



# The Invisible - The Fate of Female Survivors of Sex Trafficking in Argentina

Report on the Lack of a Comprehensive and Restorative Policy for Women Trafficked for Sexual Exploitation

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**Editor:** Deeksha Sharma

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## Executive Summary

*"Is it possible that every now and then there is a today that overturns the forever?"*

– Sol Bonelli (Film Director, Argentina)

This report highlights the harsh reality experienced by women who have been victims and survivors of sex trafficking in Argentina. This painful reality means that they remain invisible, mainly to the Argentinian state, which has not yet managed to consolidate a policy of reparation for their rights that have been seriously violated. The first chapter in this report will address the characteristics of the crime of sex trafficking, the factors that lead to it and the serious consequences on the psycho-physical health of victims and survivors. The second chapter will focus on the legal framework, both International and National legislations.

At the international level, the report will briefly touch upon the treaty of the Palermo Protocol that has been taken as a basis by states to enact their respective trafficking laws. This will be followed by a discussion of Argentinean legislation and the modifications that the law on trafficking has undergone and its current status. Additionally, the chapter will highlight the creation of the Ministry of Women's Affairs at the national level and in the province of Buenos Aires. The Ministry specifically addresses human trafficking, with the main objectives of achieving a life free from violence for victims and survivors and works to ensure their reintegration into society.

The report further presents three interviews with key actors who describe the reality for women who have been victims and survivors of sex trafficking and exploitation. In addition, it highlights the commendable work of the Non-Governmental Organisations (NGOs), which in many respects fulfil functions that should be the responsibility of the state. In its conclusion, this report holds the Argentinian State responsible for the invisibility suffered by women victims of sex trafficking. If their rights of these victims have been violated, it is the state's obligation to repair them, because if this is not done, these women will return to the prostitution circuit or may even be forced to end their lives.

If the state, NGOs and the media fulfil their duties, together with the contribution that each person in society can make, it is possible to achieve a world without slavery.

This report highlights the utmost importance to be aware of the realities that countries such as Argentina face with respect to violations of fundamental rights. It aims to reflect the reality of many women who are victims of sex trafficking, which represents, together with femicide, the most extreme form of violence. In the Erdemovic Case decided by the former International Criminal Tribunal for the former Yugoslavia, it was stated that "*what essentially characterises this type of crime is the concept of humanity as victim*"<sup>1</sup>, and we are all part of humanity.

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<sup>1</sup> Case Endermovic, Decision of the international tribunal for the former Yugoslavia, 29 November 1996., Doc. IT-96-22-T United Nations

## List of Abbreviations

<b>CAV</b>	Centro de Atención a la Víctima (Victim Support Centre)
<b>CCPCJ</b>	Commission on Crime Prevention and Criminal Justice
<b>ILO</b>	International Labour Organisation
<b>NGOs</b>	Non-Governmental Organisations
<b>PROTEX</b>	Prosecutor's Office for Trafficking and Exploitation of Persons
<b>PWAG</b>	Peace Women Across the Globe
<b>SDGs</b>	Sustainable Development Goals
<b>SENAF</b>	National Secretariat for Childhood, Adolescence, and Family
<b>UFASE</b>	Prosecutor's Unit for Kidnappings for Extortion and Trafficking in Persons

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# 1. Introduction to Sex Trafficking in Argentina

Sex trafficking is one of the most prevalent and serious crimes in Argentina. The main victims and the most vulnerable groups of this crime are women and children. The United Nations has noted that “*slavery has evolved and manifested itself in different ways throughout history*”, with more contemporary forms compounding “*long-standing discrimination against the most vulnerable groups in society*”<sup>2</sup>. Statistics reveal that trafficking for a variety of exploitative practices exists everywhere, and is growing significantly, thereby becoming one of the top three criminal trades in the world alongside arms and drug smuggling<sup>3</sup>.

Trafficking for sexual exploitation and forced labour are the most detected forms of trafficking.<sup>4</sup> The majority of detected victims of sex trafficking are females (women, adolescents and girls), since the demand for females to service the sexualised commercial trade increases the number of women and girls trafficked for sexual exploitation (for instance, pornography, prostitution, forced marriage)<sup>5</sup>.

Argentina has been a pioneer in ending sex trafficking as it was the first to have passed Law 9143<sup>6</sup> protecting victims of sexual exploitation. 108 years after its enactment, **Law 9143 was the first law in the world to punish sex trafficking and to provide protection to minors against this crime.** The World Conference of the Coalition Against Trafficking in Persons proposed 23<sup>rd</sup> of September to be commemorated as the “International Day against Sexual Exploitation”. The proposal was taken up at the Women’s Conference held in Dhaka, Bangladesh, in January 1999.

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<sup>2</sup>United Nations, 2018. “International Day for the Abolition of Slavery 2 December 2018”. Available at: <https://www.un.org/en/events/slaveryabolitionday/background.shtml>

<sup>3</sup> United Nations Office on Drugs and Crime (UNODC) (2014, 2016). Global Report on Trafficking in Persons

<sup>4</sup> Winterdyk and Jones, 2020. The Palgrave International Handbook of Human Trafficking

<sup>5</sup> Ibid. page 5

<sup>6</sup> Available at: <http://www.saij.gob.ar/9143-nacional-ley-sobre-trata-personas-lnn0026302-1913-09-23/123456789-0abc-defg-g20-36200ncanyel>



## 1.1 Context and Seriousness of the Problem

The issue of sex trafficking is of prime relevance that a resolution of the United Nations General Assembly in March 2007 requested the United Nations Secretary-General to develop interagency coordination to “enhance cooperation and coordination and facilitate a holistic and comprehensive approach to the problem of trafficking in persons” (A/RES/61/180)<sup>7</sup>. The number of traffickers that have been identified and successfully prosecuted are a small proportion of those investigated. In addition, not all identified victims are receiving relevant and adequate assistance. Access to remedies for victims of trafficking remains particularly limited<sup>8</sup>.

Additionally, the government decreased the prosecution efforts. The special Prosecutor’s Office for Trafficking and Exploitation of Persons (PROTEX) opened 220 trafficking investigations (130 for sex trafficking and 90 for labour trafficking) in 2020, compared with 252 in 2019<sup>9</sup>. The government prosecuted 26 suspected traffickers (19 for sex trafficking and seven for labour trafficking) in 21 cases (14 for sex trafficking, five for labour trafficking, and two for both sex and labour trafficking) under the trafficking law, compared with prosecuting 78 alleged traffickers in 2019 and 106 in 2018. The government convicted 26 traffickers (22 for sex trafficking and four for labour trafficking) in 15 cases in 2020, compared with 53 traffickers in 29 cases in 2019 and 71 traffickers in 48 cases in 2018<sup>10</sup>.

Further, the government decreased the protection efforts. The Rescue Program was the government office responsible for coordinating short-term emergency victim services; a separate entity, the National Secretariat for Childhood, Adolescence, and Family (SENAF), assisted foreign victims and victims identified in the autonomous city of Buenos Aires. In 2020, the Rescue Program reported assisting 933 victims, compared with 1,438 victims in 2019 and 1,501 victims in 2018. Of the victims assisted, 644 were victims of labour trafficking, 235 were victims of sex trafficking, and seven were victims of ‘subjection to servitude;’ the government was unable to specify a form of trafficking for the remaining 47 victims. More than 70 percent of victims in 2020 were Argentine nationals; foreign national victims (245) hailed predominantly

<sup>7</sup> ICAT, A toolkit for guidance in designing and evaluating counter - trafficking programmes, 2016 page 2

<sup>8</sup> Ibid., page 10

<sup>9</sup> Department of State - United States of America, “Trafficking in Persons Report”, 2021, page 89

<sup>10</sup> ibid.

from Latin America and the Caribbean, including Paraguay, Bolivia, and Venezuela, but the government also reported assisting victims from China, Peru, Russia, South Korea, and the United States, among other countries. The government funded repatriation for 10 Argentine victims exploited in trafficking abroad between January and July 2020; it did not report repatriation statistics for the second half of 2020<sup>11</sup>.

Argentina still has a Judiciary that is patriarchal and conservative in its approach and focuses more on investigating and questioning the victims than the traffickers and clients. In reality, clients who demand sexual services keep the prostitution circuit active. They do not take into consideration the countless women who are forced to act against their will. Therefore, if there were laws penalising them for demanding prostitution, the number of victims of trafficking would be lower.

Argentina is a country of origin, transit, and destination for human trafficking for the purpose of sexual exploitation. What is known as the "system of rounds"<sup>12</sup> takes place. If there is a suspicion that a victim is going to be found, the trafficking networks immediately move her to another place within or outside the country. Victims are not only deprived of their liberty, but they are also threatened with death if they try to escape. Their families are also at risk. As they are tricked into being transferred from their place of origin to their place of exploitation, their journeys generate debt, which is never repaid. Even if they manage to escape, the lack of their documentation, which remains in the hands of the trafficking networks, prevents them from being able to seek help.

Victims and survivors report that in very few cases do they receive assistance from the State. Federal officials have formal procedures for victim identification and assistance; however, in practice, the procedures to identify victims among vulnerable populations varies by province. Some front-line responders have a limited understanding of trafficking. SENAF and each provincial government were responsible for mid and long-term assistance for foreign and domestic victims; experts noted the need for more integrated and comprehensive victim

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<sup>11</sup> Ibid., page 90

<sup>12</sup> When a woman is captured by trafficking networks, she is taken to a certain place. Subsequently, to avoid being found, she is moved to other places in the country so that no trace of her can be found. This is known as "system of rounds".

assistance. Regional governments in 10 provinces operated anti-trafficking centres that provided psychological, social, medical, and judicial assistance to trafficking victims<sup>13</sup>.

It is the NGOs, many of which are made up of women who have suffered the aftermath of sex trafficking, that provide assistance and empower them to get their lives back on track. In countries such as Argentina, where corruption levels are high and where there is collusion between trafficking networks and officials from the three branches of government<sup>14</sup>, the difficulty of eradicating the crime increases. For example, Alike Kinan is a survivor of human trafficking. She was the first plaintiff against her pimps and the State<sup>15</sup>. Together with professionals from different disciplines, they promote prevention and collaborate for the restitution of victims' rights.

Victims obtain their freedom through raids carried out by prosecutors' offices<sup>16</sup>. It is also known through the victims' own statements and the media that when they manage to escape from the places where they are deprived of their freedom, they ask for help from people telling them what has happened to them, and these people provide them with support. This is done by contacting NGOs specialised in the matter or by taking them to the court to denounce their exploiters. In other cases, when the clients themselves learn the true story of the women who are sex slaves, they help them to regain their freedom<sup>17</sup>. However, since the country has specialised prosecutors' offices and NGOs working on the issue, this issue is gaining a place on the State's agenda.

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<sup>13</sup> Department of State - United States of America, "Trafficking in Persons Report", 2021, page 90

<sup>14</sup> The three branches of the Argentine State are: Executive, Legislative and Judicial

<sup>15</sup> Alike currently has her own foundation that brings together professionals from various areas to address human trafficking. For more information visit the website: <http://www.fundacionalikakinan.org/>

<sup>16</sup> Resolution 742/11. Protocol of Action of the Federal Forces for the Rescue of Victims of Human Trafficking. Available at: <https://www.mpba.gov.ar/files/documents/Protocolo742-11.pdf>

<sup>17</sup> Bueno Gonzalo, 2006, page 7



**Picture 1:** Play "La Naty" by film director Sol Bonelli (Argentina).<sup>18</sup> It describes the conditions in which the "sex slaves" find themselves

## 1.2 Factors that Lead to the Crime of Sex Trafficking

Factors leading to sexual trafficking include poverty, lack of support networks, economic and social vulnerability, limited access to education, among others. Similarly, in the case of Argentina, especially in the poorest provinces, many women have been expelled by their own families. This leads to them being deceived with false promises of work, mainly in the big cities of the country. Being a migrant also increases the chances of being a victim<sup>19</sup>. Traffickers exploit victims from other Latin American and Caribbean countries in Argentina, particularly the Dominican Republic, Paraguay, Peru, Bolivia, Uruguay, Venezuela, and Brazil. Officials indicate traffickers may exploit the additional vulnerabilities of individuals with mental illnesses or instabilities<sup>20</sup>.

<sup>18</sup> For information about the play "La Naty". Available at: <https://youtube.com/channel/UCS-Pef3PQ11Zsz-UawFFBkw>; <https://www.elcaleidoscopiodelucy.com.ar/2021/02/la-naty-teatro.html>

<sup>19</sup> Department of State - United States of America, "Trafficking in Persons Report", 2021, page 91

<sup>20</sup> Ibid.

The concept of vulnerability brings us to another objective condition which is also important, and which is mostly found in cases of sexual exploitation and mainly among women in the brothel system: the issue of poverty. This concern for the disadvantages brought about by gender and poverty in the brothel system has even been highlighted by General Recommendation 19 of the 1992 Convention on the Elimination of All Forms of Discrimination against Women, entitled "Violence against women". It expresses particular concern about how poverty and unemployment increase the likelihood of trafficking. This recommendation also adds that practices such as sexual exploitation are incompatible with equal rights and respect for women's dignity and place women at particular risk of violence and abuse<sup>21</sup>.

It is essential to differentiate poverty from vulnerability. This last term refers to the condition of a person in a specific context. A response to vulnerability needs to consider the external conditions of an individual as well as the coping mechanisms that enable the individual to protect themselves against a negative impact from those external conditions<sup>22</sup>. Poverty prevents many people from receiving benefits and protections that are granted to all citizens. It also drives many women to seek a better quality of life in more developed cities in their own countries or they may even decide to migrate. Unfortunately, many of them are deceived and become victims of sex trafficking, which may continue for years. Individuals with limited education or who are illiterate have fewer income-generating opportunities. In addition, they will not have the knowledge or confidence to inquire about the terms of their contracts or working conditions. Limited access can be determined by gender, social customs, economic capacity, limited access to educational institutions and the cultural relevance of getting an education<sup>23</sup>. Support networks, made up of family, friends and institutions, are essential to prevent human trafficking. In these networks people find support, advice and are warned of the dangers of an increasingly globalised world.

In Argentina's 24 provinces, the economic situation is worrying, with poverty being more prevalent in the north of the country. Strong patriarchal structures persist and many women

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<sup>21</sup> Colombo, Compendio Normativo y Teórico. Talleres sobre perspectiva de género, trata de personas y explotación sexual, 2013, pages 60, 61

<sup>22</sup> UN Office on Drugs and Crime, 2008. An Introduction to Human Trafficking: Vulnerability, Impact and Action, page 68

<sup>23</sup> UN Office on Drugs and Crime, 2008. An Introduction to Human Trafficking: Vulnerability, Impact and Action, page 74

from an early age have to take charge of their homes or work to support their families financially. This prevents them from accessing education and from having more tools to develop their lives.

In their search for a better future, they are often lured by promises of well-paid jobs with little or no experience. Women are often offered jobs by recruiters as domestic workers, child/elderly caretakers, waitresses, etc. The recruiter always offers a job that is supposedly very well paid and available in another place (another region, province or country)<sup>24</sup>. This is how exploitation begins. In other cases, it is their own family members who hand them over to the trafficking networks so that they can send money to their families. The case of a rescue by the National Gendarmerie of a 14-year-old girl who had been handed over by her father to a human trafficking network to pay a drug debt can be cited as an example. The complaint was made to the Hotline 145 of the National Programme for the Rescue and Support of Persons Affected by the Crime of Trafficking<sup>25</sup>. Migrants, who move irregularly, are more likely to be trafficked, as they often lack proper documentation, adequate resources or community support. Migrants come from situations of extreme poverty and are generally women. There are no rights redressal programmes because they are very costly<sup>26</sup>.

Currently, some of the victims of trafficking (both labour and sex) are migrants. Historically, border migration in Argentina has represented only 3.1% of the country's population; however, when considered in the long term, the overall volume of immigration has been declining throughout the 20th century, while at the same time there has been a change in the composition of this flow. There has been a shift from non-border immigration (in 1914, nine out of ten migrants came from non-border countries, especially Europeans) to a majority of immigration originating in the South American region<sup>27</sup>. Thus, in the first decade of the 21st century, 81.2% of migrants were from American countries, and of this percentage, 84.6% were from neighbouring countries.

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<sup>24</sup> OIM et al., 2016 "Aprendiendo sobre trata de personas: Una guía para jóvenes", pages 6, 7

<sup>25</sup> Ibid. page19

<sup>26</sup> Peace Women Across the Globe, Honorable Cámara de Diputados de la Nación y Parliamentarians for Global Action, Jornada "Perspectiva de Género y Trata de Personas con fines de Explotación Sexual", 2014, page 43

<sup>27</sup> OIM, 2012. Perfil migratorio de Argentina, page 18

### 1.3 Consequences on the Psychophysical Health of Victims

Sometimes trafficked women and girls are deprived of their liberty for many years. This affects their physical and psychological health. The confinement and the lack of medical check-ups deteriorate their bodies and psyche. Despite there being a significant increase in victims of trafficking being identified, often it is the victims/survivors who are asked (forced) to demonstrate incredible resilience: from the relentless violence perpetrated by the traffickers and abusers to find a way through the criminal justice system. They are not allowed to peacefully lead their lives, start to recover, until the legal process is finally complete. In some instances, the cases end with the death of the victims<sup>28</sup>.

Additionally, survivors of the sex trafficking may have to deal with sexually transmitted diseases, such as HIV/AIDS. They may also experience gynecological problems and suffer from long-lasting effects of the injuries they have sustained. Impacts on their mental health include anxiety, depression, self-harm and post-traumatic stress disorder<sup>29</sup>. Victims and survivors need their fundamental rights to be respected, to be given the possibility to rebuild their lives, away from stereotypes or prejudices that can harm them. In Argentina it is essential that the law on trafficking is enforced, such that victims/survivors feel assured that the State is looking after them. One aspect that hinders the recovery of victims in Argentina is that when they manage to regain their freedom and reintegrate into society, it is important that if they cannot return to a safe environment, they are accommodated in shelters specially designed for victims of sex trafficking. These shelters should have an interdisciplinary team, where they can access legal, psychological, and other assistance as needed. The largest province in the country, Buenos Aires, lacks shelters for victims of trafficking, which is a serious problem for victims who do not have support networks.

There are comprehensive protection homes in the province (hogares de protección integral) that are administered by the state and have interdisciplinary teams to assist victims. This is transitory until the victims can come back to a normal life. Many of the victims are referred to these homes to avoid being found by their exploiters or to prevent them from continuing

<sup>28</sup> Winterdyk and Jones, 2020. The Palgrave International Handbook of Human Trafficking, page 6, 7

<sup>29</sup> McQuaid J, 2020. "Entender los efectos psicológicos de la trata de personas con fines de explotación sexual para fundamentar la prestación de servicios", page 37



to be in danger. Although the stay of the victims is transitory, they often experience major crises because they cannot freely live their lives as they would like. It is common for victims/survivors to ask why they should be locked up and their exploiters enjoy liberty. However, such shelter homes allow them to be protected from harm. The emotional impact is heightened as time passes and women victims of trafficking for sexual exploitation realise that there is no comprehensive policy to redress their rights. Alicia Peressutti, who in 2013 was invited by Pope Francis to be an observer at the First International Symposium against Trafficking in Persons at the Vatican, said at a conference<sup>30</sup> on the issue organised by Peace Women Across the Globe<sup>31</sup> (PWAG) together with former congresswoman Margarita Stolbizer: *"Sadly, I have to say that nowhere in the world are there any long-term rights programmes for victims of trafficking. There are no social reintegration programmes. Victims are cared for until they testify. Assistance is an obligation of the State"*<sup>32</sup>.

In this chapter, it can be reaffirmed that victims and survivors of sex trafficking in Argentina are invisible. After having suffered unimaginable abuses, their rights, such as access to housing, access to justice and psychological care, are rarely met. Further, the consequence of this invisibility extends to the families of the victims. In Argentina, the father of Marita Verón, a victim of this crime, lost his life because of the enormous sadness of not being able to know what happened to his daughter. The mother of another victim, Fernanda Aguirre who was only 13 years old, died of cancer caused by the anguish of her daughter's disappearance.<sup>33</sup>

***"The victims of human trafficking are the ones who have disappeared in democracy and the state has the responsibility to find them all. It cannot be that families have to knock on the doors of all the offices in order to file a complaint"*<sup>34</sup>.**

– Fabiana Tuñez, co-founder of the Civil Association La Casa del Encuentro

<sup>30</sup> Jornada "Perspectiva de Género y Trata de Personas con fines de Explotación Sexual". Memoria. 2014. (Conference "Gender Perspective and Trafficking in Persons for Sexual Exploitation". Report) Publishing House: Diario el Viajero.

<sup>31</sup> PeaceWomen Across the Globe (PWAG: [www.1000peacewomen.org](http://www.1000peacewomen.org))

<sup>32</sup> PeaceWomen Across the Globe, Honorable Cámara de Diputados de la Nación y Parliamentarians for Global Action, Jornada "Perspectiva de Género y Trata de Personas con fines de Explotación Sexual", 2014, page 42

<sup>33</sup> Available at: <https://www.infobae.com/2010/06/20/522158-murio-el-padre-marita-veron-la-joven-raptada-hace-8-anos-una-banda-trata-personas/>; <https://www.lavoz.com.ar/noticias/sucesos/murio-la-madre-de-fernanda-aguirre/>

<sup>34</sup> PeaceWomen Across the Globe, Honorable Cámara de Diputados de la Nación y Parliamentarians for Global Action, Jornada "Perspectiva de Género y Trata de Personas con fines de Explotación Sexual", 2014, pages 48 and 49



## 2. The Legal Framework

### 2.1 International Legislation

The **United Nations Convention Against Transnational Organised Crime**, adopted by the General Assembly Resolution 55/25 of 15 November 2000, is the main international instrument in the fight against transnational organised crime. The Convention is further supplemented by three Protocols, which target specific areas and manifestations of organised crime. In this report we will focus on the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children<sup>35</sup>. However, there are other international documents dealing with the issue of sex trafficking which should be interpreted in accordance with the Protocol, such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child and at regional level Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará).

The origin of the Protocol can be found in a proposal made by the Government of Argentina suggesting the development of a new convention against trafficking in minors. The proposal was discussed in 1997 during the Sixth Session of the Commission on Crime Prevention and Criminal Justice (CCPCJ), the central body within the United Nations system dealing with criminal justice matters<sup>36</sup>. Until the enactment of the Protocol, the groups most vulnerable to becoming victims of this crime, particularly women and children, were not sufficiently protected. The protocol focuses on key crime-fighting issues such as prevention, suppression, and punishment of human trafficking.

The **100 Rules of Brasilia**<sup>37</sup>, on the other hand, are rules and conditions established by all Ibero-American countries that determined which group of people in a society were

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<sup>35</sup> United Nations Office on Drugs and Crime: <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>

<sup>36</sup> Legislative Guide, UNODC, 2020, page 9

<sup>37</sup> Available at: <https://www.mpd.gov.ar/index.php/marconormativo-diversidad-cultural/instrumentos-internacionales/3158-las-100-reglas-de-brasilia-sobre-el-acceso-a-la-justicia-de-las-personas-en-condicion-de-vulnerabilidad>

disadvantaged in terms of access to justice. They take as one of the objective conditions to categorise people who are in a situation of vulnerability to women, the gender situation<sup>38</sup>.

Human trafficking continues to be a major challenge for governments and society in general. In this regard, and given the importance of the 2030 Agenda, it is essential to highlight the Sustainable Development Goals (SDGs) that apply to this issue. These are **SDG 5** (gender equality), **SDG 8** (Decent Work), **SDG 10** (Reduced Inequality), **SDG 16** (Peace, Justice and Strong Institutions) and **SDG 17** (Partnership to Achieve the Goal).

## **2.2 National Legislation**

As far as the normative framework is concerned, Argentina ratified the Palermo Protocol in 2002. The National Congress approved Law 26364 on 29 April 2008. This approval was largely the result of the work carried out by the country's NGOs working to end sex trafficking in Argentina.

Law 26364 amended the Penal Code (articles 145 bis and ter), which prohibit and punish all forms of trafficking in adults and children<sup>39</sup>. The National Code of Criminal Procedure was also amended in Article 33<sup>40</sup>, making human trafficking a crime of federal competence. This is because the crime involves the movement of victims and traffickers across different jurisdictions of the country, especially internal trafficking.

As a result of the number of shortcomings in the law regarding the scope of consent of the victim over the age of eighteen and the lack of mechanisms for assistance to the victim of trafficking, in 2012, the National Parliament amended the law, eliminating any type of consent of the victim - regardless of the victim's age - that could exclude the responsibility of traffickers, and established a federal coordination mechanism for the prevention and assistance to the victim of human trafficking through the new law 26842 (26 December 2012).

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<sup>38</sup> Colombo, Marcelo. Compendio Normativo y Teórico. Talleres sobre perspectiva de género, trata de personas y explotación sexual. Material produced by: Women's Office (Argentina) and Public Prosecutor's Office (Argentina). Page 60.

<sup>39</sup> Available at: [https://oig.cepal.org/sites/default/files/2012\\_arg\\_ley26842\\_0.pdf](https://oig.cepal.org/sites/default/files/2012_arg_ley26842_0.pdf)

<sup>40</sup> Available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/383/texact.htm#4>

For the first time, it established obligations on the part of the federal state to generate assistance policies for victims of trafficking with the cooperation of the provincial states. At the same time, in January 2015, the Executive Power partially regulated the law on trafficking through Decree 111/2015 (28 January 2015), establishing the procedure to be followed by the different areas of the State for the care of rescued victims of trafficking. The law also established the creation of a Federal Council for the Fight against Trafficking and Exploitation of Persons and for the Protection and Assistance to Victims, composed of representatives of various national ministries, provincial representatives, and national NGOs.

The current regulation provides for procedures to assist victims of trafficking at the time of rescue, as well as to ensure that victims have access to adequate psychological, medical and legal assistance; access to "appropriate accommodation" for the time it takes for their psychophysical recovery; and access to employment programmes or job training courses, offered by national ministries of labour or provincial bodies through agreements<sup>41</sup>. Regarding the bodies in charge of coordinating the criminal prosecution of the crime, after the Prosecutor's Unit for Kidnappings for Extortion and Trafficking in Persons (UFASE) in 2013, this body was replaced by the Prosecutor's Office for Trafficking and Exploitation of Persons (PROTEX), which is currently in force. For the purposes of Law 26842, exploitation is understood to be the configuration of any of the following cases, without prejudice to the fact that they constitute autonomous crimes with respect to the crime of trafficking in persons:

- (a) When a person is reduced or kept in conditions of slavery or servitude, under any modality;
- (b) When a person is forced to perform forced labour or services;
- (c) when promoting, facilitating or commercialising the prostitution of others or any other form of offering of sexual services of others;
- (d) the promotion, facilitation or commercialisation of child pornography or the performance of any form of performance or spectacle with such content;
- (e) forcing a person into marriage or any form of de facto union;

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<sup>41</sup> Sommer, C., 2017. "Human Trafficking in Argentina. Recent Implications of Prosecutions and Victims Assistance"

(f) when the forced or unlawful removal of human organs, fluids or tissues is promoted, facilitated or commercialised.<sup>42</sup>

Consent given by the victim of trafficking and exploitation of persons shall in no case constitute grounds for exemption from criminal, civil or administrative liability of the perpetrators, participants, co-operators or instigators.

Argentina is a country of origin, transit and destination of victims of trafficking both internally and internationally, but the history of human trafficking and its practices of sexual and labour slavery in the country is not recent<sup>43</sup>.

Currently, most of the trafficking victims identified come from rural to urban areas. The Oral Criminal Court 2 of La Plata (Province of Buenos Aires, Argentina) has stated: *"The impotence to cover elementary needs, the precarious cultural level, the lack of opportunities in their place of origin and the necessary uprooting to cope with these shortcomings - among other circumstances - and a supposedly promising job and economic offer for the victim and his family are the background means that those who exploit the work of others take advantage of"*.<sup>44</sup>

They come from the northern provinces of the country (Misiones, Tucumán, Jujuy, Salta, Santiago del Estero, Corrientes, Chaco and Santa Fe), but also from neighbouring countries (mainly Brazil, Paraguay and Bolivia) and other Latin American countries, such as the Dominican Republic and Colombia. In turn, the destination provinces for victims of human trafficking are Buenos Aires, Córdoba, Mendoza and Santa Cruz<sup>45</sup>. According to a US government report, foreign women, especially from Paraguay and Brazil, are brought to Argentina for sexual exploitation, while Bolivians and Peruvians are transported to the country for forced labour in textile workshops and agriculture<sup>46</sup>.

<sup>42</sup> Law 26842, InfoLEG- Información Legislativa

<sup>43</sup> Raúl, S., 2010. "Historia de la trata de Personas en Argentina como Persistencia de la Esclavitud"

<sup>44</sup> Tribunal Oral en lo Criminal Federal N 2 de La Plata. Cause: 3252/2012(Jincai Zheng), October 16, 2014

<sup>45</sup> Organización Internacional para las Migraciones "Informe Exploratorio sobre la trata de personas en Argentina, Chile y Uruguay", 2006, page 5; UFASE, "La trata sexual en Argentina. Aproximaciones para un análisis de la dinámica del delito", 2013, page 7

<sup>46</sup> Departamento de Estado de los Estados Unidos, Trafficking in Persons Report, 2010, page 25

### 2.3 Government Agencies: Importance of the Creation of the Ministry of Women at the National and Local Level

Although the National Ministry of Justice and Human Rights is the main authority with regards to the crime of sex trafficking, the establishment of the Ministry of Women, Gender and Diversity at the national level and the Ministry of Women, Gender Policies and Sexual Diversity in the Province of Buenos Aires is a step forward in addressing this human rights tragedy. The problem of sex trafficking and exploitation in Argentina primarily affects the women - accounting for 98% of the victims. In tackling this problem, an adequate gender perspective is essential when studying its causes and consequences. Both Ministries have female officials with vast experience in the field. Stereotypes and stigmatisation of victims of human trafficking are present in this crime. Argentina is a pioneer in this field, as its legislation includes the **Micaela Law**<sup>47</sup>, which was passed after the femicide suffered by the young woman Micaela García (Law 27499). It was enacted on 10 January 2019. It establishes mandatory training on gender and gender-based violence for all persons working in the public service, in the Executive, Legislative and Judicial branches of the country. It also extends to provincial authorities.

While it is true that the responsibility for the reparation of rights lies on the State, the creation of the Ministry of Women at the national level and in the province of Buenos Aires, which is very recent (December 2019), has helped to keep the issue on the agenda and to work in coordination with other State organisations and NGOs. Thus, human trafficking is addressed by the Ministries in coordination with other state agencies and NGOs, respecting the rights of the victims and avoiding their re-victimisation. The work that has been done since the Ministry of Women was created has been very fruitful and it strives with all the knowledge and commitment of its members to ensure that no person, particularly women and children, become victims and we join the postulate of a world without slavery<sup>48</sup>.

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<sup>47</sup> The Law was enacted on 10 January 2019. It establishes mandatory training in gender and gender-based violence for all persons working in the public service, in the Executive, Legislative and Judicial branches of the Nation. It is named in commemoration of Micaela García, a young woman from Entre Ríos, 21 years-old, who was a victim of femicide at the hands of Sebastián Wagner. Available at: <https://www.argentina.gob.ar/generos/ley-micaela>

<sup>48</sup> The writer of this report, Maria Julia, is a member of the Trafficking and Sexual Exploitation Team of the Ministry of Women of the Province of Buenos Aires

Both ministries are working in their respective areas of competence to enforce the law on trafficking and to establish the issue as a serious human rights violation. The teams dealing with this issue focus on the victims and survivors and on how to help them to return to a life of dignity. It is of great importance to highlight that in Argentina there is a hotline to report when there is suspicion about the prevalence of human trafficking. This is the **Hotline 145**, under the orbit of the Ministry of Justice and Human Rights. It operates 24 hours a day, 365 days a year and is run by professionals with abundant knowledge of the issue.

Within the scope of both the Ministry of Women's Affairs, at national and provincial level in Argentina, it is worth mentioning the **144 line** to report multiple forms of violence suffered by women. Many victims of trafficking report what has happened to them to this line and the operators tell them to call **Line 145**, which, as mentioned above, is the specific line for human trafficking. From there, the corresponding reports are forwarded to the prosecutor's offices and courts with competence in this area.



Picture 2: Hotline 145<sup>49</sup> and Hotline 144<sup>50</sup>

<sup>49</sup> Available at: [argentina.gob.ar](http://argentina.gob.ar)

<sup>50</sup> *ibid.*

## 3. Case Studies/ Testimonials

### I. Interview with Alba Sansón, Survivor of Sex Trafficking

#### *How do you remember your childhood and adolescence?*

I treasure beautiful memories of my childhood, surrounded by friendships, games and endless tables of relatives. As a teenager, while I was in high school, I studied nursing. I graduated from nursing at the age of 17 and started my internship at the Cestino Hospital in Ensenada.

#### *What happened when you were 17?*

At that age, and like every summer, I went to Olavarría (Province of Buenos Aires) to spend my holidays with my grandfather, after an argument with my mother. Alongside my grandfather and his wife, there was a woman (PG). One day PG invited me to go shopping with her. This outing would mark my future destiny for the next 7 years. PG took me to the flat of a friend of hers who was about 40 years old. I asked PG to let me return to my grandfather's house. I had never been with a man before and felt uncomfortable there.

#### *Why do you mention that the above would mark your future years?*

PG's friend handed her an envelope. Then he grabbed me by the hair and locked me in a flat. That's where my captivity began. I was beaten, stripped, and raped repeatedly. I was only 17 years old and had never had sexual relations. They wouldn't let me go out and offered me cigarettes. I did not smoke.

#### *How did your life develop in those years?*

I was sold to a cabaret in Olavarría. Women who were victims of trafficking were locked in a room. I lost track of time and space because of the forced sex. The exploiters offered me food and I refused. They hurt me a lot. I was sold again to a cabaret in Tandil (a city in Province of Buenos Aires). Despite all the abuse I suffered, my resilience always kept me

going. They sold me again. I always tried to escape. Once when my exploiters found me, they broke my nasal septum and a rib.

***How did you cope with those years of violations of your fundamental rights?***

My exploiters could never break me. Whenever I could, I protected other women, especially the younger ones. I didn't want them to experience what I did. I witnessed the death of other women who could not resist. My suffering continued in other cities in the province of Buenos Aires. One night I was raped by 22 men. My exploiter even tried to kill me, but I was able to save my life.

***What happened when you found out you were pregnant?***

At first, I thought about having an abortion. When I was thinking of doing it in a bathroom, I saw a foetus. There I thought that my child was not to blame for what had happened. I decided to have the baby and I was able to buy him clothes and a bassinet. It was a very difficult time. When I was pregnant, I lived on the street. I was only fed with lettuce and tea bags.

***What happened on 31 August 1993?***

My son Brian was born. When I breastfed him, I felt a very special connection. I was surprised when the doctor told me that the child was in a healthy state because my feeding was not adequate. I said to myself: "My son is a warrior". My sufferings continued. My exploiters found me, but my son was always safe because he was in the care of a woman I trusted. Brian and my other two children are the reason for my life<sup>51</sup>.

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<sup>51</sup> This interview continued but we decided to conclude it here, highlighting Alba's resilience and her example of fighting so that other women would not experience what she suffered





Picture 3: Alba and her son Brian (Picture from Alba Sanson's family album)<sup>52</sup>

## II. Interview with Dr. Christian Fabio, Prosecutor in Charge of Prosecutor's Office 4 of Escobar (Province of Buenos Aires) Specialising in Gender-Based Violence

### *How do you see the context in terms of sex trafficking?*

I see that there is a lot of effort. The people working in the Public Prosecutor's Office are very committed. The issue is that there are few human resources. Although the will of the people is enormous and they are very attentive to what is happening, there is a lack of professionalisation because there is a lack of investment in the area.

<sup>52</sup> Alba gave her consent to the author of this report to let HRC use this picture in the report

***Why is there a lack of investment in the area?***

Primarily because there is an economic crisis. This also depends on political decisions. The budget is allocated to another area. Human trafficking is not in sight.

***In your opinion, are victims/survivors made invisible?***

Yes, if we look at the timeline, they became visible with the case of Marita Verón. Her mother, Susana Trimarco, was the best-known person on this issue in the media. If you ask about her today, nobody knows about her anymore. It is not that trafficking does not exist. It is just that it is not visible, or it is hidden behind other issues.

***Since trafficking networks are not always convicted, what responses are provided to victims?***

Fortunately, there are NGOs. In the cases in which we intervene, we work together. They are contained through a network; they have other resources, and they work together. Civil society is very organised on this issue. In many cases they are made up of people who have been victims and know what the process is like.

***How do you tell a victim that her case is not successful or that the crime of trafficking cannot be proven?***

Without lying; the solutions lie in the following:

- Disrupting the gangs
- Equally or more important is reparation

It is very difficult to get to the perpetrators and punish them. The quickest response is to try to reintegrate survivors into the world, to re-channel them into a "more normal" society.

***What happens when a victim has to be told that her case is closed?***

A lot of work is done here with the psychologists of the Centro de Atención a la Víctima-Victim Support Centre (CAV). In other cases, the prosecutor closes the case. In these cases, how is it explained to them? Precisely through the Victim Support Centre: psychologists and social workers do multidisciplinary work to empower victims/survivors.

### *Do you envisage a world without slavery?*

Slavery has always existed, and it will always be there. There will be the powerful and the subjugated. History shows that it is impossible to think of a world without slavery. Since 1600- 1700 there are already antecedents of slavery.



Picture 4: Dr. Fabio and his staff (Picture taken by the Prosecutor, Office 4)<sup>53</sup>

<sup>53</sup> The author of this report has the consent from all people present in the picture to use this picture in the report

### III. Interview with Mariana Iglesias, Journalist of Clarin Newspaper

#### ***How do you think the media has dealt with the issue of human trafficking?***

Historically, it has been an issue that has been poorly addressed. In the police section, always after a raid, the information reached the media through the police. The police used to send photos of the victims covering themselves, putting them in the place of the culprits. It was always seen as criminal, police-centred and focused on the raid, with police language that had nothing to do with the victims, no context, no talking about laws, rights. It never followed the stories of the victims. Another part that sometimes touches on the issue is when there is a trial of a pimp. There the focus is on the punishment of the pimp, but the victims are still invisible, we don't know where they are, what they did, what happened to their lives and why they were there. Nor what will happen to their property. The discussion about where the assets are going, about the Trust Fund, whether the money will be distributed. I don't think anyone should know on a mass level what the law on trafficking says.

#### ***Do you think that this issue has been given an important place in the gender agenda?***

No, the gender agenda is fortunately becoming bigger and bigger, but trafficking has been somewhat side-lined. The gender agenda is more focused on domestic violence or street harassment or sexual abuse and the issue of abortion. Now, fortunately, there is also talk of the Comprehensive Sex Education Law. We are trying to incorporate the issue of care work and how it is chained: the glass ceiling, wage inequality, the precariousness of poverty, the feminisation of poverty. Fortunately, these issues are part of the gender agenda, but human trafficking is not a central issue at all. This has to do with an internal discussion within feminism, which does not reach an agreement and it is a difficult issue and there is a lot of discussion. There is a sort of “rift”, to call it something like that, between the feminists who consider that it is a job and should be regulated and the abolitionists who say that it is pure exploitation and that there is no dignified work in exploitation and prostitution.

#### ***Do you think that the victims and survivors of human trafficking are invisible?***

Yes, they are totally invisible, and it has to do with this: the media focus on the raid and the trial. They never focus on the victims, or why they got there, or how they got there, or how



they were captured, or what happened after the raids and their rescue. Everything stays there. Journalists don't talk about it and then people don't understand that most of the people who end up in these places have to do with poverty, need and deception and how after they are rescued, they can rebuild their lives. Many women who have never had a job, who have no education, who have no means, who have been thrown out by their own families, if the action of the state ends in rescue there is no rehabilitation possible, no other life possible. There is no means, so there are women who end up being rescued again and again. They cannot get out of what is called the prostitution circuit. There is no way out and this has to do with the fact that the Law on Trafficking is not complied with, which talks about aftercare, decent housing, education, work, psychological and legal assistance, but most people don't know that this is the case and that they should demand it. Nobody is claiming for these women. It is something that is totally invisible. It is something that is not talked about. It is still seen as an underworld, and because it is not of general interest, most people don't take on this issue. Journalism continues to see it as a police or judicial issue, but not as a social issue.

### ***How can the media contribute to the impact of the issue on society?***

It seems to me that the media are fundamental to dismantle these discourses and to install the issue from the point of view of necessity. How these women, I mean most of them are women or trans women, transvestites in general, end up falling into these places, into these deceptions, into these networks, into exploitation out of sheer necessity and how this should be reversed with equality, with greater possibilities of study, of work. I subscribe to the phrase "No woman is born to be a whore". It seems to me to be true. Of course, there are people who can choose, who are free to do so. In fact, there must be, but they are the absolute minority. The vast majority end up on these circuits out of sheer economic, social and cultural necessity. We must get society to take it that way and avoid falling into this. In 2020, with the issue of the transgender work quota, we were able to raise the issue a little: the importance of work because most of the transvestite population ends up prostituting themselves, they don't have any other type of possibilities. It is very evident in this group. We were able to talk about it and raise the issue. Women who are in a street situation, who before being on the street were probably in a cabaret. Or who have been thrown out of their homes or who have no other economic resources and must go out to earn a living and there

is no other way than this. But it is not a mass issue, nor is it of interest to the media or the population. The media should try to include it. There are, and I include myself, very few of us journalists who have committed ourselves to the issue and try to give it another visibility and another twist so that it is understood that it is a social, cultural and rights issue. I covered Alike Kinan's case. I travelled several times to Ushuaia, I covered the whole trial, I did a lot of articles related to the issue. I also worked a lot with the International Labour Organisation (ILO) on the issue of work. Whether or not it is work and labour exploitation. We need to give it a whole new twist that is missing. I insist that this crack in feminism itself of not being able to agree on whether this is work or whether we must abolish this system that leads to exploitation, means that not all journalists have the same view. Nor does the whole of society have the same view.



**Picture 5:** Mariana Iglesias, a committed journalist (Picture provided by Mariana Iglesias)<sup>54</sup>

<sup>54</sup> Mariana gave her consent to the author of this report to let HRC use this picture in the report

## 4. Conclusion

The issue of sex trafficking addressed in this report is critical for the international community. Sex trafficking is a heinous crime that can result in severe injury or death of the victims. The daily life of victims is characterised by anxiety, fear, torture, poverty, and social isolation. Thus, human trafficking is nothing short of “modern-day slavery”<sup>55</sup>. Communities cannot tolerate the exploitation of women, adolescents, and children, as the entire social fabric is affected. In this sense, recalling the decision of the former International Tribunal for the former Yugoslavia in the Erdemovic case, when this type of crime is committed, humanity is the victim<sup>56</sup>.

It is important to raise awareness about the risks of this crime from an early stage and, fundamentally, to design prevention programmes, in which the alliance of the State, civil society organisations and experts in the field would be fundamental. To avoid falling into trafficking networks with all the consequences that this entails for the body and psyche of the victims, it is essential to focus on crime prevention. Strategies aimed at preventing trafficking should consider ‘demand’ as a root cause. States and intergovernmental organisations should also pay attention to the factors that increase vulnerability to trafficking, including inequality, poverty and all forms of discrimination and prejudice. Effective prevention strategies should be based on existing experience and accurate information<sup>57</sup>.

NGOs have proven to be invaluable in providing crime prevention courses, as well as in assisting and accompanying victims and survivors and their families. For example, María de los Ángeles Foundation (Marita, as she was known, was a victim of the crime) helps to eradicate human trafficking in Argentina and the world. The foundation assists victims and their families in each of the country's provinces, carrying out prevention and training activities against the crime of trafficking, working in a coordinated and sustained manner

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<sup>55</sup> Samuel, J., 2012. Indiana Law Review, pages 492 and 493

<sup>56</sup> Case Endermovic, Decision of the international tribunal for the former Yugoslavia, 29 November 1996., Doc. IT-96-22-T United Nations

<sup>57</sup> Office of the High Commissioner for Human Rights, 2002. Recommended Principles and Guidelines on Human Rights and Human Trafficking, page 9

with the State.<sup>58</sup> This is most effective if these NGOs have other victims and survivors of crime among their members. They can support their recovery at all levels. This will enable them to develop trust in other and build new bonds.

The media in Argentina, as the journalist Mariana Iglesias has stated, have addressed the issue, and society, given some cases that have transcended borders, is aware of this crime and its implications. However, the prevailing patriarchal culture not only in the country, but in the world, makes it impossible to look at sex trafficking seriously. There are even judicial officials who have been involved in human trafficking by omission of their duties or participation in the crime. Argentina is an abolitionist country. The enactment of the law on trafficking led to the closure of cabarets in the country, but the crime continues to be committed. We can say that it has mutated. Today, women are sexually exploited in private homes and flats, making it difficult to rescue them.

It is essential to focus on the figure of the clients, since they are, as already mentioned, the ones who keep the prostitution circuit active. The 2018 Abolitionist Campaign Declaration stated that without prostitution there is no trafficking in persons.<sup>59</sup> It would be extremely necessary for the States, including Argentina, to penalise clients and in this way the demand for prostitution would decrease. While dictatorial states were harsh on their people, those of us who are involved in ending sex trafficking are saddened by the fact that there are women, even today, who still disappear in a democratic country. It is therefore an obligation of the state to continue searching for them.

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<sup>58</sup> Available at: <http://fundacionmariadelosangeles.org/>

<sup>59</sup> Available at: <https://argentina.indymedia.org/2018/12/04/campana-abolicionista-declaracion/>



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