



# MEXICO

Legal System	Constitution	Bill of Rights	Country Structure	Form of Government
Civil Law	Written	Yes	Federation	Republic

## 1. INTRODUCTION

### 1.1. Mexico and Modern Slavery (Human Trafficking)

Mexico is a large source, transit, and destination country for men, women, and children subjected to trafficking in persons, especially for the purposes of forced prostitution and forced labor.<sup>1</sup>

As reported by the National Commission of Human Rights (*Comisión Nacional de Derechos Humanos*) (CNDH),<sup>2</sup> human traffickers exploit domestic and foreign victims in Mexico, and also promote and contribute to their exploitation abroad. Groups considered at most risk for trafficking in Mexico include women, children and unaccompanied minors, indigenous people, persons with mental and physical disabilities, migrants, and LGBTQI (Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex) individuals. Traffickers recruit and exploit mostly Mexican women and children, and to a lesser extent men and transgender individuals, in sex trafficking in Mexico and the United States through false promises of employment, romantic relationships, or extortion. Traffickers exploit Mexican men, women, and children in forced labor in agriculture, domestic service, childcare, manufacturing, mining, food processing, construction, tourism, begging, and street vending in Mexico and the United States.

In 2019, the Mexican Government increased its anti-trafficking efforts including, in general, “investigating and prosecuting more traffickers, such as the successful prosecution of a transnational sex trafficking ring under their new accusatory system; identifying more victims in Mexico and abroad; investigating and prosecuting allegedly corrupt or complicit government officials ... ; maintaining law enforcement cooperation with the United States; providing increased resources for victim services; and initiating more investigations as a result of hotline referrals.”<sup>3</sup> Nevertheless, the Mexican Government convicted fewer traffickers in 2019 than in the previous year; provided insufficient shelters for victims and limited specialized services for trafficking victims; erroneously detained trafficking victims during operations; and investigated and prosecuted few claims of forced labor.<sup>4</sup>

Law enforcement in Mexico is weak and inefficient due to corruption in the different government authorities in charge of investigating crime, and the country lacks resources to perform specialized investigations into human trafficking and forced labor.

<sup>1</sup> U.S. Dep’t of State, Trafficking in Persons Report 346 (2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

<sup>2</sup> CNDH: *Report on Human Trafficking in Mexico for 2019*, available at: [https://www.cndh.org.mx/sites/default/files/documentos/2019-07/DIAGNOSTICO-TDP-2019-RE\\_0.pdf](https://www.cndh.org.mx/sites/default/files/documentos/2019-07/DIAGNOSTICO-TDP-2019-RE_0.pdf).

<sup>3</sup> U.S. Dep’t of State, Trafficking in Persons Report 345 (2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

<sup>4</sup> *Id.*

The vast majority of foreign victims of forced labor and sex trafficking in Mexico are from Central and South America,<sup>5</sup> particularly from El Salvador, Guatemala, Honduras, and Venezuela. Traffickers exploit victims along Mexico's southern border. Non-Governmental Organizations (**NGOs**) and the media have identified in Mexico victims from the Caribbean, South America, Eastern Europe, Asia, and Africa, some in route to the United States. Those persons may include refugees and asylum-seekers.

The gathering of precise statistics on the number of victims of human trafficking crimes remains challenging.<sup>6</sup> Unofficial statistics provided by the media, NGOs, civil associations, and international organizations differ significantly from official numbers provided by the Mexican Government. Historically, Mexico has been a territory of origin, transit, and destination for legal and illegal migrants. Generally, illegal migrants are highly vulnerable, especially women, children, and teenagers, and face a great risk of becoming victims of human trafficking for sexual and labor exploitation.

Human trafficking finds fertile ground among the most vulnerable social, economic, gender, and age groups. Most victims are poor, poorly educated, unemployed, or victims of domestic violence or discrimination. Victims and potential victims are typically unaware of and unable to enforce their rights.

In 2012, Mexico passed the General Law to Prevent, Sanction and Eradicate Human Trafficking Crimes and for the Protection and Assistance to Victims (*Ley General para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos Delitos*) (**Anti-Human Trafficking Law**).<sup>7</sup> Among other aspects, the Anti-Human Trafficking Law created the Inter-Ministerial Commission for Preventing, Sanctioning and Eradicating Human Trafficking (*Comisión Intersecretarial para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos Delitos*) (**Human Trafficking Commission**), which is the Mexican governmental agency responsible for defining and implementing Mexico's human trafficking policies, as well as monitoring and reporting human trafficking.

## 1.2. Mexico's Policy and Legal Position

Like some other countries in the Americas, Mexico's policy and legislative response to slavery and human trafficking has evolved to confront modern slavery risks.

Mexico has signed and ratified many international treaties relating to slavery, slavery-like conditions, and human trafficking.<sup>8</sup> Some of Mexico's international obligations in this regard have been implemented through domestic legislation, which makes criminal certain conduct relating to slavery, slavery-like conditions, and human trafficking.<sup>9</sup>

On a national level, in 2007, the Congress of Mexico approved two laws to tackle human trafficking: the Federal Criminal Code (*Código Penal Federal*)<sup>10</sup> was amended to incorporate human trafficking as a criminal offense; and the National Law to Prevent and Sanction Human Trafficking (*Ley Para Prevenir y Sancionar la*

<sup>5</sup> As reported in the Mexican Commission on Human Rights' Report on Human Trafficking in Mexico for 2019 and in the United States Department of State, 2020 Trafficking in Persons Report.

<sup>6</sup> Mexican Commission on Human Rights: Report on Human Trafficking in Mexico for 2019, available at: [https://www.cndh.org.mx/sites/default/files/documentos/2019-07/DIAGNOSTICO-TDP-2019-RE\\_0.pdf](https://www.cndh.org.mx/sites/default/files/documentos/2019-07/DIAGNOSTICO-TDP-2019-RE_0.pdf).

<sup>7</sup> Published in the Official Gazette of the Federation on June 14, 2012 and coming into force the day after its publication.

<sup>8</sup> Refer to Section 2.1.

<sup>9</sup> An example of this is that, Mexico did not incorporate an amendment to its *Federal Criminal Code* condemning human trafficking as a crime until 50 years after the ratification of the corresponding international treaty.

<sup>10</sup> Published in the Official Gazette of the Federation on August 14, 1931 and coming into force the day after its publication.

*Trata de Personas*)<sup>11</sup> was enacted, along with an amendment to the Federal Law Against Organized Crime (*Ley Federal contra la Delincuencia Organizada*) (**Organized Crime Law**),<sup>12</sup> to include human trafficking as an organized crime activity.

In 2012, the Anti-Human Trafficking Law, along with its Regulations, replaced the Law to Prevent and Sanction Human Trafficking.<sup>13</sup>

Since the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, several states within Mexico have amended their criminal codes to include human trafficking and child pornography.

In recent years, the Mexican Government has been increasingly committed to eradicating human trafficking. However, even though Mexico has made efforts to comply with its obligations under the ratified international treaties and human trafficking is constitutionally condemned, its federal, state, and local laws are not comprehensive.<sup>14</sup> In addition, some government authorities do not consistently prosecute human trafficking, in many cases due to lack of training or resources.

## 2. OVERVIEW OF MEXICO'S LEGAL APPROACH TO COMBATING MODERN SLAVERY AND HUMAN TRAFFICKING

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### 2.1. Mexico's Regional and International Law Obligations

#### 2.1.1. Fundamental human rights

Mexico has long supported fundamental human rights. It is one of the forty-eight countries that voted in favor of the Universal Declaration of Human Rights in 1948.<sup>15</sup> Since then, Mexico has ratified more than 20 international treaties related to human rights protection, including the American Declaration of the Rights and Duties of Man (1948),<sup>16</sup> the Declaration of the Rights of the Child (1959),<sup>17</sup> the International Covenant on Civil and Political Rights (1966),<sup>18</sup> the American Convention on Human Rights (1969),<sup>19</sup> the Declaration on the Elimination of Discrimination against Women (1979),<sup>20</sup> the Convention of the Rights of the Child

<sup>11</sup> There was an initial law named Law to Prevent and Sanction Human Trafficking published in the Official Gazette of the Federation on November 27, 2007, which later on was abrogated by the Anti-Human Trafficking Law.

<sup>12</sup> Published in the Official Gazette of the Federation on November 7, 1996 and coming into force the day after its publication.

<sup>13</sup> Published in the Official Gazette of the Federation on September 23, 2013 and coming into force the day after its publication.

<sup>14</sup> CNDH: *Report on Human Trafficking in Mexico for 2019*, available at: [https://www.cndh.org.mx/sites/default/files/documentos/2019-07/DIAGNOSTICO-TDP-2019-RE\\_0.pdf](https://www.cndh.org.mx/sites/default/files/documentos/2019-07/DIAGNOSTICO-TDP-2019-RE_0.pdf).

<sup>15</sup> Universal Declaration of Human Rights, approved by the UN General Assembly on December 10, 1948.

<sup>16</sup> American Declaration of the Rights and Duties of Man, approved at the Ninth International American Conference on May 2, 1948.

<sup>17</sup> Declaration of the Rights of the Child, approved by the UN General Assembly on November 20, 1959.

<sup>18</sup> International Covenant on Civil and Political Rights, opened for signature on December 16, 1966 (entered into force on June 23, 1981).

<sup>19</sup> American Convention on Human Rights, opened for signature on November 22, 1969 (entered into force on March 24, 1981).

<sup>20</sup> Declaration on the Elimination of Discrimination against Women, opened for signature on December 18, 1979 (entered into force on September 3, 1981).

(1989),<sup>21</sup> and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, better known as the “Belém Do Pará Convention” (1994),<sup>22</sup> among others.

### 2.1.2. *Slavery and trafficking*

Mexico is a party to numerous treaties and international conventions that aim to prevent, identify, and eradicate human trafficking. Mexico’s principal international law obligations in this regard derive from the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (**Palermo Protocol**) (2000).<sup>23</sup> Other instruments supplement this treaty to combat various forms of modern slavery, including the International Convention for the Suppression of the White Slave Traffic (1910)<sup>24</sup> amended by the Protocol signed in New York on May 4, 1949; the International Convention for the Suppression of the Traffic in Women and Children (1921);<sup>25</sup> the Slavery Convention (1926);<sup>26</sup> the International Convention for the Suppression of the Traffic in Women of Full Age (1933)<sup>27</sup> amended by the Protocol signed in New York on November 12, 1947; the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949);<sup>28</sup> Protocol Amending the Slavery Convention (1953);<sup>29</sup> the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956);<sup>30</sup> the Protocol against the Smuggling of Migrants by Land, Sea and Air (2000);<sup>31</sup> Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Resolution E/RES/2005/20, 2005);<sup>32</sup> United Nations High Commissioner for Refugees (**UNHCR**) Guidelines on International Protection

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<sup>21</sup> Convention of the Rights of the Child, opened for signature on November 20, 1989 (entered into force on October 21, 1990).

<sup>22</sup> Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, opened for signature on June 9, 1994 (entered into force on December 12, 1998).

<sup>23</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, opened for signature on November 15, 2000 (entered into force on December 25, 2003).

<sup>24</sup> International Agreement for the Suppression of the White Slave Traffic, opened for signature on May 18, 1919 (entered into force on August 21, 1956).

<sup>25</sup> International Convention for the Suppression of the Traffic in Women and Children, opened for signature on September 30, 1921 (entered into force on May 21, 1956).

<sup>26</sup> Slavery Convention, opened for signature on September 25, 1926 (entered into force on September 8, 1934).

<sup>27</sup> International Convention for the Suppression of the Traffic in Women of Full Age, opened for signature on October 11, 1933 (entered into force on July 2, 1938).

<sup>28</sup> Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, approved by General Assembly resolution 317 (IV) of December 2, 1949 (entered into force on May 21, 1956).

<sup>29</sup> Protocol Amending the Slavery Convention, opened for signature on October 23, 1959, signed by Mexico on February 3, 1954.

<sup>30</sup> Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, opened for signature on September 7, 1956 (entered into force on June 30, 1959).

<sup>31</sup> Protocol against the Smuggling of Migrants by Land, Sea and Air, opened for signature on November 15, 2000 (entered into force on January 28, 2004).

<sup>32</sup> *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime* approved by the UN Economic and Social Council on July 22, 2005.

(2006);<sup>33</sup> and the Inter-American Declaration Against Trafficking in Persons “Declaration of Brasilia” (2014)<sup>34</sup> (collectively, **Anti-Human Trafficking Treaties**).

Mexico is also signatory to other resolutions approved by the United Nations General Assembly to improve the coordination of efforts against trafficking in persons, such as the United Nations Global Plan of Action against Trafficking in Persons (Resolution A/RES/64/293, 2010)<sup>35</sup> and the Measures Improving the Coordination of Efforts Against Trafficking in Persons (Resolution A/RES/68/192, 2014).<sup>36</sup> Mexico has ratified eight fundamental agreements with the International Labour Organization (ILO), including the Agreement On Forced Labor (*Convenio sobre el Trabajo Forzoso*) of 1930<sup>37</sup> and the Agreement on the Eradication of Forced Labor (*Convenio sobre la Abolición del Trabajo Forzoso*) of 1957.<sup>38</sup>

### 2.1.3. Effect under Mexico’s law

Once approved by the Senate and ratified by the Executive Branch, Mexico’s obligations under international instruments have the force of law.

In addition to the multiple international instruments ratified by Mexico and the fundamental principles reflected in the Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*) (**Constitution**), Mexico has adopted the Anti-Human Trafficking Law and its Regulations, and other federal laws for the purpose of preventing and punishing human trafficking, as well as providing protection, care, and assistance to victims.

In addition, some states have conformed their local laws to the Anti-Human Trafficking Law.

## 2.2. Human Rights Protections Under Mexico’s Law

Title I of the Constitution, which is the Mexican Bill of Rights, guarantees fundamental rights (*garantías individuales*). It provides that all people shall enjoy the broadest protection of those fundamental human rights, as well as those rights recognized in the international treaties to which the Mexican State is a party. Article 133 of the Constitution makes the Constitution, the laws deriving from the Constitution, and the ratified treaties the supreme law in Mexico.

The legal principles set forth in treaties are deemed to be integrated into the Constitution and to have the same legal effect as the Constitution in terms of human rights protection (a concept that is identified as the Block of Constitutionality). Therefore, the legal framework for protecting human rights is based on the fundamental rights recognized in the Constitution, as well as in legally ratified and adopted international instruments.

<sup>33</sup> UNHCR *Guidelines on International Protection*, published on April 7, 2006.

<sup>34</sup> *Declaration of Brasilia*, approved at the Third Plenary Session of the Inter-American Court of Human Rights on December 5, 2014.

<sup>35</sup> *Resolution A/RES/64/293*, adopted by the UN General Assembly on July 20, 2010 and published on August 12, 2010.

<sup>36</sup> *Resolution A/RES/68/192*, adopted by the UN General Assembly on December 18, 2013 and published on February 14, 2014.

<sup>37</sup> Ratified by Mexico on May 12, 1934 and still in full force and effect. See website at: <https://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO:12100:P12100 INSTRUMENT ID:312174:NO>.

<sup>38</sup> Ratified by Mexico on June 1, 1959 and still in full force and effect. See website at: <https://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO:12100:P12100 INSTRUMENT ID:312250:NO>.

## 2.3. Criminalization of Modern Slavery

The Constitution prohibits slavery. Mexico also has enacted the Anti-Human Trafficking Law, which aims to prevent, investigate, prosecute, and punish human trafficking. All crimes connected to human trafficking shall be prosecuted and punished in accordance with the Anti-Human Trafficking Law. The Federal Criminal Code supplements the Anti-Human Trafficking Law.

The Federal Criminal Code punishes criminal activities that involve the exploitation of persons for profit or sexual purposes. Both federal and local criminal codes define the crime of human trafficking by following the Palermo Protocol's definition. These codes supplement the Anti-Human Trafficking Law, and it depends on the specific case whether the crime of human trafficking is prosecuted under federal or local law.

## 2.4. Supply Chain Reporting

No particular legislation in Mexico forces private companies to control their supply chain to deter human trafficking. Nonetheless, certain regulatory provisions govern supply chains to provide greater protection of human rights in labor law and to hinder human trafficking. Those protections can be seen in international treaties and the Constitution. Also, the Ministry of Labor and Social Security (*Secretaría del Trabajo y Previsión Social*) awards the Mexico Without Child Labor Distinction (*Mexico Sin Trabajo Infantil*) (**MEXSTI**) to public, private, and social organizations that have processes, policies, programs, and actions that contribute to the prevention and eradication of child labor.

## 2.5. Investigation, Prosecution, and Enforcement

### 2.5.1. Investigation and prosecution of criminal offenses

The federal or local Public Prosecutor (*Ministerio Público*) has the power and authority to investigate and prosecute criminal offenses, including human trafficking. The Public Prosecutor's Office investigates and proves the crime, and the judge determines the sentence.

Depending on the case, either the federal or local prosecutor can investigate and prosecute human trafficking crimes. The federal prosecutor has the authority when the crime (i) meets the rules of jurisdiction pursuant the Organic Law of the Judicial Power of the Federation (*Ley Órgánica del Poder Judicial de la Federación*); (ii) is initiated, prepared, or committed abroad, as long as it produces or is intended to have effects in Mexico, or when it is initiated, prepared, or committed in Mexico, as long as it produces or is intended to have effects abroad; (iii) the Federal Public Prosecutor requests to handle the matter; or (iv) is committed by organized crime. The local authority must at all times cooperate with the federal authority in an organized crime investigation. Refer to Section 8.3. for more details.

### 2.5.2. Mutual assistance/international cooperation

The Federal Attorney General's Office (*Fiscalía General de la República*) is in charge of investigating federal crimes of human trafficking through the Federal Public Prosecutor. It also functions as a point of contact with the National Central Office of The International Criminal Police Organization (**INTERPOL**) in Mexico through (i) the General Coordination of Investigation Methods (*Coordinación General de Métodos de Investigación*) as a criminal investigation agency and ministerial federal police; and (ii) the National Center for Planning, Analysis and Information to Combat Crime (*Centro Nacional de Planeación, Análisis e Información para el Combate a la Delincuencia*) as a technical support body. The Ministry of Public Security (*Secretaría de Seguridad Pública*) also participates with INTERPOL and other international agencies through its liaison units. Those institutions provide investigative support in Mexico and internationally, contributing intelligence and technical-documentary support. Evidence and data are available in criminal data platforms, in particular "*Plataforma Mexico*." This platform is a national network implemented by the Ministry of

Public Security that houses all databases related to criminal activity and public security. Police and other justice authorities all over the country have access to this platform.

Finally, the Federal Government, through the Human Trafficking Commission, is responsible for coordinating the implementation of public policies to combat human trafficking at the international, federal, and local levels. The Human Trafficking Commission also attends international meetings aimed at combating human trafficking.

The Ministry of Foreign Affairs (*Secretaría de Relaciones Exteriores*) assists in making recommendations to the Mexican Government on the subject of human trafficking.

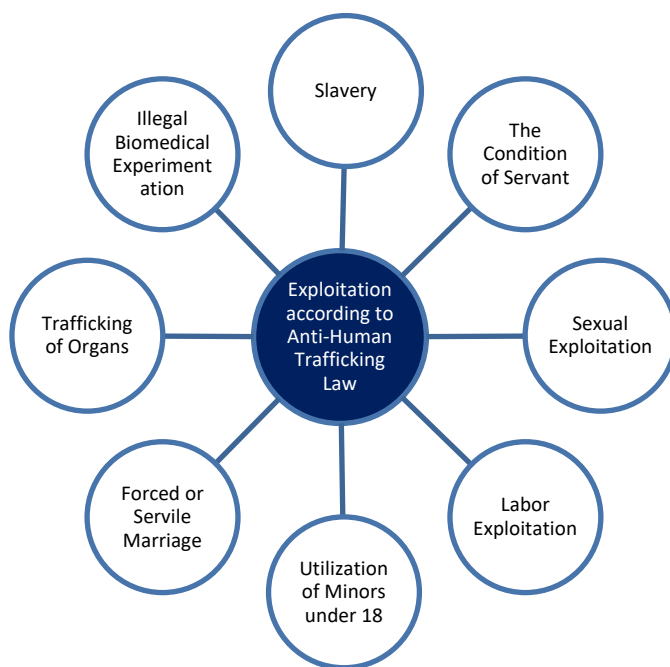
### 3. MEXICO’S FEDERAL CRIMINAL OFFENSES RELATING TO SLAVERY, SLAVERY-LIKE CONDITIONS, AND HUMAN TRAFFICKING

#### 3.1. Overview of Criminal Offenses

Articles 1 and 73, subsection XXI of the Constitution expressly prohibit slavery and human trafficking. The Anti-Human Trafficking Law supplements the Constitutional articles.

The Anti-Human Trafficking Law defines offenses and sets penalties relating to human trafficking. The offenses are punishable by maximum and minimum penalties of imprisonment, which may vary depending on the existence of aggravating circumstances, such as a family relationship, the victim’s death, or involvement of minors,<sup>39</sup> among others.

In accordance with the Anti-Human Trafficking Law, a number of activities are considered to be human trafficking:



<sup>39</sup> Individuals less than 18 years old.



As part of the Palermo Protocol, starting in 2007, Mexico has implemented a legal framework to combat human trafficking. By 2020, that framework included one federal law, 13 state laws, and 16 state criminal codes. However, the criminal codes in the states of Baja California Sur, Nayarit, and Sonora do not specify the crime of human trafficking.

When the objectives of prior laws were not met, the National Program to Prevent and Punish Trafficking in Persons was published in 2010.<sup>40</sup> It led to Constitutional amendments and the issuance of the Anti-Human Trafficking Law on June 14, 2012.

Article 10 of the Anti-Human Trafficking Law defines human trafficking crimes as “any fraudulent action or omission by one or more persons to recruit, entice, transport, transfer, retain, deliver, receive, or harbor one or more persons with exploitation purposes.”

The penalties for the crimes provided under the Anti-Human Trafficking Law go from five to 15 years of imprisonment, and a fine from 1,000 to 20,000 Units of Measurement and Update (UMAs)<sup>41</sup> depending on the crime:

Human Trafficking Penalties	Duration of imprisonment	Amount of the fine <sup>42</sup>
Slavery	15 to 30 years	USD 4,344 to USD 86,880
Slavery to Serfdom	5 to 10 years	USD 4,344 to USD 86,880
Prostitution <sup>43</sup>	5 to 30 years	USD 4,344 to USD 130,320
Labor Exploitation	3 to 10 years	USD 21,720 to USD 217,200
Forced Labor or Services	10 to 20 years	USD 21,720 to USD 217,200
Forced Begging	4 to 9 years	USD 2,172 to USD 86,880
Use of Minors for Criminal Activities	10 to 20 years	USD 4,344 to USD 86,880
Illegal Adoption of Minors	3 to 40 years	USD 2,172 to USD 86,880
Forced or Servile Marriage	4 to 40 years	USD 8,688 to USD 130,320
Trafficking of Organs, Tissues, and Cells Harvested from Living Human Beings	3 to 25 years	USD 8,680 to USD 130,200

<sup>40</sup> National Program to Prevent and Punish Trafficking in Persons in force during the years 2010–2012.

<sup>41</sup> For purposes of this summary, the amount equivalent to MXN 86.88 will be considered for the UMA. Furthermore, according to the Anti-Human Trafficking Law, the amount of fines are expressed in “days of fine,” which in accordance with the Constitutional Amendment of January 27, 2016 must be understood as the UMA.

<sup>42</sup> For purposes of this summary, an average exchange rate of USD 20.00 has been considered. In this sense, all references to dollar amounts use this same average.

<sup>43</sup>In addition to prostitution, other forms of sexual exploitation are punishable.



## 3.2. Slavery Offenses Under the Criminal Code

### 3.2.1. General

The Anti-Human Trafficking Law defines “slavery” as the dominance of one person over another, so that the person prevents another person from making decisions freely or exercising their rights.

This crime is punishable by a sentence of five to 15 years of imprisonment and a fine of 1,000 to 20,000 UMAs, equivalent to USD 4,344.00 to USD 86,880.00.

### 3.2.2. Extraterritorial application

The Anti-Human Trafficking Law does not provide for extraterritorial scope. It does refer to the Federal Criminal Code, which states that the law will have extraterritorial application for: (i) crimes that are initiated, prepared, or committed abroad, when they produce or are intended to have effects in Mexico, or when an international treaty to which Mexico is a party sets forth the obligation for extradition or prosecution, the Federal Criminal Code’s requirements are met, and the probable offender has not been extradited to the requesting State; and (ii) crimes committed against persons working in Mexican consulates or diplomatic Mexican facilities abroad, unless the country in which the crimes occurred prosecutes the crimes.

Crimes first committed abroad that continue in Mexico are prosecuted in accordance with the laws of the jurisdictions where those crimes were first committed.

Crimes committed abroad by a Mexican citizen against Mexican nationals or against foreigners, or crimes committed by a foreigner against Mexican nationals, are prosecuted in Mexico if:

- i. the perpetrator is in Mexico;
- ii. the perpetrator has not been definitively judged in the country where the crime was committed; and
- iii. the action is a crime in the country where it occurred, as well as in Mexico.

The Federal Criminal Code stipulates a number of crimes that are considered as crimes committed in Mexico:

- a. Crimes committed by Mexicans or foreigners on the high seas aboard national vessels;
- b. Crimes executed on board a national warship in port or in the territorial waters of a foreign nation. This extends to crimes committed in a Mexican merchant vessel, if the crime is not prosecuted in the foreign country of the relevant port;
- c. Crimes committed in a foreign vessel in a Mexican port or in the territorial waters of Mexico, if public peace is disturbed or if the offender or offended party is not a member of the crew;
- d. Crimes committed on board national or foreign aircraft that are in national or foreign territory or in national or foreign atmosphere or national or foreign territorial waters, in cases analogous to those indicated for vessels in the preceding sections; and
- e. Crimes committed in Mexican embassies and diplomatic delegations.

## 3.3. Slavery-Like Offenses in Mexico’s Legal Order

The Anti-Human Trafficking Law defines the activities that are prohibited as human trafficking.

### 3.3.1. *Servitude*

Article 12 of the Anti-Human Trafficking Law recognizes compulsory labor (Gleba) as a servant condition. A person is considered a Gleba servant when: (a) the person must live or work on land that belongs to someone else; (b) the person must provide services, paid or unpaid, without the possibility of leaving the land that belongs to someone else; or (c) another person's control over the property prevents the person from leaving the property.

This crime is punishable by five to 10 years of imprisonment and a fine of 1,000 to 20,000 UMAs, equivalent to USD 4,344 to USD 86,880.

The Anti-Human Trafficking Law, in Article 21, defines labor exploitation to occur when “a person illegally obtains, directly or indirectly, an unjustifiable economic or any other kind of benefit through third-party work, subduing the person to practices against its dignity,” such as:

- i. Dangerous or unhealthy labor conditions, without the appropriate protection according to labor legislation or rules;
- ii. A notorious disproportion between the amount of work and the salary paid for it; and
- iii. Salary below the legal requirements.

The punishment for labor exploitation is three to 10 years of imprisonment and a fine of 5,000 to 50,000 UMAs, equivalent to USD 21,720 to USD 217,200.

### 3.3.2. *Forced labor*

According to Article 22 of the Anti-Human Trafficking Law, forced labor is work performed under unfair conditions or an affront to dignity that results from: (i) the use of force or threat of use of force; physical coercion or threats of physical coercion; or use of force or the threat of the use of force by a criminal organization; (ii) serious harm or threat of serious harm to a person, placing such person in a condition of vulnerability; or (iii) abuse or threat of reporting to the authorities a migrant's irregular status or any other abuse in the use of the law or legal process.

This crime is punishable by 10 to 20 years of imprisonment and a fine up to 50,000 UMAs, equivalent to USD 217,200.

Article 23 of the Anti-Human Trafficking Law provides several exceptions to the definition of forced labor:

- i. Mandatory military service;
- ii. Normal civic obligations owed to the Federation, states, municipalities, or administrative bodies in Mexico;
- iii. Work resulting from a criminal conviction or from community service under the terms of Article 21 of the Constitution; provided that such work is performed under the supervision and control of public authorities and the person is not placed at the disposal of private individuals, companies, or legal persons of private nature; and
- iv. Voluntary work done by members of a community for the benefit of the community.

### 3.3.3. *Deceptive recruiting for labor or services*

Under Article 19 of the Anti-Human Trafficking Law, deceptive recruiting occurs when a person hires another person or offers a job other than sexual services and induces that person to perform them, under deception in any of the following circumstances:

- i. The agreement or contract involves the provision of sexual services;
- ii. The nature of the work, frequency, and any specific conditions;
- iii. The extent to which the person shall be free to leave the place or area in exchange for the performance of such practices;
- iv. The extent to which the person shall be free to leave the work in exchange for the performance of such practices;
- v. The extent to which the person shall be free to leave their place of residence in exchange for the performance of such practices; or
- vi. The amount, or the existence, of the sum owed or allegedly owed if the person allegedly has incurred or will incur a debt in connection with the agreement.

This crime is punishable by five to 10 years of imprisonment and a fine of 4,000 to 30,000 UMAs, equivalent to USD 17,376 to 130,320.

### 3.3.4. *Early and forced marriage*

The Anti-Human Trafficking Law states that a person commits the crime of forced marriage when a person:

- i. Compels a person to get married, either for free or for a payment of money or in kind, delivered to the victim's parents, guardian, family, or any other person with authority over the victim;
- ii. Compels a person to get married, for the purpose of prostitution, slavery, or similar practices; or
- iii. Relinquishes or assigns a person to a third party, for something of value, free of charge, or otherwise.

This crime is punishable by four to 10 years of imprisonment and a fine of 200 to 2,000 UMAs, equivalent to USD 868.80 to USD 8,688.00, as well as declaring the marriage void. Furthermore, whoever takes advantage of the marriage by sexually exploiting the partner faces punishment of 20 to 40 years of imprisonment and a fine of 2,000 to 30,000 UMAs, equivalent to USD 8,688 to USD 130,320.

### 3.3.5. *Debt bondage*

Article 12 of the Anti-Human Trafficking Law recognizes a condition of servant by debt resulting from the fact that a debtor has undertaken to render his personal services or those of someone over whom he exercises authority, as security for a debt, and the services rendered, equitably valued are not applied to the payment of the debt, or the duration is not limited and the nature of such services is not defined. This crime is punishable by five to 10 years of imprisonment and a fine of 1,000 to 20,000 UMAs, equivalent to USD 4,344 to 86,880.

### 3.3.6. *Any other relevant offenses*

#### ***Forced begging***

Article 24 of the Anti-Human Trafficking Law defines the exploitation of begging as “the act that results in obtaining a benefit from forcing a person to beg for charity against its will, recurring to threats of severe damage, severe damage itself, the use of force or other means of coaxing, or deception.”

This crime is punishable by four to nine years of imprisonment and a fine of 500 to 20,000 UMAs, equivalent to USD 2,172 to USD 86,880. In the event that the victim is a minor under the age of 18, is over the age of 70, or is pregnant, injured, sick, or physically or mentally disabled, the penalty increases to an imprisonment from nine to 15 years and a fine from 1,000 to 25,000 UMAs, equivalent to USD 4,344 to USD 108,600.

#### ***The utilization of minors in criminal activities***

Article 24 of the Anti-Human Trafficking Law stipulates that whomever uses minors under 18 years old in any of the activities listed in Article 2 of the Organized Crime Law<sup>44</sup> shall be punished by 10 to 20 years of imprisonment and a fine of 1,000 to 20,000 UMAs, equivalent to USD 4,344 to USD 86,880.

#### ***The illegal adoption of a minor***

The illegal adoption of minors occurs when, in return for payment, (i) the father, mother, guardian, or whomever has authority over a minor gives the minor up for adoption for the purpose of abuse or sexual exploitation;<sup>45</sup> or (ii) a person illegally, illicitly, or irregularly receives a minor in adoption for those purposes.

The punishment for the offense established in section (i) above is 20 to 40 years of imprisonment and a fine from 2,000 to 20,000 UMAs, equivalent to USD 8,688 to USD 86,880. The punishment for the offense established in section (ii) is three to 10 years of imprisonment and a fine of 500 to 2,000 UMAs, equivalent to USD 2,172 to USD 8,688. Furthermore, the illegal adoption of a minor shall be declared void.

Receiving in good faith a person, despite any irregular status, for the purpose of integrating the person into the family is not a crime. Consequently, the definition of the crime is based on the purpose of the adoption.

#### ***Illegal biomedical experimentation on human beings***

Article 31 of the Anti-Human Trafficking Law makes it a crime to perform illegal biomedical experimentation on people. This crime is punishable by three to five years of imprisonment and a fine from 2,000 to 30,000 UMAs, equivalent to USD 8,688 to 130,320.

### 3.3.7. *Extraterritorial application of the offenses*

Refer to Section 3.2.2.

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<sup>44</sup> Terrorism; acts against health; counterfeiting; knowingly using and altering counterfeit currency; operations with illegally obtained resources; copyright crimes; weapons collection and trafficking; human trafficking; organ trafficking; drug trafficking; corruption of minors and persons without capacity; pornography of minors or persons without capacity; sexual tourism of minors or persons without capacity; lenocinium (the action of mediating to facilitate a loving or sexual relationship between two people) of minors or persons without capacity; trafficking of minors or persons without capacity; robbery of vehicles; crimes in the matter of human trafficking; smuggling; fiscal fraud; and crimes against the environment.

<sup>45</sup> Including: slavery, slavery to serfdom, prostitution, and other forms of sexual exploitation, labor exploitation, forced labor or services, forced begging, the use of minors for criminal activities, forced or servile marriage, and trafficking of organs, tissues, and cells harvested from living human beings.

### 3.4. Human Trafficking/Smuggling-Related Criminal Offenses

#### 3.4.1. *International and domestic trafficking/smuggling of people*

The purpose of trafficking is the exploitation of the person, while the purpose of smuggling is the illegal transfer of migrants. It is not essential for the victims to cross borders for the crime of trafficking to occur, whereas border crossing is essential for the crime of smuggling.

Smuggling of migrants means the facilitation of the illegal entry of persons into a country of which the persons are not citizens or permanent residents, in order to obtain, directly or indirectly, a financial or other material benefit.

As provided in Articles 13 to 20 of the Anti-Human Trafficking Law, whomever benefits from the exploitation of one or more individuals through prostitution, pornography, public or private sexual exhibitionism, sexual tourism, or any other remunerated sexual activity shall be punished by 15 to 30 years in imprisonment or a fine of 1,000 to 30,000 UMAs, equivalent to USD 4,344 to USD 130,320, provided that it results from:

- i. Deception;
- ii. Physical or moral violence;
- iii. Abuse of power;
- iv. Taking advantage of a situation of vulnerability;
- v. Serious harm or threat of serious harm; or
- vi. Threat of reporting to authorities the migrant's status, or any other abuse of the law or legal procedures.

Minors or people with no capacity to understand the meaning of the act are not required to prove the means referred to in the previous paragraph.

The Anti-Human Trafficking Law establishes different penalties depending on the specific conduct.

#### 3.4.2. *International and domestic trafficking in children*

Under Article 25 of the Anti-Human Trafficking Law, human trafficking encompasses the use of minors in criminal activities. This crime is punishable by 10 to 20 years of imprisonment and a fine of 1,000 to 20,000 UMAs, equivalent to USD 4,344 to 86,880. Refer to Section 3.4.1.

#### 3.4.3. *Victim harboring*

Article 10 of the Anti-Human Trafficking Law makes it a criminal offense, punishable by a maximum penalty of 15 years of imprisonment and a fine of 20,000 UMAs, equivalent to USD 86,880, for any person to recruit, entice, transport, transfer, retain, deliver, receive, or harbor another person, whether by willful act or omission, for the purpose of exploitation.

#### 3.4.4. *Extraterritorial application of human trafficking and smuggling offenses*

Refer to Section 3.2.2.

### 3.4.5. *Trafficking of organs, tissues, and cells harvested from living human beings*

Article 30 of the Anti-Human Trafficking Law defines trafficking in organs as “the action of extracting, removing or procuring an organ, tissue or cell from a living human being, in exchange for a benefit or through a commercial transaction.” This crime does not include legal medical procedures for which due consent has been obtained.

This crime is punishable by 10 to 25 years of imprisonment and a fine from 2,000 to 20,000 UMAs, equivalent to USD 8,688 to USD 86,880.

## 3.5. Online Exploitation of Children Offenses

The Anti-Human Trafficking Law prohibits any advertising and paid insertions in the mass media of any kind that advertise sexual contact or promote any of the criminal conduct covered by the Anti-Human Trafficking Law.

Article 26 of the Anti-Human Trafficking Law punishes child sexual exploitation by any means by 20 to 40 years of imprisonment and a fine of 2,000 to 20,000 UMAs, equivalent to USD 8,688 to USD 86,880. This crime also applies to the father, mother, guardian, or person having authority over the child who delivers or receives illegally, illicitly, or irregularly a minor for the purpose of sexual abuse or any other form of exploitation.

Article 47 of the General Law on the Rights of Girls, Boys and Adolescents (*Ley General de los Derechos de Niñas, Niños y Adolescentes*) provides that the federal, state, municipal, and Mexico City authorities are responsible for taking the necessary measures to prevent, address, and punish cases in which children or adolescents are affected by human trafficking, child sexual abuse, child sexual exploitation (whether or not for commercial purposes), or any other type of exploitation.

## 3.6. Child Sex Tourism Offenses

Article 13 of the Anti-Human Trafficking Law makes it a crime to exploit, or benefit from exploiting, persons through prostitution, pornography, public or private exhibitions of a sexual nature, sex tourism, or any other paid sexual activity. In the event that the victims are minors or persons who do not have the capacity to understand the meaning of the act or conduct, the prosecution does not need to prove that the offense was committed by an abuse of power, physical or moral violence, or any other means stated in the law. The crime is punishable by 15 to 30 years of imprisonment and a fine of 1,000 to 30,000 UMAs, equivalent to USD 4,344.00 to USD 130,320.00. Article 203 of the Federal Criminal Code defines and punishes the crime of child sexual tourism. This crime applies to any person who promotes, advertises, invites, facilitates, or arranges by any means for one or more persons to travel within or outside Mexico for the purpose of performing any real or simulated sexual acts with minors. This crime is punishable by seven to 12 years of imprisonment and a fine of 800 to 2,000 UMAs, equivalent to USD 3,475.20 to USD 8,688.

Article 203 BIS of the Federal Criminal Code also makes it a crime to perform any real or simulated sexual acts with one or more minors by means of sex tourism. This crime is punishable by 12 to 16 years of imprisonment and a fine of 2,000 to 3,000 UMAs, equivalent to USD 8,688 to USD 13,032.

## 4. MEXICO’S SUPPLY CHAIN REPORTING LEGISLATION

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Mexico has no supply chain reporting legislation that obliges private businesses to control their supply chain to hinder human trafficking.

Some initiatives regarding supply chain reporting at the country and international level aim at combating child labor, such as (i) international treaties, (ii) a Constitutional Amendment to Raise Minimum Working Age, and (iii) awards issued by the Federal Government to recognize corporations that have policies addressing the prevention and eradication of child labor.

Some initiatives at the federal level, especially related to child labor, also may influence companies to manage their supply chain to meet their human rights obligations:

International Treaties. Mexico has ratified and is party to a number of international treaties that advocate for the establishment of anti-human trafficking measures and the protection of children's rights. Those treaties require the parties to replicate their obligations in their own national legislation. The UN Convention on the Rights of the Child requires parties to take legislative, administrative, social, and educational measures to ensure the protection of children from economic exploitation.<sup>46</sup>

Constitutional Amendment to Raise Minimum Working Age. In 2014, Article 123 of the Constitution was amended to raise the minimum working age from 14 to 15 years old, for the purpose of directing youth to continue their education. To harmonize the national and international legal framework, on June 10, 2016, Mexico ratified the International Labour Organization's Convention No. 138, which requires the minimum employment age to be the age to complete compulsory education, but not less than 15 years old.

Mexico Without Child Labor Distinction. The Federal Government gives the Mexico Without Child Labor Distinction to recognize federal, state, and municipal public institutions, private and social sector organizations, trade union and corporate organizations, and employer associations that have processes, policies, programs, and actions that contribute to the prevention and eradication of child labor and the protection of working adolescents. In addition to promoting and strengthening the culture of social responsibility, the award contains, as part of its structure, a management model for the development of good practices for the care and protection of the rights of children and teenagers.<sup>47</sup>

## 5. FORCED LABOR: OVERVIEW OF MEXICO'S APPLICABLE EMPLOYMENT AND MIGRATION LAWS

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### 5.1. Employment Law Rights for Victims of Human Trafficking and Forced Labor

The legal framework on employment and forced labor in Mexico consists of: (i) the Constitution, which establishes the fundamental rights of workers and principles of labor relationships; and (ii) federal legislation, which establishes employee rights and employers' obligations towards employees and labor authorities, and which also regulates migration and forced labor of migrants and refugees. The Federal

<sup>46</sup> Convention on the Rights of the Child, Article 32:

"1. States parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present Article. To this end, and having regard to the relevant provisions of other international instruments, states parties shall in particular: (a) Provide for a minimum age or minimum ages for admission to employment; (b) Provide for appropriate regulation of the hours and conditions of employment; (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present Article."

<sup>47</sup> <https://www.gob.mx/cms/uploads/attachment/file/11567/LINEAMIENTOS.pdf>.



Labor Law (*Ley Federal del Trabajo*) (**LFT**) and the Federal Migration Law (*Ley de Migración*) (**Migration Law**) apply to all Mexican states.

### 5.1.1. Constitutional principles regarding forced labor and employee rights

Article 5 of the Constitution states that no person shall provide work or services without (i) fair remuneration (*i.e.*, a salary); and (ii) their due and express consent. This translates into a prohibition of forced labor. This fundamental Constitutional right applies to all government and private activity.

Article 123 of the Constitution establishes employees' main rights and strong protections, which the LFT further regulates.

### 5.1.2. The LFT and the Migration Law

Applying the constitutional principles, among other things, the LFT provides (i) basic rights of workers; and (ii) obligations of employers to prevent forced labor. Employment law applies at a federal level in Mexico.

Furthermore, the Migration Law makes it a criminal felony to bring undocumented persons into Mexico for the purposes of human trafficking or obtaining economic benefits. This law also states that a witness to a crime (such as human trafficking) will not be prosecuted for being undocumented.

## 5.2. Applicability of Employment Legislation in the Context of Forced Labor or Trafficking

Labor claims may be brought in a Mexican Labor Court (*Junta de Conciliación y Arbitraje*) when there is an employment relationship as defined in the LFT, regardless of the existence of a signed employment agreement:

- i. Work performed by a person;
- ii. For a third party; and
- iii. In exchange for the payment of a salary (economic commitment).<sup>48</sup>

Victims of human trafficking carrying out forced labor may file claims under the LFT for unpaid salaries, along with other violations of their rights as employees. However, victims of human trafficking and forced labor rarely file those claims, due to fear of retribution. According to the CNDH report for 2019, no victims filed for damages under the LFT.

Initiating a labor claim does not preclude the victim's right to bring a criminal claim against a responsible party.

## 5.3. Statutory rights

Employees (as defined in the LFT) have constitutional and statutory rights that serve as a basis to assess whether a person is the subject of forced labor, and that trafficking victims also can use as a basis to claim damages.

<sup>48</sup> Article 20, LFT, available at: [http://www.diputados.gob.mx/LeyesBiblio/pdf/125\\_020719.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/125_020719.pdf).

### 5.3.1. *Right to minimum wages, entitlements, and other applicable minimum standards*

Article 123 of the Constitution establishes the fundamental right of any employee to receive a salary. Salaries must comply with Mexico's minimum wage policies. The National Commission for Minimum Wages (*Comisión Nacional de los Salarios Mínimos*) (**CONASAMI**) sets general and regional minimum wages, which vary between different regions within Mexico. The LFT provides that an employer may not seize the payment of a minimum wage (embargo) and must pay in immediately available funds (*i.e.*, not in coupons, merchandise, or other items). The employer also may not withhold the payment of a minimum wage as a fine imposed on an employee.

As stated in Article 123, Section A, Subsection I and Subsection II of the Constitution, the maximum working day shift is eight hours and the maximum night shift is seven hours. For every six consecutive days of work, employees must have one day of rest.

The Constitution states that all employees have a right to a dignified place of work (*i.e.*, sanitary conditions and a safe place of work). The LFT and other regulatory federal provisions specify certain levels of sanitary care and facilities for employees and establishments.

Employers must register their employees with Mexican social security authorities and pay the social security and statutory employers' taxes for each employee. In addition, the LFT obligates employers to provide employees with work spaces in accordance with health and security regulations. Furthermore, employers must implement a protocol to prevent gender discrimination, provide attention to sexual harassment and violence in the workplace, and eradicate forced and child labor in their workplace.

All employees have the right to social security. Private employers must provide employees with access to the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social*) (**IMSS**), where they benefit from (i) access to medical care; and (ii) the right to accumulate retirement and pension funds. Public employers have similar obligations under a specific labor legal framework applicable to government employees.

Employers are obligated to pay a fraction of employees' salaries directly to the IMSS to pay for their access to medical care and retirement pensions. Equivalent measures apply to public officers and employees.

### 5.3.2. *Claims available in relation to misrepresentations and "sham" arrangements*

Mexico has no applicable laws.

### 5.3.3. *Claims available in relation to unlawful deductions, loans, and debt bondage*

Refer to Sections 3.3.5. and 5.3.1.

### 5.3.4. *Remedies*

Refer to Section 7.

## 5.4. **Rights to a Safe Workplace and Compensation Associated With Injuries or Illness**

Human rights at work include, among others, the right to social security for the individual to access the health and social protection systems, through the institutions established to provide them, IMSS and the Mexican Institute of Security and Social Services for State Workers (**ISSTE**). Workers therefore have protection in the event of illness, general accidents, occupational hazards and pensions for incapacity for

work, widowhood, or orphanhood. These constitute a minimum of social security that employers are obliged to grant to workers.

Refer also to Section 5.3.1.

## 5.5. Access to Justice and Practical Issues Associated With Enforcing Social Legislation

Although the right to health protection is guaranteed in Article 4 of the Constitution, no provision is made to ensure that the entire population in general enjoys this human right. In the area of social security, several problems have been identified, including, but not limited to, the lack of uniformity among pensions, the limitations of pension funds, the problem of quality in social protection, and deficient infrastructure.

Social security does not cover all sectors of the population and coverage is discriminatory, depending on the insured sector.

## 5.6. Interaction Between Employment Law and Migration

### 5.6.1. *Employment rights affected where employment is unlawful under migration law*

Mexico has long served as a hub and access road for migrants seeking entry into the United States from Central and South America. It is also the primary access point for undocumented migrants to cross over the border. Mexico's border with Guatemala is one of the main points in the American continent where undocumented migrants cross a border. To an important extent, both of Mexico's borders have been direct and indirect primary sources of entry into the United States.

An undocumented person does not have the rights applicable under the LFT. Undocumented migrants are often subject to forced labor. In numerous cases, they are promised unique and exclusive access into the United States, but then are forced to work in inhumane conditions and for extremely long hours for almost no pay. In addition, threats to report them to migration authorities force them to keep quiet about the situations they have witnessed. Undocumented migrants who are subject to forced labor also lack information about their rights as victims of forced labor and human trafficking.

Many migrants on their way to cross the Mexican border into the United States have reported a practice known as "wait-listing." Mexican authorities do not allow migrants who arrive in border cities like Nuevo Laredo, in the state of Tamaulipas, and other cities in states along the border, to approach the border unless they are brought by "verified" persons, who may be owners of safe houses or religious shelters.

In the best-case scenarios, migrants have stayed in those shelters waiting to have the opportunity to claim asylum in the United States. However, many become victims of forced labor, subject to human trafficking activities, or are kidnapped or recruited by organized crime groups.

These circumstances along Mexico's northern border cause a concentration of undocumented migrants who do not receive official information from trustworthy sources and who become vulnerable and subject to forced labor while they are waiting to cross the border to claim asylum. In addition, the U.S. Migrant Protection Protocols (MPP), which were in force and effect from January 2019 until January 2021, and were subsequently reinstated, and the COVID-19 pandemic created additional barriers. The MPP requires asylum-seekers and refugees to return to Mexico for the duration of their asylum proceedings in the United States.

### 5.6.2. Rights/remedies available under applicable migration law and regulations

Chapter III of the Regulations of the Anti-Human Trafficking Law contains “Measures to assist foreign victims in Mexican territory and victims of Mexican nationality abroad.” The National Institute of Migration assists foreigners identified as victims of crimes related to human trafficking. Likewise, if necessary, it will request the intervention of the competent authority for the care of victims so that the victim may receive immediate and urgent comprehensive medical and psychological care by the competent authorities and of the Attorney General’s Office to provide the necessary protective measures.

When a foreign victim expresses their willingness to return to their country of origin or permanent residence, the National Institute of Migration will carry out the necessary steps to ensure their return.

In the case of minors or persons who do not have the capacity to understand human trafficking crimes, the National Institute of Migration, in coordination with the Ministry of Foreign Affairs and, where appropriate, with the National System for Integral Development of the Family, will request the diplomatic or consular representation of the victim’s country of origin or permanent residence to initiate the corresponding investigation so that the necessary conditions of security and non-revictimization exist, prior to the return of the victim.

On the other hand, if foreign victims or offended persons who are in Mexican territory request recognition of refugee status from the Mexican State, the competent authority for victim assistance, the National Institute of Migration, and the General Coordination of the Mexican Commission for Refugee Aid shall coordinate the measures of assistance and protection to the victims or offended parties.

## 5.7. Employment Laws and Child Labor

Child labor is prohibited in Mexico. No person under the age of 15 years may work in an employment relationship.

Persons under the age of 16 require parental consent to be employed and have a right to all statutory benefits under the Constitution and the LFT.

The LFT considers anyone over the age of 16 as an employee.

## 6. GOVERNMENT PROCUREMENT RULES

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### 6.1. Overview

In Mexico, both the federal and state levels of government are subject to procurement rules and procedures. But none of those regulations sets forth any kind of provision to prevent human trafficking with regard to the goods and services procured by the government. Nevertheless, some free trade agreements may exclude suppliers involved in illegal or fraudulent activities from government procurement. These agreements may apply to human trafficking.

### 6.2. Government Procurement Rules and Action Plan

Procurement at federal and state levels of government is subject to various rules and procedures. The Public Works and Related Services Law (*Ley de Obras Públicas y Servicios Relacionados con las Mismas*), the Public Sector Acquisitions, Leases and Services Law (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*), and their regulations apply to the federal government. These laws or regulations contain any requirement or mechanism that is intended to prevent human trafficking.

Several chambers of commerce and industrial associations for the different sectors have codes of conduct to prevent and combat corrupt practices. However, most of these codes leave human trafficking out of their rules.

A number of free trade agreements executed by Mexico<sup>49</sup> provide the possibility of excluding from government procurement those suppliers involved in illegal or fraudulent activities. For example, the United States-Mexico-Canada Agreement (**USMCA**) expressly allows a state party to exclude a supplier on grounds of “professional misconduct or actions or omissions that adversely reflect on the commercial integrity of the supplier.”<sup>50</sup> This provision is broad enough to encompass human trafficking.

## 7. RESTITUTION AND VICTIM COMPENSATION

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### 7.1. Overview

In Mexico, a human trafficking victim may obtain pecuniary and non-pecuniary damages by initiating a civil proceeding before the criminal court judge during the criminal trial against the presumed perpetrator of the trafficking offense. The victim, in the alternative, may bring a separate civil lawsuit to obtain damages. In case the presumed perpetrator is the State, the victim can bring an administrative action.

### 7.2. Reparation Scheme

#### 7.2.1. Criminal liability

The Constitution establishes that, in a criminal proceeding, the Public Prosecutor is obliged to seek the reparation of any damage caused to the victims.<sup>51</sup>

Likewise, victims are entitled to present their request for compensation directly to the judge hearing the claim.

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<sup>49</sup> Those free trade agreements include:

- i. Mexico - Panama Free Trade Agreement.
- ii. Mexico - Costa Rica, el Salvador, Guatemala, Honduras and Nicaragua Free Trade Agreement.
- iii. EU – Mexico Trade Agreement.
- iv. United States, Mexico and Canada Agreement.

<sup>50</sup> Article 13.7, paragraph 4 of USMCA provides: If there is supporting evidence, a Party, including its procuring entities, may exclude a supplier on grounds such as:

- (a) bankruptcy or insolvency;
- (b) false declarations;
- (c) significant or persistent deficiencies in the performance of any substantive requirement or obligation under a prior contract or contracts;
- (d) final judgments in respect of serious crimes or other serious offenses;
- (e) professional misconduct or actions or omissions that adversely reflect on the commercial integrity of the supplier; or
- (f) failure to pay taxes.

<sup>51</sup> Article 20, section C, subsection IV of the Constitution.

### 7.2.2. Civil liability

Human Trafficking victims are able to seek the reparation of material and moral damages through a civil proceeding against their perpetrators. The Mexican Federal Civil Code (*Código Civil Federal*) (**Federal Civil Code**) states that the person who illegally causes harm to another person is obliged to repair the damages.<sup>52</sup>

The Federal Civil Code establishes that the victim may choose between the restoration of the situation to its original state before the event, when possible, or the payment of damages. Furthermore, when a crime produces moral damages, the responsible party shall be bound to repair those damages by means of a monetary compensation, in addition to the material damages.<sup>53</sup>

The statute of limitations for this civil lawsuit is two years.

Victims of human trafficking, regardless of any reparation, may also file a civil claim to secure compensation for the material and moral damages suffered.

### 7.2.3. Administrative liability

The Federal Law of the Responsibilities of Public Officers (*Ley Federal de Responsabilidades de los Servidores Públicos*) establishes the right to compensation for those who suffer damages to their property and rights because of the irregular administrative activity of the State. This procedure includes a violation of human rights.

The Federal Law of the Responsibilities of Public Officers applies to the Judicial, Legislative, and Executive Powers of the Federation, as well as autonomous constitutional agencies, agencies, entities of the Federal Public Administration, the Federal Attorney General's Office, the Federal Administrative Courts, and any other public entity at the federal level. The victim must file the claim with the allegedly responsible agency or entity within one year. The victim may recover personal and moral damages. The procedures are set forth in the Federal Law of Contentious-Administrative Procedure (*Ley Federal de Procedimiento Contencioso Administrativo*). The victim can appeal an unfavorable resolution or amount to the Federal Court of Administrative Justice (*Tribunal Federal de Justicia Administrativa*).

## 7.3. Restitution and Victim Compensation Under Anti-Human Trafficking Law

The Anti-Human Trafficking Law establishes that a person who is convicted for a human trafficking crime must compensate the victim. Reparation of the damage must be comprehensive, effective, adequate, and proportional to the severity of the damage caused and the harm suffered. It must include, among others:

- i. Restitution of property;
- ii. Payment of physical, material, and psychological damage as well as reparation of moral damage;
- iii. Loss of opportunities for employment, education, and social benefits;
- iv. Payment of lost economic income;
- v. Expenses for legal assistance and representation until the full conclusion of the legal proceedings;

<sup>52</sup> Article 1910 of the Federal Civil Code.

<sup>53</sup> Articles 1915 and 1916 of the Federal Civil Code.

- vi. The costs of transportation if the victims decide to return to their place of origin; food, temporary housing, clothing, and any other expenses incurred during the investigation and the criminal process; and the full physical and psychological rehabilitation of the victim;
- vii. A declaration that restores the dignity and reputation of the victim or injured party and those persons linked to the victim or injured party; and
- viii. A public apology, which acknowledges the facts and accepts responsibility, when a public official is involved in the crime.

When the victim has died, their economic dependents, heirs, or rightful claimants are entitled to compensation for damage.

The judge determines the amount of damages. The damages may be recovered from the offender's assets or through any bond provided to cover the offender's provisional release or financial penalty. When the offender's assets or bond are insufficient to pay the full amount of damages, the Federation and the states shall cover the unpaid amount through their fund (refer to Section 8.5).

If the person who commits the crime is a member of organized crime, the victim, offended parties, and witnesses shall have the right to change their identity and residence. Furthermore, if the person who commits the crime is a public official, the State shall compensate the victims.

#### 7.4. Protection and assistance to the victims

The federal and state governments must establish a fund for the protection and assistance of the victims.

Money for the fund shall come from government resources, the disposal of confiscated assets in criminal proceedings, and other third-party contributions.

## 8. MEXICO'S MULTIDISCIPLINARY/INTERAGENCY COOPERATION APPROACH

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### 8.1. Overview

The Mexican legal framework for human trafficking is based mainly on two legal provisions: (i) the Anti-Human Trafficking Law; and (ii) the Federal Criminal Code. Each of these instruments establishes the authority for all governmental entities involved in the regulation and prosecution of human trafficking in Mexico.

Because Mexico is a federation, each level of government has been granted different rights and obligations to prevent human trafficking.

Furthermore, several human rights commissions may also establish policies on human trafficking.

### 8.2. Objectives of the Anti-Human Trafficking Law

The main objectives of the Anti-Human Trafficking Law are to:

- Establish the actions or omissions that are considered to be human trafficking crimes, and the sanctions applicable to those crimes;



- Establish jurisdiction, authority, and coordination for the prevention, investigation, prosecution, and punishment of crimes involving human trafficking between the federal, state, and local governments;
- Establish effective mechanisms to safeguard the life, dignity, freedom, integrity, and security of persons, as well as the free development of children and adolescents, when they are threatened or harmed by criminal offenses; and
- Ensure comprehensive, adequate, efficient, and effective reparations to victims of human trafficking.

The Anti-Human Trafficking Law defines the “exploitation” of a person as “the slavery, servitude, the prostitution of others or other forms of sexual exploitation, exploitation of labor, forced labor or services, forced begging, the use of persons under the age of 18 in criminal activities, illegal adoption of a person under the age of 18, forced or servile marriage, trafficking in organs, tissues and cells of living human beings and illegal biomedical experimentation on human beings.”

### 8.3. Prevention, Investigation, and Prosecution Under the Anti-Human Trafficking Law

All three levels of government (federal, state, and local) have some authority to investigate and prosecute human trafficking crimes.

The Anti-Human Trafficking Law gives the federal government authority to investigate, prosecute, and punish human trafficking crimes when (i) the rules of jurisdiction for federal or local courts are applied, in accordance with applicable law; (ii) the crime is initiated, prepared, or committed abroad, as long as it produces or is intended to produce effects in Mexico, or when it is initiated, prepared, or committed in Mexico, as long as it produces or is intended to produce effects abroad; (iii) the Federal Public Prosecutor requests to handle the matter; or (iv) the action is committed by organized crime.

Otherwise, state governments have the authority to investigate, prosecute, and punish human trafficking crimes.

As a result, the Anti-Human Trafficking Law requires the federation, state governments, municipalities, and territorial demarcations (currently, *alcaldías*) of Mexico City to coordinate their activities.

For such purposes, the Anti-Human Trafficking Law created the Human Trafficking Commission.

#### 8.3.1. Federal responsibilities

According to Article 113 of the Anti-Human Trafficking Law, the Federation must determine the country’s policy on human trafficking. The Federation must establish, among others, (i) general guidelines to evaluate actions and programs; (ii) unique protocols for the rescue, assistance, and protection of victims and potential victims; (iii) minimum requirements for plans and projects formulated by federal authorities, local entities, municipalities, and territorial districts of Mexico City; (iv) the minimum requirements for the projects and programs formulated by the social service organizations involved in the fight against human trafficking; (v) a national register of the departments, institutions, and social service organizations involved in the fight against human trafficking, and (vi) the bases of coordination for the application of the National Program to Prevent, Sanction and Eradicate Human Trafficking Crimes and to Protect and Assist the Victims of these Crimes (*Programa Nacional para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos Delitos*) (**National Program**).

### 8.3.2. State responsibilities

State authorities must formulate policies and implement state programs to prevent, punish, and eradicate human trafficking crimes, as well as to protect, care, rehabilitate, and achieve the recovery of the victims, potential victims, other affected people, and witnesses of such crimes. Likewise, state authorities must propose national and regional content to the Human Trafficking Commission, to be incorporated into the National Program and provide training, updating, and capacity building for the institutional actors involved in the processes of preventing and combating crimes in the *maquila* sector.<sup>54</sup> State authorities must also provide assistance and protection for the victims; implement programs and projects for care, education, training, and research in the area of slavery, human trafficking, exploitation, and other related offenses; promote programs to prevent risk factors for potential victims, including local development programs; and create shelters for victims, aggrieved parties, and witnesses of crime. State authorities are required to review and evaluate the effectiveness of policies, programs, and actions, and promote regulatory amendments to meet the objectives in this area.

### 8.3.3. Municipal responsibilities

Municipalities are obliged to implement policies and actions to prevent and eradicate slavery and human trafficking; help with awareness and training programs for public officers who may come into contact with potential victims of crime; and help with the creation of shelters, protection, and emergency assistance for victims. Municipalities must also detect and prevent human trafficking in their territory when authorizing the operation of establishments, such as bars, nightclubs, places of entertainment, fairgrounds, sports centers, massage parlors, hotels, common restrooms, steam rooms, lunchrooms, restaurants, public thoroughfares, Internet cafés, and others, as well as by monitoring and inspecting those businesses.

## 8.4. The Human Trafficking Commission

The Human Trafficking Commission and the Fund for the Protection and Assistance of Victims of Human Trafficking (*Fondo de Protección y Asistencia a las Víctimas de los Delitos en Materia de Trata de Personas*) (**Fund**) are the bodies responsible for defining and coordinating the implementation of the Government policy on human trafficking.

The Human Trafficking Commission is composed of the heads of: (i) the Ministry of the Interior (*Secretaría de Gobernación*); (ii) the Ministry of Communications and Transport (*Secretaría de Comunicaciones y Transportes*); (iii) the Ministry of Foreign Affairs (*Secretaría de Relaciones Exteriores*); (iv) the Ministry of Public Security (*Secretaría de Seguridad Pública*); (v) the Ministry of Labor and Social Security; (vi) the Ministry of Health (*Secretaría de Salud*); (vii) the former Ministry of Social Development (*Secretaría de Desarrollo Social*), currently the Ministry of Welfare (*Secretaría de Bienestar*); (viii) the Ministry of Public Education (*Secretaría de Educación Pública*); (ix) the Ministry of Tourism (*Secretaría de Turismo*); (x) the Federal Attorney General's Office (*Fiscalía General de la República*); (xi) the National System for the Integral Development of the Family (*Sistema Nacional para el Desarrollo Integral de la Familia*); (xii) the Attorney General's Office for the Care of Victims of Crime (*Procuraduría Social de Atención a Víctimas del Delito*), currently the Executive Committee of Attention to Victims (*Comisión Ejecutiva de Atención a Víctimas*) (**Executive Committee**); (xiii) the National Institute for Women (*Instituto Nacional de las Mujeres*); (xiv) the National Institute of Migration (*Instituto Nacional de Migración*); and (xv) the National Institute of Criminal Sciences (*Instituto Nacional de Ciencias Penales*).

Through the National Program, the Human Trafficking Commission is to facilitate nationwide coordination of anti-human trafficking programs, the collection and exchange of data about human trafficking offenses,

<sup>54</sup> Maquiladoras are low-cost factories in Mexico owned by foreign corporations. Generally, the workers in these factories assemble products for export.

and cooperation with other countries (mainly those who report the greatest number of foreign victims and those identified as transit or destination countries for Mexican victims).

## 8.5. The Fund for the Protection and Assistance of Victims of Human Trafficking

The federal and state governments have established a fund for the protection and assistance of the victims of the crimes covered by the Anti-Human Trafficking Law. The Ministry of the Interior administers the fund through the General Directorate of Strategies for Human Rights Care (*Dirección General de Estrategias para la Atención de Derechos Humanos de la Secretaría de Gobernación*).

Fund assets include all confiscated goods and assets that served as an instrument, object, or proceeds of human trafficking crimes.

### 8.5.1. Administration

The Fund has a technical committee, composed of five public servants of the Ministry of the Interior at the minimum level of Deputy Director General (**Technical Committee**).

The Technical Committee is to oversee any lack of transparency in the area of human trafficking, as well as unjustified delays or burdens that aggravate the status of victims' claims or that discourage or impede victims' access to the Fund's resources. The principles of efficiency and rationality determine resource allocation.

### 8.5.2. Allocation of the funds

The Technical Committee allocates annually the resources of the Fund for several purposes, based on the proposal of the General Directorate of Strategies for Human Rights Care of the Ministry of the Interior (*Dirección General de Estrategias para la Atención de Derechos Humanos de la Secretaría de Gobernación*):

- i. The amount determined by the judge in an enforceable judgment for the reparation of damage to victims and injured parties;
- ii. Costs of medical treatment, medicines, clinical examinations, and necessary interventions, prostheses, or orthopedic appliances;
- iii. Costs of psychiatric and psychological therapy or treatment, and physical, social, and occupational rehabilitation;
- iv. Costs of transport, including return to the place of origin (if the victim or injured party decides to return to their place of origin), food, temporary housing, clothing, and any other necessary costs;
- v. Loss of opportunities, including employment, education, and social benefits;
- vi. Material damage and loss of earnings, including compensation for time lost from work;
- vii. Costs of legal assistance and representation or expert witnesses;
- viii. The cost of the stay of victims, offended parties, or witnesses in shelters, halfway houses, or other suitable housing; and
- ix. Costs of protection measures.

Allocations from the fund are based on: (i) the needs of the victim or injured party; (ii) the seriousness of the harm suffered by the victim or injured party; (iii) the current socio-economic situation of the victim or

injured party; (iv) the vulnerability of the victim or injured party due to the type of harm suffered; (v) the victim's or injured party's relationship to the aggressor; (vi) the psychological and emotional profile of the victim or injured party; and (vii) access to social or private help and assistance.

The victim or injured party must have an enforceable court judgment condemning the perpetrator and providing for damages to access the fund in the case of reparation damages.

The resources of the Victim and Witness Protection Program (*Programa de Protección de Víctimas, Ofendidos y Testigos*) are used to change identities and residences of victims, other injured parties, and witnesses.

## 8.6. Preventive Measures

The Undersecretary for Media Regulations (*Subsecretaría de Normatividad de Medios*) of the Ministry of the Interior shall monitor and, when appropriate, immediately notify the Federal Attorney General's Office of any unlawful or misleading advertising.

The Federal Attorney General may investigate places where offenses are believed to occur. In addition, if victims are indigenous people or foreign individuals, the government body responsible for victim care must ensure that personnel who speak the victims' language take care of the victims or, where appropriate, provide an interpreter.

The Ministry of the Interior, through the Directorate-General for Human Rights Strategy (*Dirección General de Estrategias para la Atención de Derechos Humanos*) of the Ministry of the Interior, in coordination with the Ministry of Foreign Affairs and the Federal Attorney General, shall carry out public information campaigns. Those campaigns have the purpose to raise awareness about (i) the crimes involving human trafficking; (ii) prevention measures, and (iii) the institutions where it is possible to request assistance and protection for victims, including the telephone number and e-mail address available to make anonymous complaints.

Public information campaigns on offenses relating to human trafficking must be interpreted in Mexican sign language and translated into indigenous languages. The National Institute of Indigenous Languages (*Instituto Nacional de Lenguas Indígenas*) and the National Council for the Development and Inclusion of Persons with Disabilities (*Consejo Nacional para el Desarrollo y la Inclusión de las Personas con Discapacidad*) are to assist in the translation of information.

## 8.7. National Commission of Human Rights

The CNDH aims to prevent and address the problem of human trafficking. It has proposed a number of activities:

- i. Ensure that all persons have sufficient information about their rights and powers.
- ii. Create awareness and sensitization campaigns on the problem of human trafficking.
- iii. Eradicate xenophobic and discriminatory practices and discourse.
- iv. Carry out social, educational, legislative, economic, political, and cultural measures to curb the demand that leads to the exploitation of people.
- v. Work to combat the structural problems (poverty, corruption, impunity, inequality) that make trafficking viable in Mexico.

- vi. Recognize that migration often leads to human trafficking, so it is important to seek solutions in this regard.
- vii. Create programs aimed at promoting the social reintegration of victims of trafficking.
- viii. Increase efforts in the fight against corruption.

The CNDH also focuses on eradicating three causal factors of human trafficking in Mexico: (i) the vulnerability of victims and potential victims; (ii) the demand for the goods and services produced by trafficked persons; and (iii) an environment in which traffickers and their accomplices operate with impunity.

## 8.8. Office of the Special Prosecutor for Crimes of Violence against Women and Human Trafficking of the Federal Attorney General’s Office

The main function of the Office of the Special Prosecutor for Crimes of Violence against Women and Human Trafficking of the Federal Attorney General’s Office (*Fiscalía Especial para los Delitos de Violencia Contra las Mujeres y Trata de Personas*) (**Anti-Human Trafficking Prosecutor**) is to investigate and prosecute federal crimes related to violence against women and human trafficking. It also assists in providing victims and their children with a safe and healthy place to live temporarily, if necessary.

The Anti-Human Trafficking Prosecutor combats violence against women and human trafficking by: (i) providing training to those who operate the criminal justice system and public servants whose activities are related to prevention and reporting of these crimes; and (ii) increasing awareness through printed materials, orientation sessions, information modules, and messages through the social networks of the Attorney General’s Office.

## 8.9. Executive Committee

The Executive Committee<sup>55</sup> is the operating body of the National System of Care for Victims (*Sistema Nacional de Atención a Víctimas*), the highest body for the coordination and formulation of public policy to care for victims. It sets guidelines for the protection, assistance, and comprehensive reparation of victims at the federal, local, and municipal levels. Its members are elected by the Senate, from a shortlist proposed by the President.

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<sup>55</sup> Previously known as the Social Prosecutor’s Office for Assistance to Crime Victims.