



Independent sex workers march on 1 May 2017, International Labour Day, in La Merced, Mexico City. Photo credit: Brigada Callejera

MEXICO

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Mexico is the largest Spanish-speaking country in the world. Although considered an upper-middle income country, it is marked by high levels of inequality, with rates of poverty higher among women, migrants and indigenous people. Furthermore, large proportions of the population are employed in informal jobs with inadequate labour protections.

Mexico is a country with high levels of violence and impunity, including violence against women. Gang-related criminal activity is widespread, and human trafficking into the sex industry, as well as other forms of coercion and exploitation in the industry, are relatively common, as several cases documented in this study illustrate.

Consensual sex work is also a reality and a livelihood option for many women. However, Mexico's human trafficking law does not adequately distinguish between the two phenomena. The conceptual vagueness of the law, combined with entrenched police and administrative corruption, has resulted in widespread, documented abuses and misuse of the law to target sex workers.

The current research documents how organising of sex workers contributes to protecting and upholding their human rights and improving their working conditions. The focus of the study is the organisation *Brigada Callejera de Apoyo a la Mujer* (abbreviated alternatively as BCAM or *Brigada*). The objectives of the study were: 1) To document the approach of BCAM towards empowering sex workers to claim their rights; 2) To explore their experience interacting with the anti-trafficking framework and how it impacts on their work; and 3) To examine the strategies used by BCAM to support sex workers and confront exploitation and abuse, including situations of trafficking.

The research was conducted with staff of *Brigada* at various levels—those involved in strategy and advocacy, and those who provide services to sex workers. Fieldwork was conducted in three locations: Mexico City, Guadalajara, and Chiapas State on the border with Guatemala. Sex workers were visited and interviewed in a variety of workplace settings. The interviews revealed that many sex workers operate in a hostile environment which is characterised by pervasive violence, abuse, corruption and impunity, both by criminal gangs and inept officials. Sex workers have to deal with these dual threats as they strive to earn a living. However, as the many of the quotes in this chapter will illustrate, sex workers want an end to the multiple abuses in the industry, not the industry itself, which is their source of livelihood. Prohibitionist measures, which aim to eradicate the sex industry, only serve to deprive those involved in the industry of their livelihood, and have the perverse effect of actually pushing them under the influence of gangs and cartels.

Brigada's approach to the challenges that sex workers face is essentially threefold. Firstly, they provide comprehensive, person-centred legal, health, and psychosocial services to sex workers, in a way which respects their self-determination. Secondly, they support the self-organising and mobilisation of sex workers, amongst their own membership, and in alliances with organisations such as the Mexican Network of Sex Work. Thirdly, they actively advocate for the creation of a legal and policy environment which respects sex workers' rights, as human beings and as workers. Two recent successful constitutional court challenges have advanced the recognition in Mexico of sex workers as workers, and the distinction, in law, between sex work and human trafficking.

Introduction

Socio-Economic and Political Context

Mexico is the largest Spanish-speaking country in the world with an estimated of 123.52 million people as of 2017.¹ Demographically, Mexico is approaching a point of equilibrium, with population growth at 1.3% and fertility rate at 2.2 children per woman.² Mexico is considered an upper-middle income country, with the 15th highest annual Gross Domestic Product in the world at USD 1.046 trillion in 2016, and a Gross National Income per Capita of USD 16.383 (2011 PPP\$).³ The unemployment rate in June 2017 was 3.3% of the economically active population, the lowest since February 2006.⁴ However, although the total level of employment is high, most people are employed in informal and low-paid jobs, lacking full access to social security.⁵ As a result, close to half of the country's population live below the official national poverty line, and 3% live with less than USD 1.90 a day.⁶

Mexico's GINI coefficient (which measures differences in income) is 48.21,⁷ which makes it one of the OECD countries with the highest levels of inequality. One per cent of the population receives 21% of the country's income. Indigenous people (who constituted 10.1% of the total population in 2015⁸), are particularly affected by inequality, with 75% of them living in poverty and 38% in extreme poverty, compared to, respectively, 50% and 10% for the total population.⁹

Cold economic figures, however, do not describe the quality of life as well as UNDP's Human Development Index (HDI), which also takes into account health and education. Of 188 countries and territories, Mexico ranks 77 in HDI (with a score of 0.762), which places it in the High Human Development group, along with most of the rest of Latin America. However, when the index is adjusted for inequality, it decreases to 0.587.¹⁰

Two key programmes have been established by the government to assist the poor: *Prospera* (a conditional cash transfer programme) offers several essential health services,

¹ CONAPO, *Proyecciones de la población 2010-2050*, Actualización 2015, <http://www.conapo.gob.mx/en/CONAPO/Proyecciones>.

² World Bank data report 2016.

³ *Ibid.*

⁴ Redacción, 'Cae desempleo a 3.3% en junio, la cifra más baja desde 2006', *Excelsior*, 21 July 2017, <http://www.excelsior.com.mx/nacional/2017/07/21/1176993>.

⁵ Instituto Nacional de Estadística y Geografía, *Indicadores de ocupación y empleo, Cifras oportunas durante junio de 2017 (desestacionalizadas)*, http://www.inegi.org.mx/saladeprensa/boletines/2017/iooe/iooe2017_07.pdf.

⁶ World Bank data report 2016.

⁷ World Bank estimate, <http://data.worldbank.org/indicador/SI.POV.GINI?locations=MX>.

⁸ Comisión Nacional para el Desarrollo de los Pueblos Indígenas, *Estadísticas e indicadores vinculadas a los derechos de los pueblos y comunidades indígenas*, CDI, 2016, <https://www.gob.mx/cms/uploads/attachment/file/249028/cdi-nota-tecnica-indicadores-derechos-pueblos-indigenas.pdf>.

⁹ G E Hernández, *Extreme Inequality in México, Concentration of Economic and Political Power*, Even It Up/OXFAM-México, June 2015, http://www.socialprotectionet.org/sites/default/files/inequality_oxfam.pdf.

¹⁰ UNDP, *Human Development Report 2016: Human development for everyone*, UNDP, New York, 2016.

assistance for food for the elderly and school expenses for children to a total of 25 million registered beneficiaries. Besides social assistance, *Prospera* is intended to promote employment and women's economic inclusion.¹¹ *Seguro Popular de Salud* is a public and voluntary complementary social security programme to finance limited basic health services for people without access to the full regular Social Security system. In 2016 the number of beneficiaries of this programme was 54.9 million.¹² However, these programmes focus only on bringing essential relief to the poorest residents and do very little to actually improve their quality of life.

Despite the appearance of progress in the Latin American region, millions of people are being left behind. Poverty has a gender dimension: in Latin America there are 117 women living in poverty for each 100 men and inequality has increased 8% since 1997. Vulnerabilities are cumulative, so a rural indigenous woman without land will be more disadvantaged. Thirty-eight percent of Latin-Americans are in a position of high vulnerability with precarious employment in the services sector. Officially they are not considered poor, but they are not middle class either. In this situation of precarious work, and gender and income inequalities, many people, especially women, either migrate abroad for work or turn to sex work as the best available livelihood option.

Mexico has the reputation of being a source country for migration; however, migration trends are changing. Immigration to Mexico increased sharply over the past two decades. In 2015 the number of foreign-born people in Mexico reached the unprecedented level of one million, twice the number in 2000, but still less than 1% of the total population. Furthermore, although around 12 million Mexicans resided abroad in 2015, 97% of them in the United States, since 2009, the number of Mexicans returning to Mexico has been exceeding the number emigrating to the United States.¹³ In addition, in 2015, an estimated 377 000 Central American migrants transited through Mexico en route to the United States.

Crime and Punishment

Latin America is the most violent region in the world. Despite being home to only 8% of the global population, it accounts for 38% of all homicides. In the years between 2000 and 2016, more than 2.6 million people were killed. The violence is on a scale that only the war zones of the Middle East and Central Asia can match.¹⁴ In the Northern Triangle of Central America, intentional homicides are the highest in the region, with 75 per 100,000 inhabitants per year in Honduras, 64 in El Salvador and 31 in Guatemala, compared to 16 in Mexico.¹⁵

¹¹ L G D Lárraga, *How does Prospera work?: Best practices in the implementation of conditional cash transfer programs in Latin America and the Caribbean*, Inter-American Development Bank, Washington, 2016.

¹² Redacción, 'Depuran el padrón del Seguro Popular', *Excelsior*, 4 August 2016, <http://www.excelsior.com.mx/nacional/2016/08/04/1108917>.

¹³ OECD, *International Migration Outlook 2017*, OECD Publications, Paris, 2017.

¹⁴ M Marinho and D Tinoco, 'A New Campaign Against Latin America's Epidemic of Homicide', *Open Society Foundations*, 23 May 2017, <https://www.opensocietyfoundations.org/voices/new-campaign-against-latin-america-s-epidemic-homicide>.

¹⁵ UN Office on Drugs and Crime's International Homicide Statistics database.

According to the Global Impunity Index 2017 (GII) published by the Center of Studies on Impunity and Justice (CESIJ), Mexico is the country with the fourth highest Impunity Index in the world, after The Philippines, India, and Cameroon. The high levels of impunity are closely related to the country's socio-economic inequality. Social exclusion drives impunity and aggravates its consequences for those living in marginalised conditions.¹⁶

Against this backdrop of impunity, Mexico experiences very high rates of violence against women: in 2014, there were 6.3 femicides a day in Mexico.¹⁷ The State has been held responsible for not doing enough to address violence against women. In 2009 the Inter-American Court of Human Rights handed down a verdict against Mexico, with regards to the case of the Algodonero Field where eight women were found dead. The Court found the Mexican State guilty of denial of justice due to 'the lack of measures for the protection of the victims...the lack of prevention of these crimes, in spite of full awareness of the existence of a pattern of gender-related violence that had resulted in hundreds of women and adolescents murdered, the lack of response of the authorities to the disappearance (of the women), the lack of due diligence in the investigation of the homicides... as well as the denial of justice and the lack of an adequate reparation'¹⁸ to their families.

Sex work in Mexico

Culture and History

As in other parts of the world, in Mexico it is a commonly held belief that men *need* sex, and that women *bestow* it for the sake of love, as an exchange of favours, or by selling it. According to this belief, in the private sphere some women give sex *for free*, in exchange for security and sustenance, through marriage, while in the public sphere, *prostitutes* exchange it for money.

In Mexico, the practice of isolating and controlling a specific group of women to prevent them from transmitting sexual diseases is written in a variety of historical records—from some pre-Hispanic civilisations, through the colonial period, to the present.¹⁹

In colonial times, according to Roman Catholic traditional views, prostitution was considered a *necessary evil*, but morally despicable. Around the eighteenth century, sex workers were considered as *noxious beings*, bearers of venereal diseases or prone to public scandal. Consequently, the state implemented a regulationist model with clear policies and a legal-administrative-medical structure in order to fully control their lives

¹⁶ Juan Antonio Le Clercq Ortega & Gerardo Rodríguez Sánchez Lara, *Global Impunity Dimensions. Global Impunity Index 2017 (GII-2017)*, Fundación Universidad de las Américas, Puebla, 2017, http://www.udlap.mx/cesij/files/IGI-2017_eng.pdf

¹⁷ ONU Mujeres, SEGOB, and INMUJERES, *La violencia feminicida en México. Aproximaciones y tendencias, 1985-2014*, Mexico, 2016, http://cedoc.inmujeres.gob.mx/documentos_download/101258.pdf.

¹⁸ See *Caso González y Otras ("Campo Algodonero") vs. México*, Interamerican Court of Human Rights, 2009.

¹⁹ C Gayet. *Infecciones de transmisión sexual en México: una mirada desde la historia y el género*, Secretaría de Salud (Ángulos del sida), Mexico, 2015, http://www.censida.salud.gob.mx/descargas/biblioteca/ITS_en_Mex_una_mirada_1.pdf.

and bodies. By the nineteenth century, however, sex work became marked by high mobility. Brothels and cabarets were established, following the French system, which aimed at the professionalisation of sex workers. The law recognised the respectable *matronas* (madams) as intermediaries responsible for maintaining order.

In the first half of the twentieth century, the approach changed to one of state abolitionism. Brothels were banned, and *matronas* were prosecuted, but *padrotes* (pimps) took over and unregulated street prostitution increased. Procuring was declared a felony in 1929 in the capital city. In the second half of the century, some cities implemented new regulation systems, and so-called *tolerance zones*. However, these regulations coexist with a clearly abolitionist Criminal Code in all of the States, so the violence of pimps continues with impunity because of the lack of protection of women's rights. As an example, the small town of Tenancingo, Tlaxcala, is well-known for its *padrotes* who traffic women for coerced sexual services to the United States.²⁰

In 2014, after a lot of protests, mobilisation, lobbying, and strategical litigation, Mexico City's Government certified sex workers as non-salaried workers as a way to improve their safety and promote their rights.

Nowadays, in all of Mexico, offering sexual services for pay in the street is not a felony, but just an administrative offence, punishable with a maximum of 36 hours arrest, or a fine, and no criminal record. For decades this regulation has been used by corrupt police officers to extort money and sexual favours from sex workers. Similarly, in the State of Coahuila, the local Congress passed a law that allows the municipalities to issue ordinances to recognise and regulate non-salaried workers (street musicians, shoe cleaners, etc.), explicitly including sex workers too.

Socio-demographics of Sex Work

The sex industry had been growing and expanding, not just in size but also in diversity, brought about by technological and social changes. There are now new services and niches: live sex shows, erotic massages, lap dancing, stripping, escorting, telephone sex, and sex tourism.

It is impossible to know how many sex workers there are in Mexico, due to the stigma, and the hidden and often semi-criminalised status of their work. Brigada Callejera estimates that there are around 600,000 female sex workers (and an additional 200,000 young people selling sex).²¹ Most sex workers in the country are cis women, with a smaller number of men and trans women and are either Mexican citizens or migrants from other parts of Latin America. According to observations by Brigada Callejera,

²⁰ O M Torres, *Trata de personas: Padrotes, iniciación y modus operandi*, Inmujeres, Mexico, 2009, http://cedoc.inmujeres.gob.mx/documentos_download/101080.pdf.

²¹ BCAM extrapolates according to an ILO model; see L L Lim (ed.), *The Sex Sector. The economic and social bases of prostitution in Southeast Asia*, ILO, Geneva, 1999.

migrant sex workers from Colombia, Venezuela, Argentina, and Cuba work mainly in brothels, escort agencies, and lap dance clubs. In addition, for more than a decade, women from Eastern Europe have been increasingly coming to Mexico to work in the higher tiers of the industry.²² According to Brigada, some of these foreign workers were brought into Mexico by organised crime networks, but many of them came independently. The majority are undocumented and therefore vulnerable to abuse.

The HIV prevalence among female sex workers is 0.67% in contrast to 0.23% among the general population. In transgender and transvestites sex workers it is 15.5%.²³ Female sex workers are the only population group amongst whom HIV prevalence rates have decreased since the beginning of the epidemic, as a result of increased condom use and voluntary HIV testing.²⁴

The Incongruities of the Current Anti-Trafficking Law

Human trafficking was first included in the Mexican Federal Criminal Statute in 2007, in order to comply with the country's obligations under the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, (hereafter Trafficking Protocol). In the same year, a special federal law, *Ley para Prevenir y Sancionar la Trata de Personas* (Law for the Prevention and Punishment of Human Trafficking), was passed, which transposed the main aspects of the Protocol. This law was replaced in 2012 by the more efficient and comprehensive *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* (General Law for the Prevention, Punishment and Eradication of Trafficking in Persons crimes and for the Protection and Assistance to the Victims of Such Crimes—hereafter the General Law on Human Trafficking).²⁵

An unscrupulous application of the law would tend to consider that no woman can engage in sex work, just because she belongs to a vulnerable gender. This is in contradiction to the intentions of the Trafficking Protocol.

The General Law on Human Trafficking defines the crime in article 10 as 'the conduct of one or many people to recruit, entice, transport, transfer, retain, give, receive or harbour one or many people for the purpose of exploitation', for which they would receive a sentence of 5 to 15 years in prison and fine.²⁶ Thus, unlike the definition of trafficking in the Trafficking Protocol, which requires three elements to establish the crime—act

²² Email correspondence with Brigada, 31 October 2017.

²³ Censida 2015, *Informe Nacional de Avances en la Respuesta al VIH y el Sida*, Secretaría de Salud, Censida, Mexico, 2015.

²⁴ CNDH, *Los derechos humanos de las y los trabajadores sexuales que viven con VIH o con sida*, Mexico, 2016, <http://www.cndh.org.mx/sites/all/doc/cartillas/2015-2016/29-DH-trabaj-sexuales-VIH.pdf>.

²⁵ R C Traulsen, *The Mexican Legal Remedies for Trafficking in Persons Victims and its Compliance with International Standards*, Student Working Paper, University of Notre Dame, The Center of Civil and human Rights, 2016.

²⁶ *Ibid.*

(recruitment, transfer, etc.), means (coercion, deception, force, etc.) and purpose (exploitation)—the Mexican law does not clearly articulate the ‘means’ element making, effectively, every movement of a person for the purposes of perceived exploitation equivalent to trafficking.

Article 19 apparently allows sexual contracts, as long as the consent is not vitiated. However, Article 20 *forbids* establishing the nature, frequency, and specific conditions of a contract for sexual matters, leading to a situation of legal uncertainty.

The General Law on Human Trafficking adopts a broad definition of the concept of ‘abuse of a position of vulnerability’, including considering all women as being in a ‘position of vulnerability’. An unscrupulous application of the law would tend to consider that no woman can engage in sex work, just because she belongs to a vulnerable gender. This is also in contradiction to the intentions of the Trafficking Protocol. The UN Office on Drugs and Crime (UNODC) guidance note on abuse of a position of vulnerability (APOV) states that: ‘The mere existence of proven vulnerability is not sufficient to support a prosecution that alleges APOV as the means by which a specific “act” was undertaken. In such cases both the *existence* of vulnerability and the *abuse* of that vulnerability must be established by credible evidence. [...] The use of “means” must be of a sufficiently serious nature and extent as to vitiate the consent of the victim.’²⁷

Article 40 of the General Law categorically deprives the adult alleged victim of trafficking of autonomy, because it declares the consent of the victim as irrelevant, even if given with full knowledge and valid free will. So article 40 is also inconsistent with the Trafficking Protocol: ‘The requirement to show “means” affirms that, at least within the Protocol, exploitative conditions alone are insufficient to establish trafficking of adults: Agreement to work in a situation that may be considered exploitative will not constitute trafficking if that agreement was secured and continues to operate without threat or use of force or other forms of coercion [etc.]. While exploitation alone may involve offences including human rights violations, “means” must be used to constitute trafficking of adults within the confines of the Trafficking in Persons Protocol.’²⁸ In so far as the General Law on Human Trafficking considers consent to be irrelevant, the lawmakers violate people’s capacity to decide. Any paid sexual activity, even consensual, could potentially constitute a criminal offence, since the criminal definitions are not clearly related to the means.²⁹

In 2016 the Mexican Senate introduced a Bill to reform the General Law on Human Trafficking, which would have addressed these incongruities; however, it did not pass in

²⁷ UNODC, *Guidance Note on ‘abuse of a position of vulnerability’ as a means of trafficking in persons in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, UNODC, Vienna, 2012, https://www.unodc.org/documents/human-trafficking/2012/UNODC_2012_Guidance_Note_-_Abuse_of_a_Position_of_Vulnerability_E.pdf.

²⁸ UNODC, *Issue Paper. The role of ‘consent’ in the Trafficking in Persons Protocol*, UNODC, Vienna, 2014, https://www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf.

²⁹ For a detailed critique of the General Law on Human Trafficking see: C T Patiño, *Problemas de la redacción y aplicación de la Ley General de Trata*, Brigada Callejera en Apoyo a la Mujer, Mexico, 2015, <http://es.calameo.com/read/000137394664b35814dd7>.

the Lower Chamber.³⁰ Thus, the Mexican law remains aligned with the prostitution prohibitionist approach to sex work and fails to adequately ensure that victims of trafficking are identified, but enables the police to arrest and harass sex workers. The wide-reaching power of the drug cartels, as well as the criminalised and stigmatised status of sex work, create the conditions in which both organised criminals and private individuals, including family members, force women into sex work or take a large amount of their earnings. These points are illustrated by multiple personal testimonies in the Findings section.

³⁰ Vanguardia.mx, 'Temas religiosos frenan ley antitrata: Adriana Dávila', *Vanguardia.mx*, 8 December 2016, <http://www.vanguardia.com.mx/articulo/temas-religiosos-frenan-ley-antitrata-adriana-davila>.

Methodology

In close consultation with the team of *Brigada Callejera de Apoyo a la Mujer, Elisa Martínez, AC* (*Street Brigade in Support of Women* or BCAM, for its initials in Spanish), the research took place where sex workers work and where they organise. Employing a feminist participatory approach, this research was intended to integrate social research, education and action with the purpose of sharing the creation of social knowledge with the oppressed. It was therefore critical to engage broadly with the staff of BCAM and their beneficiaries, the sex worker community, to discuss the purpose as well as the potential value of the research. There was consensus among participants that the study could benefit them by enabling their voices to be heard, and their experiences to be shared worldwide with other sex worker rights activists, committed academics, support organisations, and law- and policy-makers. The objectives of the study were: 1) To document the approach of BCAM towards empowering sex workers to claim their rights; 2) To explore their experience interacting with the anti-trafficking framework and how it impacts on their work; and 3) To examine the strategies used by BCAM to support sex workers and confront exploitation and abuse, including situations of trafficking.

In the past, BCAM have had complicated experiences with researchers, and are cautious that researchers may have hidden agendas. They therefore proposed that I, as a former volunteer collaborator (who has offered courses on HIV/AIDS and Human Rights for BCAM peer educators), conduct the research. The BCAM leadership team felt confident to take me to sex workers' workplaces, where they offer health and education services. In discussion with the organisation's leadership, we agreed that it was important to interview the following participants:

- Three leading BCAM members: one of the founders, Rosa Icela Madrid; the legal counsellor, Arlen Palestina; and a human rights promoter, Silvia Anguiano, in order to document the vision and overall perspective of the organisation.
- Five peer educators and/or field workers: Morti and Krizna in Mexico City; Raquel and Lenchita in Tapachula; and Berenice in Guadalajara, to document the field workers' experience of BCAM's programmes.
- Twelve sex workers, all of whom had received education or health services from BCAM in the past year. Three sex workers (Diana, Nadia, and Estela) are survivors of trafficking in persons and exploitation. A focus group discussion in Guadalajara was attended by eight additional sex workers. The focus group participants opted to be identified with a pseudonym, when quoted.
- Three victims of misapplication of anti-trafficking law in Chiapas (Claudia, Beata, and Lenchita, who is also BCAM field worker).
- Two external key informants were interviewed in order to include a wider perspective: Dora Patricia Mercado Castro, Secretary of State of Mexico City for Work and Employment, and Dr Patricia Campos López, Latin American Bureau Chief of AIDS Healthcare Foundation (AHF), Guadalajara.

Three different locations were chosen for the interviews: Mexico City's La Merced Market (the largest concentration of sex workers in Latin America); Tapachula and Huixtla in

Chiapas State on the Southern border (the main entrance point of undocumented migrants in Mexico, 1175 km. from Mexico City); and Guadalajara in Jalisco state (526 km. from Mexico City and the second largest city in the country). BCAM has been working in these areas for several years, providing STI tests and counselling; legal advice and training; psychological support for victims of exploitation and abuse; and promoting community mobilisation. The interviews in Tapachula and Huixtla were carried out in January 2017. I visited several bars and public venues and one brothel together with the BCAM team. In Mexico City, the interviews took place on two different days in February, at BCAM's service office and clinic in La Merced. Interviews in Guadalajara were carried out over four days in March: in bars, hotels, and apartments. Every participant received a brief explanation of the aims of the research and was promised to receive the Spanish version of the report. The participants offered their time and insights because they wanted to be heard and to share their experiences without the risk of being personally exposed by sensationalist journalism.

Findings

Background to Brigada Callejera de Apoyo a la Mujer, Elisa Martínez, AC

BCAM is a non-profit, non-partisan, and secular organisation that has been involved in community-building for more than 27 years with cis- and transgender sex workers, survivors of human trafficking, and other women in solidarity. It has specialised in human, civil, and labour rights of sex workers, HIV/AIDS and STI prevention through social marketing of condoms for specific target populations, and community mobilisation to address trafficking in persons and labour exploitation. BCAM carries out regular activities in three cities and provides technical assistance to the national network, Red Mexicana de Trabajo Sexual. Since March 2013, BCAM has been a member of the Global Alliance Against Traffic in Women (GAATW), as a means of contributing to a global resistance against all kinds of exploitation and abuses.

While BCAM is committed to the principle of sex work as work, the organisation also analyses and strives towards the eradication of the structural causes of sex work, so that women ultimately have more options available to them to earn an income.

BCAM started out as a group of students doing actions in small groups (brigadas) on HIV/AIDS education and prevention on the streets (callejeras), directly with sex workers, indigenous people, and migrants. For BCAM it is very important to be in active solidarity with groups of women, mainly sex workers, who experience discrimination. The name, 'Elisa Martínez' honours the memory of the first sex worker they worked with, who died of AIDS. The name is a symbol of the importance of recognising the full humanity of all sex workers who died of AIDS, were killed, or have experienced discrimination for being women, for being sex workers, or for being HIV positive.

BCAM's mission is to contribute to the empowerment of discriminated people to take care of and stand for themselves and overcome the cultural obstacles that deter them from engaging in the fight against human trafficking and exploitation, as well as to contribute to the prevention of HIV/AIDS and other STIs. While BCAM is committed to the principle of sex work as work, the organisation also analyses and strives towards the eradication of the structural causes of sex work, so that women ultimately have more options available to them to earn an income.

At the onset of the AIDS epidemic, since the end of the 1980's, BCAM founders organised an initial group of women in the City, mainly around La Merced, where human rights defenders were the most exposed to many threats. There they committed to promote the use of condoms in order to prevent the transmission of HIV. At the same time, through that endeavour they witnessed the constant conflict between sex workers and the self-appointed 'managers' who exploited sex workers in exchange for protection. That is how they noticed several places where the compañeras [female companions, comrades; in this

case—sex workers] were subjected to this scourge, so that way they got a first-hand knowledge of the realities of labour and sexual exploitation and abuse.

Silvia Anguiano, human rights defender with BCAM

Analysis of Trafficking

BCAM understands human trafficking as a very serious offence that harms the dignity and human rights of people. This specific criminal offence implies the recruitment and transportation of people, from one country to another, or within the same country, with the purpose to exploit them, through the use of threats, deceit, force or violence.

For BCAM there is a crucial difference between consenting adult sexual transactions and trafficking in persons. Because of ambiguities in the Mexican law against trafficking, and the lack of training and awareness within law enforcement authorities and prosecutors, in day to day practice they criminalise sex workers, under the pretext of fighting trafficking.³¹

Trafficking in persons is a form of exploitation of human beings that harms them and may disable the full development potential of the person subjected to it, mostly women, for achieving a life of wellbeing and dignity, even in this year 2017.

Arlen Palestina Pandal, BCAM's legal counsellor

I can tell that for BCAM, trafficking is a crime in which the perpetrators threaten, forcefully or deceitfully retain and compel persons to do forced labour against their will. It is an unlawful industry that many times operates with knowledge of some authorities that show no real commitment to persecute this crime.

Krizna, transgender sex worker, Mexico City

The trafficking of persons with the aim to exploit them means subduing a person, adult or underage, against their will to exercise or do forced labour in inhuman conditions, arbitrary illegal shifts, and to move the persons from one city to another, or from one country to another, with the aim of sexual exploitation. Another variety of trafficking is with the aim of forcing people to distribute and sell illegal drugs.

³¹ E Madrid, J Montejo and R I Madrid, *ABC de la trata de personas*, BCAM, Mexico, 2013, <http://es.calameo.com/read/000137394fe0094fddae8>.

Silvia Anguiano, human rights defender with BCAM

Although, as can be seen from the quotes above, Brigada members have an accurate understanding of human trafficking, in line with the Trafficking Protocol, their analysis of the particular manifestation of trafficking in the Mexican context extends to both the social, political, and economic factors which drive human trafficking, as well as the corruption which enables it to thrive.

The ones involved in human trafficking are: 1) The operator, who recruits the persons through deceit, offering them a well-paid job; 2) The contacts who receive and place the trafficked persons, and move them to a predetermined place; 3) The person subjected to traffic, they are vulnerabilised by the low salaries, the very limited health services available to the majority, the small economic growth, the bad quality of education, the inequalities, the marginalisations, so the people longing for a better life are too easy prey; and 4) The direct exploiters and abusers.

Silvia Anguiano, human rights defender with BCAM

The people involved in human trafficking are several mafias dedicated to trafficking and exploitation (padrotes, madrotas, and traffickers) with the aiding and abetting of some persons in the government, so in some cases the ones who seem to have more control in this crime are the police, prosecutors, administrative municipal judges, and even the mayors.

Krizna, transgender sex worker, México City

Challenges Experienced by Sex Workers in Mexico

Conflation of sex work and human trafficking

The conflation of human trafficking and sex work in the General Law on Human Trafficking described above, as well in similar laws promulgated at State level, has resulted in the anti-trafficking law being used as a premise to launch raids and prosecutions of consensual sex work.

It is not uncommon that anti-trafficking legal cases include objectionable or irregular evidence. Police and prosecution sometimes take sex workers' condoms as 'evidence' of trafficking, as BCAM has documented and publicly reported,³² and as demonstrated in the vignette below:

³² Brigada Callejera, 'Campaña ciudadana contra el uso del condón para fincar lenocinio o trata de personas', *Periodistas en Linea*, 6 February 2012, <http://www.periodistasenlinea.org/06-02-2012/28182>.

In Guadalajara there has been a constant persecution against sex workers, their clients, and the places that allow them to work. The police used to extort the clients by asking to see their ID while leaving a hotel and then threatening to tell their family where they were. To speak about trafficking and sexual exploitation, [it means that people are being] forced to do something, with violence or threats. Here women walk freely around, without have their every move controlled. Two years ago, the police came to my place and, as they could not find anything irregular, they just temporarily closed three rooms down, because they said 'they had to show their boss they did the raid'. So, I had to pay a fine for 'allowing prostitution to take place in the premises'. I would love to be able to provide condoms to our guests, but the risk is too high as they have closed down and pressed charges of human trafficking against at least three places, based on the presence of condoms.

Carlos, owner of a hotel used by sex workers in Guadalajara, Jalisco

BCAM has submitted a proposal to the Attorney-General of Mexico City to change their protocol in order to stop using condoms, as 'evidence' when investigating trafficking for sexual exploitation.³³ It should be noted that public opinion tends to support them in this matter.³⁴

As in other countries, the pressure to show prosecutions and convictions that comes from the United States annual *Trafficking in Persons* Report, and an inefficient and corrupt legal system, has led to a number of irregularities, false accusations, and wrongful convictions of human trafficking meted out mainly against sex workers and migrants. Some excerpts from my interviews illustrate these points:

The pressure to show prosecutions and convictions that comes from the United States annual Trafficking in Persons Report, and an inefficient and corrupt legal system, has led to a number of irregularities, false accusations, and wrongful convictions of human trafficking meted out mainly against sex workers and migrants.

I was born in Tapachula, Chiapas. I was unduly imprisoned for three and a half years. My present husband has one daughter that sometimes I took care of, besides my own children from a past marriage. We were falsely accused of forcing her into

³³ 'Memorándum y acuerdo para dejar de utilizar los condones como prueba de trata de personas', BCAM, 13 April 2016, <http://brigadaac.mayfirst.org/Memorandum-y-acuerdo-para-dejar-de-utilizar-los-condones-como-prueba-de-trata-de-personas>.

³⁴ R Aranda, 'Portación de condón', *La Crónica*, 6 May 2016, <http://www.cronica.com.mx/notas/2016/958682.html>.

prostitution, and each of us received a sentence of 20 years. There were many irregularities in the case, for example, the sworn statement implicating us was made in the name of a deceased person. With so many evident irregularities, like the lack of a real investigation and fabricated statements, the State Judiciary Branch of Chiapas decided to suspend the application of the sentence [an exceptional procedure only valid for minor offences], to avoid the recognition of their wrongdoings in the trial, but only for me; my husband is still in prison. So I am obliged to sign the registry of offenders every month, for the full 20 years of the sentence, so my freedom is not complete. I was rejected from several jobs because I have a criminal record.

Claudia, 38, victim of malpractice using the anti-trafficking law, Tapachula

I left Honduras 10 years ago to come to Mexico because my mother was receiving haemodialysis treatment, and so we could not afford the payments. The owner of the bar where I found a job said we had to give money supposedly to bribe Migration, Police and health authorities. I should have left there and then, but if you don't really know how things are here, and how to defend your rights, you have to endure terrible conditions. In a surprise police raid in 2014, only two waitresses were there, so they decided to brand the other one as the victim and I was left to be the perpetrator. The field prosecutor ordered the other woman to collect the cash, and ordered me to count it and they took photographs. They looted everything—the jukebox, the beer, the money. We were taken to another bar with some other waitresses. They ordered us to get undressed, and only men frisked us. The field prosecutor promised me that I would be released the next day and I can go back to my children, but that I had to sign some papers first, 'as just a formality', with no defence attorney present, nor consular official. The alleged victim was committed to a shelter, and she was threatened not to testify in my trial, or they would take her children away from her for 'being prostituted'. But she was a close friend and testified anyway. Even so, they sentenced me to three years (for immorality and labour exploitation); condoms were presented as evidence. I was released after just a few months because of a suspended sentence. They tried to deport me as I left the prison, even knowing beforehand that I have Mexican children. I am still being refused some jobs because of the criminal record.

Lenchita, 28, victim of legal malpractice and BCAM's health fieldworker in Tapachula

I was born in Honduras but have been living in Mexico for 14 years. I was accused of allegedly bringing people from Honduras to sell them in Mexico, even if I had not visited my homeland in many years. Then the police took me to a local bar and made me serve them beer and took some photographs of me with the beer. My cousin was supposedly trafficked by me (with a couple of young women I had never seen before). She was taken by some of the State police agents to the State Capital, forcing her into prostitution in a bar for four months. They threatened to kill her if she testified in my trial. One year later I received a sentence of six years. I asked the judge why was I being sentenced without any evidence, and he told me to be grateful he did not give me a longer sentence—just because he could not find something real against me in my case file. So, some inmates and I did a hunger strike demanding that our cases be reviewed, and we were released after one more year. They have been refusing to give me a copy of the file for one year. Even if the authorities told me I was acquitted of any wrongdoing, my criminal record states I am guilty, so I have had troubles finding a job. I am out of prison, but never received an official exoneration document.

Beata, 33, victim of malpractice using the anti-trafficking law in Huixtla, Chiapas

The interviews revealed that sex work is sometimes one of several income-generating activities for women over a lifetime and strict laws aimed at protecting women from human trafficking more often than not only constrict their choices further and create chances for police corruption and abuses:

I was born in Honduras. Because of the violence in my country I left for Mexico. I was deported once with three more compañeras. Migration police tried to force us to have sex with them, without a condom, but we refused. It is hard for an undocumented immigrant to get a formal job, so most of us end up as waiters and waitresses in bars. If you go out and have sex with the clients of the bar, after your shift, you can increase your income even four times, nobody forces you, but it is too tempting. The law in Chiapas forbids the waitresses to sit and drink with the clients (fichar). Even if you drink just juice or some soft drink, they can shut the place down if, during a surprise police raid, they find you sitting and drinking with the bar's clients, even in family restaurants. They say that this law is supposedly there to protect us from being forced to drink alcohol, even if we are just talking to a friend for a while. For more than three years I know BCAM, as they visit the bars to provide condoms, tests, and workshops on health and how to use the law. I find really useful the comics by BCAM, in order to educate my children on the things that happen in the world.

Rosario, 30, waitress in Tapachula

It is impossible to make any generalisations about either trafficking or the conditions in sex work, as these differ across regions and populations, as Raquel explained:

I was born in Nicaragua. In Tapachula, in the bars where I have worked, most of the compañeras are there of their own will, the majority of sex workers in Tapachula are migrants. In Tapachula, if someone has a padrote and gives him money, most probably it is because she wants to.

On the other hand, she stated, In Oaxaca I have observed a lot of trafficking in persons, mainly underage persons recruited, transported, and forced to work, or to beg for the benefit of their manager. Oaxaca has a big indigenous and poor population and they are the majority of the victims of the traffickers and abusers.

On many occasions I have tried to speak to sex workers in Oaxaca, even in the streets, and it is almost impossible—they are closely controlled and observed by their abusers, and have a quota of money to collect daily.

Raquel, 28, sex worker and BCAM's fieldworker and educator

This statement further highlights the unhelpfulness of concepts like 'position of vulnerability' in the national and international trafficking definitions. While migration status is often pointed as a vulnerability factor, in Raquel's experience, migrants are less 'vulnerable' to exploitation and trafficking than poor and indigenous Mexicans.

It is also important to note that even women who were initially trafficked into sex work through violence or deception may decide to remain in sex work, if they can work in good conditions and keep their earnings. While law enforcement, policy makers, and activists argue over legalistic concepts like consent, people's lived experiences and complex decision-making processes tell a different story, such as Estela's:

The criminalised status of sex work and the vagueness of the anti-trafficking law additionally create the conditions for law enforcement and the judiciary to arrest, detain, and abuse sex workers with impunity, fuelled by the endemic corruption in the country.

I was born in Mexico City. When I was 13 years old I used to do housework for some months, but my employer did not pay me. That is

why I accepted to work for a lady who offered me a better salary. But she lied to me. I was violently forced to have sex with many men, never receiving any money. These women were part of a criminal gang of kidnappers and slaveholders in Texcoco. I managed to escape after more than two years of torture. After that, I was kept against my will for a few months, with no payment, in a couple more places where I was offered to work. Then, a gay guy hired me to do sex work in his brothel, in Zamora, in good conditions, with a real income, and freedom to do what I want. I finally felt more confident about myself and I have been a sex worker since then. Now I do not pay any money to anyone for doing my work.

Estela, 60, sex worker in Mexico City

What all this points to is that, ultimately, there is no easy one-size-fits-all solution to trafficking. Vulnerability to human trafficking is influenced by many factors, including conflict, forced migration, economic need, and corruption, which the current anti-trafficking law is unable to address. The criminalised status of sex work and the vagueness of the anti-trafficking law additionally create the conditions for law enforcement and the judiciary to arrest, detain, and abuse sex workers with impunity, fuelled by the endemic corruption in the country.

Lack of Recognition of Sex Work as Work

State laws equivalent to the General Law on Human Trafficking, are a big obstacle to the recognition of the labour rights of sex workers, as well as the rights and obligations of the employers, when such a relationship exists. Prohibitionists assume that every person engaged willingly in a 'situation of prostitution' is suffering from 'false conscience', so they must be rescued through the prohibition of sex work and the penalisation of clients, organisers, and facilitators of prostitution. Another effect of the undue ban on sexual contracts, included in the anti-trafficking law is that it is an obstacle to sex workers securing their rights to establish formal working relationships with employers, contravening the spirit of ILO Convention 102 on access to Social Security.³⁵

BCAM lobbies for a reform of the General Law on Human Trafficking, and has worked on a draft law with the parliamentary advisers in the Senate;³⁶ however this was blocked in the Lower Chamber, under the influence of prohibitionist activists.³⁷

I am convinced that no issue in the women's agenda should be dealt with from a victimist viewpoint, but from a rights perspective. Instead

³⁵ ILO, *C102 - Social Security (Minimum Standards) Convention*, 1952.

³⁶ See: Mexican Senate, *Proceso de revisión y análisis de la 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*, available at http://www.senado.gob.mx/comisiones/trata_personas/docs/info_reformas2.pdf.

³⁷ S Perdomo, 'Peligro aprobar tal cual la minuta del Senado en materia de trata de personas; advierte Julieta Fernández', *Enfoque Noticias*, 2 December 2016, <http://www.enfoquenoticias.com.mx/noticias/peligro-aprobar-tal-cual-la-minuta-del-senado-en-materia-de-trata-de-personas-advierte>.

of being judgemental about people's activities and decisions, I align myself with a pro-regulationist position, in order to protect rights. My experience in the feminist movement began in labour unions; I have worked for many years around issues of women and labour, including also informal and non-salaried work, or housework.

Dora Patricia Mercado Castro, Secretary of State of Mexico City

Violence, Coercion and Exploitation by Gangs

The new war for territorial control of drug trafficking cartels and related gangs is violently expressed in the actions of their *sicarios* (hitmen), who terrorise citizens, including kidnapping women and forcing them into prostitution, and control parts of the sex industry.³⁸ Where gangs control the sex industry, exploitative practices are rife, including depriving sex workers of a large percentage of their incomes, forcing them to have sex with the gangsters, or violently forcing them to collaborate with the activities of the gang. Many people associated with the sex industry, including sex workers, dancers, waitresses, bar owners, managers, and clients have been killed.³⁹

I was born in the State of Puebla. When I was 15 years old I trained boxing. Suddenly, after the training session, a dark van intercepted us, and next I woke up in Sinaloa [1500 km. away, a stronghold of drug cartels]. They kept us in safe houses, with 10-15 women in a room, but the younger were only three in a room. They said that the more attractive of us should be separated. They injected us with some drug on a daily basis; we didn't have any control over our lives. If you are rebellious there, they torture you. There you saw how they raped and killed other women. They rented us by weeks, or months, always transported with armed guards to the ranches of the clients. All of the money was for the traffickers; once they beat me hard just for accepting a small silver chain from a client. They also threatened they would punish our younger sisters at home, if we did not obey. The only women over 20 there were the ones who dressed us up and put on our make-up and the ones who injected us. The first time I tried to escape they caught me and beat me a lot. I was kept there for five years, until only three of us could run away, with some help by one of the women there. After fleeing from Sinaloa I lived with a padrote from Tenancingo, Tlaxcala. He was violent. After many years of constant violence, you lose the notion of what life and love are, of how anyone should treat you. I gradually recovered my self-awareness and could regain responsibility over my life's choices, but it was hard.

³⁸ A Corchado, 'As Mexico's drug cartels fracture, violence and travel warnings soar', *Dallas Morning News*, 25 August 2017, <https://www.dallasnews.com/news/mexico/2017/08/25/mexicos-drug-cartels-fracture-violence-travel-warnings-soar>.

³⁹ K Linthicum, 'Mexico's bloody drug war is killing more people than ever', *Los Angeles Times*, 22 July 2017, <http://www.latimes.com/world/mexico-americas/la-fg-mexico-murders-20170721-story.html>.

***Nadia, 31 years old, sex worker who was victim of human trafficking,
Mexico City***

The violence of criminal gangs is closely related to police corruption and, in the case of sex work, the stigma attached to it. All these circumstances allow not only criminal gangs to exploit or extort sex workers, but also family members, as related by Diana:

I was born in Tenancingo, Tlaxcala—the very famous pimp-town. First, the pimps tell you they love you, sometimes their own wives help them to recruit new women, they tell you: 'I will introduce you to my cousin so that you don't feel lonely'. They promise their wives that if they help them recruit, they will put them in charge of their children, instead of doing sex work to give them money. You do not go to the police if there is the threat that they'll take your children away. They traffic the women to other cities or to the USA. My own father held my three-year old son hostage, and I had to send him money weekly because he threatened me that I wouldn't see my boy again. In a recent visit to my hometown I recovered my son and we both fled from the town. Now I only do sex work for myself and to sustain my children.

Diana, 21, sex worker in Mexico City

Prohibitionist measures, with their intention of eradicating the sex industry, have the effect of reducing the options of sex workers to earn an income. In a prohibitionist environment, the cartels could represent sex workers' only opportunity to make a living, thus exposing them to the worst possible conditions of exploitation, abuse and danger for their lives and integrity, even subjecting them to trafficking.

I learnt in my years of work as director of the State Commission against AIDS in Jalisco that the police, local authorities, some hotel owners, and the pimps exploit sex workers if they can. When there are narco cartels fights, sex workers get frequently trapped in between. Sex workers need the most basic respect of their rights and their autonomy. Any law that somehow deals with sexual commerce must be based in the most effective promotion and recognition of the rights of sex workers and their personal security. I remember that in an abandoned house in Guadalajara, a group of street youth were living as squatters. They begged for money and did other things to survive, and one adolescent woman used to practice sexual commerce. The police officer who arrested her instead of taking her immediately to some shelter or service provider for a real rescue, forced her to give him oral sex. When the information about her HIV positive status was unduly leaked, the reaction of the press was of deep concern for the health of the rapist policeman, not for the irregularly arrested underage victim of rape, living with HIV.

Dr Patricia Campos López, Latin American Bureau Chief at AIDS Healthcare Foundation (AHF), Guadalajara, Jalisco

Mandatory Health Surveillance

Mandatory health surveillance for sex workers is regulated in most of the country through local laws. As the tests are included in the basic healthcare provision, it is illegal, but frequent, that control cards and tests are sold to the sex workers by local communal health authorities. This situation is worse in places with high concentration of undocumented migrants, as in Tapachula.

Advocating for equitable and voluntary access to health has been a core issue around which BCAM has organised. In Mexico City, BCAM and Red Mexicana de Trabajo Sexual successfully advocated against the abuses and exploitation around mandatory health control checks, resulting in the halting of the practice in 2000.

On the other hand, for undocumented migrant sex workers, the National Migration Institute (*Instituto Nacional de Migración*) accepts health control cards as a proof of residence in the country for migration regularisation purposes. Therefore, BCAM, besides providing advice to undocumented sex workers on the requirements for status regularisation, co-organised, with local, state, and federal authorities a special regularisation campaign, the first one in a sex work tolerance zone, in Huixtla, Chiapas.⁴⁰

Undocumented migrant sex workers experience additional discrimination and stigma and are often denied, illegally, even the most basic health services.

I was born in Nicaragua. When I met for the first time the crew of BCAM, four years ago, I identified myself with the group because they contribute to educating sex workers to defend their rights, and help them to prevent and stop the abuses. Thanks to the campaign of migratory regularisation of undocumented persons, regularised sex workers now are in much better position to negotiate better working conditions and to reject abuses.

Raquel, 28, BCAM's fieldworker and educator

Responding to the Challenges that Sex Workers Face

⁴⁰ G Bravo, 'Realizan campaña de regularización migratoria en la zona de tolerancia de Huixtla, Chiapas', *Brayoprensa*, 12 March 2017, <http://brayoinfo.blogspot.mx/2017/03/realizan-campana-de-regularizacion.html>.

Brigada's approach to the challenges sex workers face is essentially threefold. Firstly, they provide comprehensive, person-centred legal, health, and psychosocial services to sex workers, in a way which respects their self-determination. Secondly, they support the self-organising and mobilisation of sex workers, among their own membership, and in alliances with organisations such as Red Mexicana de Trabajo Sexual. Together with RMTS they developed a protocol to address human trafficking for sexual exploitation and labour exploitation. Thirdly, they actively advocate for the creation of a legal and policy environment which respects sex workers as human beings and as workers.

As part of their comprehensive approach to support sex workers, Brigada is actively involved in providing comprehensive legal and psychosocial assistance to sex workers who are victims of exploitation and coercion, as well as people who are trafficked. BCAM trains sex workers as peer educators, to educate groups of sex workers about human trafficking and exploitation. The quotes below illustrate this approach:

BCAM promotes health and *prevention of abuse* to empower women sex workers around La Merced to recognise abuses, exploitation and trafficking, helping *those who are* subjected to abuses. BCAM counsels the persons who decide to press charges, and provides support to women who experience or have experienced criminal abuses.

Arlen Palestina Pandal, BCAM's legal counsellor

On the streets, by hearing and seeing what happens where sex work takes place, while providing support to persons who are victims of exploitation or even subjected to trafficking, we collaborated to rescue many women who participated in the sex industry against their will. So, if we have been able to find this out, why so many authorities seem unable to figure out where the abuse is taking place?

Rosa Icela Madrid, founding member of BCAM

Brigada Callejera begins by laying charges with the criminal prosecution authorities; if necessary, they highlight legal cases in the media, and provide legal advice and direct support to the victims. They develop information campaigns to disseminate the knowledge on how to prevent and root out human trafficking by means of books, brochures, workshops, and the media.

Krizna, transgender sex worker and BCAM field worker

Brigada Callejera does everything it can to help persons who are subjected to trafficking or other abuses. Nobody else cares about them

as Brigada does. It provides what they need, from practical things, to legal or psychological counselling, they never stop helping until the person is safe.

Morti, 45, sex worker and BCAM field worker, Mexico City

Brigada Callejera joined efforts with the Mexican Network of Sex Work, so if they identify a person possibly subjected to exploitation or trafficking they provide legal advice and support, establish a helping and empowering relationship based on trust and respect for their autonomy, in order to help them quit the sex industry, press charges, or relocate to a different city. Brigada has a high impact programme of education using comic books against trafficking. The comics are based on life stories of real persons subjected to exploitation and trafficking. Compañeras contributed with their experiences, so that they can help prevent other women from being criminally abused.

Rosa Icela Madrid, founding member of BCAM

The sex workers I interviewed showed high appreciation for the opportunity to receive health services and legal information from BCAM, as well as connect with other colleagues to support each other and share experiences. Their feedback shows how they value this integrated approach:

We need more legal knowledge to be able to defend our rights, and also information and orientation to protect our health. New compañeras are sometimes threatened to pay money to persons who assume themselves as 'owners of the street'. But extortion is a crime, so we tell the newbies that we can use the law to protect ourselves. I got into sex work by myself as the salaries in regular jobs are not enough to live. I met BCAM six years ago, when they visited us in the streets, provided us with free health services and legal orientation.

Carla, 25, sex worker in Mexico City

I know BCAM for more than 10 years. I am happy that there is such a place where you can find free support and orientation about health and how to use the law to protect yourself.

Estela, 60, sex worker in México City

BCAM always provides the necessary support, that is why it is so important to take the workshops they provide for sex workers, so as we are ready and prepared to stop extortion attempts or to reject the

claims of the ones who try to collect money from sex workers, or the exploiters. One constant activity in BCAM is to organise to help the exploited, trafficked or abused sex workers; that is why it is so important to attend the workshops where they explain to us our rights as sex workers and the ways to defend ourselves.

Morti, 45, sex worker and BCAM field worker, Mexico City

Whereas BCAM regularly provides support in genuine cases of trafficking, they also provide legal assistance in cases where the law is misapplied to victimise sex workers. In such cases, BCAM applies to receive the files of the legal case so that, with the help of pro-bono attorneys, they can investigate how the anti-trafficking law is used as a pretext to criminalise sex workers.⁴¹

BCAM analyses the legal matter as soon as possible in order to take the proper actions, legal or other, like removing the person from that environment if there is consensus in BCAM's team about the appropriateness of doing so. Each legal situation is analysed to find out which of the concerned authorities are to provide support, so we follow the case, and also counsel the person that suffered the abuse, adult or underage, to establish if there can be unexpected dangerous consequences for a family member if other actions are taken. BCAM, during the time I have been collaborating, never leaves behind, without support, the person that needs support to remove themselves from a circle of violence. It is necessary that the sex worker herself asks for our support.

Arlen Palestina Pandal, legal counsellor at BCAM

BCAM has a track record in providing personalised case management: the first step is to ensure the security of the affected persons, then accompanying them to file the criminal complaint, working with the media, if necessary, and providing psychological and medical support, as needed.

Krizna, transgender sex worker, Mexico City

BCAM provides knowledge, skills, and expertise to foster and support the autonomous organisation of sex workers, promoting their own empowerment to face abuses. As an example of this sharing and collaboration, BCAM distributes and informs about the protocol they elaborated with the Mexican Network of Sex Workers, which includes a

⁴¹ J Montejo, 'Elementos claves de la Sentencia 206/2016 del Consejo de la Judicatura Federal (CJF)', BCAM, 10 November 2017, <http://brigadaac.mayfirst.org/Elementos-claves-de-la-Sentencia-206-2016-del-Consejo-de-la-Judicatura-Federal-CJF>.

series of concrete indicators to take into account in order to evaluate the degree of labour abuse, violence and coercion, including trafficking.

BCAM also implements a prevention campaign to educate sex workers about their rights and the need for self-organisation, through the publication of comic books against human trafficking, *Comics contra la Trata*. The comics show how trafficking operates in Mexico, making clear the differences between trafficking and sex work, and offering ways for sex workers to organise in order to defend and claim their due rights.⁴²

BCAM organises interactive reading sessions of the *Comics* and stimulates discussions on abuses, exploitation, violence and coercion, to open a safe space for sex workers to reflect on their experiences, to identify possible resources and strategies to free themselves and help *compañeras* from all forms of oppression.

Finally, Brigada engages continuously in advocacy for just laws and their application. BCAM partners with the media to shift the public perception of sex work and sex workers and to distribute correct information about human trafficking.⁴³ They also organise public seminars, presentations and discussions for students, decision makers, and the general public to put spotlight on the books and specialised research about sex workers and sex workers' rights.⁴⁴

As noted above, Brigada has worked closely with progressive policymakers to lobby for the amendment of the General Law on Human Trafficking so that it recognises the rights of sex workers to choose their occupation. One of their most noteworthy achievements thus far has been the successful advocacy for sex workers to be included in the category of non-salaried workers.

Recognition as Non-Salaried Workers

Two recent successful legal cases in which Brigada has been involved show what can be achieved, through concerted self-organisation and community mobilisation of sex workers and their allies (lawyers, law makers, feminist activists, journalists, and human rights defenders). In both cases, the outcome was achieved through turning to *Juicios de Amparo*, the court established to uphold the rights enshrined in Mexico's Constitution through preserving the rights of people against unconstitutional actions by any authority.

⁴² J Montejó, 'La Trata de personas no es cuento. Cómics contra la Trata: Disfruta, aprende y actúa', BCAM, <http://brigadaac.mayfirst.org/La-Trata-de-personas-no-es-cuento.-Comics-contra-la-Trata.-Disfruta-aprende-y-actua>.

⁴³ See, for example, E M Romero, J Montejó and R I Madrid, *Guía de seguridad contra la trata de personas y otros delitos*, BCAM, 2016, <https://es.calameo.com/read/0001373941aa9ecec90c1> and *Auto-protección frente a la trata de personas*, 2015, <http://es.calameo.com/read/000137394f8df2a1892e4>.

⁴⁴ I Grajales, 'Presenta Marta Lamas El fulgor de la noche', *Noticias Voz e Imagen de Chiapas*, 18 July 2017, <http://www.noticiasvi.com/Articles/chiapas/2017/07/18/presenta-marta-lamasel-fulgor-de-la-noche>.

In the first case, Brigada and Red Mexicana de Trabajo Sexual organised more than 50 sex workers in a protest on International Labour Day in 2012⁴⁵ to demand labour rights for sex workers as non-salaried workers. This was one of a number of coordinated efforts of different actors, which led to the ruling PJF 112/2013 Federal Action of Protection⁴⁶ which offers this recognition. As a result, this action has now opened new ways for strategic litigation to extend the same recognition nationwide. Recognising independent sex workers as non-salaried workers is a significant step forward to improving the national response towards human trafficking in Mexico, by differentiating between victims of trafficking for sexual purposes and sex workers.⁴⁷ Since the new law came into effect, extortion of sex workers has decreased sharply in Mexico City.⁴⁸ At the moment BCAM is lobbying for the same recognition in different city councils, such as Frenillo, Coahuila and Tuxtla Gutiérrez, Chiapas.

One big achievement for sex workers' working conditions in Mexico City was to be accredited by the City Government as non-salaried workers. For more than 20 years, with the support of the Brigada team, we fought against extortions of sex workers by the police. Now each time we see an attempted police raid, we show them our badge by the government, which accredits us to work in this and that street, during these hours.

Morti, 45 sex worker and BCAM field worker, Mexico City

Another ruling that contributes to the distinction of voluntary sex work from trafficking in persons is number 206/2016, issued by the Federal Judiciary Branch (CFJ),⁴⁹ which concerns Federal Protection Actions in criminal cases. In this ruling, the magistrates quoted remarks from the work of feminist anthropologist Marta Lamas, an important ally in defending the rights of sex workers and an honorary member of BCAM, as the basis to establish the difference between sex work and trafficking.

What sex workers need the most are legally established places to work, that are accepted by all of the actors involved: local authorities, neighbours, retailers, and the sex workers themselves. Unfortunately,

⁴⁵ Mujeres y la Sexta, 'Marchan el 1 de mayo trabajadoras sexuales de la Merced y Tlalpan', *Mujeres y la Sexta*, 3 May 2012, <https://mujeresylasexta.org.wordpress.com/2012/05/03/marchan-el-1-de-mayo-trabajadoras-sexuales-de-la-merced-y-tlalpan/>.

⁴⁶ VocesFeministas.com, 'Urge garantizar el acceso al Seguro Popular a las trabajadoras sexuales: Brigada Callejera', *VocesFeministas.com*, 26 July 2017, <https://vocesfeministas.com/2017/07/26/urge-garantizar-acceso-seguro-popular-trabajadoras-sexuales-brigada-callejera/>.

⁴⁷ E M Romero, J Montejo and R I Madrid, 'Trabajadoras sexuales conquistan derechos laborales', *Debate feminista*, vol. 50, 2014, pp. 137-159.

⁴⁸ BCAM, *Acreditación del trabajo sexual ¿Licencias o credenciales de trabajadoras no asalariadas?*, BCAM, 2017, <https://es.calameo.com/read/0001373946f3b2fd88076>.

⁴⁹ BCAM, 'Resumen de la sentencia del juicio de amparo 206/2016 del Consejo de la Judicatura Federal (CJF) que refiere que la organización libre y voluntaria del trabajo sexual es diferente a la trata de personas', BCAM, 10 November 2017, <http://brigadaac.mayfirst.org/Resumen-de-la-sentencia-del-juicio-de-amparo-206-2016-del-Consejo-de-la-Judicatura-Federal-CJF-que-refiere-que-la-organizacion-libre-y-voluntaria-del-trabajo-sexual-es-diferente-a-la-trata-de-personas>.

there are still some setbacks in police culture, so some of them tend to not fully consider sex workers as regular people to be protected, but as easy prey for extortion and abuse. So the recognition and accreditation as non-salaried workers is a great tool for sex workers to increase their personal security and protect their labour rights, even if the Representatives Assembly has not reformed yet the local ordinance that classifies sex work as an administrative offence.

Dora Patricia Mercado Castro, Secretary of State of Mexico City

Conclusion and Recommendations

In this chapter I tried to highlight some of the challenges that sex workers experience in Mexico, through their own words and lived realities, and the tremendous work that Brigada is doing to organise them to collectively resist and address these challenges. Although I tried to group these challenges into several categories, it is clear from the quotes provided that they cannot be neatly separated from one another. Stigma, the lack of recognition of sex work as work, the confusion created by the anti-trafficking law, the wide-reaching power of the cartels, and the corruption and impunity of police officers, exacerbated by the pressure from the US *Trafficking in Persons* report to show progress in the fight against human trafficking (typically by showing more arrests, prosecutions, and convictions), create a perfect storm in which different actors abuse, exploit, extort, and mistreat sex workers.

In this context, BCAM has been instrumental in providing health, legal, and psychosocial assistance to sex workers and victims of trafficking and educating them about their rights, always keeping their individual interests in mind. Despite the hostile environment in which it works, BCAM continues to engage with other activist movements and with the Mexican Federal and local governments to recognise sex work as work, and distinguish it from human trafficking, in order to ensure that both sex workers and victims of trafficking can enjoy the full scope of their human rights.

In consultation with BCAM, this report makes the following recommendations to all public, private and social actors in Mexico:

- Step up the prevention of human trafficking, especially in places where many young and indigenous women go missing, and where there is a high rate of femicides, or where sex workers work.
- Use the indicators of human trafficking developed by BCAM and the Red Mexicana de Trabajo Sexual to raise awareness of human trafficking in different towns, housing complexes, schools and enterprises.
- Improve the protection of potential victims of trafficking, such as children of sex workers, and sex workers themselves, who are especially vulnerable to kidnapping and abuse by drug cartels.
- Include sex workers as a special group in need of protection in the *Gender Violence against Women Alert*.
- Repeal the Civil Code provision that allows courts to strip sex workers of parental rights, as it is used by different actors (including sex workers' family members) to exploit and extort them by threatening to report them to the authorities.
- Reject legislative proposals that aim to criminalise the use of services of victims of human trafficking (even without knowledge that they are victims), as this would in practice criminalise the clients of all sex workers.

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