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Drug Policy Along the U.S.-Mexico Border: How Gendered Experiences Rule Current Policy Ineffective

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**Drug Policy Along the U.S.-Mexico Border:
How Gendered Experiences Rule Current Policy Ineffective**

by

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Introduction

As a Mexican woman growing up in the United States, I have been exposed to mainstream narratives of the drug war along the U.S.-Mexico border. Drug traffickers are depicted as brute men whose *machista* attitudes victimize women. Government networks, non-profit organizations, media, and scholars have often contributed to this victim framing when discussing “the drug war.” Discussions about drug crime violence usually mention women when they are the victims (i.e. feminicides). Furthermore, women are rarely perceived as prominent figures in the U.S.-Mexico drug trade. Yet, women have historically participated in the drug trade and continue to be affected by U.S. drug policy.

My research consists of investigating Mexican women’s involvement in the drug trade in order to provide a cohesive depiction of the drug war. By identifying their involvement, policymakers can better understand both the root causes and actors of the drug trade. Without a comprehensive understanding, policymakers limit themselves to approaches that create a cyclical drug war. Primarily, policymakers have relied on the mainstream understanding of the drug war where men are in charge and causing violence between drug traffickers. In response, both the U.S. and Mexican governments have taken militarized approaches to combatting the violent drug crime. Policymakers have not prioritized understanding the causes of the drug trade. Instead, they have focused on punitive approaches that do not resolve the drug trade incentive. Specifically, the lack of attention to gendered, raced, and classed experiences has resulted in an incomplete assessment of the social and economic factors that contribute to the drug trade. The dynamic presents ineffective policies that are unjust and disproportionately affect Mexican

women. This thesis explains how intersectional research can provide policymakers the tools to draft effective drug war policy.

First, I detail a historical background of the drug war to explain the intentions, approaches, and priorities of U.S. drug policymakers. Historically, drug laws have targeted ethnic minority groups out of fear of economic instability or a threat to American citizens' safety. Presumably neutral drug policies have been implemented in biased procedures by targeting specific racial and class groups. This history reveals how the U.S. approach to the drug war can disproportionately affect certain racial and class groups. The impact of these policies is correlated to the economic conditions of Mexico. The country serves as a source for the U.S.-Mexico drug trade due to its struggling working-class that is incentivized by the cultivation of drugs. I show how this precedent sets up a framework that draws many Mexican women to the drug trade mostly for economic need and survival, rather than power and autonomy.

Moreover, my research explains how the root causes and levels of involvement among women within the drug trade can vary. Many Mexican women involved in the drug trade share a common demographic. They tend to be impacted by low socioeconomic statuses, minimal education levels, and limited employment opportunities. The drug trade is particularly alluring to these populations for its quick economic opportunity. However, it is important to note that not all women enter voluntarily. My thesis seeks to deconstruct the power dynamics of the drug trade by explaining different levels of involvement including involuntary involvement. These varying experiences subject women to exploitation, individual power, individual authority, objectification, and/or dependence on a drug lord's orders. Despite the varying circumstances

that lead Mexican women to the drug trade, the U.S. criminal justice system broadly prosecutes those arrested.

As I analyze U.S. drug policies, I emphasize the distinct impact they may have on Mexican women. The U.S. criminal justice system does not take into consideration how gender, race, and class complicate the drug offenses one commits. Instead, the criminal justice system's structure is designed to ignore such complex experiences and focus on quantitative values (such as the quantity of drugs within the offense) to allocate punishment. These actions have profound consequences for women who are vulnerable due to immigration status, socioeconomic status, and/or experiences of domestic abuse. In order to preserve human rights and justice, drug war policies must be reformed to include a comprehensive study that acknowledges the complex lives of those involved in the drug trade. My research serves to inform why current U.S. drug policy is ineffective and how policymakers can create effective solutions.

Methodology

My intention of describing gendered experiences in the drug war is meant to account for the varying positions of Mexican women within the drug trade. It does not signify a Mexican woman's identity as a sole predictor of becoming involved in the drug trade or what that involvement would look like. Instead, information is derived from varying experiences to create a more nuanced description of the drug trade. Gendered experiences need to be acknowledged in order for public policy to best address the drug war. Feminist philosopher Sandra Harding notes how sole attention to men's experiences suggests that only those activities constitute and shape social life (Harding "Introduction...", 4). Some researchers have challenged that notion by identifying how Mexican women can hold authority in drug cartels and/or shape future

generations by their criminality. Further in the thesis, I explain different analyses that highlight the presence of Mexican women in the drug trade and their lack of proper due process. Instead of aiming harsh sentencing towards women involved in the drug trade, I argue that policy needs to reflect the specific needs and power dynamics that have led to such participation. Otherwise, the root causes for participation in the drug trade are not dissipated, but perpetuated for future generations.

Policymakers can benefit from this research by understanding how to deconstruct the political, social, and power relationships permeated in the drug war. By doing so, they can best understand an individual's position and the appropriate resolution for them. This cannot be accomplished without focusing on gender. The importance of understanding gender in politics lies in its position as "a primary field within which or by means of which power is articulated" (Scott, 1069). Since political theory reflects social organization and power, gender becomes a way addressing systematic structure and signifying "the nature of their interrelationships" (Scott, 1066). When focusing on gender, a researcher can further investigate the allocation of power as it pertains to perceived gender norms. My research describes patterns normalizing perceived gender symbols within the drug trade while accounting for experiences that stray from gender norms. Although some women may have similar experiences within the drug trade, it is important to distinguish how race and class intersects with their identities and roles. It is within these distinctions that the allocation of power becomes clearer since those with the lowest authority and knowledge of drug cartels tend to be working-class women.

Race and class are inherently linked to power dynamics and how the social world is constructed. Intersectionality addresses how race, class, and gender are connected and

interdependent in shaping politicized experiences (Crenshaw, 1242). Understanding the differences in social power can help advocate for the reconstruction of policies and lead to social empowerment (Crenshaw, 1242). My research method employs intersectionality to reveal how Mexican women's involvement in the drug trade can vary by socioeconomic factors. The inclusion of these differing identities insists on their value by questioning why the social world is constructed as it is (Crenshaw, 1245). The creation of these social relationships play a part in the injustices perpetuated by government policy. My analysis of intersectional identities and their roles in the drug war will illustrate how "policy is not neutral as it is not experienced in the same way by all populations" (Hankivsky, 218). Race, gender, and class inequalities affect how presumably neutral policies are applied. This is especially evident in the drug war. My thesis provides examples of this uneven application in regards to root causes, experiences in criminal activity, and the allocation of punishment. My findings call for a reexamination of how the U.S. government develops solutions and implements drug policies. Policymakers need to address the influence of intersectional identities on criminality in order to provide an effective policy response.

The history of the United States' "war on drugs"

The creation of the U.S. drug laws can be dated to as early as 1875. During that year, San Francisco faced an opium problem it attributed to the rising Chinese population. A fear stirred that linked both the drug and the Chinese people as a threat to the jobs of the white, working-class. By outlawing opium dens (mostly located in Chinese communities) but not medicinal opium, San Francisco targeted a population it deemed as undesirable and threatening to the white population (Jensen, 6). The city Board of Supervisors feared that white men and women of

“respectable parentage” would become corrupted by the Chinese opium dens (Fisher). The Chinese community that ran the dens were treated as a threat to the social mobility of the majority. Government officials utilized anti-immigrant rhetoric to control opium distribution while facilitating control over the Chinese population as they cut off one of their economic resources (Jensen, 6). The use of scapegoating the Chinese for San Francisco’s opium problem is an example of a racist approach to the creation of the drug law. This technique would continue to be used throughout history.

It is important to specifically address the racial scapegoating that led to the mass incarceration of minorities within the U.S. The 1970s and 1980s brought the beginning of an aggressive approach toward drug use. However, as in the nineteenth century drug laws, the laws only gained public support through racist scapegoating. During the 1970s, the Nixon administration called for a “war on drugs.” Nixon gained public support from working and middle-class white people by associating drugs and crime with young, black adults (Jensen, 13). The alarmist approach to drug use resulted in the creation of harsh sentencing to combat drug use. In 1973, the Rockefeller Drug Laws in New York gained popularity as “a milestone in America’s war on drugs” (Gray). The laws created the first mandatory minimum sentencing for drug possession. Controversy tainted the milestone as critics warned of criminalizing a public health problem. Soon after the implementation of the laws, drug crime remained the same while recidivism rates skyrocketed. Police targeted low socioeconomic neighborhoods primarily made up of black and Hispanic populations (Gray). The Rockefeller Drug Laws were not drafted in racist language, yet the intentions and execution resulted in a disproportionate effect on minority groups. Throughout U.S. history, drug laws continued this trend. For example, the 1986 Drug-

Free America Act increased the restrictiveness of anti-drug laws by establishing federal mandatory minimum sentences for drugs. The application of this law developed militarized policing methods. The “policing for profit” method led to an increase in arrests largely targeting racial and ethnic minorities (Jensen, 2). As a result of this aggressive approach towards drug use, the prison population continues to increase drastically and minority groups make up the majority of the population.

Although there is substantial research on the U.S. drug policy’s disproportionate effect on minority groups, not enough scholarship focuses on gendered experiences. My research details how Mexican women are disproportionately affected by U.S. policy. I compare their level of involvement in the drug trade with consequences such as incarceration or gender violence. In order to understand Mexican women’s vulnerabilities, it is important to examine the historical connections between the U.S. and Mexico drug policy frameworks.

The historical relations between the U.S. and Mexico in the drug war

The country of Mexico has a distinct relationship with the U.S. in terms of the drug trade. It is one of supply and demand. Mexico has cultivated drugs since the early 1800s and these drugs have been available in the U.S. since the early 1900s (González, 43). While there are no reliable statistics on the dimensions of the Mexican supply, it has been speculated that almost all illicit drug exports from Mexico go to the U.S. (González, 44). Mexico became concerned with the spread of drug abuse in the 1920s, so it enacted multiple provisions to prohibit the production and export of marijuana (González, 47). In contrast, the U.S. did not outlaw marijuana imports from Mexico, but instead implemented a tax in 1937 to legally profit from the imports. Up until the 1960s, the U.S. did not see the drug as a serious problem (González, 47). However, this

would soon change with the Nixon administration's war on drugs. In 1969, the administration enacted "Operation Intercept" to reduce marijuana smuggling from Mexico by conducting inspections of cars along the border. The operation proved to be ineffective after it resulted in few seizures. The operation's execution disregarded Mexican authorities, thus straining the relationship between the U.S. and Mexico (González, 47). The difficulty in controlling the drug market between these countries lies in the economic framework that supports it.

Mexico's role as the supplier of drugs to the U.S. reflects the economic conditions that cause illicit drug markets to thrive. Mexico's 1982 economic crisis caused the *peso* to devalue three times within the year. The country experienced high levels of unemployment, especially in rural areas (Boughton 285). Mexico resorted to financial arrangements with the U.S. to obtain credit for food exports and a currency swap line that would allow it to meet steep interest payments due to Mexican banks (Boughton, 293). However, the Mexican government still struggles to improve public security and create meaningful economic growth (Parish). While the richest 0.12% of Mexico's populations controls almost half of the country's wealth, poverty rates continue to rise. Approximately 46.2% of Mexico's population in 2014 lived in poverty (Parish). This explains why poor farmers are the base of the production of illicit drugs in Mexico despite their minimal share in profits. Economic growth in Mexico tends to benefit the wealthy or those with professional skills in urban contexts. As a result, citizens in rural areas tend to resort to the cultivation of drugs (González, 58). The U.S. and Mexico's aggressive approach to drug use and trade instigates further violence, especially in rural areas. Subsequently, working-class women in these regions find themselves in a position where their survival is endangered (Brewer, 9). U.S.

policy has tried to address drug crime violence and cartel influence by collaborating with Mexico. However, such attempts have yet to be proven effective.

The creation of the Merida Initiative shows a clear intent from the U.S. and Mexico to acknowledge their shared responsibility of effectively combating the drug war. In December of 2008, Presidents George Bush and Felipe Calderón signed the Merida Initiative to reduce drug trafficking, cartel influence, drug crime violence and corruption, and restore order in Mexico (“The Merida...”). The \$1.4 billion plan has continued under the current presidents of the countries and stands on four main pillars. The first pillar prioritizes the outlawing of drugs, ceasing money laundering, and eliminating production. The second pillar focuses on enhancing Mexican public security by transforming and improving military and police. The next pillar includes improving the infrastructure and technology on which border and airport security operates. Lastly, the Initiative seeks to bolster communities by advocating for lawfulness, encouraging youth community activities and establishing “social safety nets” (“The Merida...”). At first glance, the Initiative seems to establish a thorough framework. It has prioritized immediate action to reduce supply and the ability to traffic drugs by strengthening the police enforcement necessary to do so. It also attempts a humanitarian stance by improving the strength of the communities negatively affected by drug crime. However, one should be wary of the great emphasis on improving and strengthening security. Such militarized efforts have proven to instigate violence in rural communities.

In 2009, researcher Stephanie Brewer challenged the militarized approach of the Merida Initiative by deeming it a “dysfunctional approach to public security” (Brewer, 9). Brewer explains how the Initiative has increased a war-like mentality by primarily funding the military

and the militarization of the police. She cites incidents of territorial battles between the Mexican police and military against drug traffickers in rural areas. The violent struggle for power instigates arbitrary killings, torture, and unlawful arrests (Brewer, 10). Brewer calls this pattern a “security paradigm” that has not proven sufficient in reducing the drug trade as a whole. Even though an increase in arrests took place, evidence shows drug trafficking routes simply shifting from one location to another (Brewer, 10). Not only is the Initiative proving to be ineffective, but it is also fueling the danger and civil unrest in rural communities. The Initiative attempted to safeguard human rights, but failed to do so. It withheld 15% of funds to ensure Mexico achieved specific human rights goals, yet the country failed to achieve them (Brewer, 9). Brewer believes the militarized approach of the Initiative directly conflicts with the stated goals which are:

- “Improving transparency and accountability of police forces
- Ensuring civilian prosecutors and judicial authorities are investigating federal police and military forces who are alleged to have violated human rights
- Enforcing the prohibition of testimony obtained through torture as evidence in court
- Establishing a mechanism for the Mexican government and civil society to monitor and consult the initiatives implementation” (Brewer, 12).

Through the Initiative, the U.S. and Mexico governments have focused their resources on aggressive approaches such as funding police forces and focusing on drug trafficker violence. By doing so, the governments contribute to the masculinization of the drug war where power, armed forces, and violence serve as the dominant concerns of the drug trade. As a result, the causes of the drug trade, rooted in socioeconomic conditions, are overlooked (González, 58). The perpetuation of this violent and ineffective pattern further endangers Mexican women, regardless of whether or not they are involved in the drug trade.

The connection between drug cartels and the human trafficking of women serves as an example of how uneven power dynamics function within a patriarchal system. Researcher

Evelyn Salinas describes how direct confrontations between the state and drug cartels may cause cartels to seek other criminal activities to increase their power (Salinas, 42). Consequently, drug cartels will target Mexican women, often working-class, for kidnappings and human trafficking because these women are particularly vulnerable. While cartels can profit around \$10 billion dollars from human trafficking, they may also force women to become sexual slaves, drug couriers, lookouts, or assassins (Salinas, 42). The low socio-economic status of these women makes them easy targets because they are “invisible to the state” (Salinas, 43). Without comprehensive drug policy that considers the unequal roles of men and women, Mexican women are disproportionately affected. Neither the U.S. nor Mexican government have made a legislative effort to relieve the limited economic opportunity of Mexico’s working-class. This continues to incentivize the drug trade for Mexican women experiencing such financial burden. My research shows how Mexican women’s involvement in the drug trade is often reliant on opportunity for economic advancement or survival. Their dependency on a system that doesn’t formally recognize them can affect their autonomy within the drug trade and their due process within the criminal justice system.

The feminization of poverty

Women involved in the drug trade tend to come from a similar demographic, especially among Mexican women. These women are usually young, mothers, working-class, minimally educated, and are indigenous to Mexico (Youngers, 1). Their increasing involvement in the drug trade can be attributed to the “feminization of poverty” (Giacomello, 2). This theory explains how there are increasing differences in poverty levels between women and men. The occurrence

is partly due to gender inequalities (Medeiros). Research shows that the feminization of poverty within Mexico is especially prevalent among female headed households.

Researcher Lydia Morris conducted a study of fifty households from impoverished areas of Mexico City. A common thread was found: women often needed to postpone employment until their children reached a mature age. As a result, these women relied on informal employment opportunities (Morris, 120). The research concluded that economic necessity and socio-demographic aspects influence a woman's participation in "economic activity" (Morris, 122). Researcher Heeju Shin confirmed this finding in a 2008 study that investigated poverty among female headed households in Mexico. Shin found that the livelihood of these households tended to be reliant on the national context and labor market (Shin, 44). At the time, rural areas had a larger proportion of female headed households, thus creating a greater need for alternative income sources (Shin, 45). An incentive for the drug trade arises when the nationally recognized labor force does not offer enough employment or adequate compensation opportunities for women.

A study conducted by the Catalyst organization investigated both the formal and informal labor force within Mexico. Although women made up 50.9% of the population in Mexico in 2014, their participation in the labor force differs greatly from men. In 2012, only 45% of women were in the labor force in comparison to 79% of men. At the time, the women earned only 57% of men's salaries ("Women..."). The reported figures show a high gender inequality in employment and compensation. The economic conditions in Mexico put Mexican women at risk of living in poverty, thus creating an incentive for alternative income sources such as the drug trade.

Mexican women's role in the drug trade

A large majority of Mexican women who are involved in the drug trade are couriers. Since they usually remain as low-level dealers, women are often treated as an expendable labor force by drug cartels (Giacomello, 1). Mexican women are often referred to as *aguacateras* because they are perceived to have convenient hiding places within the female body (Giacomello, 6). Women in this role have the weakest authority and tend to be the lowest paid, even if they are transporting drugs into prisons (Giacomello, 6). The power dynamics in these roles reflect patriarchal roles found in other industries. Men are expected to handle the larger business while women are subject to micro-level responsibilities. Researcher Rosa del Olmo claims that, “the process of women’s involvement is distorted by asymmetrical relationships between women and men” (Giacomello, 8). She notes that women will join the drug trade often for survival instead of power (Giacomello, 7). The role of Mexican women as drug mules mimics the social dynamics already existent in their society. However, it is important to note how these social relationships are challenged in other levels of involvement.

Drug trafficking can be understood as a lucrative industry with a hierarchy that varies by authority, privileges, and benefits. Researcher Howard Campbell investigated what levels of involvement Mexican or Latina women may have in these criminal networks and how power dynamics affect their roles. Campbell interviewed Mexican women who either worked directly for the infamous Juárez cartel or smaller networks that held connections to it (Campbell, 236). The average structure of a large cartel involves branches of small trafficking organizations with independent operators (Campbell, 236). Women can be identified as having key roles at all levels. However, Campbell has found that women at the highest level have the best potential to

achieve “empowerment” (Campbell, 245). One of his interviewees named Zulema is a primary example of how a woman could gain power in drug crime.

Zulema was born in an upper-middle class family, but decided to leave her home to live with a wild aunt who lived in a *barrio*. Initially, she was attracted to crime for the chance of adventure and rebellion. Zulema started off as an immigrant smuggler, but quickly gained invitation into drug trafficking (Campbell, 245). Zulema’s character contradicts the patriarchal expectation of a submissive personality. Instead, her tough attitude impressed the druglord El Flaco, who gave her a powerful position in his organization (Campbell, 247). Within her love life, Zulema claimed to see male lovers as simply business partners who could never dominate her. She even shot a lover for mistreating her. After some time, Zulema created her own heroin and cocaine smuggling ring (Campbell, 247). Zulema has taken what Campbell refers to as “the macha stance” (Campbell, 248). The stance refers to how female drug lords contradict conventional gender roles by creating independence in drug crime instead of dependence on male drug lords (Campbell, 248). For the *machas*, drug crime is not just a financial opportunity, but also an avenue to exercise dominance.

Within mid-level drug crime, women exhibit more stereotypical feminine traits than high-level criminals. Campbell details the story of Susana and her expensive jewelry store in Juárez. Similar to Susana, it is commonplace for the wives/female partners of drug lords to run expensive boutique shops as a front for illegal drug business (Campbell, 251). Women like Susana are seen to “generally perform gender within traditional cultural boundaries” (Campbell, 250). Since their role is one of a liaison, their authority is limited. Yet, their role can be essential for laundering drug profits. If a male drug lord dies, the spouse will usually be given one of two

options: either receive inheritance and leave the criminal network or take control of the business (Campbell, 251). While it is not clear how frequent this takes place, it can still be assumed that mid-level women may have options that are simultaneously empowering and endangering.

Despite the criminal involvement stated above, the reality tends to be that most women in drug crime do not hold such positions. Campbell explains how the increasing level of female drug trafficking is not just due to women seeking economic advancement, but rather “efforts of drug cartels to create new... ways to avoid detection” (Campbell, 253). Due to women’s perceived passivity, they tend to be less suspected of drug crime and are often mules. Furthermore, cisgender women in particular present new tactics for concealing drugs: vaginally, between breasts, faked pregnancies, or even surgically implanted in their buttocks (Campbell, 254). The invasive use of women’s bodies to conceal drugs raises questions as to whether they experience power or objectification. Nevertheless, they undoubtedly experience a relatively high probability of arrest with harsh punishment because they directly interact with police enforcement. If they are arrested, their charges could amount to high sentences even though they are low-level drug traffickers. These women may be penalized exactly the same as the drug lords themselves (Lapidus, 34). U.S. drug policymakers have attempted to catch on to drug trafficker strategies by facilitating accomplice charges and sentences. The application of the policies become disproportionate when they neglect an individual’s circumstance by relying on blanket policies with mandatory minimum sentencing. In the case of Mexican women, the policies present a systematic neglect to particular aspects of their identities such as socioeconomic status, immigration status, and/or experience of domestic abuse. Recent reports show how current U.S. drug policy has fueled their disproportionate punishment by ignoring the impact of race, gender,

and class in the drug trade. Expanded liability laws attempt to remain neutral by treating all drug offenders equally, but the laws are not sufficient because they do not account for the weight of individual circumstances. As a result, the allocation of punishment is misguided.

Disproportionate punishment in the U.S.

It is important to note that the United States drug laws extend punishment beyond sellers, but also to anyone who helps or associates with sellers. There are four types of expanded liability that have contributed to the drastic rise in the rates of incarcerated women: conspiracy provisions, accomplice liability, constructive possession doctrines, and asset forfeiture laws. All of these liabilities permit low-level drug offenders to be charged under federal mandatory minimum sentencing similarly to drug lords (Lapidus, 34). By establishing liability blindly to an individual's circumstance, the U.S. criminal justice system dismisses the complex power dynamics behind low-level drug trade involvement. A multi-layered persecution of Mexican women results: the feminization of poverty creates need for the drug trade, gender expectations within the trade can objectify their bodies, and the U.S. criminal justice system neglects the consideration of their individual experiences.

Expanded liability laws have a structure that could help eliminate a drug cartel by holding individuals at each level responsible. However, the laws are overreaching and blindly appoint blame without a comprehensive understanding of individual's experiences. First, conspiracy provisions establish that every actor involved in a drug crime conspiracy can be held liable for the actions of all people involved, even if the defendant had no knowledge of others' actions (Lapidus, 35). This law is especially incriminating towards low-level involvement where drug producers or smugglers may not have full information of a cartel's actions. As stated previously,

Mexican women in low-level involvement are often limited in their knowledge, but subject to cartel orders.

Secondly, under accomplice liability, a person is liable if they intentionally assisted someone in planning a drug crime. Plans could be made by providing either physical or psychological aid, or by refusing to report the illegal activity (Lapidus, 36). Although this law could be applied to people who lend automobiles or warehouses to cartels, the vagueness of psychological aid could set ground for overreaching sentencing. Additionally, the law does not detail exceptions for women experiencing domestic violence who fear reporting illegal activity. Furthermore, the law of constructive possession states that illegal possession of a drug may be determined simply based on how close the defendant was to the drug or their degree of control over it. To clarify, this law requires no interaction with drugs in order for liability to be established (Lapidus, 36). The law does not specify whether knowledge of the drug changes the liability. In theory, a prosecutor could apply this law to an individual who lived in a house with stored drugs even if they had no knowledge of the drugs. As a result, spouses or partners of druglords can be prosecuted for a crime regardless of their lack of knowledge or criminal actions.

The seizure of property due to suspected drug crime or the harboring of drugs presents specific dangers for women. Asset forfeiture laws state that the government may seize property used or obtained through drug crime, even if the property owner had no knowledge of the crime (Lapidus, 37). While this may not objectively illustrate a hardship for a woman, there are definitely factors that could present them with great difficulty. For example, property may be seized that they are dependent on, such as a car. Within a domestic violence situation, seizure of property could be deemed to be a woman's fault, thus causing dangerous repercussions for her.

If an undocumented Mexican woman cooperated with U.S. police and filed a U-Visa application, many of these laws may not apply. However, that action may not always be a viable option. U-Visa applications allow for victims of crimes in the U.S. to apply for nonimmigrant status with a potential pathway to citizenship (Koop, 2). The resource can be life-changing for undocumented Mexican women in these situations, but police cooperation is essential. The legal safeguard fails when women are too afraid to contact police or if police refuse to cooperate with the U-Visa application (Koop, 3). Ultimately, this resource is limited to the undocumented with legal and financial resources who have the will to report. To date, U.S. drug policymakers do not address the complexity of Mexican women's involvement because they provide no legal alternatives that acknowledge their path to the drug trade. This leads to disproportionate sentencing often facilitated by mandatory minimum sentencing.

U.S. drug policy has taken a punitive approach by prioritizing punishment over effective solutions, thus creating harsher penalties. The Anti-Drug Abuse Act of 1986 introduced a national framework for mandatory minimum sentencing based on amounts of drugs possessed,

Mandatory minimum sentences for first time drug offenders:

Type of drug	Five Year Sentence Without Parole	Ten Year Sentence Without Parole
LSD	1 gram	10 grams
Marijuana	100 plants/100 kilos	1000 plants/1000 kilos
Crack cocaine	5 grams	50 grams
Powder cocaine	500 grams	5 kilos
Heroin	100 grams	1 kilo
Methamphetamine	10 grams	100 grams
PCP	10 grams	100 grams

Fig. 1. ADA Act Regulations (Sterling, Eric E. "Drug Laws and Snitching: A Primer." *PBS*.)

distributed, or produced (see fig. 1).

Originally, the Act was designed to target high-level drug traffickers by establishing minimum sentencing for drugs such as crack cocaine, marijuana, and heroin (Vagins, 5).

It was soon amended in 1988 to hold any member accountable of a "drug trafficking conspiracy" (Sterling). The Act resulted in high numbers of low-level offenders getting very long sentences, but not the weakening of drug cartels. Defense lawyers, prosecutors, and judges challenged the Act and claimed it to be "manifestly unjust" (Sterling). Nevertheless, the sentencing policies remain in effect to this day. The harsh punishments have not curtailed the drug trade, but instead threaten low-levels offenders, many of which are now women.

The punitive drug laws neglect women's experiences, thus blanketing their punishment. Although men tend to be more powerful authorities and largely make up the drug trade, women have higher rates of incarceration due to drug crime. By 2003, the U.S. population of incarcerated women due to drug offenses rose to 58% in comparison to 48% of men in the similar position (Vagins, 8). The Bureau of Justice Statistics released a report in 2015 that also reveals the high rate of women's incarceration for drug offenses. The report states that in 2014, 59% of all females in federal prison were serving a sentence for drug offenses compared to 50% of all males. Within state prison, 24% of all females were convicted for drug offenses compared to 15% of males (U.S.A. DOJ, 16). The discrepancy between women and men in these statistics could be related to court negotiations with prosecutors where sentences are minimized in exchange for information. In these instances, men mostly benefit men because they tend to hold more information of the drug trafficking network and are less likely to withhold information out

of fear for their lives in comparison to women (Lapidus, 11). I will comment more on this uneven advantage later in the paper.

In addition to uneven incarceration rates among men and women, the Hispanic population in federal prisons experiences a greater rate of drug crime punishment. The Bureau report states that 57% of all Hispanics in federal prison were sentenced for drug crimes in comparison to 40% of all white people and 53% of all black people (U.S.A. DOJ, 17). However, a few errors in the methodology of prisons statistics must be noted. The Bureau has warned that although non-U.S. citizens reside in state and federal prisons, they were not included in the report (U.S.A. DOJ, 28). Additionally, there tends to be an inconsistent pattern in measuring Hispanic populations in prison because they may be identified racially as black, white, or omitted as a distinct group (“*Hispanic...*”, 1). Despite these flaws, the statistics should be taken into account because they reveal a clear pattern of Hispanic and female incarceration. From 2003 to 2014, data continues to show that the majority of women are incarcerated for drug offenses. Hispanic women are three times as likely to be incarcerated in their lifetime than white women. Within their demographics, Hispanics are two times more likely to be incarcerated in prison for drug crime than white people (“*Hispanic...*”, 2). The data reveals that Hispanic women, including Mexican women, experience higher rates of drug crime incarceration than Hispanic men, including Mexican men, despite their lesser involvement in the drug trade. The mandatory minimum sentencing laws within the U.S. then present these women with disproportionate punishments that do not take into account their unique experience in the drug trade.

Federal mandatory minimum sentencing policies penalize women harshly, no matter what level of authority they may have in a drug trafficking network. Devastatingly, the lack of

comprehensive understanding of how some women may be involved involuntarily further punishes them. A 2006 American Civil Liberties Union report noted that, “mandatory minimum sentencing laws prohibit judges from considering... domestic violence and financial dependency” (Vagins, 8). The ACLU report explained that “even when they have minimal or no involvement in the drug trade, women are increasingly caught in the ever-widening net cast by current drug laws through provisions such as conspiracy, accomplice liability” (Lapidus, ii). The misguided application of these laws caused the number of women incarcerated by a state for drug offenses to increase by 888% from the years 1986-1999 (see fig. 2).

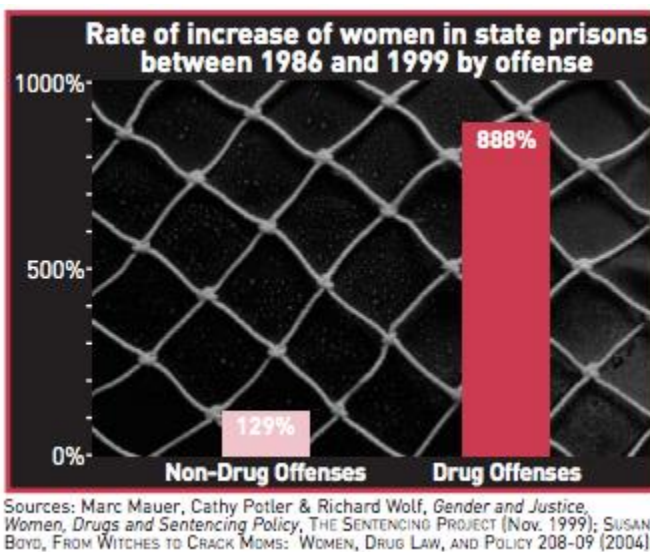


Fig. 2. The increase of incarcerated women due to drug offenses from 1986-1999 (Lapidus, Lenora, and Anjuli Verma. *Caught in the Net: The Impact of Drug Policies on Women and Families*. Rep. New York City: ACLU, 2004.)

Evidence shows that when women are vulnerable due to domestic violence, financial status, immigration status, or even sexual orientation they are limited in their freewill. This state of mind further complicates denying using or selling drugs when ordered by an abusive partner (Lapidus, 9). Since judges are forced to ignore these extraneous circumstances, Mexican women are disproportionately punished.

Most common, Mexican women have roles as drug couriers. Due to their lack of authority in these roles, they are given little knowledge and minimal power over drug cartel operations (Lapidus, 11). Their low-level involvement may actually hurt their chances of justice. Prosecutors often try to negotiate deals with defendants if they hold enough knowledge to prosecute more drug traffickers. However, women do not usually hold this advantage, nor do they use it as often even if they have it. A 1997 review of over 60,000 federal drug cases noted that men were more likely to contribute evidence for prosecutors for shorter sentences even if doing so placed others involved in jeopardy (Lapidus, 11). There are multiple factors that may cause women to not do the same: little knowledge, fear of retaliation, dependency on others involved, or even a fear for their life. Mexican women run the risk of greatly suffering from U.S. drug policy when they are detached from social economic opportunity, subject to an abuser's demands, and/or limited in their authority within the drug trade. Despite the unique circumstances Mexican women experience in drug crime, current drug laws overshadow their experiences for the sake of punishment.

A comprehensive approach to the drug war

The U.S. war on drugs has failed to account for the ways in which the drug trade is raced, classed, and gendered. Mexican women's experiences emphasize the ineffectiveness of U.S. drug policy as it pertains to the U.S.-Mexico drug trade. An incentive to join the drug trade will continue as long as there is a need for economic opportunity and limited legal employment. Root causes such as low socioeconomic status, minimal education, and limited employment opportunities are neglected in contemporary policy. Instead, aggressive approaches have been pursued, such as armed combat with drug traffickers, harsh accomplice liability laws, and

mandatory minimum sentencing. As a result, Mexican women participating in the drug trade are vulnerable due to domestic abuse, immigration status, socioeconomic status, and kidnappings/trafficking. The situation becomes particularly lamentable when involuntary participants have no viable protections. Despite government efforts, the U.S. cannot control an illicit drug market that is supported by these conditions. Instead, it has facilitated the mass incarceration of low-level drug offenders, thus further marginalizing Mexican women. In order to best combat the drug trade, U.S. drug policymakers must focus on alleviating the root causes, treating drug offenses proportionately, and incorporating the voices of women who have experienced the drug trade into future legislation. These policies must operate in a transnational framework in order to be effective in both demand and supply countries.

The U.S. and Mexico have an existent cooperation agreement that can be improved to alleviate root causes. The Merida Initiative was intended to reduce drug trafficking, drug crime violence, and restore order in Mexico (“The Merida...”). Instead of attempting to accomplish these goals through a militarized approach, the Initiative should primarily fund its fourth pillar meant to “build strong and resilient communities” in Mexico (“The Merida...”). By establishing socioeconomic support, the Initiative can strive to maintain strength in communities instead of simply fending off drug traffickers with more violence. Community programs should be developed within urban and rural areas to assist the unemployed, women, people who have experienced abuse, and youth. The programs should provide specialized training, counseling, and education to invest in raising the community’s quality of life. Since Mexico is a source country for the U.S. drug market, it should be prioritized for the funding of these programs. However,

this level of social support should also be considered for the U.S. to deter the domestic, illicit drug market.

In the case of drug offenses committed on or near U.S. soil/borders, the U.S. government needs to improve how it resolves the allocation of punishment. The Research Consortium on Drugs and the Law (CEDD) in Mexico released a report outlining ways to ensure the due process of accused female drug offenders. The CEDD recommends that the legal system should account for factors that have led to participation in the drug trade and/or vulnerability to druglords (Youngers, 5). Within the U.S. context, these factors should include aspects of the individual's identity such as domestic abuse, socioeconomic status, immigration status, education level, etc. The U.S. criminal justice system should work to clarify the extent to which involvement in the drug trade was voluntary or involuntary. Additionally, I agree with the CEDD that punishment should be reformed to differentiate the scale of offenses, the extent of authority in the criminal network, and whether alternatives to incarceration would be most adequate (Youngers, 5). Most importantly, the U.S. should abolish federal mandatory minimum sentencing to comply with proportionate sentencing. Otherwise, mitigating factors can still be dismissed when quantitative values (such as the quantity of drugs) are prioritized.

Lastly, U.S. drug policymakers can best understand the positions of drug offenders by learning from those who have experienced the drug trade. The CEDD recommends not only including women in the drug policy debate, but particularly involving the women most affected by the drug trade (Youngers, 6). The research consortium conducted a study investigating drug offense incarceration in eight different Latin American countries. As a part of the study, the organization administered interviews with multiple people, most of whom were women, who

experienced disproportionate punishment for drug offenses ("El Costo..."). Alicia Castilla from Uruguay was jailed at 66 years of age for three months after growing marijuana for personal consumption. Although Uruguay allows the consumption of the drug, the country prohibits the cultivation of it. After spending time in jail, Castilla reveals that that is when she truly found out the results of the drug war ("El Costo..."). She believes women attempt to fill the empty spaces of the social fabric of their lives with drug trafficking. While in jail, she met women who had no family support, were estranged from their children, and/or had resorted to prostitution for economic need. Castilla herself relied on marijuana for medical reasons, but never intended to sell it. Thousands of people protested her incarceration. Castilla believes the protests occurred because people saw another reality of drugs ("El Costo..."). Although Castilla received a lot of outside support for her minimal infractions, other women involved in the drug trade have much more complicated stories. It is important to bring attention to these diverse stories in order to create a drug policy reform that can fit multiple scenarios instead of subjecting people to one normalized category.

In contrast to Castilla, Rocío Duque, Analia Silva, and Rosa Leyva suffered severe drug trafficking sentences. All three women have minimal education and experienced poverty before becoming involved in the drug trade. Duque headed her household in Colombia before being caught drug trafficking for the third time. She recalls struggling to gain employment while raising two children. She resorted to the drug trade out of desperation. While she serves her fourteen year sentence, she fears confronting society again because she has no social support and is deeply estranged from her family ("El Costo..."). Similarly, Silva resorted to drug trafficking after being unemployed and unable to care for her daughter. In 2003, she received an eight year

sentence that she argues does not just sentence her, but also her children. Silva criticizes the criminal justice systems because they claim to strive to eliminate youth delinquency yet push it forward by breaking up families. Now that she is free, Silva argues that incarceration didn't change her life for the better, "I am still poor. The government has offered no help with employment or rehabilitation" ("El Costo..."). Lastly, Leyva describes her involuntary involvement in the drug that resulted in her arrest at the Tijuana airport. In 1993, Leyva claims to have been ignorant of her actions because of the deception of the traffickers and her need for their assistance. In exchange for transportation, the traffickers required asked her to help take a bag across security. At this time, Leyva was alone and had no method of contacting her family, so she accepted the offer. As a result, she unknowingly moved a bag containing heroin through airport security.

After being caught, she was questioned and physically violated by authorities for eight days. An official raped her to supposedly get more information on her drug trafficking connections. The authorities continued to degrade her while violating her by insulting her indigenous identity. Later, the authorities forced her to sign a confession of the drug trafficking crime. The judge who heard her crime sentenced her to twenty two years in prison and claimed he did not care whether she was deceived or not. Leyva often asked herself, "What brought me to jail?" She realized it was her "ignorance, cultural isolation and hunger" ("El Costo..."). Although Leyva was released early, she continues to struggle to find employment due to her criminal network and lack of government assistance ("El Costo..."). The stories of these women emphasize that there is a need to broaden educational resources, solve female unemployment, structure proportional sentencing, and offer socio-economic support for those released from

prison. While not all of these women experience the U.S.-Mexico drug trade, they experience the harms of racism, poverty, and disproportionate criminal justice procedures persistent within the militarized and punitive approach of the drug war.

The publishing of their stories not only humanizes the issue, but it demands attention towards a marginalized group experiencing injustice. It is important for policymakers to value the voices from these marginalized communities because “knowledge claims are always socially situated” (Harding "Rethinking...", 54). Dominant groups like policymakers cannot critically and systematically address uneven social situations without knowing the experience of marginalized peoples (Harding "Rethinking...", 54). Harding explains that marginalized people hold knowledge that can be more conducive to aiding their group instead of narrow policies deriving from dominant groups' experiences. Should dominant groups attempt to direct and manage the lives of marginalized people without taking into consideration their experiences, then they run the risk of carrying out “exploitative practical politics” (Harding "Rethinking...", 54). Mexican women's experiences in the drug trade serve as clear example of how current U.S. drug policy aggravates their marginalized positions. My intersectional research advocates for a comprehensive understating of how identity is interwoven with drug crime. A drug policy reform is needed to address these complex identities within marginalized communities, correctional institutions, and government.

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