjust such visa statuses to best incentivize foreign trafficking victims to seek them out, and prevent abuse of the system.

## Conclusion

Successfully combating the transnational human trafficking of migrants in the United States is not an easy task. It requires domestic political will, willing partners abroad, and the right policies to reduce the push factors that expel people from their countries—which makes them susceptible to traffickers—and the pull factors that attract them to the United States and give trafficking and smuggling networks a target market.

While a series of domestic and foreign policy adjustments are needed, the three recommendations highlighted above—namely securing the border, reforming the asylum system, and banning sanctuary polices—are the essential first steps that need to be taken. Without them, countless victims are never going to get the help they need, and traffickers will not receive the punishment they deserve. ★

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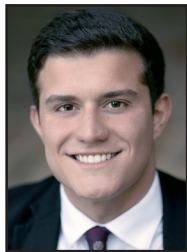
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