

SEX TRAFFICKING AND THE STATE IN ARGENTINA: THEORETICAL  
PERSPECTIVES, GOVERNMENT POLICIES AND A PROPOSAL FOR A  
COMPREHENSIVE APPROACH

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## Introduction

In my first week as an exchange student in Buenos Aires, Argentina, I noticed a peculiar series of public service announcements that was showing frequently on Argentine television channels. The first one featured a sad-looking woman, singing softly, holding a picture of a young girl and crying. As the woman rocked back and forth on the edge of a small bed in a dimly lit room, words flashing across the bottom of the screen told her story. The girl was her daughter, who had vanished off the streets one day, never to be seen again. Argentines have long been sensitized to the issue of disappearances, and the scene seemed to recall the search for the thousands of *desaparecidos* (disappeared ones) in the aftermath of Argentina's military dictatorship of the 1970s and 1980s. The announcement urged anyone with information to come forward and ended with the number of a hotline. Over the following weeks, I saw more of these announcements with different women who had their stories told. How widespread were these disappearances, I wondered, to merit a national awareness campaign? Who were these girls, and where had they gone?

Many months later I read a news story about a woman named Susana Trimarco and her quest to find her daughter, who she and police believed had been kidnapped and trafficked into prostitution. Stories like Trimarco's are disturbingly common in Argentina; human trafficking rings in the country tricked or forced as many as eight hundred girls and women into sexual exploitation in 2007 and the first half of 2008 alone.<sup>1</sup> I had known of problems with sex trafficking in Southeast Asia and Eastern Europe, where women and children are commonly trafficked across international borders to work as prostitutes. It surprised me to learn of the prevalence of trafficking in Argentina and of its unusual nature as a largely internal problem;

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<sup>1</sup> Brian Byrnes, "Argentine mom seeks daughter forced into prostitution." CNN.com. 18 September 2008. Accessed 23 February 2009. <http://edition.cnn.com/2008/WORLD/americas/09/17/stolen.lives/index.html>.

Argentine traffickers recruit or kidnap the majority of their victims not from distant countries but from within the country's own borders. I found out as much as I could about the problem as it manifests itself in Argentina and decided to pursue the issue in my senior thesis.

## **Why Trafficking Matters**

Sex trafficking lies at the nexus of a number of contemporary global issues, tying into larger trends of globalization, migration and the rise in organized crime, as well as the current debates regarding sex work and the often conflicted relationship between states and human rights. According to the United Nations Office on Drugs and Crime, human trafficking in its various forms is the fastest growing criminal industry in the world. Current estimates place the number of trafficking victims worldwide between 600,000 and 2.5 million, with both children and victims of sexual exploitation accounting for as much as 50% of that number.<sup>2</sup> The crime is not a new phenomenon; early accords dealing with trafficking date back over one hundred years.<sup>3</sup> The enterprise began to grow and evolve, first in the form of debt bondage and contract slavery, as an answer to the demise of the trans-Atlantic slave trade. Global economic trends and historical events such as the collapse of the Soviet Union contributed to a sharp increase in trafficking since the early 1990s. Trafficking is an underground activity that exploits people of many nationalities, ethnicities and races. However, it bears sufficient similarities to the nineteenth century slave trade that many scholars and activists are referring to the phenomenon not simply as a crime with origins in abolition, but as actual slavery in its modern-day form. In many ways, this characterization is quite accurate. Despite the prohibition of traditional forms of

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<sup>2</sup> "Trafficking Estimates." United Nations Educational, Scientific and Cultural Organization - Bangkok. 4 February 2009. Accessed 7 April 2009. <http://www.unescobkk.org/index.php?id=1963>.

<sup>3</sup> Kauko Aromaa. "Trafficking in Human Beings: Uniform Definitions for Better Measuring and for Effective Counter-Measures." In Ernesto U. Savona and Sonia Stefanizzi, eds. *Measuring Human Trafficking: Complexities and Pitfalls*. New York, Springer, 2007, 13.

slavery, the growth of trafficking as a business signals a return to the commoditization and exploitation of human beings on a large scale.

Trafficking has grown and thrived as a business thanks to the broader phenomena of globalization and migration. Contemporary discussions of globalization frequently distinguish the “winners” and “losers” of economic globalization—those who benefit and those who suffer from the integration of national economies into an international economic system through free trade, foreign direct investment and other flows of capital and technology. It is often the “losers” of globalization who fall victim to trafficking networks as they seek to improve their economic and social conditions. Trade liberalization has brought greater prosperity to some, but in Latin America it has also caused greater economic volatility and increased levels of income inequality (both within and between states.)<sup>4</sup> These conditions have contributed to the trafficking problem. The economic inequalities between Argentina, one of Latin America’s wealthiest countries, and its much poorer neighbors, Bolivia and Paraguay, fuel migration and the trafficking business. Within Argentina’s borders, disparities in wealth and public investment between the urban centers and the impoverished rural areas (where as much as 39% of the population is under the poverty line) repeat the pattern.<sup>5</sup>

Globalization has facilitated one response to such disparities: migration. People move across borders as they seek the opportunity to become “winners” in the globalized world. The advances in transportation, communication and money flows of the twentieth century (primarily affecting Latin America from the 1980s onward) have allowed an increasing number of people to leave their homes in search of economic opportunities in urban areas, either domestically or

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<sup>4</sup> Kinsey Alden Dinan. “Globalization and national sovereignty: From migration to trafficking.” In Edward Newman and Sally Cameron, eds. *Trafficking in Humans: Social, Cultural and Political Dimensions*. New York: United Nations University Press, 2008, 61.

<sup>5</sup> Dorte Verner. *Rural Poor in Rich Rural Areas: Poverty in Rural Argentina*. World Bank Policy Research Working Paper 4096, December 2006, 2-3.

abroad, within growing industrial, technology and service sectors. Trafficking is little more than an opportunistic enterprise offering a vehicle for desperate people seeking to leave poor social and economic conditions for something they believe to be more promising.<sup>6</sup> Dr. Radhika Coomaraswamy, the UN special rapporteur on violence against women, has described traffickers as merely “fishing in the stream of migration.”

The problematic effects of globalization-fueled migration pressures and restrictive migration policies have placed human trafficking within the larger debate on the conflict between national sovereignty and human rights in international relations. Migration policies designed to reduce illegal immigration, ensure national security and protect the domestic economy are often the very policies that force desperate migrants to turn to traffickers and put themselves at risk for exploitation. Policy proposals aimed at combating trafficking and protecting individual human rights often stand in direct opposition to nationalist migration policies. They would require states to compromise their own security and economic interests by opening up channels of migration.

Sex trafficking also creates a conflict between national sovereignty and individual human rights with regards to the regulation of prostitution. Because victims of sex trafficking are exploited as prostitutes, anti-trafficking policy proposals often seek to regulate or even criminalize prostitution. Their objective is to prevent the commercial sex industry from becoming a vehicle for the exploitation of trafficked women and girls. But these proposals often conflict with existing laws and regulations affecting the sex industry that have been influenced by perceptions of female sexuality or enacted to address national concerns of morality, public health and crime prevention.

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<sup>6</sup> Ernesto U. Savona and Sonia Stefanizzi. “Conclusions.” In Ernesto U. Savona and Sonia Stefanizzi, eds. *Measuring Human Trafficking: Complexities and Pitfalls*. New York: Springer, 2007, 125.

The success of human trafficking networks in recent decades is just one part of the increasingly complex and expansive organized crime networks dealing in drugs, guns and human beings worldwide. It is also symptomatic of the institutionalized official corruption that is practically ubiquitous in Latin America and Eastern Europe and that enables such criminal networks to exist. The partnership between criminal networks and so many corrupt politicians and police officers often makes it difficult to determine who is part of the problem and who is part of the solution. Corruption presents an added challenge to the implementation of each and every anti-trafficking policy, because often the individuals charged with carrying out such policies have been working with the trafficking networks all along.

Though many of the conditions and issues that cause (and are complicated by) trafficking are permanent fixtures in a globalized world, human trafficking should not be treated as an inevitable product of an increasingly interconnected global community. The answer to the trafficking problem lies in weakening the connection between globalization and migration trends and the trafficking networks that exploit them—not stopping the trends themselves. Researchers and policymakers face the challenge of developing policy proposals that accomplish this task while respecting both individual rights and national sovereignty; otherwise countries are unlikely to adopt or enforce them. Organized crime expert Louise Shelley suggests that without such policies, human trafficking could become as prevalent in this century as the drug trade was in the last.<sup>7</sup>

The thesis aims to identify and evaluate the efforts of the Argentine government and other actors to address the problem of human trafficking, and it seeks to make policy proposals for a more informed and comprehensive response. In order to meet these objectives, the thesis

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<sup>7</sup> Louise Shelley. “Human trafficking as a form of transnational crime,” In Maggy Lee, ed. *Human Trafficking*. Cullompton: Willan, 2007, 135.

addresses a number of questions. First, what are the frameworks or perspectives that help researchers and policymakers study and understand trafficking? How do those perspectives affect policy decisions? What are the fundamental causes and conditions of trafficking, and what is the relationship between those causes and the appropriate solutions? Second, what are the causes and conditions specific to Argentina's trafficking problem? What are the chosen policies and initiatives of the Argentine government to respond to the problem, and are they sufficient? How do they measure up to international laws and standards on trafficking? Finally, in what ways does the Argentine response address the particular causes of the country's trafficking problem? Which, if any, of those causes are not being addressed by current policies? How can Argentina's anti-trafficking policies be improved or expanded? What other strategies might address those causes?

## **Data and Methods**

Available data on human trafficking are "scarce, unreliable, and not mutually comparable."<sup>8</sup> The absence of a universally accepted trafficking definition, incongruent legal systems and the outright denial of the existence of the problem by some states complicate the collection of empirical data, theoretical analysis and cooperation among states. What few data exist are often fragmented or outdated. Governments, inter-governmental organizations and even many NGOs involved in the fight against trafficking possess uncoordinated, unreliable or inadequate data collection systems and are inconsistent in their data reporting. Governments and NGOs operating in Europe and Asia have made significant progress in data collection and coordination in recent years, but reliable information remains scarce in Africa, Latin America

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<sup>8</sup> Ernesto U. Savona and Sonia Steffanizzi, eds. *Measuring Human Trafficking Complexities and Pitfalls*. New York: Springer, 2007, 2-3.

and other regions of the world.<sup>9</sup> Trafficking is essentially an “underground” phenomenon that is difficult to detect, much less quantify.<sup>10</sup>

Researchers make general assertions about the conditions that cause people to become vulnerable to trafficking, but sociological studies of the victims and the effects of victimization on their life chances are even scarcer than numerical data on trafficking activities. This holds particularly true in Argentina, where media reports of criminal cases and NGO studies provide the only glimpses of the victim experience. Equally little is known about the conditions or relationships that lead traffickers to become involved in organized criminal activity. The lack of sociological data is likely to persist until government assistance to victims makes them more visible and accessible to researchers. There is a critical need for better empirical data on trafficking in Argentina and its neighboring countries, not only focusing on traffickers and their networks but also on the victims themselves, their reasons for becoming victims and the effects of their victimization on their lives post-rescue or post-escape. Because the Argentine government is in the early stages of developing its anti-trafficking strategy, data collection and reporting have not been much of a priority to date.

For my research on Argentina, I rely heavily on Argentine and international news media as well as NGO reports. Organizations such as the International Organization for Migration (IOM) and the International Labor Organization (ILO) have been on the ground in Argentina assisting victims and gathering data firsthand from traffickers, victims, law enforcement officers and policymakers. Their information rarely looks at trafficking trends or the effects of institutional responses over time, and it tends to reflect the concerns and interests of the particular organization. For example, IOM’s data on the countries of origin of trafficking victims

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<sup>9</sup> Sally Cameron. “Trafficking of Women for Prostitution.” In Edward Newman and Sally Cameron, eds. *Trafficking in Humans: Social, Cultural and Political Dimensions*. New York: United Nations University Press, 2008, 80.

<sup>10</sup> Savona, 2-3.

reflect the organization's focus on assisting victims of transnational rather than domestic trafficking. However, the body of data provided by these organizations and other organizations such as the UN Office on Drugs and Crime is by far the most comprehensive in Argentina when it comes to accurate reporting of the size and structure of trafficking networks and the number and characteristics of their victims. I rely on news reporting of anti-trafficking initiatives to determine which have been most active and/or effective rather than simply depending on government reporting of its own activities, which is highly inadequate, inaccessible and often outdated.

I look to the literature of sociologist, criminologist and political scientist experts in the field of global human trafficking to place Argentina's trafficking problem in context and to inform my discussion of the theoretical frameworks for studying and combating the crime. These scholars shed light on the more general issues related to trafficking, such as the definitions of the crime and its elements, the causes, and the challenges researchers face in gathering trafficking data. The literature helps to make the connection between the conditions that contribute to trafficking and its solutions. It also explores the utility of potential responses to trafficking and suggests the implications of those responses on individual human rights and state sovereignty.

## **Structure of the Thesis**

Chapter one discusses the research of sociologists, criminologists and feminist and human rights activists to provide perspective on the accepted definitions and known causes of human trafficking generally and sex trafficking in particular. The terminology of trafficking influences the way researchers study and gather data, and the available data in turn influences the nature and scope of the anti-trafficking initiatives. The chapter examines the language and

conceptions of trafficking that guide researchers in studying the crime, including the most commonly accepted trafficking definition, established by the “United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children”.<sup>11</sup> It also examines the factors that contribute to the vulnerability of certain populations to trafficking and to the viability of trafficking networks. The chapter concludes by examining three common approaches to the study of trafficking: the migration, feminist and market perspectives. Each of these three frameworks for studying and understanding trafficking attributes the crime to different underlying causes, and each supports a different set of policy proposals to address those causes. A discussion of these frameworks illustrates that the way in which trafficking is viewed directly affects policy formation. To critically assess policy, we need to understand the perspective(s) on trafficking, their differences and their commonalities.

The second chapter turns to the case of Argentina. It discusses the nature and scope of the problem by identifying prevalent forms of trafficking in Argentina and by profiling the victims as well as the most important types of perpetrators and their roles within trafficking networks. This chapter offers an insights into the specific conditions that exist in Argentina, as an understanding of those conditions is a prerequisite to the formation of targeted, effective solutions. The chapter relies heavily on a study published by the International Organization for Migration for information regarding the structure of Argentine trafficking networks and a profile of their victims. It uses news articles to provide a sense of specific cases and the stories of individual victims. The chapter identifies two major types of trafficking in the country: internal/transnational trafficking of adolescent girls and women for sexual exploitation

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<sup>11</sup> This protocol is one of two protocols supplementing the United Nations Convention Against Transnational Organized Crime. The other is the Protocol Against the Smuggling of Migrants by Land, Sea and Air. They are commonly referred to as the Palermo Protocols after the city in which they were signed. In this thesis, the trafficking protocol will be referred to as the Palermo Protocol or simply the Protocol.

throughout the country and trafficking of children and teenagers into prostitution in the triple border region between Argentina, Brazil and Paraguay, where they meet the demand of a booming sex tourism industry. The chapter discusses both types of trafficking and efforts to combat them, but it focuses on the domestic trafficking of women and teenage girls into brothels in Argentina. A fuller analysis of trafficking in the triple border region would require a discussion of the legal systems and law enforcement in three countries, which goes beyond the scope of this thesis.

Chapter three examines institutional responses to Argentina's trafficking problem in three areas: protection of victims, prosecution of offenders and prevention. It describes governmental, domestic non-governmental, inter-governmental, and international responses and gauges their effectiveness in order to determine the need for possible alternative strategies. Specifically, the chapter assesses the effects of Argentina's recently enacted federal anti-trafficking law as a governmental response to prosecute offenders. It also assesses Argentina's compliance with its obligations under international laws to combat trafficking. The chapter relies on reports issued by the U.S. Department of State and the United Nations Office on Drugs and Crime, government and NGO websites and news articles publicizing successful and/or controversial efforts. Since information regarding institutional responses is scarce, often dated, and at times contradictory, the chapter attempts above all to identify the *types* of responses we do and do not see in Argentina. The chapter also describes Argentina's current policies regulating the commercial sex industry and explains how these policies contribute to the trafficking problem.

Finally, chapter four addresses the big question: *What is to be Done?* The chapter uses the three frameworks developed in chapter one to identify the corresponding structural and proximate contributors to human trafficking that have been overlooked in Argentina's anti-

trafficking policy. There is no “one-size-fits-all” solution to the global trafficking epidemic. Rather, each country and region must tailor its efforts to its unique social, political and economic realities and to the specific factors that make populations vulnerable to trafficking and encourage the existence of the networks that exploit them. The chapter proposes a comprehensive strategy for prevention that is informed by all three perspectives and addresses the conditions and causes particular to Argentina. It offers specific policy suggestions aimed at reducing the profitability and viability of trafficking operations through consistent, effective legal regulation of the commercial sex industry and through disruption of a common method of recruiting victims. It also suggests strategies for better data collection to enable informed policy.

## **Chapter One: Understanding Human Trafficking: Theoretical Perspectives**

A discussion of effective policy solutions to human trafficking in Argentina and beyond depends upon a clear understanding of the definitions and key terms that guide researchers and policy-makers. Human trafficking is a multi-dimensional problem arising from the unique economic, political and social conditions of each country or region where it exists. Accordingly, there is no universal solution to human trafficking; policy-makers must look to the particular underlying causes to create real solutions. Here we will examine the recognized causes of trafficking as well as the various definitions and perspectives to be considered in the formation of anti-trafficking policies.

Successful global anti-trafficking efforts begin with a clear understanding of the phenomenon. Policy-makers need to work with a common definition of human trafficking to guide the collection of data, the coordination of law enforcement, and the formulation of targeted legislation.<sup>12</sup> Agreement on a common definition is thus more than an academic exercise; it is a necessary precondition for appropriate political action.<sup>13</sup>

### **Defining Human Trafficking**

The most widely accepted definition of human trafficking is found in Article 3 of the “United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, supplementing the UN Convention against Transnational Organized Crime,” otherwise known as the Palermo Protocol, after the city where it was adopted. The Palermo Protocol has been instrumental in coordinating international anti-trafficking efforts. After coming into force in 2003, the Protocol gained 117 signatories and 124 parties by 2008, including every Latin American country except

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<sup>12</sup> Aromaa, 14-15.

<sup>13</sup> *Ibid*, 15.

Honduras and Cuba.<sup>14</sup> Governments who both signed and ratified the Protocol commit themselves to the criminalization of trafficking and the protection of victims within their borders.<sup>15</sup>

The definition reads as follows:

For the purposes of this Protocol:

(a) “Trafficking in persons” shall mean 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.<sup>16</sup>

The Palermo Protocol seeks to clarify the role of the victim by addressing the issue of consent as well as to classify the components of the trafficking process, representing it as a crime that encompasses three different types of criminal activity—trafficking activities, the means by which traffickers gain the compliance of their victims, and the purpose of those activities, which is exploitation. Each component involves multiple elements, any or all of which can be undertaken by perpetrators of the crime.

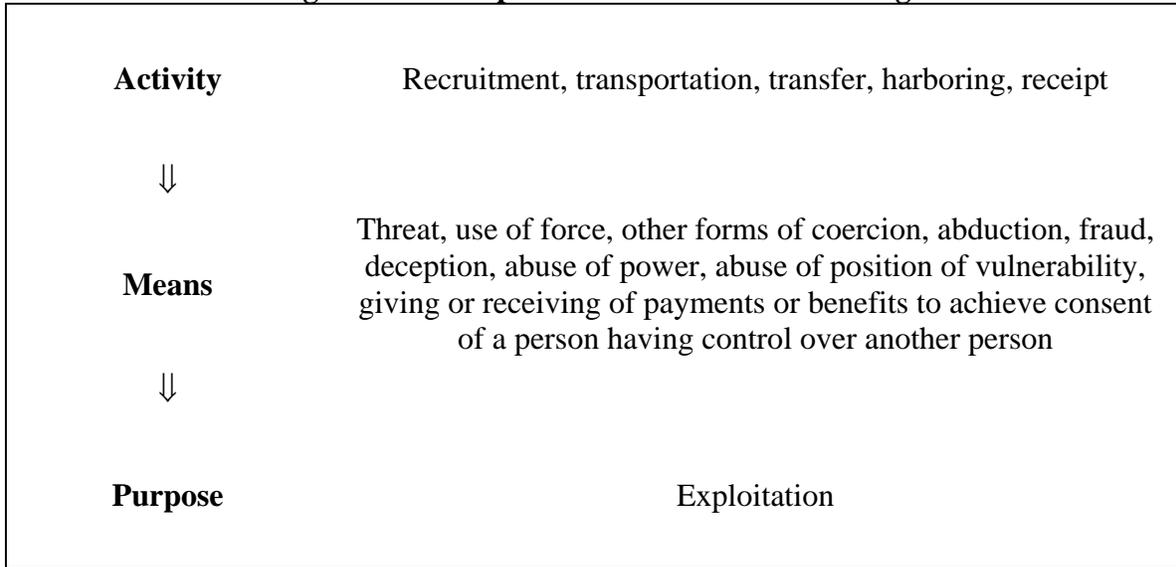
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<sup>14</sup> United Nations. *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*. 2000.

<sup>15</sup> Edward Newman and Sally Cameron. “Introduction: Understanding Human Trafficking.” In Edward Newman and Sally Cameron, eds. *Trafficking in Humans: Social, Cultural and Political Dimensions*. New York: United Nations University Press, 2008, 6.

<sup>16</sup> United Nations. *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*. United Nations, 2000, 2.

**Figure 1.1: Components of Human Trafficking**



Despite the existence of an internationally accepted legal definition of trafficking, researchers continue to employ varying operational definitions, disagreeing as to what exactly constitutes trafficking and which elements should be treated as the focus of trafficking studies. Even the countries that have ratified the Palermo Protocol define the crime differently in their domestic anti-trafficking laws.<sup>17</sup> ‘Human trafficking’ itself is a blanket term for a number of complex criminal activities that can involve varying degrees of victim participation, blurring the line between co-conspirator and innocent, willing migrant and trafficking victim. There is no consensus as to the precise definition of key terms such as ‘coercion,’ ‘consent’ and even ‘exploitation,’ which can have multiple meanings and have been interpreted according to policy-makers’ specific concerns and goals.

The Protocol classifies “the threat or use of force” as coercive but leaves the full scope of coercion up to interpretation. Physical abuse and methods such as the withholding of the victims’ documents are generally considered coercive. Psychological coercion may be less measurable or

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<sup>17</sup> Aromaa, 16.

identifiable and more difficult to prove. Some scholars argue that causal factors of trafficking, such as economic hardship or conflict in the source country, should be considered coercive. Traffickers do not create these conditions, but the fact that they take advantage of them in order to recruit their victims can constitute coercion.<sup>18</sup> Examples of this type of opportunistic coercion might involve framing exploitative sex work as a means of escape from abject poverty or trapping victims in debt bondage. Without a consensus on the scope of coercion or a legal definition of the term, lawmakers and judges must decide for themselves whether or not the activities of domestic traffickers are punishable as coercive practices.

‘Consent’ is an equally ambiguous term. The use of deception, coercion, or any of the means listed in Article 3(a) of the Palermo Protocol nullifies a victim’s consent to trafficking, because “logically it is only possible to consent to something if you know all the facts and are free to consent or not.”<sup>19</sup> The situation becomes less clear when a person willingly and knowingly agrees to be moved into conditions of exploitation. Many Eastern European women turn to sex traffickers knowing that they are being recruited into exploitative working conditions as prostitutes. Courts can treat these women as collaborators, as they willingly participate and even cooperate with traffickers.<sup>20</sup> In theory, the participation and consent of the victim may make him or her criminally responsible, but it still should not impede the prosecution of the trafficker if he or she deceived the victim in any way. In practice, constitutional and human rights protections in many countries allow traffickers to raise consent as a defense. Proving consent is inherently difficult, and the lack of evidence favors the accused.<sup>21</sup>

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<sup>18</sup> Tom Obokata. *Trafficking of Human Beings from a Human Rights Perspective: Towards a Holistic Approach*. Boston: M. Nijhoff Publishers, 2006, 25.

<sup>19</sup> Sally Cameron. “Trafficking of Women for Prostitution.” In Edward Newman and Sally Cameron, eds. *Trafficking in Humans: Social, Cultural and Political Dimensions*. New York: United Nations University Press, 2008, 81.

<sup>20</sup> Obokata, 26.

<sup>21</sup> Obi N. I. Ebbe. *Global Trafficking in Women and Children*. Boca Raton: CRC Press, 2008, 8-9.

The Protocol did not define the “exploitation of prostitution of others and other forms of sexual exploitation,” because delegates disagreed as to whether the prostitution of consenting adults can constitute trafficking.<sup>22</sup> Some activists and policymakers maintain that all migrant sex workers are trafficking victims, an argument resting on the belief that no person would willingly consent to her own prostitution.<sup>23</sup> In the absence of a set definition, however, states are allowed to define prostitution according to their own customs and differ considerably in their treatment of sex work.<sup>24</sup>

### Trafficking vs. Smuggling

Legally, it is often difficult to determine whether a crime should be considered a case of human trafficking or human smuggling. The ambiguous distinction between these two related but distinct crimes complicates data collection and prosecution efforts. Exploitation—the element that today distinguishes trafficking crimes from smuggling—was notably absent from early definitions of human trafficking. Those definitions were consistent with what is today considered smuggling in human beings, outlined in the 2000 UN Convention against Transnational Organized Crime 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.”<sup>25</sup> While trafficking involves the subsequent exploitation of the victim and the violation of his or her rights, smuggling is limited to the facilitation of the illegal crossing of borders and involves no subsequent action once the migrants

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<sup>22</sup> *Ibid*, 7.

<sup>23</sup> Frank Laczko and Elzbieta Gozdziaik, eds. *Data and Research on Human Trafficking: A Global Survey*. Geneva: International Organization for Migration, 2005, 11.

<sup>24</sup> Ebbe, 7.

<sup>4</sup> *Ibid*, 10.

reach their destination.<sup>26</sup> Smuggling is viewed not as a violation of the individual rights of a victim but rather as the violation of a state’s political and security interests.<sup>27</sup> However, smuggled persons may also fall victim to human rights abuses if they are abandoned, physically or sexually abused, killed or become indebted to their smugglers.

**Figure 1.2: Trafficking vs. Smuggling**

	<b>Trafficking</b>	<b>Smuggling</b>
<b>Violation of National Sovereignty</b>	Sometimes - only when borders are crossed illegally	Always – smugglers facilitate illegal border crossings
<b>Violation of Human Rights</b>	Always – traffickers intentionally exploit or attempt to exploit their victims	Sometimes – only when smuggled migrants are abused or neglected by their smugglers

Trafficking and smuggling involve many of the same elements, and smuggling can evolve into trafficking if exploitation comes into the equation. Maggy Lee looks to fellow sociologist Liz Kelly’s argument that trafficking is best understood as “a ‘continuum’ which involves various degrees of force, exploitation, and positions of vulnerability.”<sup>28</sup> Exploitation and deception can occur at varying points along the journey, which makes it difficult to ascertain whether a person began as a trafficked or smuggled person. Law enforcement officials cannot always know whether exploitation would have occurred had they not rescued a victim. This uncertainty can prevent effective prosecutions when courts rely on exploitation as the only punishable element of trafficking rather than criminalizing the entire process, including the steps leading up to exploitation. Tom Obokata, a law professor and trafficking expert, argues that exploitation should be a sufficient, but not necessary, element of trafficking; rather the *intent* to

<sup>26</sup> Obokata, 21.

<sup>27</sup> Maggy Lee. “Introduction: Understanding Human Trafficking.” *Human Trafficking*. Maggy Lee, ed. Cullompton: Willan, 2007, 10-11.

<sup>28</sup> Lee, 11.

exploit should be the necessary condition. The wording of the Palermo Protocol supports this approach to the criminalization of trafficking with its use of the phrase “for the *purpose* of exploitation.” Provided that the *mens rea* of an offender can be established, he or she can be held responsible for trafficking even without having exploited the victim.<sup>29</sup>

### **Causes of Trafficking: Structural and Proximate Factors**

A nuanced understanding of the causes of human trafficking informs policy discussion and enables effective data collection. Edward Newman and Sally Cameron suggest in very general terms that populations can become vulnerable to trafficking when social, economic and political conditions interact with the policy and government issues of a particular region or country. More specifically, they cite gender dynamics, poverty, globalization and migration as the “structural factors” that make populations vulnerable to trafficking. “Proximate factors”, such as poor law enforcement, restrictive migration policies, inadequate labor laws and corruption, are the conditions that cannot independently create a trafficking problem but can exacerbate existing vulnerabilities.<sup>30</sup>

Structural factors are the “fundamental conditions of human trafficking” which exist independently of any legal, political or governmental influence.<sup>31</sup> Newman and Cameron distinguish four main types of structural factors: economic, social, ideological and geopolitical. Each of these types of factors can act independently or in conjunction with other structural factors to create an environment in which certain populations become vulnerable to trafficking.

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<sup>29</sup> Tom Obokata is a Lecturer in Law at the University of Dundee, in Scotland and a consultant on human trafficking for governmental, non-governmental and international organizations. Obokata, 20.

<sup>30</sup> Sally Cameron is a consultant on gender and governance issues and a former policy analyst at the Australian Federation of AIDS Organisations. Edward Newman is a senior political lecturer in the political science department at the University of Birmingham, UK and the former director of studies on Conflict and Security in the Peace and Governance Programme at United Nations University. Newman and Cameron, 1-3.

<sup>31</sup> *Ibid*, 2.

Among the most influential structural factors are migration pressures, poverty, gender inequities, war or conflict and prostitution. These factors are the conditions that cause victims to seek the “services” of traffickers, whether knowingly or unknowingly, and that lead societies to tolerate the exploitation of victims. They are central to a number of approaches to the study of the crime, which will be discussed below.

**Figure 1.3: Structural and Proximate Factors**<sup>32</sup>

<p><b>Structural Factors</b></p> <p><u>Economic factors:</u> Globalization; poverty; deprivation and economic downturns and trends; free market economics; deregulation; migratory movements</p> <p><u>Social factors:</u> Social inequality; gender discrimination; discrimination and marginalization based upon age (children and minors); gender status; disadvantaged cultural, regional and linguistic status; prostitution</p> <p><u>Ideological factors:</u> Racism; xenophobia; gender and cultural stereotyping</p> <p><u>Geopolitical factors:</u> War; civil strife; violent conflict; military bases and operations</p> <p><b>Proximate Factors</b></p> <p><u>Legal and policy aspects:</u> Inadequate national and international legal regimes; poor law enforcement; immigration/migration laws and policies; inadequate and poorly enforced labour laws and standards</p> <p><u>Rule of law:</u> Corruption; complicity of state in criminal activities; support by state officials of underground criminal networks; organized criminal/parallel entrepreneurship including underground ex trade; smuggling; trade in arms and drugs</p> <p><u>Inadequate partnership between civil society and state:</u> Weak education campaigns; low awareness among vulnerable communities; apathetic civil society; poor accountability of state organizations</p>
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Proximate factors are the policy and governance issues that compound the risks created by structural factors. These include corruption, poor law enforcement, restrictive migration policies, organized crime and inadequate regulation of labor, tourism and sex work. Proximate causes arise when government policies, whether focused on trafficking or other issues, fail to factor in the structural causes, for example by failing to take into account issues of labor demand and supply when formulating immigration policies or by regulating prostitution in such a way as to push the practice underground, putting sex workers at risk and making the industry more

<sup>32</sup> *Ibid*, 3.

attractive to organized crime.<sup>33</sup> In these situations, the environment becomes ideal for traffickers. Three approaches to the study of trafficking discussed below examine particular combinations of both structural and proximate factors as equal contributors to the trafficking problem.

### **Approaches to the Study of Human Trafficking**

Scholars use various frameworks to study human trafficking, taking into account different sets of structural and proximate factors. Human trafficking is a problem of multiple dimensions, and holistic policy solutions require consideration of the full spectrum of causes and contributors to each country's trafficking problem. State-sponsored responses to trafficking depend heavily upon the way in which policy-makers view the issue, and their perspectives are often influenced or informed by scholarly and theoretical approaches to the study of trafficking. Those who perceive trafficking to be a problem of morality, public order, or a violation of a state's security interests and rights will focus on control or punishment as solutions. A social or human rights perspective leans towards solutions centered on empowerment.<sup>34</sup>

#### *Migration Perspective*

Trafficking networks flourish where migration pressures are strong and opportunities for legal migration are limited. Migration pressures can be described as the "push" factors that cause migrants to leave source countries and the "pull" factors that lure them to more developed destination countries. Most factors are attributable to poverty in source countries and regions and the effects of globalization on both source and destination countries. These push and pull

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<sup>33</sup> *Ibid*, 21.

<sup>34</sup> Lee, 2-3.

factors conflict sharply with states' restrictive migration policies, allowing trafficking and smuggling networks to flourish as they facilitate illegal migration.<sup>35</sup>

Poverty is a key reason people migrate. Limited education and limited options not only force people to search for better economic opportunities but also put them at risk for exploitation. If subjected to persistent absolute poverty, a sudden decline in living standards after an economic crisis, or the perception of poverty relative to another population, an individual may view migration as the only viable means of achieving a higher standard of living.<sup>36</sup>

The push to migrate, whether across borders or within one's own country, is strong throughout Latin America and is a key contributor to the vulnerability of potential trafficking victims. In Argentina, rural poverty is a very real problem, where as much as 39% of the rural population, or 200,000-250,000 families, live in conditions of extreme income poverty. The poorest of these families tend to be large and young, with many children living in the home. They typically engage in some form of agricultural work or depend heavily on scant government subsidies. Many are headed by single females, and school attendance among their children drops off sharply after the age of eleven. These families tend to own small plots of land and live largely in dispersed areas with very limited access to adequate social and health services.<sup>37</sup> Often, employment opportunities in urban areas or in wealthier regions of the country seem to be the only option for the daughters of these families or for young mothers. For poor, rural Bolivians, Paraguayans and Brazilians, the political border dividing their countries from Argentina does not have any bearing on their equally bleak economic realities; nor does it

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<sup>35</sup> Dinan, 58-79.

<sup>36</sup> Newman and Cameron, 22-25.

<sup>37</sup> Dorte Verner. *Rural Poor in Rich Rural Areas: Poverty in Rural Argentina*. World Bank Policy Research Working Paper 4096, December 2006, 2-3.

change the fact that many developed Argentine cities and regions offer promising economic opportunities for them and for their families.

Increased cross-border trade, economic liberalization and advances in technology that have facilitated the movement of people and money across borders—the results of globalization—have all contributed to the trafficking problem. The capitalist economic policies of trade liberalization and privatization promoted by the IMF and the World Bank in developing countries have increased levels of economic inequality and instability within and among states. Deregulation and privatization occurred before the necessary legal structures were formed to prevent corruption and enable domestic competition. Between 1960 and 1990, the ratio of income between member countries of the Organization for Economic Cooperation and Development and less developed nations increased by forty-five percent.<sup>38</sup> At the same time, companies have relocated or outsourced their operations to low-wage economies, and the demand for cheap, low-skilled labor has skyrocketed. These conditions have pushed the economically disadvantaged to seek such work or to look to more developed countries to alleviate economic inequities.

Migrants' remittances to developing countries totaled \$100 billion through official channels alone in 2003, with the total amount presumed to be much larger.<sup>39</sup> Behind foreign direct investment, remittances are the most significant source of external finance for developing countries, and their governments recognize this. Emigration also alleviates pressures on saturated domestic labor markets. Countries like Mexico and the Philippines have adopted policies of “labor exportation,” encouraging their citizens to find work abroad and often turning a blind eye to exploitation. A globally mobile, often undocumented (and thus unprotected) work force not

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<sup>38</sup> Dinan, 60-62.

<sup>39</sup> *Ibid*, 65.

only provides employers in destination countries with the low-wage labor they demand but also allows them to exploit workers with impunity and precludes any motivation to improve wages or working conditions in order to attract domestic workers.<sup>40</sup>

The juxtaposition of migration pressures with restrictive migration policies provides a market for traffickers. The ‘anti-trafficking’ measures of developed and developing nations are often thinly veiled attempts to secure their borders against an influx of low-skilled migrants. Generally, these restrictions do nothing to curb migration; they simply push it underground and increase the demand for the services of traffickers. In the EU, post-September 11<sup>th</sup> migration restrictions have limited the legal channels for asylum seekers wishing to resettle in member states. Many migrants have resorted to the services of traffickers in order to gain entry.<sup>41</sup>

Wealthy and skilled migrants enjoy greater migration rights and more protections, while unskilled migrants from less developed countries are often denied access to legal channels of migration.<sup>42</sup> In the absence of legal channels, they look to “migration mediators” for assistance, and traffickers have to do little more than “[fish] in the stream of migration.”<sup>43</sup> While some mediators assist in the acquisition of authentic travel documents,<sup>44</sup> many others facilitate illegal migration, either as smugglers or as traffickers who sell migrants into slavery-like conditions. It is estimated that mediators, smugglers, and traffickers serve half of undocumented migrants worldwide.<sup>45</sup>

Anti-trafficking policies tend to focus heavily on the security interests of the country and the rights of the state rather than provide safe, legal channels for migration and protect individual

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<sup>40</sup> *Ibid*, 65-66.

<sup>41</sup> Obokata, 98-99.

<sup>42</sup> *Ibid*, 67-68, 75.

<sup>43</sup> “Peers Press for an End to Trafficking.” Jubilee Campaign, 14 March 2002, quoted in Newman and Cameron, 27.

<sup>44</sup> Obokata, 22.

<sup>45</sup> Dinan, 69.

human rights. Trafficking victims are often “rescued,” labeled as illegal immigrants and returned to their countries of origin, relieving the state’s immigration concerns but exposing victims to the same conditions that led them to be trafficked in the first place.<sup>46</sup> Policy-makers who take into account the complexities of migration will argue for transparent channels of legal migration, migrant worker protections and the elimination of the use of trafficked labor by employers. The assumption is that migrants *will* cross borders if they believe it to be economically necessary and that restrictive migration policies intended to protect states’ rights fail to stop this flow; rather, they push it underground, further jeopardizing state security and endangering individual human rights by marginalizing and criminalizing migrants. By opening up channels of migration, migrants are able to obtain documentation and legal status, ensuring their protection, and the state benefits from the ability to count, tax and regulate the people living within its borders.<sup>47</sup>

### *Feminist Perspective*

The association of human trafficking with issues of gender and prostitution dates back to the late nineteenth century. The 1910 White Slavery convention and the 1921 Convention for the Suppression of the Traffic of Women and Children responded to growing concerns regarding the “white slave trade,” or the selling of American and European women and girls into prostitution. Today, the United Nations estimates that one quarter of trafficking victims are sexually exploited for an estimated profit of seven to twelve billion dollars annually.<sup>48</sup> Such a prevalent form of trafficking—and one that preys upon gender-specific vulnerabilities—the trafficking of women,

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<sup>46</sup> Lee, 8.

<sup>47</sup> *Ibid*, 8.

<sup>48</sup> Obokata, 27-28.

especially for sexual exploitation, merits a distinct, gender-based approach in determining its causes and solutions.

Feminist scholars and activists focus primarily on two broad issues when discussing trafficking. On the one hand, they examine the effects of gender as a social and cultural construct on the vulnerability of women to trafficking. The second issue is the role of prostitution in society and the agency of women as owners of their own sexuality. A culturally constructed vulnerability explains why women are more likely to turn to high-risk work such as prostitution, and the debate surrounding prostitution explores the validity of that work and its relation to trafficking.

Gender is a broad term encompassing not only the biological differences between males and females but also the perceived differences in characteristics and capabilities. These perceived differences translate into different economic conditions, work opportunities and migration options, all of which have contributed to a greater vulnerability among women to trafficking.<sup>49</sup> One significant problem has been a recent “feminization of poverty.”<sup>50</sup> Women are increasingly the breadwinners in their households, yet they also make up the majority of the world’s poor. Declining economic conditions and rising unemployment tend to affect women more than men, to such an extent that in certain instances even educated women are forced to turn to prostitution as the only means of survival. In the Ukraine following the collapse of the Soviet Union, seventy to eighty percent of the unemployed were women. Although two-thirds of those had post-high school degrees,<sup>51</sup> they were “the first to be laid off and the last to be hired.”<sup>52</sup>

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<sup>49</sup> Newman and Cameron, 37-38.

<sup>50</sup> Lee, 8.

<sup>51</sup> Newman and Cameron, 39.

<sup>52</sup> Natalka Samolevska, quoted in Ruslana Bezpál’cha, *Prevention of Domestic Violence and Trafficking in Humans Training Manual*, Winrock International, 2001, in Cameron, 88.

These economic inequities are exacerbated by women's limited employment opportunities. Gender-specific hiring practices play a role in the trafficking of both men and women. Because they are perceived as gentler and more attentive to detail and are often viewed as sexual objects within their societies, women are frequently trafficked into domestic servitude, sweatshops and prostitution. Men are more commonly trafficked into agricultural labor, construction and mining, as they are generally considered to be able to withstand hard labor. While legal migration channels are relatively abundant for employment in agriculture or construction, few opportunities exist for those seeking domestic or entertainment work.<sup>53</sup> Traffickers exploit this lack of legal migration options. They offer migration assistance for jobs in hospitality or domestic work only to force women into exploitative working conditions, sometimes as sweatshop workers or domestic servants but primarily as prostitutes. Additionally, an increasing number of poor women are migrating to fill domestic positions left by the upwardly mobile female populations of more developed countries, and they will frequently turn to traffickers to do so.<sup>54</sup>

Because sex work is a highly gendered industry and one that exposes women to a high risk for exploitation, the issue of prostitution takes a central position in the examination of trafficking from the feminist perspective.<sup>55</sup> Obokata argues that too much focus on the issue of prostitution in a gender-based trafficking analysis can be detrimental to an understanding of the process as a whole, as sexual exploitation is a sufficient, but not necessary, element of the crime.<sup>56</sup> However, the way in which the sex work industry is regulated within a society

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<sup>53</sup> Newman and Cameron, 39-40.

<sup>54</sup> *Ibid*, 39-41.

<sup>55</sup> In this thesis, the terms "sex work" and "prostitution" are used interchangeably. Both terms refer to the same activity, but many feminists and workers in the commercial sex industry prefer "sex work," believing that it denotes the legitimacy of the work and removes the social stigmas tied to the term "prostitution." However, both terms continue to be employed in academic discussions of the issue, and for that reason I have chosen to include both.

<sup>56</sup> Obokata, 28.

determines how and if women are vulnerable to sexual exploitation within that society. Feminist scholars and activists divide into camps with regard to prostitution generally and to the distinctions between voluntary migrant sex work and forced trafficking.<sup>57</sup> The unresolved issues that explain the division include

(...)the relationship between feminists and female “victims of oppression”; the construction of the female subject in terms of “agency” (choice, autonomy, desire, “voice”); the public/private dimension of work/sexuality; the conceptualization of First World/Third World difference; and the sameness in women’s status.<sup>58</sup>

Radical feminist theorists condemn all forms of prostitution as inherently exploitative, regardless of the consent of the woman. They argue that prostitution work is never entirely consensual and deny that any woman, given another viable option, would choose sex work as a preferred occupation.<sup>59</sup> Organizations such as the Coalition Against Trafficking in Women (CATW) and the European Women’s Lobby are therefore reluctant to allow voluntary sex workers to participate and contribute to their discussions on trafficking.<sup>60</sup> The media and anti-prostitution groups take a similar approach and tend to count all migrant sex workers as trafficking victims, refusing to distinguish between willing and forced sex workers. One Indian NGO has been criticized for “rescuing” a number of willing sex workers and bringing in the media to cover the raid, who showed the women’s faces on television the next day. The women insisted that they were working voluntarily and were satisfied with the conditions and their wages. Many later escaped from the building where they were being held after their “rescue.”<sup>61</sup>

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<sup>57</sup> Lee, 5.

<sup>58</sup> Rajan, Rajeshwari Sunder. “The Prostitution Question(s)—(Female) Agency, Sexuality and Work.” *Trafficking, Sex-Work, Prostitution: Discourses and Representations of the Sub-Continent, Re/productions*. No. 2, April 1999. in Newman and Cameron, 35.

<sup>59</sup> Obokata, 28.

<sup>60</sup> Newman and Cameron, 35; Cameron, 82

<sup>61</sup> *Ibid*, 34.

Conversely, liberal feminists, sex workers and advocates of legal prostitution recognize the right of women to choose prostitution as a career. They argue that sex work involves women's management of their own sexuality and the provision of a service under specific terms. Cameron suggests that some women may choose the work because of the relatively high income and flexible working hours or because it provides a sense of empowerment.<sup>62</sup> Yet others engage in prostitution as a last resort and do not enjoy such ideal working conditions. Liberal feminists argue that abuse is not intrinsic to the industry, however; rather it is the result of absent or ineffective regulation, either by the government or the industry itself. The Global Alliance Against Traffic in Women asserts that prostitution need not be exploitative if the industry is legalized, standardized and regulated to provide a safe and healthy working environment.<sup>63</sup> They insist that criminalization only pushes prostitution underground and makes it less safe for workers.<sup>64</sup>

Cameron suggests that a country's sex industry regulations (or lack thereof) can either facilitate or inhibit trafficking to and within that country. If prostitution is legalized, it can be even more difficult to distinguish between trafficking victims and legal workers. The benefits and good working conditions of a well-regulated industry might attract more workers, some of whom will likely resort to the services of traffickers to gain entry. Trafficking may also fill a niche for more exploitative, illegal forms of prostitution. If it is criminalized, victims will be easier to identify and may decrease in number. However, those that are trafficked are likely to be forced into an underground sex industry where they will be marginalized and subjected to greater abuses.<sup>65</sup> Anti-prostitution measures often criminalize victims and punish female migrants and

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<sup>62</sup> Cameron, 82-83.

<sup>63</sup> Newman and Cameron, 35-36.

<sup>64</sup> *Ibid*, 35.

<sup>65</sup> Newman and Cameron, 36

sex workers in a reputed effort to combat trafficking. They tend to target the sex worker (or trafficking victim) rather than going after the clients that fuel the demand for prostitution. Critics of criminalization suggest that many anti-prostitution policies are moralistic in design and are more concerned with reigning in a perceived threat to the sexual integrity of the society in question than with protecting vulnerable women.<sup>66</sup> Both criminalization and total decriminalization—as well as various middling approaches—have been tried in a number of countries. None have been entirely successful in eradicating trafficking, and the lack of trafficking data makes it impossible to definitively identify the most effective strategy.

### Market Perspective

A third perspective examines the market economics of human trafficking and the business practices of the trafficking networks that exploit vulnerable populations. Rather than looking at the migration pressures and gender dynamics that make people vulnerable to trafficking, this approach examines the effects of the supply of potential victims and the demand for prostitutes on the criminal networks that engage in trafficking. It discusses these networks as rational actors within an economic system and notes the ways in which these networks structure themselves and adapt to changing market dynamics.

Business-savvy criminal networks are rapidly finding ways to exploit the high profits and low risks associated with the commoditization of human beings. Just as the invention of railways, steamships and the telegraph facilitated the early “white slave trade,” modern air travel and the Internet are making it easier for criminals to organize, communicate and spread their

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<sup>66</sup> Lee, 5.

operations over broad geographical areas.<sup>67</sup> Researchers seeking quantitative trafficking data are best served by examining trafficking as organized criminals do: from a market-based perspective, where the viability and profitability of trafficking operations are measured in terms of supply and demand and risk-benefit ratios. Criminal networks operate wherever the conditions that facilitate their activities outweigh the inhibitors, because the activity is profitable so long as such conditions exist. The differences in structure of trafficking networks and their respective markets have important implications for selecting anti-trafficking policies. Phil Williams, an expert on transnational crime, suggests that by understanding the structure of the market and of the networks that exploit it, the balance between the conditions that either facilitate or inhibit trafficking operations can be manipulated to reduce their profitability and discourage criminal organizations from engaging in it.

Trafficking networks adopt business models that reflect the historical and contemporary conditions of the particular societies or regions in which they operate. Post-Soviet organized crime groups recruit and export women in mass quantities “as if they were a readily available natural resource such as timber or furs,” a practice which “reflects the pre-revolutionary Russian trade in natural resources and the new Russian emphasis on the sale of oil and gas.”<sup>68</sup> In Latin America, criminal networks also take a “wholesale” approach, placing emphasis on the volume of victims rather than the quality of recruits. Little attention is given to the conditions or survival rates of the trafficking victims.<sup>69</sup> Chinese crime rings are highly organized and seamlessly integrate each aspect of the trafficking process into their operations, from recruitment to the

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<sup>67</sup> Phil Williams. “Trafficking in women: The role of transnational organized crime.” In Edward Newman and Sally Cameron, eds. *Trafficking in Humans: Social, Cultural and Political Dimensions*. New York: United Nations University Press, 2008, 126.

<sup>68</sup> Louise Shelley. “Trafficking in Women: The Business Model Approach,” *Brown Journal of World Affairs* X (2003): 119-31, 5.

<sup>69</sup> Louise Shelley. “Human trafficking as a form of transnational crime,” In Maggy Lee, ed. *Human Trafficking*. Cullompton: Willan, 2007, 124.

placement of the female victims in brothels. The process resembles the trade of other Chinese goods in that it is integrated across multiple continents and provides China with significant investment capital.<sup>70</sup>

Criminal trafficking operations vary in size and scope and take different organizational forms. Some are small-scale criminal operations—groups of friends or family operating for a short time with a limited number of victims recruited from their own communities.<sup>71</sup> Louise Shelley, an expert on organized crime and the director of the Terrorism, Transnational Crime and Corruption Center at George Mason University, suggests that their role in the overall trafficking problem is perhaps overstated, as their amateur operations are more easily detected and disrupted. Some traffickers may appear to be operating independently when they are actually lower-level members of large-scale crime networks.<sup>72</sup>

Other networks are large-scale transnational criminal organizations. These operations are often umbrella organizations for many smaller crime rings. Transnational networks such as the Japanese Yakuza and the Chinese Triad are highly professional and organized and engage in various types of criminal activity.<sup>73</sup> They often use profits from human trafficking operations to finance other criminal operations, such as extortion, bribery of public officials and document forgery.<sup>74</sup> The third operational structure includes criminal-controlled businesses. Import-export companies and travel agencies provide a seemingly legitimate front for trafficking operations and facilitate the transport of victims through the development of trade links and international connections. This differs from the peripheral participation of legitimate businesses such as

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<sup>70</sup> Shelley, “Trafficking in Women,” 6.

<sup>71</sup> Williams, 136.

<sup>72</sup> Shelley, “Human trafficking,” 122-23.

<sup>73</sup> Williams, 136-138.

<sup>74</sup> Obokata, 31.

hotels, newspapers and phone companies, which assist traffickers in certain aspects of their operations but are not directly responsible.<sup>75</sup>

All trafficking networks are alike in their ability to adapt to the market and collaborate with each other as needed. The market for trafficking is growing so rapidly that networks can coexist and cooperate rather than compete and kill one another off as drug cartels frequently do while vying for a niche in a limited market. For example, Jews and Arabs have been known to collaborate in the trafficking of Russian-speaking women from Egypt through the Sinai into Israel.<sup>76</sup> Another shared characteristic of most trafficking networks is the involvement of women in their operations. Human trafficking is the only type of transnational crime where women are known to assume leading roles. Many are former prostitutes working as recruiters or madams, but women have also been known to head up large-scale trafficking and prostitution rings.<sup>77</sup>

Regardless of the particular structure of a criminal network, the trafficking process can be broken down into a number of operations, including logistical operations, recruitment, transportation, reception and management of victims. Each activity can be carried out by different organizations acting together or by different members of a single criminal network. Networks sometimes “outsource” recruitment activities to local “freelance” recruiters working on commission, but others depend on members of their own networks to carry out these activities. Shelley suggests that the more times a victim changes hands, the more likely he or she is to be physically or sexually abused.<sup>78</sup> Law enforcement efforts should be aimed not at preventing trafficking as a single activity but at deterring each step along the way.<sup>79</sup>

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<sup>75</sup> Williams, 138.

<sup>76</sup> Shelley, “Human trafficking,,” 121, 133.

<sup>77</sup> *Ibid*, 121.

<sup>78</sup> *Ibid*, 132.

<sup>79</sup> Lee, 7.

Obokata argues that well-organized crime operations are “rational entities” that generally seek to maximize long-term profits by “responding to demand for illegal goods and services.”<sup>80</sup> The *modus operandi* is determined by the supply of potential victims and the demand for their labor. Supply is typically highest in countries with low economic development that face high unemployment and few available opportunities in the legal sector. Sophisticated criminal enterprises exploit the “supply’s” demand for documentation, transportation and reception for the migration process.<sup>81</sup> Demand is highest in industrialized or post-industrial economies with relatively high standards of living, disposable income and significant sex industries.

Unlike other commodities that are purchased for one-time use, people that are trafficked are “re-useable” and can even be re-sold. This high level of utility in conjunction with relatively low overhead costs translates into broad profit margins for criminal networks. Highly organized operations tend to re-invest those profits in the business in order to expand and improve operations. Traffickers also use profits to finance other criminal operations, and some money is laundered and presented as the profits of legitimate business endeavors.<sup>82</sup> In other cases, profits serve political or social interests by financing terrorist operations or elections or by providing development assistance to the traffickers’ families and communities.<sup>83</sup>

Williams suggests that trafficking networks continue to grow and thrive because the conditions that facilitate trafficking heavily outweigh those that inhibit it. One of the greatest facilitators is the lack of laws and enforcement mechanisms necessary to prevent trafficking and to prosecute offenders, especially in underdeveloped and developing states with relatively weak legal regimes. Others include police corruption and collaboration between criminal networks and

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<sup>80</sup> Obokata, 31.

<sup>81</sup> Williams, 131-132.

<sup>82</sup> *Ibid*, 133-134.

<sup>83</sup> Shelley, “Human trafficking,” 120, 134; Shelley, “Trafficking in Women,” 12.

public officials.<sup>84</sup> In Latin America and the Soviet Union, organized crime is so ingrained in the political sphere that trafficking would likely not even exist without the complicity of corrupt officials upon which traffickers have come to rely.<sup>85</sup>

Both Williams and Shelley stress the importance of policies that consider the structure of trafficking networks in a particular region as well as the effect of facilitators and inhibitors on those networks. Policies that inhibit the activities of these networks would disrupt the market for trafficking operations by reducing profitability and increasing costs and risks.<sup>86</sup> Unless the balance between facilitators and inhibitors shifts to favor the latter, Shelley suggests that the trade in human beings could very well become as prevalent in the twenty-first century as the drug trade was in the latter half of the twentieth century.<sup>87</sup>

## **Conclusion**

The migration, feminist and market perspectives are simply lenses through which researchers, activists and policymakers commonly view sex trafficking. Each perspective makes certain assumptions about the most significant structural and proximate contributors to the problem, and those assumptions in turn lead to policy proposals aimed at addressing those particular causes. In many ways, these three perspectives are interrelated. For example, gender stereotyping and gender discrimination, which are viewed as structural contributors in the feminist perspective, can affect women's migration options, which are also integral to the migration perspective. Similarly, cultural attitudes regarding female sexual autonomy and violence against women, which are examined in the feminist perspective, can contribute to law

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<sup>84</sup> Williams, 145-148.

<sup>85</sup> Lee, 6.

<sup>86</sup> Williams, 128.

<sup>87</sup> Shelley, Louise. "Human trafficking as a form of transnational crime," 135.

**Figure 1.4: Primary Causes and Solutions Addressed by Each Trafficking Perspective**

Migration Perspective		
Structural Factors		Solutions
<p>Globalization; Trade Liberalization; Privatization → Economic Downturns; Economic Instability; Economic Disparities Within and Among Countries; Demand for Cheap, Low-skilled Labor</p> <p>Poverty; Migration Flows</p>	→	<ul style="list-style-type: none"> <li>◆Poverty Alleviation</li> <li>◆Open and Transparent Channels of Legal Migration</li> <li>◆Secure Borders and Better Monitoring of Transnational Migration Flows</li> <li>◆Migrant Worker Protections</li> <li>◆Elimination of Use of Trafficked Workers by Employers</li> </ul>
Proximate Factors		
Labor Exportation Policies; Restrictive Migration Policies; Inadequate Monitoring of Transnational Migration Flows		
Feminist Perspective		
Structural Factors		Solutions
<p>Gender Discrimination and Gender Stereotyping → Limited Education and Employment Options for Women</p> <p>Cultural Attitudes Regarding the Agency and Sexual Autonomy of Women; Violence Against Women; Feminization of Poverty; Increase in Single Female Heads of Households</p> <p>Limited Employment Options for Women; High Demand for Prostitutes → Prostitution</p>	→	<ul style="list-style-type: none"> <li>◆Awareness Campaigns</li> <li>◆Empowerment of Vulnerable Female Populations</li> <li>◆Better Social Protections for Female Workers and Migrants</li> <li>◆Commercial Sex Industry Regulations that Protect Sex Workers</li> <li>◆Provision of Sustainable Alternative Employment Options for Women</li> </ul>
Proximate Factors		
Inadequate Social Protections and Migration Opportunities for Women; Regulation of Commercial Sex Industry that Discriminates Against or Fails to Protect Sex Workers; Low Awareness Among Vulnerable Populations		
Market Perspective		
Structural Factors		Solutions
<p>Large Supply of Potential Victims Seeking Employment and/or Migration Assistance; High Demand for Prostitutes → Profitable Market for Traffickers</p>	→	<p>Disruption of Common Recruitment Methods + Tackling Police and Political Corruption</p> <p>+ Adequate Anti-Trafficking Laws and Commercial Sex Industry Regulation</p> <p>+ Strict Enforcement of Relevant Laws</p> <p>+ Training of Police, Judges and Social Workers to Recognize and Report Trafficking</p> <hr/> <p>Increasing Risks and Costs of Trafficking to Disrupt the Market</p>
Proximate Factors		
<p>Inadequate Legislation to Punish Traffickers; Inadequate or Nonexistent Regulation of Commercial Sex Industry; Corruption/Official Complicity in Underground Sex Trade; Complicity of Legitimate Businesses → Low Risks and Few Inhibitors for Traffickers</p>	→	

enforcement officers' decisions not to enforce prostitution laws aimed at protecting sex workers or to condone the exploitation of women. Those decisions effectively facilitate trafficking operations by rendering useless the policy proposals (prostitution laws) designed to inhibit trafficking by increasing risks for traffickers. This balancing act between facilitators and inhibitors is commonly examined by proponents of the market perspective. Solutions based on the market perspective might focus on strengthening enforcement of prostitution laws, while a policymaker who sees trafficking as a problem of gender inequities might advocate awareness campaigns, sensitivity training and empowerment programs to change societal attitudes regarding women's rights and sexual violence. Even when proponents of different perspectives recognize the same issue as a contributor to trafficking, the lens through which they view sex trafficking may lead them to different solutions.

Because of the overlap of structural and proximate factors and their effects within the three perspectives, it is often best to strive for policy proposals that take into account the multiple lenses through which trafficking can be viewed and understood. Together, the three perspectives create a more complete picture of trafficking, its complex causes and the full spectrum of available solutions.

## Chapter Two: Sex Trafficking in Argentina: Victims, Traffickers and Networks

Because of the scarcity of sociological studies of sex trafficking and the inadequacy of victim assistance programs in Argentina, few victims have been able or willing to share their experiences with researchers or the public. The majority of known accounts are shared through researchers' and journalists' interviews with a select number of "survivors" and through evidence presented in the prosecution of traffickers or corrupt politicians and police. Following are the fictional accounts of "Natalia Vásquez" and "María Acosta." They are composite cases which seek to approximate the "typical" victim experience by compiling the testimonies of a number of real-life trafficking victims as told to journalists, police officers, social workers and researchers. Actual testimony recorded by IOM researchers and journalists, which is the basis for these accounts, rarely tells a single victim's story from beginning to end, partially for reasons of privacy but also because many victims are never found or never report their exploitation to authorities. Those that do often are too afraid of retaliation to let their stories be retold. These fictional accounts combine the partial testimonies of multiple victims to form a complete picture of the trafficking process for the reader.

### **Natalia Vásquez**

*When Natalia Vásquez was eighteen years old, she saw an advertisement for a waitressing job in the southern Argentine province of Chubut that seemed almost too good to be true. The advertisement requested women between the ages of eighteen and twenty-five to work as servers and bartenders and offered a monthly salary of five hundred pesos. For the past year and a half, Vásquez, her parents, her nine younger siblings and her aunt and uncle had managed to survive off her mother's monthly pension of 350 pesos (just over one hundred U.S. dollars) by eating at soup kitchens and accepting clothing donations from a nearby church. Vásquez had been forced to leave school at fourteen to help care for her siblings, and at eighteen she began looking for a well-paying job that*

would allow her to help support the family. The waitressing job would more than double her family's income, and she would not even have to pay for her own travel or living expenses, as they were to be covered by the employer.

Vásquez called the listed phone number and spoke with a man by the name of Tomás who claimed to be the manager of the bar that was hiring. He asked her a series of questions about her age and appearance. After a brief but somewhat unusual phone interview process, Tomás explained that he would arrange for the purchase of a bus ticket to carry her from her hometown in rural Misiones province to Chubut, a journey spanning almost the entire length of Argentina. He assured her that he would be waiting for her upon her arrival.

When her bus pulled into the Chubut station, Tomás was waiting. He took Vásquez to a somewhat remote establishment alongside a highway, where she was turned over to a man by the name of Luis Amura. Amura looked Vásquez up and down before paying three hundred pesos to Tomás, who then left without saying a word. Amura explained to Vásquez that her travel expenses and the "recruitment fee" paid to Tomás came to six hundred pesos and that she would be responsible for reimbursing Amura. Vásquez, who had arrived without a single peso, was to work as a prostitute in what was actually a brothel until she paid off her debt. Vásquez objected, but she had no choice. She was subjected to a number of beatings and was raped repeatedly by Amura and his employees until finally agreeing to the work, hoping to pay off the debt as quickly as possible and return home. But Vásquez never saw a centavo for her work, despite the fact that she worked six days a week, having sex with as many as fifteen clients a night. In fact, her debt only grew larger as Amura charged exorbitant fees for food and a dirty mattress on which to sleep. She was not allowed to leave the brothel without supervision.

Vásquez managed to escape after nearly two years when a wealthy regular client became sympathetic to her plight and offered to pay off the remainder of her debt. She managed to find her way home, where she returned to the same miserable conditions that had caused her to leave in the first place. This time, she bore the psychological scars of her exploitation. Her family was initially too ashamed to go to the police, and after they did, jurisdictional disputes caused two more years to pass before the case went to trial. Because Vásquez had been eighteen at the time of her exploitation, and because she had no proof that she had not consented to the work, Amura was acquitted and his brothel, masked as an ordinary bar, remained open.

### **María Acosta**

When María Acosta was fourteen, a young couple came by her home offering domestic work in Buenos Aires. Though Acosta's family was just as poor as Vásquez's, they refused to let their daughter leave home at such a young age. Four days later, Acosta was forced into a van and kidnapped by the same couple and two other men as she walked home from school. She was drugged, beaten and raped. Her captors carried her to Córdoba province, where they sold her for six hundred pesos to a man by the name of Ignacio Hernández. Hernández was a

*well-known pimp who at any given time had as many as twenty girls and women working in various brothels throughout the country. In the first months after he came into possession of Acosta, he beat and raped her repeatedly. She became pregnant and had Hernández's child.. Hernández assured her that he would kill the child if she tried to escape. He then began forcing her to use drugs regularly until she became addicted, reinforcing her dependence on him.*

*At that time, Hernández began pimping Acosta out to different brothels throughout the province and other areas of the country for a month at a time. He had a number of employees who would assist in the transportation of the victims from one brothel to the next, and after each monthly rotation, Hernández would collect a commission for Acosta's earnings. The brothel owners understood that they would be forced to pay a large sum if Acosta escaped, so each went to great lengths to keep her under watchful eye. Oftentimes while working, Acosta would encounter clients who were police officers or public officials. She assumed it would be useless to report her exploitation to law enforcement officials if they themselves were patronizing the brothels where she was exploited.*

*Regular beatings, a drug addiction, and threats against her child and her family kept Acosta from ever trying to escape. One day after three years, she became very ill, and Hernández chose to abandon her on the streets of Santa Cruz province in the middle of a Patagonian winter rather than nurse her back to health. A non-profit organization in the area located her and assisted her in returning to her home in Tucumán, but her family did not have the money or the knowledge to help her deal with her ongoing drug addiction. After a few months Acosta returned to prostitution, working the streets of her hometown. Her family was ashamed of her drug use and prostitution and did not allow her to return home.*

The most well-known and widely publicized actual case of Argentine trafficking has been that of Marita Verón. On April 23<sup>rd</sup>, 2002, twenty-three year old Verón left the home she shared with her mother and her three-year-old daughter in Tucumán province for a routine doctor's appointment. She never returned. A police investigation revealed that Verón had likely been kidnapped and forced into prostitution, either in Spain or in rural Argentina.<sup>88</sup> A young woman

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<sup>88</sup> Brian Byrnes, "Argentine mom seeks daughter forced into prostitution." CNN.com. 18 September 2008. Accessed 23 February 2009. <http://edition.cnn.com/2008/WORLD/americas/09/17/stolen.lives/index.html>.

who escaped a prostitution ring in Tucumán confirmed that suspicion when she reported seeing and talking to Verón.<sup>89</sup>

In the nearly seven years since her disappearance, Verón's mother, fifty-four year old Susana Trimarco, has been risking her own life in pursuit of her daughter. Visiting numerous brothels all over Argentina, she has ignored death threats while confronting pimps and corrupt politicians. While Trimarco has yet to find her daughter, who has been spotted in brothels several times, her search did uncover more than one hundred victims of human trafficking who were being sexually exploited.<sup>90</sup> As the media reported on her story, trafficking gradually became a well-recognized—albeit little-understood—problem in Argentina for the first time. In honor of her daughter, Verón created the María de los Ángeles Foundation, which provides victims with assistance and has located and rescued 360 women and children from trafficking networks. Her work has been fundamental in bringing a once-invisible problem to the forefront of Argentine public consciousness.<sup>91</sup>

Like Verón, many other girls remain missing. Thirteen-year-old María Fernanda Aguirre was kidnapped off the streets of her hometown in the northeastern province of Entre Ríos. Her traffickers demanded a ransom of six hundred dollars from her mother but failed to release her after receiving the payment. Twenty-four-year-old Florencia Penacchi, a student from Neuquén, disappeared in 2005 after leaving her Buenos Aires apartment. Two young European tourists also fell victim to trafficking networks in the early 2000s. Jorge Tobar, a former police captain currently assisting in the search for Verón, believes these cases are all the work of the same

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<sup>89</sup> Marcela Valente. "Trafficked Women—an Invisible Problem." Inter Press Service News Agency. 19 May 2005. Accessed 23 January 2009. <http://www.ipsnews.net/interna.asp?idnews=28748>.

<sup>90</sup> Jane Morse "Argentine Woman Fights Trafficking with Indomitable Hope." Armerica.gov. 11 June 2007. Accessed 23 January 2009. <http://www.america.gov/st/washfile-english/2007/June/20070606112921ajesrom0.5783655.html>.

<sup>91</sup> Byrnes, "Argentine mom seeks daughter"

trafficking network. But police and media reports often fail to make these connections, and each case fades from the spotlight after weeks or months. Historically, local and provincial police have proven ill-equipped or disinterested in the resolution of these cases at best; at worst, they are directly involved in the responsible networks' operations. Tobar was able to locate Aguirre in Santiago del Estero and alerted the local authorities. The police carried out nineteen other raids before attempting to retrieve her, and by that time she had been moved to another location.<sup>92</sup>

Human rights activists estimate that as many as eight hundred girls and women were kidnapped or recruited into Argentine trafficking rings between 2007 and September 2008 alone.<sup>93</sup> Of these cases, ninety percent involve commercial sexual exploitation, with the remainder being trafficked into slave labor, domestic servitude, illegal adoptions or organ theft.<sup>94</sup> Charities working in the triple frontier shared by Argentina, Brazil and Paraguay estimate that as many as 3500 children and adolescents have been trafficked into the region's booming sex tourism industry. The triple border is also the most common route by which Paraguayan and Brazilian girls and women are trafficked into Argentine brothels after being lured by false job offers.<sup>95</sup>

### **Overview of the Argentine Trafficking Problem**

It is useful to examine the Argentine trafficking problem within the framework of the general trafficking theories discussed in chapter one. More specifically, an examination of the particular structural and proximate factors relevant to the Argentine case helps to understand why trafficking networks exist in Argentina and how they are able to function. This chapter

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<sup>92</sup> Valente, "Trafficked Women—an Invisible Problem."

<sup>93</sup> Byrnes, "Argentine mom seeks daughter"

<sup>94</sup> Marcela Valente. "Activists Criticise New law on Trafficking in Persons." Inter Press Service News Agency. 10 April 2008. Accessed 23 January 2009. <http://ipsnews.net/news.asp?idnews=41950>.

<sup>95</sup> Oliver Balch. "Latin America's secret slave trade." *The Guardian* 20 December 2006.

seeks to give the reader a clear understanding of the structure of trafficking networks in Argentina, the conditions and actors that facilitate their operations and the populations that are most vulnerable to being trafficked. Subsequent chapters will address the institutional responses to the Argentine problem and suggest further remedies within the framework of these general trafficking theories.

Gender, migration and economic-related structural factors have contributed significantly to Argentina's trafficking problem. The Argentine financial crisis of 2001 led to a sharp increase in unemployment and in the number of Argentines living below the poverty level, as well as a widening of the gap between the country's rich and the poor majority. Despite rising unemployment and because of the overvaluation of the peso relative to the U.S. dollar, Argentina continued receiving considerable immigration from bordering countries. Paraguayans and Bolivians in particular moved to the country's urban centers, typically taking low-paying jobs in the informal sector. At the same time, the women functioning as the heads of their households increased, which led to a subsequent feminization of the work force. Argentina's work force shows strong indicators of gender discrimination, which has led women to seek less stable, lower-paying and often more dangerous work as domestic workers, prostitutes and factory workers.<sup>96</sup>

These structural factors are aggravated by a specific set of proximate factors, including corruption among local and provincial police forces and politicians, as well as migration officials. Tolerance within Argentine society of forced labor, the prostitution of minors and violence towards women, especially in impoverished communities, prevents many cases from being reported. Until recently, the lack of targeted legislation maintained a legal void in which

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<sup>96</sup> *Estudio exploratorio sobre la trata de personas con fines de explotación sexual en Argentina, Chile y Uruguay*. Buenos Aires: Organización Internacional para las Migraciones, December 2006, 19.

traffickers could operate with impunity. Many prosecutors and judges are unfamiliar with trafficking crimes, and prevention efforts have been hampered by a general lack of knowledge of the extent and of the functioning of existing trafficking networks. Trafficking operations have thus grown and flourished in Argentina, operating for many years almost entirely under the radar of migration officials, police and society at large.<sup>97</sup>

According to the U.S. State Department's 2008 Trafficking in Persons Report, Argentina is a source, transit and destination country for men, women and children trafficked for commercial sexual exploitation and forced labor. Argentine women and girls are trafficked to neighboring countries, Mexico and Western Europe to be sexually exploited, while Paraguayans, Brazilians and Dominicans are trafficked to Argentina, typically for the same purpose. Argentina is frequently a transit point for foreign trafficked women en route to Chile, Brazil, Mexico, Spain and the rest of Western Europe.<sup>98</sup>

The majority of known trafficking cases in Argentina involve internal trafficking, particularly from rural northern provinces to urban areas and to southern Argentina. Traffickers frequently recruit and kidnap victims from the northeastern provinces of Santa Fe and Misiones as well as the northeastern province of Tucumán. Buenos Aires Province and Córdoba serve as major destination points for trafficked women, as do the southern provinces of Santa Cruz and Chubut. Some provinces function as both source and destination points. While traffickers often turn to Northeastern Entre Ríos as a source for victims to be exploited in Buenos Aires, the province also serves as a common destination point for victims taken from Misiones.<sup>99</sup> The

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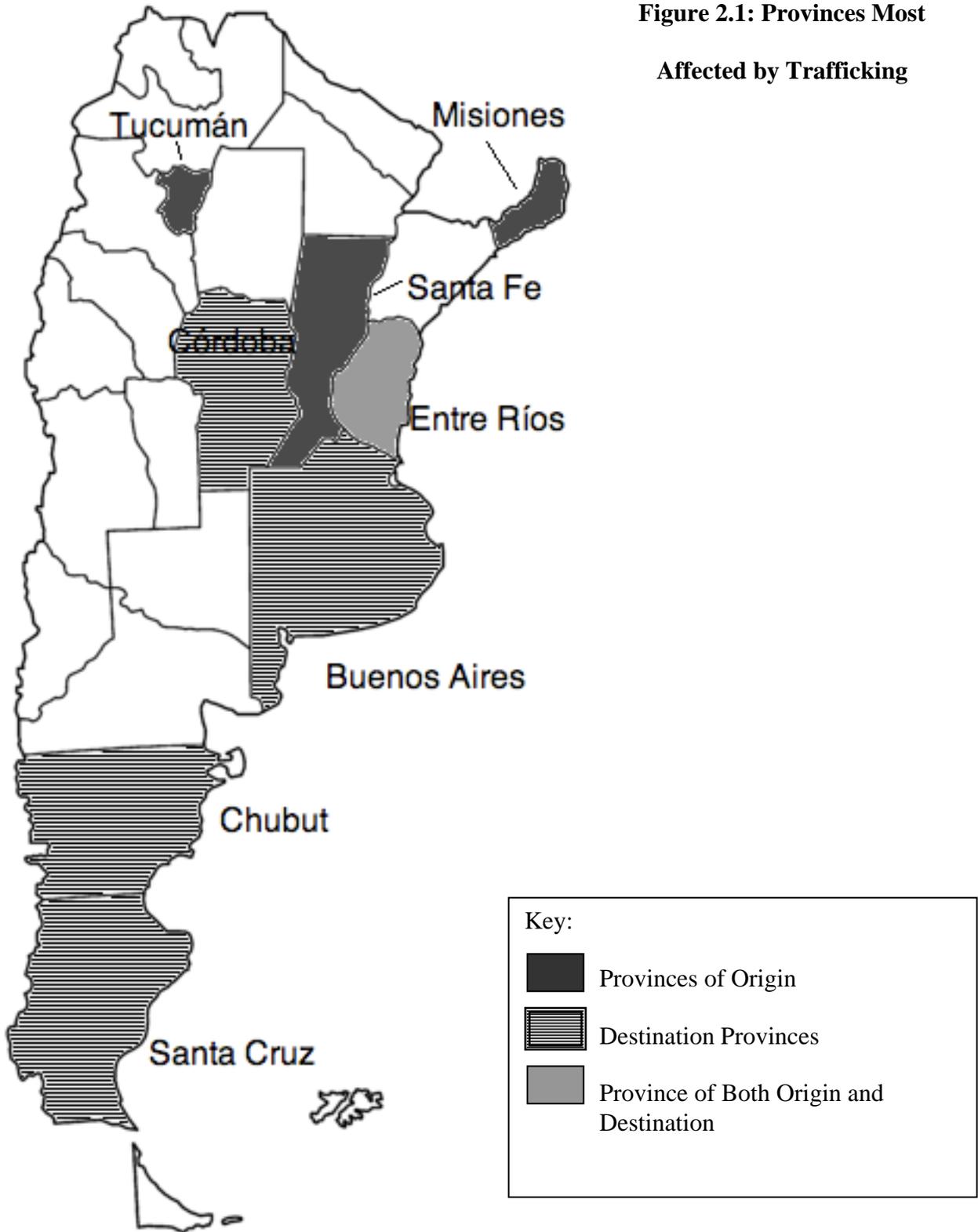
<sup>97</sup> *Ibid*, 19.

<sup>98</sup> United States of America. Department of State. Office of the Undersecretary for Democracy and Global Affairs and the Bureau of Public Affairs. *Trafficking in Persons Report*. 2008, 57-59.

<sup>99</sup> Organización Internacional para las Migraciones, xi.

networks that operate within and among these provinces are incredibly complex and broad in scope, with members operating in various parts of the country simultaneously.

**Figure 2.1: Provinces Most Affected by Trafficking**



Most victims recruited or captured by these trafficking networks find themselves in illegal brothels operating throughout the country. At the federal level, the Argentine state does not criminalize prostitution, but as a signatory to and in accordance with the 1949 UN Convention on the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others, it outlaws brothels and procuring. Brothels are generally tolerated under local legislation, however, as long as they operate under euphemistic names such as “cabaret,” “*whiskería*” “*Casa de Té*” (Tea House), or “Night Club.” Potential customers easily find such brothels in urban areas and in semi-urban and rural areas along major national and provincial highways. Traffickers also exploit their victims in *privados*, private apartments in major cities that consist of little more than a waiting room and several bedrooms in which, on average, seven women tend to clients and sleep when they are not working. In contrast to brothels, which generally operate openly and receive at least minimal levels of police scrutiny, *privados* typically go unrecognized by authorities and the general public. Therefore, it is difficult to estimate the number in existence. A third method by which traffickers exploit victims involves the use of classified advertisements. Procurers advertise their victims’ services in local newspapers, arrange meetings with clients and accompany the victims to a specified location.<sup>100</sup>

Whether victims suffer exploitation in brothels, *privados* or the private residences of clients reached through advertisements, the majority entered conditions of exploitation through similar journeys involving various actors with specific roles and functions in the trafficking process. Most actors can be classified as either primary or secondary actors according to the roles they fulfill, their level of involvement with the trafficking network, and the extent to which they interact with the victims. Primary actors are the network members directly responsible for

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<sup>100</sup> *Ibid*, 52-53.

the recruitment, transfer and harboring of victims. These include recruiters, procurers, and brothel owners. Their activities are facilitated by a number of secondary actors who are typically not directly responsible for the exploitation of the victims but provide traffickers with protection or essential services such as transportation. The following pages will discuss the most common types of primary and secondary actors and their roles within the trafficking process.

## **Primary Actors**

### Brothel Owners

Brothel owners serve the central and most visible function within trafficking networks. They provide reception for trafficked women and oversee the forced prostitution of victims within their establishments. Brothel owners can purchase victims directly from recruiters for exploitation in their establishments, or they can “rent” victims from procurers on a rotational basis. Often the apparent owner of a brothel is little more than a manager, acting as a proxy for a corrupt politician or other public figure who actually owns the establishment. While brothel owners frequently exploit numerous trafficking victims with impunity or in collaboration with local police and politicians, their close and continued contact with victims nonetheless makes them the most vulnerable to prosecution. Client demand dictates the type of women brothel owners seek to recruit, and they turn to recruiters and procurers to meet their specific needs.<sup>101</sup>

### Recruiters

Recruiters either work in conjunction with specific brothels or work independently, charging commission for the women they recruit. Recruiters associated with a specific brothel

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<sup>101</sup> *Ibid*, 36-37.

will travel to rural, low-income areas and lure victims with offers of employment in faraway parts of the country as domestics, waitresses, cooks or caregivers. These “jobs” offer salaries well beyond what the victims can expect to make in their hometowns, and recruiters will often offer to cover the costs of the trip as well. Recruiters can be employees or family members of the brothel owners; often they are women working as prostitutes for them who, either voluntarily or under coercion, return to their hometowns to recruit more victims. The prostitutes may recruit through similar methods of deception, or they may partially disclose the nature of the work without revealing the exploitative conditions awaiting new recruits.

In contrast, recruiters working on commission—*comisionistas*—are likely to be residents of a source province who recruit women at random or respond to specific requests from the brothels with which they conduct business. Many times they recruit women who they count among their own family members or acquaintances. Other times the brothel owner will place false job advertisements in the local newspapers of the *comisionista*'s hometown. Recruiters will arrange transportation for their recruits to the destination point or will accompany them directly to the brothel where they are turned over to the owner.<sup>102</sup>

While deception is the most common method of recruitment, some traffickers acquire their victims through coercion. In Santa Fe and in Tucumán in particular, an astonishing number of women are simply kidnapped off the streets. The victims are “marked” beforehand and are forced into an automobile, where they are drugged, beaten or raped to ensure their submission. While kidnappings typically involve greater risks for traffickers, the method ensures that recruiters can meet the specific requests of brothel owners and is widely employed.<sup>103</sup>

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<sup>102</sup> *Ibid*, 37-40.

<sup>103</sup> *Ibid*, 41.

### Procurers

A third, less visible set of actors within trafficking networks includes the procurers, or pimps, who operate alongside and among recruiters and brothel owners.<sup>104</sup> The majority of procurers utilize a rotation system, “renting out” the women they count as personal property. In this system, procurers do not own establishments but instead generate earnings by sending their victims from town to town and charging brothel owners a flat rate or commission for the earnings of their prostitutes during a period of seven to forty-five days. This system benefits the procurer by preventing his victims from forming relationships with brothel clients who might assist them in their escape. Brothel owners benefit from a constant flow of new “merchandise” to meet the changing demands of their clients.<sup>105</sup> Under this system, both procurers and the brothel owners with which they work come to feel a sense of ownership of the victims, considering them as personal property. Procurers often have policies regarding their prostitutes that bear striking similarities to the “you break it, you buy it” policies of stores and shops that carry easily damaged goods. If a victim escapes or is returned to her procurer in poor condition, the brothel owner is responsible for paying a fine as high as the victim’s original full price. Similarly, if a victim resists her exploitation, brothel owners may consider her to be a “defective product” and essentially demand a partial refund by deducting fines proportional to her lost earnings from the amount to be paid to her procurer. Trafficking victims are not even afforded

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<sup>104</sup> While the terms “procurer” and “pimp” can be used interchangeably to describe the role carried out by these traffickers, the word “procurer” is indicative of the high level of organization exhibited by the majority of those involved in Argentine trafficking and suggests a much more complex system of exploitation than might exist in the typical pimp/prostitute relationship.

<sup>105</sup> *Ibid*, 42, 55.

the treatment that is given to conventional types of property, as they are subject to intentional abuse and are sometimes even killed.<sup>106</sup>

Some procurers, such as those operating out of Santa Fe province, exhibit an extremely high level of organization, retaining thirty or more prostitutes at once and renting them out to multiple brothels throughout the country simultaneously. Their networks extend to multiple regions of the country and often extend as far as Europe and Mexico. Others have much smaller, informal operations similar in scope to the relationships between ordinary pimps and consenting prostitutes. They have little knowledge of the workings of trafficking networks. They tend to limit their activity to their own towns or cities and exploit a small number of women as a form of supplementary income.<sup>107</sup>

Procurers use a number of deceptive and coercive measures to force their victims into the sex trade. One method, which is frequently used to ensnare younger victims, is known as *enamoramiento*. The procurers form insincere romantic relationships with the victims in order to convince them to go to work for them. Others resort to kidnapping or the purchase of kidnapped victims and maintain control through extreme violence. A third type of procurer ensures the compliance of his victim by having a child with her and using threats against the child to prevent the victim from escaping. Procurers guarantee themselves a steady supply of new victims by allowing their prostitutes to recruit new victims in exchange for their freedom or other incentives. Once a procurer is in possession of his victim, he maintains control of her through rape, beatings, forced drug usage or threats against her life or the lives of her family. The highest-level procurer operations appear to be based out of Santa Fe, Mendoza and Entre Ríos,

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<sup>106</sup> *Ibid*, 54-56.

<sup>107</sup> *Ibid*, 44.

with procurers sending victims to be sexually exploited in cabarets and *whiskerías* in Córdoba, La Pampa, Entre Ríos Chubut, Santa Cruz and various other parts of the country.<sup>108</sup>

## **Secondary Actors**

While secondary actors are not necessarily directly involved in the recruitment, transport or exploitation of victims, they facilitate the activities of primary actors by providing them with protection or other essential services such as secure phone lines and travel arrangements. Argentina's trafficking networks could not operate without the collusion of security forces and public officials. Local and provincial police in particular often offer protection to traffickers by failing to report known cases of trafficking or by tipping off brothel owners to upcoming police raids in exchange for money and sex. In many areas, police and public officials participate so frequently in the exploitation of trafficking victims that the victims come to fear the police as much as their traffickers and do not consider police rescue as a viable means of escape. Police and public officials also lend their support by helping brothel owners to obtain false documentation for victims, particularly when the victims are minors. In the worst cases, police and political figures have been known to be directly involved in the trafficking networks.<sup>109</sup> A prominent 2004 case involved a police officer named Jorge González. Authorities discovered that González was the owner of a Córdoba brothel after a fifteen-year-old girl escaped and reported the severe physical and sexual abuse to which she and several other girls had been subjected.<sup>110</sup> More recently, two former police officers and four former public officials have

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<sup>108</sup> *Ibid*, 43, 45, 47.

<sup>109</sup> *Ibid*, 49-50.

<sup>110</sup> Valente, Marcela. "Sold into Prostitution as Children, Accused in Court as Adults." Inter Press Service News Agency. 6 June 2006. Accessed 24 January 2009. <http://ipsnews.net/news.asp?idnews=33513>.

been charged with trafficking-related offenses after the rescue of thirty-seven women from a Chubut brothel.<sup>111</sup>

Other secondary actors include cab drivers and migration officials who assist in illegal border crossings. Employees of travel agencies, phone companies and money wire services help ensure that victims reach their destinations and provide secure phone lines for network communications.<sup>112</sup> Sara Torres, a representative of the international Coalition Against Trafficking in Women (CATW) pointed out that major newspapers such as *Clarín* publish advertisements selling sex under the heading “useful for men and women,” although it is well known that these advertisements frequently refer clients to trafficked women.<sup>113</sup>

## **The Victims**

Argentina’s trafficking victims tend to come from very large families in rural areas or poor urban *barrios* in Argentina and Paraguay. Most victims have little education and few opportunities for employment. They are recruited through deception while seeking work to help support numerous brothers and sisters as their parents face unemployment or insufficient incomes. A smaller number of recruits have already faced physical or sexual abuse at the hands of family members and are seeking escape. Recruiters offer jobs with monthly salaries of five hundred pesos or more—more than their entire family might make combined. Upon taking the job offer and arriving at their destinations, many of these women become victims of debt bondage, beginning with their exploiters charging them for their transportation costs. As they are forced to prostitute themselves to pay off their debts, brothel owners or procurers continue to

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<sup>111</sup> U.S. State Department. *Trafficking in Persons Report*, 57-59.

<sup>112</sup> Organización Internacional para las Migraciones, 51.

<sup>113</sup> Valente, “Trafficked Women—an Invisible Problem.”

add fines and charges for food, clothing, shelter or even as punishment for beginning work late, until the women have no chance of paying them off.<sup>114</sup>

Argentina's liberalized immigration policy and weak border controls facilitate the crossing of hundreds, if not thousands, of trafficking victims from Paraguay into northeastern Argentina. Of the thirty-nine legal crossing points between Argentina and neighboring Brazil and Paraguay, only two are controlled by the National Migration Authorities (DNM), with the other thirty-seven loosely regulated by the Naval Prefecture and the National Gendarmerie. The constant flow of regular travelers up and down the Paraná and Iguazú Rivers is subject to extremely lax regulations. Many traffickers come to know the border officials and are permitted to cross without having to stop to show documentation for their recruits.<sup>115</sup>

Trafficking victims are distinguishable from voluntary prostitutes and the "girlfriends" of procurers as *las que lloran*—those who cry. The violence and other forms of coercion used against them were not always inherent in the relationship between procurers or brothel owners and prostitutes. Argentina's commercial sex industry was once based on a contractual relationship between prostitutes and their overseers. Over time, many prostitutes began to work independently in the brothels without the supervision of a procurer and to demand to set their own prices and retain a fair share of their earnings. What could have been a healthy transition in the commercial sex industry was counterbalanced by an increasing trend among procurers and brothel owners to resort to trafficking, violence and coercion in order to continue generating high earnings.<sup>116</sup>

In the triple border region, where the Iguazú Falls attracts roughly one million tourists a year, as many as 3500 children and teenagers have fallen prey to traffickers profiting from the

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<sup>114</sup> *Ibid.*, 60-63.

<sup>115</sup> Organización Internacional para las Migraciones, 153-154.

<sup>116</sup> *Ibid.*, 57-58.

area's thriving sex tourism industry. "The triple *frontera* is the Bangkok of Latin America," says Cynthia Bendlin, director of IOM's counter-trafficking program in the region. "After the tsunami, many sex tourists started coming here instead of Asia."<sup>117</sup> Organizations like IOM have been working to raise awareness of the problem, but many of the victims come from extremely impoverished families who willingly sell their children into exploitation. Cultural attitudes in the region condone sex with minors and violence against women. Financial concerns and fear of reprisals prevent most victims and their families from prosecuting traffickers. In 2006, of seven hundred cases of child trafficking known to CEAPRA, a children's charity in the Paraguayan border town of Ciudad del Este, only forty were reported, and only one complaint resulted in a guilty verdict. All three countries have separate laws and legal processes, complicating prosecutions as well as security and prevention efforts.<sup>118</sup>

In some cases, victims are able to escape their traffickers either by themselves or with the help of a client. Others are rescued when a jealous procurer reports the exploitation of another procurer's victims. Some women are rescued through journalist investigations or while officials are investigating other crimes in which their traffickers are involved, such as drug smuggling or the arms trade.<sup>119</sup> A few manage to purchase their own freedom, or a family member or client is permitted to make the payment on their behalf. Some are simply abandoned in isolated areas when they become too old or sick. Many women, however, only secure their freedom by recruiting new victims for their traffickers, and the cycle continues.<sup>120</sup> One woman who came

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<sup>117</sup> Balch, "Latin America's secret slave trade."

<sup>118</sup> *Ibid.*

<sup>119</sup> Organización Internacional para las Migraciones, 63-64

<sup>120</sup> *Ibid.*, 45.

forward with her story was exploited for eight years before escaping<sup>121</sup>, and it is possible that women like Marita Verón will be victimized for much longer if they are not found.

## **Conclusion**

Trafficking for the purpose of sexual exploitation is the most common form of trafficking in Argentina, with the majority of victims originating in Argentina's poor rural provinces. Accordingly, special attention should be given to cases of internal sex trafficking and the challenges of detection when no international borders are crossed. However, IOM warns against the tendency to overlook less common but equally serious cases of trafficking, typically of Bolivian migrants, for labor exploitation during the formulation of anti-trafficking policies.<sup>122</sup> The most significant contributors to Argentina's trafficking problem appear to be poverty, poorly regulated migration flows, inconsistent policies regarding the commercial sex industry, a lack of education among vulnerable populations and corruption. IOM characterizes the level of visibility and understanding of Argentina's trafficking problem as "medium" relative to other countries with known trafficking problems. Recent measures adopted by the Argentine government and the organizations working in tandem with it indicate the existence of a political will to combat the crime.<sup>123</sup> Argentina will face the challenge of eradicating trafficking using much more limited resources than those available to wealthier countries. Police commissioner Jorge Tobar noted the effect of this disparity in 2005 after participating in the rescue of twenty-five victims sold into exploitation in Spain by an Argentine trafficking network. Spanish authorities were able

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<sup>121</sup> *Ibid*, 61.

<sup>122</sup> *Ibid*, 317-318.

<sup>123</sup> *Ibid*, ix

to act much more efficiently and effectively than those with which Tobar has worked in Argentina.<sup>124</sup>

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<sup>124</sup> Valente, “Trafficked Women—an Invisible Problem.”

### **Chapter Three: Governmental and Non-Governmental Responses to the Trafficking Problem**

This chapter seeks to identify and assess the scope and effectiveness of anti-trafficking efforts undertaken by the Argentine government and non-governmental organizations in three key areas: prosecuting offenders, protecting victims, and preventing future trafficking cases. It examines Argentina's level of compliance with the Palermo Protocol in these areas and indicates where the government has failed to take action or has worked ineffectively. It also discusses the strengths and potential weaknesses of the country's newly enacted anti-trafficking law. In addition to this assessment, the chapter describes Argentina's contradictory and poorly enforced laws regulating the commercial sex industry, and it explains how those laws contribute to the trafficking problem.

Information on the anti-trafficking organizations and government entities operating in Argentina is limited, and most sources that describe their efforts are not up-to-date. The International Organization for Migration's 2006 report lists a wide variety of government and NGO anti-trafficking initiatives, but how effective many of these have been and whether they remain in operation is often unclear. The chapter relies on the IOM report's discussion of the ways in which the Argentine government and NGOs are attempting to respond to the problem, highlighting efforts that have garnered the attention of the media, international organizations and foreign governments. The level of international attention serves as a testament to success compared to many inactive organizations and abandoned or failed initiatives.

The Argentine government is obligated under a number of international treaties to take steps to prevent and prosecute trafficking cases and to protect victims. In 2002, Argentina signed and ratified the United Nations Convention Against Transnational Organized Crime and its two

protocols, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol) and the Protocol against the Smuggling of Migrants by Land, Sea and Air. The country is also a State Party to the 1949 UN Convention on the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others. Under the Palermo Protocol, Argentina is obligated to criminalize and prosecute cases of human trafficking; to protect and assist victims, especially with regards to repatriation, and to adopt preventive measures such as the implementation of awareness campaigns and heightened vigilance in certain high-risk areas. Despite a history of sex trafficking problems dating back to the early twentieth century's "white slave trade," it was not until 2003 that the crime began to take its rightful place in the national agenda, and the country is still in the early stages of understanding the problem and developing appropriate remedies and preventive strategies through the coordination of governmental, non-governmental and international efforts.<sup>125</sup>

## **Prosecution**

Until 2008, the lack of a federal anti-trafficking law meant that prosecutors and judges could only convict traffickers who carried out intermediate steps of the trafficking process already prohibited by law. Articles 125 to 127 of the Argentine Penal Code criminalized human smuggling across international borders for the purposes of sexual exploitation as well as the promotion of prostitution and/or corruption of adults when using coercion or deception and of minors regardless of consent. But these laws were not sufficient to prosecute all actors in the trafficking process; nor were they sufficient to prosecute all types of trafficking. Cases of internal trafficking, for example, could not be prosecuted as human smuggling. Traffickers of

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<sup>125</sup> *Estudio exploratorio sobre Trata de personas con fines de explotación sexual en Argentina, Chile y Uruguay* Buenos Aires: Organización Internacional para las Migraciones, December 2006, 27.

adult victims could not be charged with the corruption of a minor, and if the victim's lack of consent could not be demonstrated, her trafficker could not be convicted of exploitation of the prostitution of others. Existing laws did not apply to non-sexual forms of exploitation such as domestic servitude. They also failed to provide the tools with which to prosecute the different actors in each stage of the trafficking process. While convictions were sometimes secured against procurers, there was often nothing with which the victims' transporters could be charged.<sup>126</sup>

For adult victims, cases hinged on whether or not the defense could prove that the victim had given her consent to her exploitation. Without laws aimed specifically at the tactics employed by traffickers, an examination of the issue of consent rarely took into consideration elements often influencing a victim's "consent," such as deception, payments to achieve the consent of a person having control over another, or the abuse of a victim's position of vulnerability. In practice, the consent of a woman of legal age was presumed.<sup>127</sup> The absence of a federal anti-trafficking law meant that cases were tried at the provincial level, and jurisdictional disputes between provincial and federal authorities often prevented the prosecution and punishment of traffickers.<sup>128</sup> In 2005 and the first half of 2006, sixty-one cases of "reducing someone to a situation analogous to servitude" were detected, but only one case resulted in a conviction.<sup>129</sup> The hope is that a recently enacted national anti-trafficking law, which will be discussed below, will address many of these issues.

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<sup>126</sup> *Ibid*, 28-29.

<sup>127</sup> *Ibid*, 29-30.

<sup>128</sup> United States of America. Department of State. Office of the Undersecretary for Democracy and Global Affairs and the Bureau of Public Affairs. *Trafficking in Persons Report*. 2008, 57-59.

<sup>129</sup> *Global Report on Trafficking in Persons*, Vienna: United Nations Office on Drugs and Crime, 2006, 152.

## Prevention

Prevention efforts in Argentina have focused on two main goals: raising awareness among the populations most vulnerable to trafficking and strengthening the institutions capable of fighting the crime through specialized training and the coordination of information. NGOs and international organizations have spearheaded the majority of awareness-raising efforts (some with modest financial support from the Argentine government) which address the gender perspective's concern for empowering and informing vulnerable female populations. The government has taken a more active role in efforts aimed at strengthening institutions, which answer the market perspective's call for policies that disrupt trafficking activities and increase risks for traffickers.

The partnership between IOM and the Argentine government has been fundamental in educating Argentina's public about the trafficking problem. In 2007, the Argentine government backed an IOM anti-trafficking media campaign entitled "No to Human Trafficking, No to Modern-day Slavery". The campaign featured short clips on public television and on closed-circuit TVs in Buenos Aires' subway system warning citizens of the dangers of trafficking and the methods of fraudulent recruitment and urging clients to report suspected trafficking activity.<sup>130</sup> Other television spots featured a well-known Uruguayan actress and singer performing her song "Esclava" ("Slave Woman") and discussing the crime. "The idea is to show the video clip at public gatherings and *fiestas* in small towns where young women are taken in by fraudulent job offers, and end up being sexually exploited," she said.<sup>131</sup> The National Institute Against Discrimination, Xenophobia and Racism set up a twenty-four hour hotline in support of

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<sup>130</sup> U.S. State Department. *Trafficking in Persons Report*, 57-59.

<sup>131</sup> Marcela Valente. "Recruiting Celebs Against Trafficking in Women." Inter Press Service News Agency, 15 March 2007. Accessed 25 January 2009. <http://www.ipsnews.net/news.asp?idnews=36936>.

the campaign.<sup>132</sup> In the same year, the city of Buenos Aires criminalized the trafficking of children and continued with an awareness campaign aimed at ending sweatshop labor.<sup>133</sup>

In the triple border region, where IOM is also active, a children's charity by the name of *Luz de la Infancia* (Light of the Infancy) has undertaken similar efforts aimed at raising awareness. The organization carries out prevention campaigns in schools, clubs and at-risk neighborhoods. It also targets complicity among elements of the tourism sector such as taxis, travel agencies and hotels that either knowingly or unknowingly provide their services to traffickers. *Luz de la Infancia* also works to ensure that applicable laws are enforced in order to protect children from becoming victims.<sup>134</sup>

In March 2008, a popular *telenovela*, or soap opera, in Argentina centering on the issue of human trafficking proved that entertainment could be a powerful awareness-raising tool. "*Vidas Robadas*," or "Stolen Lives," premiered in March 2008 on Argentina's Telefe network and was based loosely on Susana Trimarco's quest to find her missing daughter. The *telenovela* was just one in a series of Argentine soap operas that has sought to bring important social issues to light through entertainment. Telefe programming director Claudio Villarruel said that "...because we take a fictional and not a journalistic approach, we are able to attract and keep more viewers." The show brought the issue of human trafficking to over two million viewers every night in a country of just forty million.<sup>135</sup>

In the provision of specialized training and the coordination of information, the government has taken a more active role and has worked alongside NGOs and international

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<sup>132</sup> *Ibid.*

<sup>133</sup> U.S. State Department. *Trafficking in Persons Report*, 57-59.

<sup>134</sup> "Program 'Luz de la Infancia' ('Light of the Infancy') for the prevention and eradication of commercial children sexual exploitation." Changemakers. Accessed 25 January 2009. <http://www.changemakers.net/en-us/node/8944>.

<sup>135</sup> Brian Byrnes. "Argentine mom seeks daughter forced into prostitution." CNN.com 18 Sept. 2008. Accessed 23 Feb. 2009 <http://edition.cnn.com/2008/WORLD/americas/09/17/stolen.lives/index.html>.

organizations. The Ministry of Justice, Security and Human Rights is the branch of the Argentine government that has been most active in the fight against trafficking. Eva Giberti, the coordinator of the Ministry's *Programa de Víctimas contra las Violencias*, developed a training program aimed primarily at equipping provincial police forces to handle trafficking cases.<sup>136</sup> In 2008, the Ministry announced plans to collaborate with the Ministry of Labor, Employment and Social Security and the National Migration Authority in the coordination of prevention efforts.<sup>137</sup> Argentina also recently signed a MERCOSUR agreement aimed at establishing a database to store and share information regarding the movement of minors among member countries (in Argentina, this will include persons up to the age of twenty-one)<sup>138</sup>.

Specialized anti-trafficking police units were established in 2007 in Santa Fe and Tucumán at the urging of Susana Trimarco,<sup>139</sup> and the government announced plans to form anti-trafficking units in its four federal forces (federal police, airport police, border patrol and coast guard) in 2008. Between May and November of that year, the police carried out 118 raids and rescued 133 victims, with fifty-one of them being children.<sup>140</sup> In the triple border region, the government is providing chambers of tourism with materials to prevent child sex tourism.<sup>141</sup>

IOM financed a 2006 project to strengthen the institutions capable of eradicating trafficking by training four hundred prosecutors, judges and officials to effectively identify,

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<sup>136</sup> Organización Internacional para las Migraciones, 164.

<sup>137</sup> "Programa las Víctimas contra las Violencias: Marco Legal." Ministerio de Justicia, Seguridad y Derechos Humanos. Accessed 23 February 2009. <http://www.jus.gov.ar/victimascontralaviolencias/legislacion.shtml>.

<sup>138</sup> MERCOSUR. Decreto Nro. 26/08. *Acuerdo para la Implementación de Bases de Datos Compartidas de Niños, Niñas y Adolescentes en Situación de Vulnerabilidad del Mercosur y Estados Asociados*. Accessed on Migraciones.gov.ar. 16 February 2009. <http://www.migraciones.gov.ar/pagina4/espanol/pdf/regionales-%20MERCOSUR/26-08.pdf>

<sup>139</sup> Gustavo Barco. "Trata de blancas: el siniestro negocio de la esclavitud sexual." *La Nación*. 6 January 2008.

<sup>140</sup> United States of America. Department of State. Office of the Undersecretary for Democracy and Global Affairs and the Bureau of Public Affairs. *Trafficking in Persons Interim Assessment (May – November 2008)*. 2008.

<sup>141</sup> U.S. State Department. *Trafficking in Persons Report*, 57-59.

prosecute and prevent trafficking cases.<sup>142</sup> In the triple border region, the organization assists local government agencies and police in the development of coordinated strategies to stop traffickers.<sup>143</sup> UNICEF and ILO have also led efforts to inform community leaders in Argentina. UNICEF worked with the Argentine Ministry of Justice, Security and Human Rights to provide information and training for law enforcement officers and those that interact with trafficking victims in the process of their rescue and rehabilitation. Between 2001 and 2005, the U.S. Department of Labor funded an ILO investigation into best practices for preventing the trafficking of children for sexual exploitation in the triple border region.<sup>144</sup>

Finally, activists and scholars associated with various NGOs, international organizations and academic institutions throughout Argentina and the world are collaborating with one another to share information and lobby for effective anti-trafficking policies. The No to Trafficking Network brings together over nine hundred journalists, professionals, government members and organization representatives from nine countries and is moderated by Argentine representatives of the Coalition Against Trafficking in Women (CATW). The group has been actively pushing for stricter enforcement of anti-prostitution laws and continues to encourage an amendment of the country's new anti-trafficking law.<sup>145</sup>

One of the most effective means of prevention might involve intervening in traffickers' recruitment efforts before they reach their victims rather than simply warning the victims of such forms of entrapment. However, it does not appear there are any laws or law enforcement efforts addressing the problem. Susana Trimarco, the mother of Marita Verón, complained of a lack of

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<sup>142</sup> Marcela Valente. "Young Women Lured into Trafficking by Job Ads." Inter Press Service News Agency. 6 March 2006. Accessed 13 March 2009. <http://ipsnews.net/news.asp?idnews=32384>.

<sup>143</sup> Balch, Oliver. "Latin America's secret slave trade." *The Guardian* 20 December 2006.

<sup>144</sup> Marcos Köhn Gallardo. *Law Enforcement in Argentina and Paraguay: Collection of Good Practices and Lessons Learned related to the prevention and elimination of commercial sexual exploitation (CSE) of girls, boys and adolescents*. Asunción, Paraguay: International Labor Organization, 9.

<sup>145</sup> "Red No a la Trata." Changemakers. Accessed 25 January 2009. <http://www.changemakers.net/en-us/node/8900>.

political will to combat the networks making false offers of employment in plain view of law enforcement through newspaper advertisements.<sup>146</sup> For now, raising awareness within the community and among community leaders and law enforcement appears to be the main goal. The U.S. State Department reports that increased media coverage and NGO and government efforts have been successful in achieving that goal, with more members of vulnerable populations demonstrating an understanding of trafficking networks and their deceitful recruitment methods.<sup>147</sup>

### **Victim Protection**

Government programs, several NGOs, and the international organizations all provide treatment, assistance and rehabilitation to victims of trafficking. While government assistance programs tend to operate at the federal level with national hotlines and offices that refer victims to the services they need, non-governmental and international organizations run smaller operations that provide services within the victims' communities. The *Oficina de Asistencia Integral a la Víctima del Delito* (OFAVI) was created in 1998 to assist victims of sexual violence and related crimes and serves a limited number of trafficking victims by providing them with social, psychological and medical assistance.<sup>148</sup> The Ministry of Justice plans to create a first responder office to coordinate criminal investigations and direct assistance to victims.<sup>149</sup>

State-administered services include the attorney general's new victim-assistance policy provides victims willing to prosecute their traffickers with medical and psychological treatment,

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<sup>146</sup> Valente, "Recruiting Celebs."

<sup>147</sup> U.S. State Department. *Trafficking in Persons Report*, 57-59.

<sup>148</sup> "Oficina de Asistencia Integral a la Víctima del Delito." Ministerio Público Fiscal. Accessed 16 February 2009. <http://www.mpf.gov.ar/MPF2/Ofavi%20pagina.htm>

<sup>149</sup> U.S. State Department. *Trafficking in Persons Interim Assessment (May – November 2008)*.

legal counseling and referrals for other forms of assistance. These services are generally provided regardless of nationality; the Argentine government typically does not deport victims who are not citizens. Victims who are citizens of MERCOSUR countries are able to obtain temporary residency under Argentine immigration law. More than one hundred complaints were referred to the attorney general's office after a nationwide violence hotline was expanded to include assistance for trafficking victims.<sup>150</sup>

Over the last several years, many NGOs and international organizations have worked to provide victims with documentation, repatriation, basic necessities, medical and psychological care and legal assistance. These organizations are responsible for the assistance of the majority of victims receiving some form of help. Some organizations are able to count on modest government assistance.<sup>151</sup> Susana Trimarco's foundation established headquarters in Tucumán and has been working to provide victims with assistance in the process of reentering their own communities or establishing new lives elsewhere.<sup>152</sup>

Overall, the availability and accessibility of victim assistance is severely limited, and many victims never receive the services they need. According to the State Department's 2008 trafficking report, the Argentine government did not show adequate efforts to assist trafficking victims, leaving this task primarily to the NGOs and international organizations operating in the country.<sup>153</sup> OFAVI refers the victims it identifies to IOM's program of Assistance to the Victims of Trafficking (AVOT).<sup>154</sup> The government does not run shelters dedicated to assisting trafficking victims, and only one shelter serving trafficking victims exclusively operates

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<sup>150</sup> U.S. State Department. *Trafficking in Persons Report*, 57-59.

<sup>151</sup> *Ibid.*

<sup>152</sup> Jane Morse. "Argentine Woman Fights Trafficking with Indomitable Hope." *America.gov*. 11 June 2007. Accessed 23 February 2009. <http://www.america.gov/st/washfile-english/2007/June/20070606112921ajesrom0.5783655.html>.

<sup>153</sup> U.S. State Department. *Trafficking in Persons Report*, 57-59.

<sup>154</sup> UNODC. *A Global Report on Trafficking in Persons*, 153.

intermittently in Puerto Iguazú, in the triple border region, depending on levels of government funding. Victims seeking assistance are often relegated to general shelters or small family hotels that are not equipped to deal with the specific needs of trafficking victims, such as assistance obtaining documentation or reconnecting with their families.<sup>155</sup>

Many victims who are reluctant to testify due to fears of retaliation or shame are denied government assistance. The witness protection program proposed by a new anti-trafficking law, as well as additional training for police and prosecutors on sensitive interviewing techniques, should increase the number of victims willing to prosecute their offenders. During the 2007-2008 reporting period there were reports of victims who were jailed or penalized for unlawful acts they committed as a direct result of their being trafficked. The State Department's report suggests that the government exhibited inadequate efforts to identify trafficking victims in brothels and among criminal detainees and other vulnerable populations.<sup>156</sup>

A source consulted by the InterPress Service News Agency (IPS) criticized IOM's programs of victim assistance. IOM is first and foremost an organization committed to promoting safe, legal and orderly migration, and its primary concern is helping victims to return safely to their hometowns or countries of origin. The organization does not provide legal defense for victims, and it was criticized for its practice of providing victims with assistance for a maximum period of three months. The source that spoke with IPS pointed out that many of the victims are addicted to drugs, and without employment training or continuing assistance, they eventually return to prostitution as a means to feed their addictions or to simply feed themselves.<sup>157</sup>

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<sup>155</sup> U.S. State Department. *Trafficking in Persons Report*, 57-59; UNODC. *A Global Report on Trafficking in Persons*, 152.

<sup>156</sup> *Ibid.*

<sup>157</sup> Valente, "Young Women Lured into Trafficking."

## The Problem of Prostitution

The most alarming failure of the Argentine government has been its contradictory and poorly-enforced policies regarding prostitution, procuring and the operation of brothels. Chapter two discussed the fact that Argentina criminalized both procuring and the operation of brothels in accordance with the 1949 UN Convention on the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others. Because politicians, public officials and law enforcement officers choose to tolerate both activities in practice, they simply turn a blind eye to the activities of procurers and the operation of seedy “night clubs.” While prostitution itself is legal at the federal level, most provinces have laws allowing for the arrest of prostitutes for causing “scandal in the public thoroughfare.”<sup>158</sup>

The end result is that while in theory procuring and brothels are illegal and street prostitution is not, in practice the opposite is true. Women cannot engage openly in prostitution without fear of arrest. They are forced to work under the often-exploitative conditions of the procurers and brothel managers whose operations are guaranteed by shady alliances with the police.<sup>159</sup> This system ensures that law enforcement officers and public officials will rarely closely examine the activities of these brothels, and traffickers are able to operate freely in an almost entirely unregulated environment. No anti-trafficking law will end the practice of sex trafficking until the Argentine state changes its pattern of selective enforcement of contradictory federal and local laws. This section will outline the laws that are contributing to the trafficking problem in order to prepare the way for chapter four’s discussion of potential solutions.

In this thesis, the position of Argentina’s sex workers regarding the laws regulating the commercial sex industry is represented by the *Asociación de Mujeres Meretrices de la*

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<sup>158</sup> Reed Lindsay. “Argentina’s Prostitutes get Militant.” *The Guardian*. 25 January 2004.

<sup>159</sup> *Ibid.*

*Argentina*, or the Association of Women Sex Workers of Argentina. Elena Reynaga, the organization's founder and executive secretary, formed the organization in 1995 after enduring constant abuses at the hands of local police while working as a prostitute. Today AMMAR counts over 2,800 women among its ranks. In December 2006, AMMAR gained legal recognition as a non-profit organization. It is active throughout the country and pursues four main objectives:

- Ensuring the respect for the human rights and labor rights of all sex workers in Argentina;
- Abrogation of the laws within provincial and municipal penal codes that criminalize their work;
- Ending police violence, corruption and abuse of sex workers; and Gaining state recognition as a union with workers having rights to social security and retirement benefits.<sup>160</sup>

### *Laws Regulating Prostitution*

Prostitution is not criminalized at the federal level. Article 19 of the Argentine Constitution states that “[t]he private actions of people that do not offend in any way the public order and morality, nor damage a third person, are only reserved to God and are exempt from the authority of the magistrates.”<sup>161</sup> The provision does not guarantee the right to exercise prostitution, but it reflects the federal government's decision not to pass judgment on the activity. However, in the penal codes of many provinces and municipalities, street prostitution is directly or indirectly classified as a misdemeanor with the justification that the activity does indeed offend public order and morality. In most of the country, prostitutes can be arrested and fined or jailed for up to twenty-one days under edicts issued at the discretion of the police.<sup>162</sup>

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<sup>160</sup> “Nuestras Luchas.” Asociación de Mujeres Meretrices de la Argentina. Accessed 13 March 2009. <http://www.ammar.org.ar/nuestrasluchas1.htm>.

<sup>161</sup> “Prostitution Policies Around the World.” ProCon.org. Accessed 24 February 2009. <http://prostitution.procon.org/viewresource.asp?resourceID=772#argentina>

<sup>162</sup> “Prostitution and the Law – the Facts.” *New Internationalist*. Issue 252. February 1994.

In Argentina it is illegal to own, operate or manage any type of brothel. Article 15 of National Law 12.331 says, “the establishment of houses or businesses in which prostitution is exercised or incited is prohibited in the entire Republic.” Article 17 adds that

Anyone who supports, administers or manages an establishment, whether covertly or openly, in which prostitution is tolerated will be punished with a fine of between 12,500 and 125,000 pesos. In the case of recidivism, the offender will be subject to imprisonment of one to three years.<sup>163</sup>

Additionally, Articles 126 and 127 of the Argentine Penal Code punish the promotion of the prostitution of others and the economic exploitation of the prostitution of others with imprisonment of three to ten years in case of coercion or intimidation.<sup>164</sup>

### Enforcement

Whether it is a result of pressure from activists, public opinion, or corruption, the majority of provinces and municipalities enforce the local anti-prostitution laws but do not enforce the federal laws prohibiting brothels or procuring. Brothels operate openly in Argentina under euphemistic names such as *whiskería* (bar) or *casa de té* (tea house).

The municipal and provincial laws and police edicts that seek to punish women working as street prostitutes serve as a facilitator to the trafficking process. They push sex workers off the streets—where even trafficked prostitutes are at least visible and thus more difficult to control and abuse—and into brothels, where they are invisible to the public and to law enforcement and are controlled and exploited by procurers and brothel owners. Because the federal laws are ignored and brothels are rarely subjected to police scrutiny, trafficking operations remains a low-

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<sup>163</sup> Organización Internacional para las Migraciones, 52.

<sup>164</sup> La República Argentina. *Código Penal de la Nación Argentina*. Libro Segundo, Título III, Arts. 126 and 127. 14 May 1999.

cost, low-risk operation in Argentina with many facilitating conditions and few policies that inhibit its viability and profitability.

Many of these local governments—and their police forces in particular—stand to profit from this practice of selective enforcement by demanding bribes from brothel owners and street prostitutes. Many brothels exploit trafficking victims under police protection that they receive in exchange for food, drinks, money or sex. Others are simply ignored by police and operate with impunity. In both cases, the lack of political will to enforce the laws prohibiting brothels allows traffickers to exploit victims openly.

One particularly egregious case of police corruption involves the murder of the former secretary general of AMMAR in the city of Rosario, Sandra Cabrera. Cabrera exposed a police cover-up of child prostitution and human trafficking which led to the dismissal of three officers working in the Santa Fe Public Morality Division, which was dissolved entirely some time later. Despite round-the-clock police watch, she was savagely beaten in her own home shortly after the firings. After her attack, the Rosario Sub-secretary of Security Alejandro Rossi lifted the order for police protection of Cabrera, claiming that “no one can offer personal protection to a street prostitute.” One week later, in January 2004, Cabrera was shot in the back of the neck and killed. A police officer was temporarily detained in the case but was later released due to a “lack of evidence.” Despite promises from the Santa Fe legislature and courts and the Argentine Secretary of Human Rights to assist in the investigation, the case remains unsolved and for all practical purposes is considered closed.<sup>165</sup>

Not all municipal and provincial police are corrupt, and recently established anti-trafficking police units are one of the country’s most valuable assets in the fight against human

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<sup>165</sup> “Basta de Impunidad.” Asociación de Mujeres Meretrices de la Argentina 2008. Accessed 25 February 2009. <http://www.ammар.org.ar/docs/noticias/sandra/basta.htm>.

trafficking. Nonetheless, the laws as they currently are enforced do little but endanger the safety of voluntary Argentine sex workers and facilitate trafficking. Both pro- and anti-prostitution groups in the country are calling for change.

Proponents of both the feminist and market perspectives consider effective regulation of prostitution to be a central component of any anti-trafficking strategy. While all feminist scholars and activists advocate policies that protect women's rights and prevent their exploitation, their ideas of what those policies might be depend heavily on their perceptions of the validity of sex work as a profession.

Criminologists and other proponents of the market perspective argue that a poorly regulated commercial sex industry acts as a strong facilitator to trafficking operations by removing some of the greatest risks associated with trafficking operations, such as arrest and prosecution under prostitution laws, and by forcing sex workers off the streets and into the trafficker-controlled brothels. Despite the commercial sex industry's ties to trafficking, the Palermo Protocol intentionally does not address prostitution, procuring or the operation of brothels due to their controversial nature and widespread disagreement among member states. Countries that choose to address these issues as a way to protect women and to inhibit trafficking operations face the challenge of developing policies without the guidance of the Protocol.

### **Argentina's New Anti-trafficking Law**

Until last year, the lack of a federal anti-trafficking law made trafficking cases extremely difficult to detect, prosecute and prevent. But on April 29<sup>th</sup>, 2008, after more than two years of discussions, the Argentine legislature enacted Law 26.364: Prevention and Sanction of Human Trafficking and Victim Assistance. The newly enacted law is designed to bring Argentina into

full compliance with the Palermo Protocol by criminalizing all forms of trafficking and all steps in the trafficking process, thereby filling in the gaps left by the previous, insufficient legislation. The law makes provisions for the prosecution of traffickers, the implementation of preventive measures and the provision of victim assistance. It prescribes penalties of three to fifteen years for trafficking crimes and fills in a number of the gaps where pre-existing laws fell short. It gives equal weight to transnational and internal trafficking, prohibits forms of exploitation other than sexual exploitation, and it criminalizes all elements of the trafficking process—not just the final conditions of exploitation. It also includes a section prohibiting the prosecution of victims for crimes committed as a direct result of their being trafficked.<sup>166</sup> In the past, trafficking victims had been charged with promoting prostitution, forced labor and illegal deprivation of freedom—acts which they had committed under coercion by their traffickers.<sup>167</sup>

The law also mandates the provision of victim assistance and protection in a declaration of victims' rights. According to the law, victims should be provided with housing and other basic necessities such as clothing and food as well as medical and psychological care. They should be informed of their rights and the developments of any trial proceedings in a language they understand. Victims and their families should be guaranteed protection and should be given the option to join the Argentina's witness protection program. The privacy and protection of the identity of the victims are to be respected at all times, and special care should be given to avoid re-victimizing the victim by repeatedly soliciting testimony. Victims should be provided the

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<sup>166</sup> Congreso de la Nación Argentina. Ley 26.364. *Prevención y Sanción de la Trata de Personas y Asistencia a sus Víctimas*. April 2008.

<sup>167</sup> Valente, Marcela. "Sold into Prostitution as Children, Accused in Court as Adults." Inter Press Service News Agency. 6 June 2006. Accessed 24 January 2009. <http://ipsnews.net/news.asp?idnews=33513>.

necessary documentation to remain in Argentina, or they should be given assistance in returning to their countries of origin if they so choose.<sup>168</sup>

Some activists have criticized the new law, citing concerns that it may not provide appropriate protection for adult victims. The law makes a distinction between minors and adult victims with regards to consent, and victims over eighteen must prove that they were recruited “by means of deception, fraud, violence, threat, intimidation, coercion or abuse of authority.”<sup>169</sup> While some activists are concerned that the law will place an unreasonable burden of proof on adult victims, others are opposed simply to the idea that it is designed to allow for voluntary prostitution. These activists are the radical feminists discussed in chapter one who condemn all forms of prostitution as inherently exploitative, regardless of the consent of the woman. The No to Trafficking Network, which is led by members of the radical feminist Coalition Against Trafficking in Women, stood firmly in opposition to the law, arguing that traffickers are criminals because of their actions as procurers and exploiters and not because of the words or conditions of the victim.

The beliefs regarding prostitution of a large number of Argentine activists are irreconcilable with the position espoused by the new law. Feminist lawyer Marta Fontenla says of the law, “...[I]t creates the idea that there is illegitimate trafficking that is penalized and legitimate trafficking in which the victims supposedly give their consent to be prostituted. But we believe that no one can consent to their own prostitution.” She argues that in cases where women knowingly enter into prostitution out of necessity, those that profit from the prostitution of these women should be treated as criminals.<sup>170</sup> While the abuse of a situation of

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<sup>168</sup> Congreso de la Nación Argentina.

<sup>169</sup>Valente, Marcela. “Activists Criticise New law on Trafficking in Persons.” Inter Press Service News Agency. 10 April 2008. Accessed 23 January 2009. <http://ipsnews.net/news.asp?idnews=41950>.

<sup>170</sup> *Ibid.*

vulnerability—and economic necessity could arguably be considered as such—is one of the means by which a victim’s consent would become irrelevant, the victim would presumably have to demonstrate the existence of such a situation, much as she might have to demonstrate a lack of consent. The Network holds that the use of deception, coercion or other means should be aggravating factors, not determinants of the crime. They point to Colombia’s anti-trafficking law, which had to be amended to criminalize trafficking regardless of the consent of adult victims in order to be effective.<sup>171</sup>

Advocates of the law, including its author, former Senator Vilma Ibarra, say that it is indeed worded so as to protect the rights of women who voluntarily engage in prostitution. But even the Association of Women Prostitutes of Argentina (AMMAR) is opposed to the law. The association’s president, Eleya Reynaga, argues that although many crimes related to trafficking are already punishable by law, they are not enforced. “For example, procuring is a crime, but it is practiced anyway,” illustrates Reynaga.<sup>172</sup> IOM’s Argentine representative Eugenio Ambrossi expressed full support for the law.<sup>173</sup>

### **Compliance with the Palermo Protocol**

Provided the government actively investigates and prosecutes traffickers according to the newly enacted law, the Argentine government will come into full compliance with the prosecution provisions of the Palermo Protocol. Fifteen of the country’s twenty-three provinces now have structures in their public prosecutors’ offices to assist victims in the prosecution of

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<sup>171</sup> “Posición de Red No a la Trata ante proyecto de ley.” Agencia de Noticias Red Acción. 7 December 2006. Accessed 26 January 2009. [http://www.anred.org/breve.php3?id\\_breve=1994](http://www.anred.org/breve.php3?id_breve=1994).

<sup>172</sup> Valente, “Activists Criticise New Law.”

<sup>173</sup> *Ibid.*

their traffickers.<sup>174</sup> Despite concerns regarding the law’s potential effectiveness in protecting adult victims, it must be emphasized that the Palermo Protocol also requires adult victims to demonstrate a lack of consent. Unless traffickers employ “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,” the issue of consent is still relevant in determining guilt.<sup>175</sup> Only time will tell if the wording of the new law will prevent effective prosecution of the traffickers of adult victims, and if it does, the law may need to be amended, just as Colombia’s was. As of November 2008, the Argentine government could not report any prosecutions or convictions under the new law, but this may be attributable to insufficient data collection on trafficking cases throughout the country.<sup>176</sup> Making the consent of adults irrelevant could potentially restrict the right of voluntary, adult sex workers to engage in prostitution by criminalizing the provision of transportation, housing or other services to these workers, and prostitution has never been prohibited under federal law. It is for the same reason that the Palermo Protocol makes the distinction between minor and adult victims with regards to consent.

Although the new anti-trafficking law mandates implementation of most of the victim assistance and protection measures necessary to bring Argentina into compliance with the Protocol’s protection provisions, not all of these measures have been brought into effect. The government still lacks a comprehensive victim assistance program capable of providing housing and medical and psychological assistance that is not strictly tied to judicial proceedings. Most assistance activities continue to be left up to non-governmental and international organizations

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<sup>174</sup> UNODC. *Global Report on Trafficking in Persons*, 152.

<sup>175</sup> United Nations. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime. 2000, 2

<sup>176</sup> U.S. State Department. *Trafficking in Persons Interim Assessment*.

working in the country. The law does not provide for employment, educational and training opportunities or address the means by which victims can obtain compensation for damage suffered; both of these measures are required by the Protocol.<sup>177</sup>

The Palermo Protocol also requires member states to implement programs aimed at preventing human trafficking crimes and the re-victimization of victims by cooperating with NGOs, international organizations and other elements of civil society; by alleviating poverty, discrimination and other conditions that make persons vulnerable to trafficking; and by discouraging the demand for trafficking victims. States must facilitate the training of and information exchange among law enforcement officials regarding major trafficking routes, methods used to traffic victims across borders and appropriate strategies to protect victims from traffickers and to consider human rights and child- and gender-sensitive issues. It calls for strong border controls and the implementation of laws requiring commercial carriers to ensure that all passengers have appropriate documentation. It also mandates that government-issued travel and identity documents be secure and difficult to reproduce or misuse.<sup>178</sup>

The new law does not address the prevention and cooperation measures included in the Protocol. While the Argentine government has demonstrated efforts in nearly all of these areas, the findings of IOM studies and news articles suggest that many of these efforts are merely well-intentioned, highly publicized plans that never materialize or involve commissions and committees that are dissolved after months of relative inaction. One such plan was the National Program for the Prevention and Eradication of Human Trafficking and for Assistance to Victims, created in 2007 by executive degree. The program called for the establishment of an Office of Prevention and Assistance to Human Trafficking Victims and was to be carried out by the

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<sup>177</sup> United Nations. *Protocol*, 3-4.

<sup>178</sup> United Nations. *Protocol*, 5-7.

Ministry of the Interior, but neither the program’s objectives nor the new anti-trafficking office ever materialized. With the passage of the new anti-trafficking law, the program is being reorganized under the direction of the Ministry of Justice, Security and Human Rights.<sup>179</sup> It is unclear if any action has been taken since the call for its reorganization in April of 2008. It is clear, however, that in all three areas—prosecution, protection and prevention—the Argentine government has made at least modest progress, and it will hopefully dedicate the resources necessary to bring all the provisions of its new law into effect. Chapter four will offer strategies for a comprehensive, prevention-focused response to the contributors to trafficking that have yet to be addressed, including possible strategies for improving regulation of the commercial sex industry.

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<sup>179</sup> “Programa Las Víctimas contra las Violencias: Marco Legal.”

## **Chapter Four: A Proposal for a Comprehensive Strategy to Combat Sex Trafficking**

The level of compliance with the Palermo Protocol can serve as a measure to determine the reach of Argentina's policies, but the Protocol does not constitute a comprehensive anti-trafficking strategy. In fact, it is most beneficially understood as a starting point for the development of more specific strategies under regional or national conditions. Rather than merely strive to meet its obligations under the Protocol, the Argentine government should focus on addressing each and every contributor to the country's trafficking problem independently of the Protocol's mandate. To outline such a comprehensive strategy that moves beyond the basic requirements of the Palermo Protocol, it is instructive to return to the three perspectives on sex trafficking—migration, feminist and market. Figure 4.1 lists the solutions that address the structural and proximate factors that contribute to trafficking for each of the three perspectives. It shows which solutions the Argentine government and NGOs have either undertaken or proposed, as well as those that this chapter advocates.

Argentina's current and proposed policies address at least some of the causes of trafficking cited by proponents of all three perspectives. However, they are not comprehensive. This chapter calls for an approach that recognizes structural and proximate contributors that proponents of all three perspectives seek to address. Though the Palermo Protocol calls for steps aimed at prevention, prosecution and victim protection, this strategy will focus primarily on prevention with the thought that preventive measures not only put a stop to the victimization of women but also make more efficient use of limited resources by eliminating the need for numerous prosecutions and costly victim assistance programs. All three categories of anti-trafficking measures are equally important, but protection and prosecution efforts become less

necessary once preventive measures are successful.

**Figure 4.1: Perspectives and Corresponding Solutions**

	<b>Migration Perspective</b>	<b>Feminist Perspective</b>	<b>Market Perspective</b>
<b>Strategies undertaken or proposed as part of anti-trafficking strategy</b>	♦Secure borders and better monitoring of transnational migration flows	♦Awareness campaigns	♦Adequate anti-trafficking laws ♦Training of police, judges and social workers to recognize and report trafficking
<b>Strategies successfully implemented prior to anti-trafficking initiatives</b>	♦Open and transparent channels of legal migration <sup>180</sup>		
<b>Strategies proposed in this thesis</b>	♦Elimination of use of trafficked (sex) workers by employers	♦Commercial sex industry regulations that protect sex workers	♦Disruption of common recruitment methods ♦Tackling police and political corruption ♦Commercial sex industry regulation ♦Strict enforcement of relevant laws

The market perspective is the approach that recognizes the most structural and proximate contributors and proposes the most solutions for preventing trafficking, because all policies shaped by the migration and feminist perspectives can be framed as inhibitors to the trafficking market in the market perspective. Because the perspective is inclusive of the other two, it is the

<sup>180</sup> In 2002, Argentina signed the Mercosur Free Movement and Residence agreement, which grants Mercosur citizens an automatic visa and the right to live and work in Argentina with universal access to education, health care, free legal representation, and the rights to family reunification and a fair trial prior to expulsion. This effectively provides the majority of Argentina’s immigrant hopefuls with an open and legal channel for migration and regularized status. Maia Jachimowicz. “Argentina: A New Era of Migration and Migration Policy.” Migration Information Source. February 2006. Accessed 13 April 2009. <http://www.migrationinformation.org/Profiles/display.cfm?ID=374>.

most logical starting point when developing an anti-trafficking strategy that seeks to address all existing structural and proximate contributors. Phil Williams, an expert in transnational crime, argues that when examining trafficking from the market perspective, it is possible to disrupt the market for trafficking operations by reducing profitability and increasing costs and risks. He suggests that traffickers, as “businessmen” and “businesswomen,” will not operate in areas where anti-trafficking policies or naturally existing conditions change the balance between facilitating and inhibiting factors to favor the latter.

This chapter proposes to create inhibitors to the trafficking market in two ways. First, it calls for disruption of a commonly used and inexpensive recruitment method employed by Argentine traffickers. Secondly, it calls for the implementation and enforcement of more effective and consistent prostitution laws, which inhibit trafficking operations by increasing risks for traffickers, by eliminating places of exploitation, by reducing reliance on procurers and brothels to engage in prostitution and by potentially reducing demand for prostitution. Better regulation also addresses structural and proximate contributors cited by proponents of the migration and feminist perspectives. Proponents of the migration perspective advocate elimination the use of trafficked workers by employers. A well-regulated sex industry prevents owners of brothels and nightclubs from exploiting trafficked women and diminishes the “pull” factor that draws immigrants to exploitative jobs. It also addresses feminist concerns regarding women’s agency, rights and protection in the exercise of prostitution. Finally, this chapter proposes strategies for better data collection. Further research on the trafficking phenomenon is necessary to measure its scope as well as to determine the most effective solutions and their effect on trafficking networks over time.

The chapter will not advocate allocating significantly more resources to the effort, nor will it argue for the implementation of programs which the government has already committed to undertake in its new trafficking law but that have not yet materialized. Factors such as a shortage of funding, bureaucratic inefficiency or a simple lack of political will explain the failure or delay of many existing initiatives and cannot be resolved simply by suggesting that the government take action where it has promised to do so. It does, however, assert the necessity for better law enforcement and an end to official corruption. Cooperation of law enforcement officials is a prerequisite for the success of any of these policy proposals. Anti-trafficking measures often come at significant financial and political cost to the countries that try to implement them, requiring the use of limited resources and infringing on the state's sovereignty and security or economic interests. These costs partly explain poor enforcement and the failure of many strategies. Poor enforcement of relevant laws and official corruption are considered to be proximate contributors to trafficking by proponents of all three perspectives.

### **Disrupting Recruitment Activities**

Law enforcement is increasingly aware of newspaper advertisements to recruit trafficking victims, but little is being done to expose false job offers and interrupt these recruitment activities. The February 26, 2009 classifieds in Santa Fe's *El Litoral* offer seemingly promising opportunities:

*Seeking young women from 21 to 35 for work in whiskería. Average earnings of two hundred pesos per night.  
Earn 9,000USD in Córdoba. Girls 21-26 (send photos).  
College girls 18-24, with or without experience. Pretty, ambitious. 3,500 pesos/month.*<sup>181</sup>

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<sup>181</sup> "Empleos – Pedidos." *El Litoral* Accessed.26 February 2009.  
<http://www.ellitoral.com/clasificados/index.php/20>.

Other advertisements sell the sexual services of women and girls who have already fallen victim to traffickers. The “women seeking men” personals section on February 26, 2009 of Argentina’s *La Nación* advertises a “28-year-old girl to give you pleasure;” and a “sweet young thing looking for *papi*.”<sup>182</sup> Not all of these personals advertise trafficked women, but many do. Sara Torres of the No to Trafficking Network argues that media outlets that post such offers with the knowledge of their possible ties to traffickers are “accomplices” in the “flesh trade.”<sup>183</sup>

The Argentine government should encourage newspapers and Internet advertisers to screen the placement of advertisements and reject questionable ads. Additionally, law enforcement officials must create disincentives for the use of classifieds in the recruitment and exploitation of women by making the practice risky for traffickers. Current preventive efforts in Argentina focus on educating vulnerable populations about false job offers and training police to identify and rescue victims. But with newspaper advertisements being one of the most common methods of recruitment, clamping down on their use by traffickers could save many women before they become victims. One cannot be certain which advertisements are being posted by traffickers simply by looking at them, but it is relatively easy to determine whether it is possible that a particular advertisement is not legitimate. Police could use these advertisements to catch traffickers by setting up sting operations and arranging to meet with those who place suspicious-looking ads. If law enforcement used such operations to catch even a fraction of the traffickers recruiting through newspaper advertisements, the fear of police detection would serve as a strong disincentive to continue with such a low-cost form of recruitment and could considerably inhibit

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<sup>182</sup> “Mujer busca hombre.” Nexolocal.com. Accessed 26 February 2009. <http://www.nexolocal.com.ar/c696-amor-mujer-busca-hombre>.

<sup>183</sup> Marcela Valente. “Trafficked Women – an Invisible Problem.” Inter Press Service News Agency. 19 May 2009. Accessed 26 February 2009. <http://www.ipsnews.net/interna.asp?idnews=28748>.

the market for trafficking operations. At the very least, it could reduce the willingness of low-level recruiters to find victims for the procurers and brothel owners that depend on their labor.

### **Disrupting the Market for Trafficking Operations: the Commercial Sex Industry**

The following section will discuss possible strategies for regulating prostitution, procuring and the operation of brothels that are more consistent with the goal of preventing trafficking. The first strategy, total criminalization, requires strict prohibition of all forms of prostitution, both independent and within brothels. Decriminalization calls for the removal of all laws pertaining to prostitution. A related strategy, legalization and regulation, combines decriminalization with state regulation of prostitution both in brothels and on the streets. Finally, partial decriminalization and partial legalization and regulation are discussed as intermediate strategies that consider the interests and safety of voluntary sex workers and potential trafficking victims alike.

#### *Criminalization*

The first option is to criminalize all forms of prostitution. A federal anti-prostitution law would have to supersede all municipal and provincial laws making street prostitution a misdemeanor. The prohibition of brothels and of procuring would have to be strictly enforced. Soliciting, facilitating, procuring and working as a prostitute would all be punishable crimes. This strategy is the most common legislative response to prostitution and is usually based on a strong moral premise regarding the validity of sex work as a profession or the necessity to

protect women. The assumption of prohibitionists is that criminalization will most likely lead to the eventual abolition of the domestic sex industry.<sup>184</sup>

Total criminalization does have advantages. It potentially decreases prostitution (and by extension, exploitation) occurring in a country, as fear of prosecution provides a strong disincentive to work in the commercial sex industry. International organizations such as the Coalition Against Trafficking in Women (CATW), leaders within the Catholic Church, and even some sex worker activists are vocal proponents of criminalization, as they reject the idea of voluntary prostitution. In Argentina, the No to Trafficking Network is headed by three CATW members. The Network has been involved in the fight for an anti-trafficking law that would criminalize the recruitment, harboring or reception of persons for the purpose of sexual exploitation, regardless of the consent of the person. Such a law would penalize those involved in the promotion or facilitation of even voluntary prostitution.<sup>185</sup>

However, total criminalization also presents problems. It places all the power in the hands of law enforcement and government officials and strips sex workers of the ability to demand respect for their basic rights and protections. Because perfect enforcement is often prohibitively expensive and because of cultural attitudes condoning the objectification and exploitation of women, laws are not always enforced, leaving sex workers vulnerable to extortion and abuse. When laws *are* enforced, they tend to punish sex workers rather than clients or procurers.<sup>186</sup> Both voluntary prostitutes and trafficking victims are forced into an underground sex industry where they are marginalized from the rest of the working class and vulnerable to

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<sup>184</sup> Sally Cameron. "Trafficking of Women for Prostitution." In Edward Newman and Sally Cameron, eds. *Trafficking in Humans: Social, Cultural and Political Dimensions*. New York: United Nations University Press, 2008, 94.

<sup>185</sup> Reed Lindsay. "Argentina's prostitutes get militant." *The Guardian*. 25 January 2004.

<sup>186</sup> Cameron, 94-95.

exploitation.<sup>187</sup> Underground sex industries are not subject to the regulations that might create safe working conditions for voluntary workers and help identify trafficking victims in a legalized system.

The women of AMMAR are vocal opponents to the criminalization of prostitution. They believe that such laws infringe upon their individual rights as owners of their own bodies and sexualities. They refer to their work as ‘sex work’ rather than ‘prostitution’ to assert their rights as members of the country’s working class, and they believe in the legitimacy of the business as an agreement between two consenting adults. “I’m proud of my job,” says an AMMAR leader, “because I’ve got three excellent children who study and work and I didn’t rob anything from anybody to raise them.”<sup>188</sup> Criminalization of their work at the municipal level has done little to curb prostitution, they point out, and instead encourages police corruption and the abuse and harassment of sex workers, many of who are simply trying to support their children as single mothers.<sup>189</sup> Criminalization, especially when the prohibition of brothels is not enforced, “exposes women to the arbitrary sanctions and corruption of the police and is a clear form of complicity with traffickers and the owners of establishments where women are exploited and enslaved.”<sup>190</sup>

### *Decriminalization or Legalization and Regulation*

The Argentine government could also consider decriminalization of prostitution or legalization and regulation of the commercial sex industry. Decriminalization describes a strategy that would permit all forms of prostitution and related activities, such as procuring and

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<sup>187</sup> Edward Newman and Sally Cameron. “Trafficking in Humans: Structural Factors.” In Edward Newman and Sally Cameron, eds. *Trafficking in Humans: Social, Cultural and Political Dimensions*. New York: United Nations University Press, 2008, 36.

<sup>188</sup> Lindsay, “Argentina’s prostitutes get militant.”

<sup>189</sup> “Para terminar con la trata hay que terminar con la hipocresía.” Asociación de Mujeres Meretrices de la Argentina. Accessed 25 February 2009. <http://www.ammар.org.ar/docscritos.htm>.

<sup>190</sup> *Ibid.*

brothel ownership, without any government regulation of the industry. The use of the term “decriminalization” rather than “legalization” denotes the government’s “hands-off” approach to the regulation of the industry. Prostitution activities would no longer be declared criminal acts, but no subsequent action would be taken on the part of the government, with the assumption being that the industry will regulate itself. This strategy would require abrogation of all municipal and provincial laws restricting prostitution. All federal prohibitions against brothels and procuring would be lifted, requiring Argentina to disregard its obligations under the UN Convention on the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others. Legalization and regulation is a related strategy, but the use of the term “legalization” rather than “decriminalization” is suggestive of the government’s active role in the regulation a commercial sex industry that operates within the guidelines of a clearly defined legal framework. This strategy would supplement all the steps taken under the decriminalization process with state regulation of the industry through licensing of brothels and sex workers, inspections and possibly screenings for sexually transmitted diseases. The government would condition the legality of prostitution, brothel owning and procuring on full compliance with strict rules governing such activities.

Internationally, many liberal feminists advocate legalization and regulation of the kind adopted in the Netherlands, where prostitution shares the same status as other forms of labor. Sex workers pay taxes, and conditions such as working hours, health and safety regulations and social security regulations apply equally to the business. The Dutch government regulates brothel licensing and sets fire codes and safety and hygiene standards and implements measures to prevent “excessive nuisance in neighborhoods.”<sup>191</sup> The Global Alliance Against Traffic in Women argues that a legalized, standardized and regulated industry can provide a safe and

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<sup>191</sup> Cameron, 99.

healthy working environment for sex workers.<sup>192</sup> However, not even pro-prostitution AMMAR desires legalization of brothels and procuring, because they know that the exploitation that occurs in brothels is condoned by police even when such establishments are entirely prohibited. One of the greatest risks of legalization and regulation or total decriminalization occurs when brothels are decriminalized and then—whether due to corruption, poor enforcement of regulations, or a failure of the industry to regulate itself—allowed to operate unchecked. AMMAR activists do not expect that Argentine police—whether municipal, provincial, or federal—would have the capacity, resources or integrity to successfully regulate legalized brothels and ensure the existence of safe, healthy conditions for sex workers. The women of AMMAR would much rather see brothels disappear altogether and allow sex workers to engage in prostitution openly and independently.<sup>193</sup>

Many activist groups and scholars argue oppose decriminalization and legalization and regulation strategies on the grounds that they remove the legal impediments that inhibit trafficking operations. The No to Trafficking Network, the CATW and many other international organizations argue that “[t]raffickers are able to use work permits to bring foreign women into the prostitution industry, masking the fact that women have been trafficked, by coaching them to describe themselves as independent ‘migrant sex workers.’”<sup>194</sup> In Melbourne, Australia, where prostitution has been legal for twenty-two years now, the number of unlicensed brothels has tripled. More trafficking victims have been discovered in legal brothels than in illegal ones.<sup>195</sup> In Amsterdam, home of one of the world’s most famous legalized commercial sex industries, Mayor Job Cohen discussed the steps to legalize and regulate with the *New York Times*.

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<sup>192</sup> Newman and Cameron. “Trafficking in Humans: Structural Factors.” 35-36.

<sup>193</sup> “Para terminar con la trata,” Asociación de Mujeres Meretrices de la Argentina.

<sup>194</sup> Monica O’Conner and Grainne Healy. *The Links between Prostitution and Sex Trafficking: A Briefing Handbook*. Brussels: Coalition Against Trafficking in Women and the European Women’s Lobby, 2006, 6.

<sup>195</sup> Julie Bindel. “Streets Apart.” *The Guardian: Weekend*. 15 May 2006, 46.

“Trafficking in women continues. Women are now moved around more, making police work more difficult.”<sup>196</sup> As Argentine trafficking networks already employ rotation systems to keep trafficking victims on the move from one brothel to the next to avoid police scrutiny, police would likely experience equal difficulty tracking down and monitoring known or possible victims as they were shuffled through ostensibly legal brothels throughout the country.

The CATW argues furthermore that decriminalization and legalization legitimize prostitution as an acceptable career for women, an idea that the activists reject. In a joint manifesto of the CATW and the European Women’s Lobby, former prostitutes asserted “women in prostitution do not wake up one day and ‘choose’ to be prostitutes. It is chosen for us by poverty, past sexual abuse, the pimps who take advantage of our vulnerabilities, and the men who buy us for the sex of prostitution.”<sup>197</sup>

#### *Partial Decriminalization or Partial Legalization and Regulation*

Another option for Argentina would be either the partial decriminalization or partial legalization and regulation of the commercial sex industry. Partial decriminalization would make independent, voluntary prostitution legal under federal law, and all municipal and provincial laws, including police edicts criminalizing street prostitution, would be repealed. Brothels and procuring would remain illegal according to federal laws, and local police and prosecutors would strictly enforce their prohibition. Partial legalization and regulation would combine partial decriminalization measures with regulation of street prostitution by establishing “tolerance

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<sup>196</sup> United States of America. Department of State. Office of the Undersecretary for Democracy and Global Affairs and the Bureau of Public Affairs. *Trafficking in Persons Report*. 2008.29.

<sup>197</sup> *Ibid*, 1, 16.

zones” where sex workers must register with the police before starting work to ensure that they are not underage or being trafficked.<sup>198</sup>

Victims of trafficking could not be hidden away in *whiskerías* if such establishments cannot legally exist. In theory, partial decriminalization as well as partial legalization and regulation inhibit trafficking without further endangering or punishing women who choose to engage in prostitution. Those women would not have to fear arrest simply because they are prostitutes, and they would not be forced to take cover in brothels where they might be exploited. Women can of course be trafficked into street prostitution as well, but it becomes much more difficult to restrict their freedom if they are working openly on the streets than when they are held captive inside an apartment or brothel.

If Argentina chose to establish tolerance zones for sex workers, specially trained law enforcement like Tucuman’s anti-trafficking police units (discussed in chapter two) could provide sex workers with a minimum level of security and assist police in identifying trafficking victims. However, the resources required to monitor such zones might be prohibitive in Argentina’s case, and tolerance zones often make conditions even more dangerous for sex workers if they are not closely monitored and strictly regulated. In the Netherlands, limited police surveillance meant that tolerance zones quickly became havens for traffickers and drug dealers.<sup>199</sup> In Germany, prostitutes were regularly raped or kidnapped despite police presence in the zones.<sup>200</sup> Such a strategy should only be implemented if the resources and commitment for strict enforcement and monitoring exist.

Sweden presents an interesting example of partial decriminalization and its effects on trafficking operations. In 1999, the country became the first in the world to introduce a law that

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<sup>198</sup> Bindel. “Streets Apart.”

<sup>199</sup> *Ibid.*

<sup>200</sup> O’Conner and Healy, 28.

decriminalized the selling of sex but criminalized its purchase or attempted purchase. The Swedish government defines prostitution as a form of male violence against women and children; those engaging in prostitution are victims of a crime and their customers the perpetrators. Purchasing sex is punishable by up to six months jail time, and procuring can lead to up to ten years in prison, but women engaging in prostitution do not face legal repercussions. The idea is to decrease demand for prostitution (and thus, trafficked prostitutes) and increase risks for procurers without placing sex workers at risk for arrest or exploitation. The law ensures that sex workers can report abuse at the hands of clients, procurers or traffickers without fearing punishment for their own involvement in prostitution.

Since the implementation of the law, known human trafficking cases decreased significantly and the commercial sex industry shrank. By banning brothels and procuring, the Swedish government has also eliminated the forms of prostitution that make women most vulnerable to exploitation. In 2003, the Swedish Rapporteur on Trafficking reported that several prostitutes talked about procurers and traffickers who no longer saw Sweden as a good market for their business.<sup>201</sup> Kajsa Wahlberg, a member of Sweden's national police board's human trafficking unit, says of traffickers, "they are calculating profits, costs and marketing and the risk of getting caught." She concedes that accurate statistics are difficult to obtain but estimates that the number of prostitutes in Sweden dropped forty percent from 2,500 in 1998 to 1,500 in 2003.<sup>202</sup> Another member of the human trafficking unit, Jonas Trolle, points out that as of 2007, only 105 to 130 women were known to be actively engaging in either street or internet

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<sup>201</sup> Bindel, "Streets Apart."; U.S. State Department. *Trafficking in Persons Report*, 29; O'Conner and Healy, 28.

<sup>202</sup> Karl Ritter, et al. "Once mocked, Sweden's pioneering prostitution law attracts world interest." *International Herald Tribune*. 15 March 2008, news and features sec.

prostitution in Stockholm. That number was five thousand in neighboring Norway’s capital city of Oslo, despite its similar size.<sup>203</sup>

Opponents of Sweden’s regulatory policies argue that the ban on the purchase of sex makes the least dangerous form of prostitution—street prostitution—less safe. Of the remaining Swedish sex workers, some argue that competition for a limited number of customers has forced them to tolerate more violence and take on customers they wouldn’t normally accept.<sup>204</sup> They also object to the criminalization of the purchase of sex, because they see their work as legitimate and feel it is unfair that the government would intentionally target their client base.<sup>205</sup>

**Figure 4.2: Comparison of Regulation Strategies**

<b>Criminalization</b>				
	<b>Legal</b>	<b>Illegal</b>	<b>Effects on Trafficking</b>	
<i>Sale of Sex</i>		5	Migration Perspective	♦Eliminates use of trafficked labor in brothels, decreasing “pull” factor for immigrants into exploitative jobs
<i>Purchase of Sex</i>		5	Feminist Perspective	
<i>Procuring</i>		5	Market Perspective	♦Eliminates brothels (place of exploitation) ♦Criminalizes procuring (method of exploitation) ♦Increases risks for clients/decreases demand for prostitutes ♦Increases risks for/reduces supply of sex workers
<i>Brothels</i>	5		Disadvantages	♦Disproportionately punishes sex workers ♦Encourages corruption/extortion ♦Pushes prostitution underground ♦Sex workers/trafficking victims fear arrest and cannot report abuse ♦Denies voluntary sex workers the right to engage in prostitution
<b>Decriminalization / Legalization and Regulation</b>				
	<b>Legal</b>	<b>Illegal</b>	<b>Effects on Trafficking</b>	

<sup>203</sup> André Anwar. “Prostitution Ban Huge Success in Sweden.” *Spiegel Online International*. 11 August 2007, English language Europe sec. Accessed 12 March 2009.

<http://www.spiegel.de/international/europe/0,1518,516030,00.html>.

<sup>204</sup> Anwar, “Prostitution Ban...”, Ritter, “Once mocked...”

<sup>205</sup> Bindel, “Streets Apart.”

<i>Sale of Sex</i>	5		Migration Perspective	
<i>Purchase of Sex</i>	5		Feminist Perspective	♦Victims can report abuse without fear of arrest
<i>Procuring</i>	5		Market Perspective	♦Standardization and regulation of industry to promote safe, healthy working environment and to identify trafficking victims ♦Acceptance of street prostitution lessens dependence on procurers and brothels
<i>Brothels</i>	5		Disadvantages	♦Difficult to distinguish between trafficking victims and sex workers ♦Encourages police corruption/bribery ♦Potential growth of sex industry and number of unlicensed brothels ♦Removes legal impediments to trafficking ♦Insufficient regulation or imperfect enforcement allows for rampant abuse in “legal” brothels

**Partial Decriminalization / Partial Legalization and Regulation**

	Legal	Illegal	Effects on Trafficking	
<i>Sale of Sex</i>	5		Migration Perspective	♦Eliminates use of trafficked labor in brothels, decreasing “pull” factor for immigrants into exploitative jobs
<i>Purchase of Sex</i>	5		Feminist Perspective	♦Victims can report abuse without fear of arrest ♦Encourages autonomy in sex work
<i>Procuring</i>		5	Market Perspective	♦Eliminates brothels (place of exploitation) ♦Criminalizes procuring (method of exploitation) ♦Acceptance of street prostitution lessens dependence on procurers and brothels
<i>Brothels</i>		5	Disadvantages	♦Does not disrupt demand for prostitutes/trafficking victims

**Partial Decriminalization / Partial Legalization and Regulation + Criminalization of Solicitation of Sex (Swedish Strategy)**

	Legal	Illegal	Effects on Trafficking	
<i>Sale of Sex</i>	5		Migration Perspective	♦Eliminates use of trafficked labor in brothels, decreasing “pull” factor for immigrants into exploitative jobs
<i>Purchase of Sex</i>		5	Feminist Perspective	♦Victims can report abuse without fear of arrest ♦Encourages autonomy in sex work

<i>Procuring</i>		5	Market Perspective	<ul style="list-style-type: none"> <li>◆Eliminates brothels (place of exploitation)</li> <li>◆Criminalizes procuring (method of exploitation)</li> <li>◆Acceptance of street prostitution lessens dependence on procurers and brothels</li> <li>◆Increases risks for clients/reduces demand for prostitutes</li> </ul>
<i>Brothels</i>		5	Disadvantages	<ul style="list-style-type: none"> <li>◆Risks of increased competition for decreased number of clients</li> <li>◆Negatively affects business for voluntary sex workers</li> </ul>

*Applying the Swedish Model to Argentina’s Commercial Sex Industry*

Decriminalization of the solicitation of sex only, while criminalizing the purchase of sex, brothels and procuring, is optimal for Argentina given the prevalence of trafficking, prostitution and official corruption in the country. It would prevent sex workers and trafficking victims from being punished by corrupt police who depend on local anti-prostitution laws to threaten prostitutes and to demand bribes. At the same time, the strategy should reduce demand for prostitution by imposing penalties for the purchase of sex, and it should increase risks for traffickers with both trafficking and prostitution laws prohibiting nearly every step in the process. Traffickers would no longer be able to escape detection simply by creating the appearance of a voluntary relationship between trafficking victims and procurers or brothel managers, because even such “voluntary” relationships would be prohibited.

This policy would require either the passage of a federal law protecting the right to engage in prostitution or the cooperation of municipal and provincial legislatures to overturn laws that punish sex workers, which would probably necessitate some level of pressure (perhaps

through the threat of reductions in federal funding for certain projects) and/or financial concessions from the federal government. It would also require implementation of a new law criminalizing the purchase of sex.

**Figure 4.3: Current Policy and Necessary Changes**

	<b>Current Policy</b>	<b>Current Enforcement</b>	<b>Proposed Strategy</b>	<b>Necessary Steps</b>
<b>Brothels</b>	Illegal	Permitted	Illegal	Enforcement of existing law
<b>Procuring</b>	Illegal	Permitted	Illegal	Enforcement of existing law
<b>Sale of Sex</b>	Federally: Legal Locally: Varies	Prostitutes arrested or forced to pay bribes to police	Legal	Abrogation/ Nullification of local anti-prostitution laws
<b>Purchase of Sex</b>	Federally: Legal Locally: Varies	Permitted	Illegal	Implementation of law prohibiting purchase of sex

Police would also have to actually enforce the federal laws against procuring, brothels, and the purchase of sex. This task could be delegated to the police currently enforcing municipal laws against prostitution. High levels of corruption at the local and state level might conspire against such federal laws, but the Argentine state has already been using the much less corrupt federal police force to carry out brothel raids and rescue trafficking victims.<sup>206</sup> The recent establishment of specialized anti-trafficking forces in many Argentine provinces represents a step in the right direction: their efforts could be directed at the identification and closure of illegally operating brothels and *privados*. If anti-trafficking and federal forces could keep brothels out of operation, corrupt members of law enforcement would not have an environment in which to demand bribes for their connivance in the exploitation of victims.

AMMAR members would likely raise concerns about this strategy given their advocacy for more widely accepted and safer street prostitution. Though the new policy would not deny

<sup>206</sup> Organización Internacional para las Migraciones, 63.”

the right of women to engage in prostitution, but it would make the activity less profitable by reducing demand for prostitutes. The criminalization of the purchase of sex ultimately represents a value judgment that preventing human trafficking is of greater necessity than ensuring the viability of voluntary sex work as a profession. Because this system negatively affects the market for sex workers, commercial skills training for alternative employment should be made available if possible. Sex workers should have the option and the assistance necessary to change careers, especially given the danger inherent in an environment of increased competition for customers. In Sweden, funding to help prostitutes leave the sex industry and find other jobs was met with broad public support.<sup>207</sup>

### **Improving Data Collection to Create More Informed Solutions**

Argentina needs better data to develop informed detection, enforcement and prevention strategies. Accurate human trafficking estimates are essential to determine the appropriate level of state involvement in the solution. A lack of quantitative data precludes the possibility of measuring the impact of prevention and intervention efforts over time. Collecting reliable quantitative data on human trafficking is a difficult task, however, even with ample resources. The clandestine nature of the crime makes it difficult to detect and quantify, especially when researchers, governments and organizations within a country disagree on important terminology and whether certain cases constitute trafficking. Internal trafficking, common in Argentina, is particularly problematic, as it does not involve the crossing of international borders. Border security has been one of the primary sources of discovery of trafficking victims.<sup>208</sup> Many aspects

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<sup>207</sup> *Ibid.*

<sup>208</sup> Kauko Aromaa. "Trafficking in Human Beings: Uniform Definitions for Better Measuring and for Effective Counter-Measures." In Ernesto Savona and Sonia Stefanizzi, eds. *Measuring Human Trafficking: Complexities and Pitfalls*. New York: Springer, 2007, 21.

of trafficking, such as prostitution and illegal immigration, are highly politicized, and those with access to information regarding their prevalence often distort it to promote a certain political agenda. Victims are frequently hesitant to come forward due to their weak legal status and the limited incentives to cooperate in investigations and court proceedings.<sup>209 210</sup>

Because complex trafficking networks are responsible for the majority of Argentina's known trafficking cases, researchers should measure the effects of anti-trafficking policies by determining their levels of success in affecting the market for each actor within the trafficking process over time. Estimates of total trafficking victims over time should measure the market for trafficking against the known vulnerable population.

The criminologist Jay Albanese's criminal network approach to measuring human trafficking employs a model combining three steps in order to develop estimates of human trafficking over time.

1. *Extrapolate risk* of trafficking from other known risks.
2. Use *known cases to estimate* the universe.
3. *Model trafficking networks* as a criminal enterprise and measure the factors that affect trafficking operations and changes in them over time.<sup>211</sup>

In the first step, researchers identify known (structural and proximate) risk factors, such as unemployment levels, corruption perceptions indices, known migration flows, and organized crime presence and measure them against a specific population to generate an estimate of the population at risk of being trafficked. The data required to measure known risk factors has often already been collected for other purposes. Using it to develop estimates of the size of the at-risk population would allow Argentina to assess the impact of prevention efforts over time.

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<sup>209</sup> Guri Tyldum and Anette Brunovskis. "Describing the Unobserved: Methodological Challenges in Empirical Studies on Human Trafficking." In Frank Laczko and Elzbieta Gozdzia, eds. *Data and Research on Human Trafficking: A Global Survey*. Geneva: International Organization for Migration. 2005, 17-18.

<sup>210</sup> Aromaa, 20.

<sup>211</sup> Discussion of this model comes from Jay Albanese's "A Criminal Network Approach to Understanding and Measuring Trafficking in Human Beings." In Ernesto Savona and Sonia Stefanizzi, eds. *Measuring Human Trafficking: Complexities and Pitfalls*. New York: Springer, 2007, 55-69.

Secondly, Albanese proposes counting known cases and interviewing known trafficking victims to project the number of unknown cases. The interviews with victims and service providers reveal information regarding the number of victims per incident, sources of recruitment, routes of transfer and places of exploitation. The number of known victims is adjusted using information from those with first-hand knowledge of unreported cases, and finally the number of unknown cases is estimated using this information and estimates of the total at-risk population. Estimates of the total number of trafficking victims allow researchers to determine over time the overall effectiveness of the government's anti-trafficking policies.

In the third step, Albanese measures the effect of facilitating and inhibiting factors related to supply, demand, competition and regulation on the activities of the three primary actors in the trafficking process: recruiters, transporters, and exploiters. One example of a measurable inhibiting factor would be a prevention effort to curb the placement of false job advertisements in newspapers with the goal of inhibiting the supply of victims to recruiters. In order to gauge the effectiveness of that effort, it would be necessary to measure the ease with which traffickers could place such advertisements before and after the implementation of preventive measures. Similar assessments could be made to measure the effects of improved migration regulation on transporter activities by measuring trafficking detection rates over time. The effects of changes in the regulation of sex work on exploiter activities could be determined by measuring public demand for prostitutes, the number of known sex workers, the prevalence of brothels and procurers and the number of known trafficking cases over time. The success of awareness campaigns in reducing the supply of victims to recruiters could be measured over time by assessing the overall level of awareness among vulnerable populations and estimating the number of victims over time. Systematic assessment of facilitating and inhibiting factors on the

risks and profitability of each stage of the trafficking process would allow the Argentine government to understand the effects of its efforts on trafficking operations as a whole. It would also indicate the areas where preventive measures are most cost-effective.

Albanese suggests that these three steps be combined to form a comprehensive data collection strategy. After the size of the vulnerable population is estimated, researchers have an idea of the available supply of victims to recruiters in the first step of the trafficking process. That process is then analyzed by quantifying the effect of inhibitors on the activities at each stage of the chain. Finally, vulnerable population estimates and trafficking network data allow researchers to better use known trafficking cases to estimate the total number of cases and victims. The result is a strategy which provides estimates of potential victims, actual victims and trafficking network operations over time as affected by prevention, prosecution and protection efforts.

### **A Call for Data Coordination and Transparency in Government Efforts**

Existing governmental, inter-governmental, international and non-governmental agencies working to fight trafficking in Argentina should make the nature of their work and their data clear and accessible to other agencies. Without coordination of information gained through research and preventive measures, it is difficult to determine what is being done throughout the country and to assess the effects of individual and localized efforts in the aggregate. Organizations such as IOM and ILO have published studies sharing the research they have gathered through their work, discussing best practices and making suggestions for future efforts. All organizations and governmental agencies working to fight trafficking should share best

practices, quantitative data and lessons learned in order to more quickly determine the most efficient and effective solutions.

Many NGOs and foreign governments keep countrywide databases that store information on both offenders and victims. Argentina should establish a similar database. It is important that all government agencies involved in anti-trafficking efforts have access to the database, and its collection criteria and data should be comparable across countries to facilitate information sharing between Argentina and its neighbors. In the European Union, Belgium, Germany, Italy, Spain, Sweden and the Netherlands have been recognized as countries with highly reliable official data on trafficking offenses, offenders and victims. These countries have established databases for police crime statistics, prosecutions and convictions related to trafficking. Many have set up agencies to coordinate data among centers for reception and assistance of victims as well. Belgium recently established a computerized information to “provide permanent, integrated, anonymous strategic statistical analysis of...trafficking in human beings” to be made accessible to non-governmental researchers.<sup>212</sup> Anti-trafficking measures and trafficking estimates should be visible and accessible to the public, and there should be as much transparency and accountability within government-funded anti-trafficking initiatives as possible while maintaining the privacy of victims and their families.

## **Conclusion**

In the fight against sex trafficking, the reality is that there simply may not be a “superior” strategy. Rather, policymakers of each country must choose the strategy that best

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<sup>212</sup> Andrea Di Nicola and Andrea Cauduro. “Review of Official Statistics on Trafficking in Human Beings for Sexual Exploitation and their Validity in the 25 EU Member States from Official Statistics to Estimates of the Phenomenon.” Section Two. In Ernesto Savona and Sonia Stefanizzi, eds. *Measuring Human Trafficking: Complexities and Pitfalls*. New York: Springer, 2007, 76-86.

addresses their particular social, economic and political conditions. The same holds true when it comes to regulating prostitution to preventing trafficking. There is abundant conflicting research among feminist scholars and activists as to which strategy best protects sex workers and reduces the number of trafficking cases. The market perspective does not make specific prescriptions regarding how prostitution should be regulated, either; nor does it suggest which preventive measures should be chosen over others. What works in one country may not work in another, and the success of a specific strategy depends entirely on available resources, the structure of trafficking networks, the vulnerabilities of the women involved and the political will to follow through with regulations and enforcement. Anti-trafficking measures must be tailored to address the conditions specific to each country or region that seeks to eradicate trafficking. The policy proposals laid out in this thesis are not universally applicable, but the argument is that they are the most appropriate given Argentina's unique situation.

Perhaps the greatest obstacle that Argentina faces in the fight against trafficking is political and police corruption. The proximate factors of government and law enforcement may be even more detrimental to the trafficking situation than structural factors such as poverty and gender discrimination. In Argentina, as in much of Latin America and the rest of the world, official corruption is deeply ingrained in the political and legal systems, creating problems that affect all aspects of life and government—not just trafficking. According to Buenos Aires sociologist Alejandra Vallespir, “each division [of the Buenos Aires provincial police force] dedicates itself to the area of crime that it is supposed to be fighting. The robbery division steals and robs, the narcotics division traffics drugs, auto theft controls the stealing of cars and the chop shops, and those in fraud and bunco defraud and swindle.”<sup>213</sup> Because corruption is also so

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<sup>213</sup> Larry Rohter. “Police Corruption Plagues Argentines and President.” *The New York Times*, New York edition. 4 August 2004, A6.

common among politicians, it is entirely plausible that municipal and provincial laws criminalizing prostitution have been implemented not because of moral or health concerns but because of the profit to be earned from extorting prostitutes. It is for similar reasons of profit that brothels and procurers are allowed to operate in blatant defiance of federal laws.

It is absolutely essential that the Argentine government recognize the importance of effective enforcement. Prostitution policies, border security and anti-trafficking laws—three of the most important tools in the fight against trafficking—are rendered useless when they are not properly enforced. If Argentina cannot address the greater problem of widespread corruption, the focus should then go to the creation of principled, responsible, specialized forces that are willing to seek out traffickers and expose dirty cops.

Regardless of Argentina's prostitution policies, effective enforcement and successful prosecutions under Argentina's new anti-trafficking law could lead to significant advances in the fight against trafficking. It remains to be seen what position the new law will occupy on the public agenda and whether it is capable of producing convictions. The Argentine government should not be satisfied simply with the accomplishment of its passage and should instead prepare to evaluate its success in the coming months and years to determine the next steps, whether they include amendment of the law or other strategies. Better research on Argentine trafficking can assist in this process by helping officials determine where to allocate resources. Increased awareness among vulnerable populations and the Argentine public in general in recent years should not only prevent many cases of trafficking; it ought to increase governmental accountability to its citizens in the fight against this widespread, but hopefully preventable, crime.

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