



# Trafficking in Persons in Latin America and the Caribbean

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## Summary

Trafficking in persons (TIP) for the purpose of exploitation is a lucrative criminal activity that is of major concern to the United States and the international community. According to the U.S. State Department, as many as 27 million people may be trafficking victims around the world at any given time. In recent years, the largest numbers of trafficking victims have been identified in Africa and Europe; however human trafficking is also a major problem in Latin America.

Countries in Latin America serve as source, transit, and destination countries for trafficking victims. Men, women, and children are victimized within their own countries, as well as trafficked to other countries in the region. Latin America is also a primary source region for people trafficked to the United States. In FY2012, for example, primary countries of origin for foreign trafficking victims certified as eligible to receive U.S. assistance included Mexico, Honduras, and Guatemala (along with Thailand, the Philippines, and Indonesia). Smaller numbers of Latin American TIP victims are trafficking to Europe and Asia. Latin America serves as a transit region for Asian TIP victims.

Since enactment of the Victims of Trafficking and Violence Protection Act of 2000 (TVPA, P.L. 106-386), Congress has taken steps to address human trafficking by authorizing new programs and reauthorizing existing ones, appropriating funds, creating new criminal laws, and conducting oversight on the effectiveness and implications of U.S. anti-TIP policy. Most recently, the TVPA was reauthorized through FY2017 in Title XXII of the Violence Against Women Reauthorization Act of 2013 (P.L. 110-457). According to CRS calculations, obligations for U.S.-funded anti-TIP programs in Latin America totaled roughly \$8.4 million in FY2011, with \$5.3 million of those funds destined for Haiti.

On June 19, 2013, the State Department issued its 13<sup>th</sup> annual, congressionally mandated report on human trafficking. The report categorizes countries into four “tiers” according to the government’s efforts to combat trafficking. Those countries that do not cooperate in the fight against trafficking (Tier 3) have been made subject to U.S. foreign assistance sanctions. Colombia and, for the first time, Nicaragua received the top Tier 1 ranking in this year’s report. While Cuba is the only Latin American country ranked on Tier 3 in this year’s TIP report, nine other countries in the region—Barbados, Guyana, Haiti, Honduras, St. Lucia, Suriname, Trinidad and Tobago, Uruguay, and Venezuela—are on the Tier 2 Watch List. Unless those countries make significant progress, they could receive a Tier 3 ranking in the 2014 report.

Activity on combating TIP has continued into the 113<sup>th</sup> Congress, particularly related to the reauthorization of the TVPA and oversight of TIP programs and operations, including U.S.-funded programs in Latin America. Congress is likely to monitor trends in human trafficking in the region, such as the involvement of organized crime groups in TIP and the problem of child trafficking in Haiti. Congress could consider increasing funding for anti-TIP programs in the region, possibly through the Mérida Initiative for Mexico, the Central America Regional Security Initiative (CARSI), or through other assistance programs. For more general information on human trafficking, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana Sun Wyler and CRS Report R42497, *Trafficking in Persons: International Dimensions and Foreign Policy Issues for Congress*, by Liana Sun Wyler.

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## Background

Trafficking in persons (TIP) is considered to be one of today's leading criminal enterprises and is believed to affect virtually all countries around the globe. Despite limited data on the nature and severity of the problem, the U.S. government has cited estimates that some 27 million men, women, and children may be victims of trafficking at any given time.<sup>1</sup> In 2012, the International Labor Organization (ILO) estimated that there were some 20.9 million victims of forced labor at any given point in the period 2002-2011, including trafficking victims.<sup>2</sup> The accuracy of these and other estimates, however, is difficult to assess given the clandestine nature of the crime.

Internal trafficking generally flows from rural to urban or tourist centers within a given country, while trafficking across international borders generally flows from developing to developed nations. Countries are generally described as source, transit, or destination countries for TIP victims. Many experts conclude that a country is more likely to become a source of human trafficking if it has recently experienced political upheaval, armed conflict, economic crisis, or natural disaster. For example, the hundreds of thousands of Haitian children who were orphaned or abandoned after a catastrophic earthquake hit that country in January 2010 proved vulnerable to trafficking.<sup>3</sup>

Studies have found that human trafficking disproportionately affects women and girls. A 2012 U.N. Office on Drugs and Crime (UNODC) study found that, on average, 55%-65% of human trafficking victims are women and 27% are minors.<sup>4</sup> The ILO has estimated that women and girls account for 40% of victims in forced economic exploitation, such as domestic service, agricultural work, and manufacturing—and 98% of victims in forced commercial sexual exploitation.<sup>5</sup> The vulnerability of women and girls is due to a number of factors in source, transit, and destination countries.<sup>6</sup>

This report describes the nature and scope of the problem of trafficking in persons in Latin America and the Caribbean. It then describes U.S. efforts to deal with trafficking in persons in the region, as well as discusses the successes and failures of some recent country and regional anti-trafficking efforts. The report concludes by raising issues that may be helpful for the 113<sup>th</sup> Congress to consider as it continues to address human trafficking as part of its authorization, appropriations, and oversight activities.

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<sup>1</sup> U.S. Department of State, *Trafficking in Persons (TIP) Report*, June 2013, available at: <http://www.state.gov/j/tip/rls/tiprpt/2013/>. Hereinafter: *TIP Report*, June 2013.

<sup>2</sup> International Labor Organization (ILO), *ILO Global Estimate of Forced Labour: Results and Methodology*, 2012, available at: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_182004.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf). Hereinafter: ILO, 2012.

<sup>3</sup> United Nations Children's Emergency Fund (UNICEF), *Children in Haiti: One Year After—The Long Road from Relief to Recovery*, January 2011. In response, the U.S. State Department's Office to Monitor and Combat Trafficking in Persons provided \$4.8 million in grants in FY2011 to organizations working to combat human trafficking in Haiti.

<sup>4</sup> UNODC, *Global Report on Trafficking in Persons*, 2012, available at: [http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking\\_in\\_Persons\\_2012\\_web.pdf](http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf). Hereinafter: UNODC, 2012.

<sup>5</sup> ILO, 2012.

<sup>6</sup> U.S. Department of State, Office to Monitor and Combat Trafficking in Persons (G-TIP), "Fact Sheet: Gender Imbalance in Human Trafficking," June 16, 2009.

## Definition

Severe forms of trafficking in persons have been defined in U.S. law as “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or ... the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”<sup>7</sup> Most members of the international community agree that the trafficking term applies to all cases of this nature involving minors whether a child was taken forcibly or voluntarily. Trafficking in persons does not require the movement of victims from one place to another.

## Trafficking vs. Human Smuggling

In 2000, the United Nations drafted two protocols, known as the Palermo Protocols, to deal with trafficking in persons and human smuggling.<sup>8</sup> Trafficking in persons is often confused with human smuggling. This confusion has been particularly common among Latin American officials.<sup>9</sup> Alien smuggling involves the provision of a service, generally procurement of transport, to people who knowingly consent to that service in order to gain illegal entry into a foreign country. It ends with the arrival of the migrant at his or her destination. The Trafficking Protocol considers people who have been trafficked, who are assumed to be primarily women and children, as “victims” who are entitled to protection and a broad range of social services from governments. In contrast, the Smuggling Protocol considers people who have been smuggled as willing participants in a criminal activity who should be given “humane treatment and full protection of their rights” while being returned to their country of origin.<sup>10</sup>

Many observers contend that smuggling is a “crime against the state” and that smuggled migrants should be immediately deported, while trafficking is a “crime against a person” whose victims deserve to be given government assistance and protection. The Department of Justice asserts that the existence of “force, fraud, or coercion” is what distinguishes trafficking from human smuggling.<sup>11</sup> Under U.S. immigration law, a trafficked migrant is a victim, while an illegal alien who consents to be smuggled is complicit in a criminal activity and may therefore be subject to prosecution and deportation.

## Trafficking and Illegal Immigration

Incidences of human trafficking are often affected by migration flows, particularly when those flows are illegal and unregulated. In recent years, several factors have influenced emigration

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<sup>7</sup> *Victims of Trafficking and Violence Protection Act of 2000 (TVPA)* (P.L. 106-386).

<sup>8</sup> The United Nations Convention Against Organized Crime and Its Protocols, available at [http://www.unodc.org/unodc/en/crime\\_cicp\\_convention.html](http://www.unodc.org/unodc/en/crime_cicp_convention.html).

<sup>9</sup> The most accurate phrase in Spanish for referring to human trafficking is *la trata de personas* (the trade of people), rather than the commonly used phrase *el tráfico de personas* (the traffic of people), which means something akin to human smuggling. See: U.S. Department of State, *Trafficking in Persons (TIP) Report*, June 2009, available at <http://www.state.gov/g/tip/rls/tiprpt/2009/>.

<sup>10</sup> [http://www.unodc.org/unodc/en/crime\\_cicp\\_convention.html](http://www.unodc.org/unodc/en/crime_cicp_convention.html).

<sup>11</sup> U.S. Department of Justice, Human Smuggling and Trafficking Center, “Fact Sheet: Distinctions Between Human Smuggling and Human Trafficking,” January 2005.

flows from Latin America and the Caribbean. Whereas a large percentage of emigrants from Latin America during the 1980s were refugees fleeing from the conflicts in Central America, a majority of the region's more recent emigrants have been economic migrants in search of better paying jobs in developed countries.<sup>12</sup> Increasing crime and violence have also fueled illegal emigration, particularly from Central America.

Primary destination countries for Latin American immigrants have included the United States, Spain, Italy, Canada, the Netherlands, and Britain. These countries, many with low birth rates and aging populations, have come to rely on migrant laborers from Latin America to fill low-paying jobs in agriculture, construction, manufacturing, and domestic service. At the same time, concerns about security and other issues related to absorbing large numbers of foreign-born populations have led many developed countries to tighten their immigration policies. These factors have led to a global rise in illegal immigration.

In the Western Hemisphere, illegal migration flows have been most evident in Mexico, particularly along its 1,951-mile northern border with the United States and its southern border with Guatemala (596 miles) and Belize (155 miles). Mexico usually departs more than 100,000 Central American migrants en route to the United States each year. Nevertheless, while unauthorized migration flows from Mexico to the United States have decreased significantly since the mid-2000s, flows from Central America have increased in recent years.<sup>13</sup>

As U.S. immigration and border restrictions have tightened, illegal immigrants have increasingly turned to smugglers to lead them through Mexico and across the U.S.-Mexico border. In order to avoid detection by U.S. border patrol agents, smuggling routes have become more dangerous and therefore more costly. Some smugglers have sold undocumented migrants into situations of forced labor or prostitution in order to recover their costs. Recent studies illustrate how illegal immigrants transiting Mexico, many of whom lack legal protection because of their immigration status, have become increasingly vulnerable to human trafficking and other abuses.<sup>14</sup> An increasing percentage of abuses, the most violent case of which resulted in the mass murder of 72 U.S.-bound migrants in Tamaulipas in late August 2010, have been perpetrated by criminal gangs and drug traffickers, sometimes with assistance from public officials.<sup>15</sup>

## **Human Trafficking in Latin America and the Caribbean**

Human trafficking is a growing problem in Latin America and the Caribbean, a region that contains major source, transit, and destination countries for trafficking victims. Major forms of TIP in the region include commercial sexual exploitation of women and children, labor trafficking within national borders and among countries in the region (particularly in South America), and the trafficking of illegal immigrants in Mexico and Central America. According to UNODC, the share of victims trafficked for forced labor in the region (44%) is higher than in other Europe and

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<sup>12</sup> There are several exceptions to this general rule, including emigrants fleeing from Cuba and Colombia.

<sup>13</sup> Randal C. Archibold, "In Trek North, First Lure is Mexico's Other Line," *New York Times*, April 26, 2013.

<sup>14</sup> Comisión Nacional de Derechos Humanos (CNDH), *Informe Especial Sobre Secuestro de Migrantes en México*, February 2011.

<sup>15</sup> Amnesty International, *Invisible Victims: Migrants on the Move in Mexico*, April 2010.

Central Asia.<sup>16</sup> Latin America is a primary source region for people that are trafficked to the United States and Canada. It is also a transit region for Asian victims destined for the United States, Canada, and Europe. Some of the wealthier countries in the region (such as Brazil, Costa Rica, Chile, Argentina, Panama, and Mexico) also serve as destination countries.

## **Factors that Contribute to Human Trafficking in the Region**

Both individual factors and outside circumstances contribute to human trafficking within and from Latin America and the Caribbean. Individual risk factors include poverty, unemployment, illiteracy, a history of physical or sexual abuse, homelessness, drug use, and gang membership. The IOM in Colombia has identified other personal characteristics common among trafficking victims. These include a tendency to take risks in order to fulfill one's goals, a focus on short-term rewards that may result from short-term risks, and a lack of familial support and/or strong social networks.<sup>17</sup> These risk factors that may "push" an individual towards accepting a risky job proposition in another country have been compounded by "pull" factors, including the hope of finding economic opportunity abroad, which is fueled by television and internet images of wealth in the United States and Europe.

Outside factors contributing to human trafficking include the following: (1) the high global demand for domestic servants, agricultural laborers, sex workers, and factory labor; (2) political, social, or economic crises, as well as natural disasters occurring in particular countries, such as the January 2010 earthquake in Haiti; (3) lingering *machismo* (chauvinistic attitudes and practices) that tends to lead to discrimination against women and girls; (4) existence of established trafficking networks with sophisticated recruitment methods; (5) public corruption, especially complicity between law enforcement and border agents with traffickers and alien smugglers; (6) restrictive immigration policies in some destination countries that have limited the opportunities for legal migration flows to occur; (7) government disinterest in the issue of human trafficking; and (8) limited economic opportunities for women in Latin America. Although women have achieved the same (or higher) educational levels as men in many countries, women's employment continues to be concentrated in low-wage, informal sector jobs.

## **Child Trafficking**

There is considerably less research on the extent and nature of trafficking in persons in Latin America and the Caribbean than there is on Asia and Europe. Most of the research that does exist has focused, at least until recently, on trafficking in children for sexual exploitation. Trafficking of children for sexual exploitation is most common in countries that are both popular tourist destinations and centers of sex tourism.<sup>18</sup> Street and orphaned children are particularly vulnerable to trafficking into the sex industry, although some children who have been trafficked remain living with their families and engage in commercial sex activity in order to contribute to household income. Other factors associated with children at risk of trafficking include: poverty,

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<sup>16</sup> UNODC, 2012.

<sup>17</sup> Sanin et al., "Condiciones de Vulnerabilidad a la Trata de Personas en Colombia," IOM, 2005.

<sup>18</sup> The State Department has identified Brazil, Costa Rica, the Dominican Republic, Honduras, Jamaica, Mexico, and Nicaragua as countries with significant child sex tourism industries. G-TIP, Power Point Presentation from Briefing on TIP in the Western Hemisphere, July 2009.

infrequent school attendance, physical or sexual abuse, drug or alcohol addiction, and involvement in a criminal youth gang.

Children are also trafficked both internally and across international borders for use as domestic servants. State Department officials have estimated that as many as 1 million children may work as domestic servants in Latin America, many of whom are vulnerable to verbal, physical, and sexual abuse. Abuse has been particularly evident among the hundreds of thousands of child domestic servants in Haiti.<sup>19</sup>

Latin American children have been trafficked for illegal adoptions, for use as soldiers in armed conflict, and to work for organized criminal groups.

Finally, the ILO and the U.S. Department of Labor (DOL) have documented instances from across the region of children forced to work under dangerous circumstances in agricultural or mining industries. For example, a 2012 DOL report found continued evidence of the use of child labor in the production of a wide range of goods in many countries in Latin America. Examples of some of the goods cited in that report include bricks, gold, coffee, sugarcane, and other agro-export crops.<sup>20</sup> While a 2010 ILO global report estimated that the number of child laborers had declined slightly in Latin America as compared to 2006, it still estimated that some 14 million children in the region worked, 9.4 million under hazardous conditions.<sup>21</sup>

## **Trafficking for Sexual Exploitation**

While trafficking for forced labor is a serious problem in Latin America and the Caribbean, trafficking for sexual exploitation has, until recently, been perceived as a more widespread and pressing regional problem. Most victims are trafficked for prostitution, but others are used for pornography and stripping. Children tend to be trafficked within their own countries, while young women may be trafficked internally or internationally, sometimes with the consent of their husbands or other family members. One study estimated that some 10,000 women from southern and central Mexico are trafficked for sexual exploitation to the northern border region each year.<sup>22</sup> In the past, State Department officials have estimated that at least 100,000 Latin Americans are trafficked internationally each year, with large numbers of victims coming from Colombia and the Dominican Republic, among others.<sup>23</sup>

There are also intra-regional trafficking problems. A 2005 report by the International Organization for Migration (IOM) asserts that the Caribbean's relatively open borders, lax enforcement of entertainment visa and work permit rules, and legalized prostitution have contributed to the problem of trafficking there.<sup>24</sup> Argentina and Brazil are destination countries

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<sup>19</sup> U.S. Department of State, *TIP Report*, June 2013.

<sup>20</sup> U.S. Department of Labor (DOL), *The DOL's List of Goods Produced by Child Labor or Forced Labor*, 2012, available at: <http://www.dol.gov/ilab/programs/ocft/2012TVPRRA.pdf>.

<sup>21</sup> ILO, International Program on the Elimination of Child Labour (IPEC), *Accelerating Action Against Child Labour: ILO Global Report on Child Labour*, May 2010.

<sup>22</sup> Arun Kumar Acharya, "Tráfico de mujeres hacia la Zona Metropolitana de Monterrey: Una Perspectiva Analítica," *Revista Espacios Públicos*, Year 12, No. 24, 2009.

<sup>23</sup> U.S. Department of State, G-TIP, Power Point Presentation from Briefing on TIP in the Western Hemisphere, July 2009.

<sup>24</sup> "Exploratory Assessment of Trafficking in Persons in the Caribbean Region," IOM, June 2005.



for women trafficked from the Andes and Caribbean countries like the Dominican Republic. Panama has been a destination for women from Colombia and Central America trafficked to work in the sex industry. Trafficking has also occurred at border crossings throughout Central America and Mexico, especially the Mexico-Guatemala border, as undocumented women who have not been able to get to the United States end up being forced into prostitution.

## **Trafficking for Forced Labor**

The ILO reports that some 1.8 million people in Latin America are engaged in forced labor, including TIP victims.<sup>25</sup> These numbers do not include the increasing numbers of Latin Americans who have ended up in situations of forced labor after migrating to Europe or the United States. Despite the relatively large number of victims trafficked for forced labor in the region, there are relatively few studies on this topic.

Until recently, more forced labor victims had been identified in South America and some parts of the Caribbean than in Central America. In Brazil, forced labor is most common in rural areas on cattle ranches, in logging and mining camps, and on plantations where soy beans, corn, and cotton are produced. Forced labor is also used in the mahogany, brick-making, and gold-mining industries in the Amazonian regions of Peru and Ecuador. Indigenous peoples in Peru, Bolivia, and Paraguay are particularly at risk of being trafficked for forced labor.<sup>26</sup> Each year, thousands of migrants flock from Haiti to the Dominican Republic to work in the construction, tourism, and agriculture industries, as well as in the informal sector. Many of those migrants lack proper documentation, rendering them vulnerable to trafficking and other abuses.

In the past few years, the Department of Justice has prosecuted an increasingly large volume of cases of foreigners trafficked into forced labor in the United States. Although the majority of these cases have involved trafficking for prostitution, a significant number have involved the agricultural sector. Annually some 1.5 million seasonal farm workers, mostly from Latin America and the Caribbean, plant and harvest produce in the United States. Low wages, harsh working conditions, and a lack of legal protection, combined with an ever increasing demand for cheap labor, have resulted in growing numbers of forced labor abuses.

## **Relationship to Organized Crime and Terrorism**

In many parts of the world, trafficking in money, weapons, and people is largely conducted by criminal gangs or mafia groups. Human trafficking can be a lucrative way for organized criminal groups to fund other illicit activities. In Guatemala, relatively large crime groups are transporting women from other countries—primarily from other countries in Central America—for sexual exploitation.<sup>27</sup> Mexican drug trafficking organizations, particularly Los Zetas, have been

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<sup>25</sup> ILO, 2012.

<sup>26</sup> For information on ILO research and programs in these countries, see [http://www.ilo.org/sapfl/Projects/lang--en/WCMS\\_082040/index.htm](http://www.ilo.org/sapfl/Projects/lang--en/WCMS_082040/index.htm). See also “U.N. Permanent Forum on Indigenous Issues Calls for Urgent Action to Stop Forced Labor in Bolivia, Paraguay,” *Targeted News Service*, August 31, 2009. Trip reports available at <http://www.un.org/esa/socdev/unpfii/>.

<sup>27</sup> Alejandra Gutierrez Valdizan, “Of Slaves and Serfs: Guatemala's 'Occupied' Bodies,” *InSight Crime Organized Crime in the Americas*, October 28, 2012; Oscar Martinez, “Men who Sold Women: Human Trafficking Networks in Central America,” *InSight Crime Organized Crime in the Americas*, October 28, 2012.

increasingly involved in the smuggling and trafficking of people.<sup>28</sup> According to the Bilateral Safety Corridor Coalition (BSCC), criminal gangs from Mexico, Central America, Russia, Japan, Ukraine, and several other countries have been caught attempting to traffic victims across the U.S.-Mexico border. During congressional testimony, one expert on security issues in Latin America identified human trafficking as the second-most serious organized criminal threat to Central America (behind drug trafficking).<sup>29</sup>

Some analysts maintain that criminals involved in human trafficking could eventually form ties with terrorist groups, such as Al Qaeda, thereby threatening regional security, although there has been no evidence of this to date. They argue that, just as terrorists have engaged in drug trafficking in Colombia and the Tri-Border region (Argentina, Brazil, and Paraguay), they may increasingly turn to human trafficking to fund their networks and operations. Others contend that trafficking is a type of “disorganized crime” in which traffickers are generally individuals or small groups that collaborate on an ad-hoc basis, rather than a big business controlled by organized crime.

## **Trafficking and HIV/AIDS**

One of the serious public health effects of human trafficking is the risk of victims contracting and transmitting HIV/AIDS and other diseases. On the global level, women engaged in prostitution, whether voluntarily or not, have a high prevalence of HIV/AIDS. Some experts have noted that human trafficking may be linked to the spread and mutation of the AIDS virus. Research in Latin America and the Caribbean has shown that trafficking victims, along with other irregular migrants, are at high risk of contracting HIV/AIDS. Factors that put these groups at risk include poverty, discrimination, exploitation, lack of legal protection and education, cultural biases, and limited access to health services.

## **U.S. Policy**

### **Anti-Trafficking Legislation<sup>30</sup>**

Anti-TIP efforts have accelerated in the United States since the enactment of the Victims of Trafficking and Violence Protection Act of 2000 (TVPA, P.L. 106-386). The TVPA established minimum standards to combat human trafficking applicable to countries that have a significant trafficking problem and authorized U.S. international anti-TIP assistance. The act directed the Secretary of State to provide an annual report by June 1, listing countries that do and do not comply with minimum standards for the elimination of trafficking. In the report, the act directed the Secretary to rank countries on the basis of their efforts to combat TIP, with Tier 1 as the best

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<sup>28</sup> Tim Johnson, “Mexican Criminal Gang Turns to Migrant Smuggling,” *McClatchy-Tribune News Service*, August 15, 2011; Paris Martinez, “How Mexico’s Zetas Enslave Engineers,” *InSight Crime Organized Crime in the Americas*, October 28, 2012.

<sup>29</sup> Testimony of Eric L. Olson, Senior Advisor, Security Initiative, Woodrow Wilson Center, before the House Subcommittee on National Security and Foreign Affairs, October 1, 2009.

<sup>30</sup> For a complete history of U.S. anti-TIP legislation and current legislation on human trafficking in the 112<sup>th</sup> Congress, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana Sun Wylar.

countries. Tier 3 are the countries whose governments are deemed as not fully complying with the minimum standards and not making significant efforts to do so. The TVPA called for the United States to withhold non-humanitarian assistance and instructed the U.S. executive director of each multilateral development bank and the International Monetary Fund to vote against non-humanitarian assistance to Tier 3 countries, unless continued assistance is deemed to be in the U.S. national interest.

Congress is continuously re-evaluating the efficacy of U.S. anti-trafficking laws and programs, and since 2000, has reauthorized the TVPA several times. In 2003, for example, Congress approved the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003 (P.L. 108-193). The TVPRA of 2003 refined and expanded the “minimum standards” for the elimination of trafficking that governments must meet and created a “Tier 2 Watch List” of countries that the Secretary of State determined were to get special scrutiny in the coming year. The William Wilberforce Trafficking Victims Reauthorization Act of 2008 (P.L. 110-457) added a new requirement that Tier 2 Watch List countries must be dropped to the Tier 3 category after two consecutive years on the Tier 2 Watch List, unless the President issues a waiver.<sup>31</sup> Most recently, the TVPA was reauthorized through FY2017 when Congress enacted the Violence Against Women Reauthorization Act of 2013 (P.L. 110-457).

## **Trafficking in Persons Reports and Sanctions: Latin America**

On June 19, 2013, the State Department issued its 13<sup>th</sup> annual report on human trafficking, *Trafficking in Persons Report (TIP), June 2013*, as mandated by the TVPA (P.L. 106-386 as amended). The 2013 TIP report ranks 187 countries and territories, including the United States. The report also discusses human trafficking in Somalia, a “special case” country where insufficient information was available to provide a tier ranking.

As in previous years, most Latin American countries fall somewhere in the middle of the tier rankings, with 18 countries on Tier 2, and 9 on the Tier 2 Watch List (see **Table 1**). Cuba is the only Latin American country identified as Tier 3<sup>32</sup> and made subject to possible U.S. trafficking-related sanctions, while Colombia and Nicaragua are the only countries in the region to earn a Tier 1 ranking. Nicaragua earned its first Tier 1 ranking by securing 35 TIP convictions, more than the rest of Central America combined.<sup>33</sup> Countries on the Tier 2 Watch List include Barbados, Guyana, Haiti, Honduras, St. Lucia, Suriname, Trinidad and Tobago, Uruguay, and Venezuela.<sup>34</sup> The Bahamas and Ecuador upgraded their tier rankings, whereas Guyana and Honduras were downgraded.

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<sup>31</sup> Such a waiver permits the President to waive the Tier 3 listing for up to two years. In exercising this waiver authority, the President must determine that such a waiver is justified because the country has a “written plan” to start making “significant efforts” to comply with the TVPA’s minimum standards to combat TIP, and because the country has committed “sufficient resources” to implement the plan.

<sup>32</sup> The other Tier 3 countries include: Algeria, Central African Republic, China, Democratic Republic of the Congo (DRC), Equatorial Guinea, Eritrea, Guinea-Bissau, Iran, North Korea, Libya, Mauritania, Papua New Guinea, Russia, Saudi Arabia, Sudan, Syria, Uzbekistan, and Zimbabwe.

<sup>33</sup> CRS interview with State Department official, June 26, 2013.

<sup>34</sup> The State Department must submit an interim report by February 2014 on the Tier 2 Watch List countries in advance of the next TIP report.

On September 14, 2012, President Obama issued his determination on whether to impose aid restrictions during FY2013 on the 17 countries ranked as Tier 3 in the 2012 TIP report.<sup>35</sup> The President has the option to (1) apply a full prohibition against nonhumanitarian and nontrade-related foreign assistance, (2) withhold a portion of aid eligible for restriction by granting partial waivers, or (3) waive the restrictions entirely on the basis of national interest reasons. For FY2013 the President granted partial waivers from the aid prohibitions for all of the Tier 3 countries, including Cuba.

## **U.S. Government Anti-Trafficking Programs in Latin America**

In FY2011, the U.S. government obligated approximately \$85.3 million in anti-trafficking assistance to foreign governments worldwide. Roughly 10% (\$8.4 million) of U.S. anti-TIP funding supported projects in Latin America. Anti-trafficking programs are administered by a variety of U.S. agencies, primarily the State Department, the U.S. Agency for International Development, and the Department of Labor. The majority of the programs are either regional or directed at countries that were placed on either Tier 3 or the Tier 2 Watch-list in recent TIP reports. In FY2011, 63% of U.S. anti-TIP funds obligated supported programs in Haiti.

Whereas regional programs in Latin America support initiatives necessary to address the cross-cutting nature of human trafficking, bilateral programs aim to help governments solve specific challenges they have had in addressing human trafficking. For example, anti-trafficking programs in Haiti are helping to strengthen Haitian child protection agencies' ability to identify and rescue child trafficking victims. Since the 2010 earthquake, more than 600 child TIP victims have been identified with U.S. assistance. An anti-TIP program in Mexico supports a Resident Legal Advisor who is helping reconstruct the anti-trafficking unit within the Attorney General's Office and train Mexican officials on how to investigate and prosecute TIP cases.

In addition to foreign aid programs, various agencies within the Department of Homeland Security are stepping up joint efforts with Mexican officials to identify, arrest, and prosecute human trafficking and smuggling rings that operate along the U.S.-Mexico border and beyond. In 2005, the Bureau of U.S. Customs and Border Protection (CBP) in DHS created a new program, the "Operation Against Smugglers (and Traffickers) Initiative on Safety and Security" (OASISS), a bilateral program that enables Mexican alien smugglers and traffickers apprehended in the United States who cannot be tried in this country to be prosecuted in Mexico. From the time of its inception in 2005 through the end of FY2011, OASISS generated 2,617 cases, but it is unclear how many of those cases were successfully prosecuted.<sup>36</sup>

Various units within the Department of Justice's Civil Rights and Criminal Division have provided training and technical assistance courses to foreign officials in the United States and overseas. For example, the Office of Overseas Prosecutorial Development, Assistance, and Training (OPDAT) has helped several countries, including Brazil and Mexico, draft TIP-related legislation. OPDAT's technical assistance and training in investigating TIP cases helped Mexican officials secure their first convictions under the country's new anti-TIP law in December 2009.

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<sup>35</sup> Barack Obama, "Presidential Determination With Respect To Foreign Governments' Efforts Regarding Trafficking In Persons," Presidential Determination, September 14, 2012.

<sup>36</sup> Data provided to CRS by U.S. Border Patrol in an email, 10/17/2011.

## **Regional and Country Anti-Trafficking Efforts**

### **Organization of American States**

OAS efforts to combat trafficking in persons began in 1999 when the Inter-American Commission of Women (CIM) co-sponsored a research study on trafficking in persons in nine countries in Latin America that offered broad recommendations for its elimination. In 2003 and 2004, the OAS General Assembly passed two resolutions on the subject, the latter of which created an OAS Coordinator on the Issue of Trafficking in Persons, originally based in the CIM and now part of the Department of Public Security within the Secretariat for Multidimensional Security of the OAS.

On a technical level, since 2005, the OAS has organized, facilitated, and implemented training programs, promoted anti-trafficking policies, and provided opportunities for the exchange of information and best practices to assist member states in their anti-TIP efforts. The OAS has developed several “tool-kits” and capacity-building programs for peacekeeping personnel, parliamentarians, law enforcement officials, migration officers, and consular and diplomatic representatives to prevent trafficking and to identify and protect victims of human trafficking. By 2012, the OAS had trained over 1,000 police, immigration officers, prosecutors, and judges from the English-speaking Caribbean and Central American countries to prevent and combat trafficking in persons. OAS programs incorporated the topic of trafficking in persons and materials developed by the OAS in the regular training curricula of the police academies of the regions covered.

### **Inter-American Development Bank**

In 2004, the Inter-American Development Bank (IDB) formed an internal working group to begin developing ways to support governments’ anti-trafficking efforts in the region. Since 2006, the IDB has been working with the International Organization for Migration (IOM) and the Ricky Martin Foundation to raise awareness about human trafficking in the region through public service announcements, promotional materials, and the creation of hotlines to report abuses. This collaborative campaign, known as “Call and Live,” has been implemented in Colombia, Costa Rica, Nicaragua, and in the state of Mexico, Mexico. The IDB is supporting the creation of a regional framework for action to combat human trafficking, and has implemented technical cooperation projects related to TIP in Bolivia, Colombia, El Salvador, Guyana, and Paraguay. IDB efforts are coordinated with the OAS and IOM.

### **Country Efforts: Progress and Remaining Challenges**

Over the last few years, most Latin American countries, perhaps motivated by international pressure or the threat of U.S. sanctions, have taken steps to address the growing problem of human trafficking. As evidenced in **Table 1**, a majority of countries in the region have signed and ratified several international protocols in which they have pledged to combat various aspects of the trafficking problem. Those agreements include The U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons; ILO Conventions on Abolishing Forced Labor and the Worst Forms of Child Labor; the Optional Protocol to the U.N. Convention on the Rights of the Child (CRC) on the Sale of Children, Child Prostitution, and Pornography; and The Optional Protocol

to the CRC on the Involvement of Children in Armed Conflict. Eight countries passed new or amended anti trafficking legislation in 2012, while several others created National TIP Coordinators or Task Forces to coordinate anti-TIP programs and initiatives.

According to some, the general problem with the new international commitments, legal reforms, and human trafficking initiatives that have emerged in Latin America is that many countries appear to lack the resources and perhaps the political will to fund and implement their anti-trafficking programs. Many governments are facing other crime problems (such as drug trafficking and gang violence) which they perceive as a bigger problem than human trafficking. Sometimes country efforts are thwarted by larger problems, such as political instability, as in the cases of Haiti, Honduras, and Guatemala. Many countries have few, if any, shelters for trafficking victims and no follow-up plans to help victims after they return from overseas to their former residences. Mexico, a large middle-income country, only funds one government shelter for TIP victims. Some countries have modeled their national TIP laws so closely to TVPA that they do not have the resources or the manpower to implement the complicated legislation. Public corruption is also a major obstacle to effective anti-trafficking programming, as there is often complicity between traffickers and corrupt border officials, customs agents, law enforcement personnel, and politicians. Finally, conviction and prosecution rates for TIP offenders are low compared to other regions, particularly for forced labor and domestic servitude crimes, but this is not surprising given the general weakness of many of the countries' police and judicial systems.

## **Issues for Policy Consideration**

U.S. interests in Latin America are multiple and, at times, conflicting. These interests include strengthening democracy, promoting economic growth through free trade, stemming the flow of illegal narcotics and migrants, and cooperating on border security and anti-terrorism measures. These broad interests either directly or indirectly affect all U.S. policy in the region and may at times conflict with specific human rights goals, such as fighting human trafficking. As is the case with many human rights issues, ethical concerns about human trafficking must be balanced against broader U.S. geopolitical goals and interests in each country.

There are several ways in which broader U.S. foreign policy goals may influence the TIP report and sanctions process. Some observers maintain that there are certain U.S. allies in the region that could never be sanctioned for political reasons. Others contend that the repeated inclusion of Cuba and, until recently, Venezuela on the Tier 3 list has constituted "selective indignation" on the part of the U.S. government.<sup>37</sup> U.S. officials working in the region have noted that it is sometimes difficult to produce an unbiased account of government efforts against trafficking without being swayed by underlying foreign policy concerns. Others say that it is difficult to deal with trafficking in persons when a country is undergoing extreme political instability, and that were TIP sanctions actually enforced, they might undermine the broader U.S. goals of preventing democratic breakdown in the hemisphere. Issues that may be considered when evaluating the implementation of U.S. anti-trafficking policies are discussed below.

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<sup>37</sup> "Politics: U.S. Trafficking Report Includes Cuba and Venezuela," *Global Information Network*, June 10, 2005.

## **Sanctions: Are They Useful?**

Since 2003, no governments in Latin America except Cuba and Venezuela have been subject to partial or full sanctions for failing to meet the minimum standards of TVPA. Ecuador appeared on the Tier 3 list in both 2004 and 2005 but did not face sanctions. Some argue that sanctions will probably only be applied to countries already subject to sanctions—such as Burma, Cuba, or North Korea—and that threatening other countries with sanctions may actually encourage them to become less open to working with the United States. Others argue that this may be the case with China or Saudi Arabia, but most Latin American countries depend on good political and economic relations with the United States and fear the public humiliation that comes with a Tier 3 designation as much as sanctions. For example, some believe a Tier 3 designation in 2010 motivated the Dominican government to increase TIP investigations and prosecutions.

## **How to Measure Success**

It is often difficult to measure success in the fight against human trafficking. Many countries in Latin America have reported increases in the number of training courses provided, conferences held, and workshops convened as evidence of their commitment to combat human trafficking. However, as stated in the 2009 TIP report, the State Department prefers countries to focus on “concrete actions” when determining the adequacy of a particular country’s anti-TIP efforts. “Concrete actions” include enacting new or amended TIP legislation; expanding victim assistance and prevention programs; and, perhaps most importantly, securing prosecutions, convictions, and prison sentences for TIP offenders. While many countries in Latin America have passed or amended their existing TIP laws, until very recently, the number of TIP-related arrests, prosecutions, and convictions remained low in comparison to other regions. Some have questioned the adequacy of the State Department’s indicators, asserting that more credit should be given to countries that are seeking to address the underlying factors that put people at risk for trafficking, such as gender and racial discrimination, violence against women and children, and economic inequality.<sup>38</sup>

## **Enforcement Improvement**

In 2012, there were 1,077 prosecutions of suspected traffickers and 402 convictions in Latin America, up from 426 prosecutions and 113 convictions just five years ago. While prosecutions and convictions have risen significantly, they still pale in comparison to Europe, which recorded 3,161 prosecutions and 1,818 convictions in 2012, and to East Asia and the Pacific, which secured 1,682 prosecutions and initiated 1,251 convictions. They also pale in comparison to the number of victims that have been identified in Latin America (7,639 in 2012 alone).

In order to continue improving enforcement of TIP legislation in Latin America, some observers have urged U.S. officials and other donors not to encourage countries to pass laws modeled entirely after those from other countries (such as the TVPA). Instead, countries should develop trafficking laws that respond to their particular TIP problems and law enforcement capacities. Once legislation is in place, more attention and resources may be needed to help countries implement that legislation, and that assistance may need to go beyond training for law

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<sup>38</sup> David E. Guinn, “Defining the Problem of Trafficking: the Interplay of U.S. Law, Donor, and NGO Engagement and the Local Context in Latin America,” *Human Rights Quarterly*, 30 (2008).

enforcement and legal professionals. Attention also may be needed to address the issue of police corruption that has long plagued many countries in the hemisphere. This could be addressed by stiffening penalties for police, border guards, or other officials caught assisting traffickers.

## **Debates About Prostitution and Trafficking**

The current U.N. definition of TIP assumes that there are at least two different types of prostitution, one of which is the result of free choice to participate in the prostitution business while the other is the result of coercion, vulnerability, deception, or other pressures. Of these, only the latter type is considered TIP under the U.N. definition. Based on the TVPA, as amended, sex trafficking is not considered a “severe form of TIP” unless it is associated with commercial sex acts induced by force, fraud, or coercion, or in which the person induced to perform such acts is a minor.<sup>39</sup>

Several groups in the United States have sought to redefine TIP to include all prostitution, but many countries have thus far rejected those attempts. Proponents of this broader definition of TIP argue that prostitution is “not ‘sex work;’ it is violence against women [that] exists because ... men are given social, moral and legal permission to buy women on demand.”<sup>40</sup> Several European and Latin American countries, which have legal or government-regulated prostitution, reject such a definitional change and argue that this broader definition would impede the capacity of the international community to achieve consensus and work together to combat trafficking.

The U.S. State Department asserts that prostitution and TIP are inextricably linked. Most recently, in its 2008 TIP Report to Congress, the State Department states that “sex trafficking would not exist without the demand for commercial sex flourishing around the world” and that prostitution and any related activities “should not be regulated as a legitimate form of work for any human being.”<sup>41</sup> State Department officials have identified the fact that legalized prostitution fuels sex trafficking in the region as an obstacle to anti-TIP efforts in Latin America.<sup>42</sup>

## **Forced Labor: Adequacy of Country Efforts**

Recent research suggests that while TIP for sexual exploitation is both a highly prevalent and particularly visible form of human trafficking, TIP for forced labor exploitation may account for a large, often unreported and possibly growing share of TIP globally. Recent interest in forced labor as a form of TIP has sparked calls for greater research in analyzing the prevalence of forced labor, increased international efforts to combat this form of TIP, and more awareness to prevent and educate potential victims. The State Department’s TIP reports since 2005 have placed an added emphasis on evaluating country efforts to combat trafficking for forced labor, and several other programmatic efforts to combat TIP for forced labor are underway at the State Department. Other international groups, particularly the ILO, also play a large role in efforts to combat forced labor. Within Latin America, Brazil has been singled out by the ILO for its efforts to address forced

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<sup>39</sup> §103 (8-9) of P.L. 106-386, as amended.

<sup>40</sup> Janice G. Raymond, “Sex Trafficking is Not ‘Sex Work,’” *Conscience*, Spring 2005.

<sup>41</sup> U.S. Department of State, 2008 TIP Report. The 2009 TIP Report does not discuss linkages between prostitution and trafficking.

<sup>42</sup> U.S. Department of State, G-TIP, Power Point Presentation from Briefing on TIP in the Western Hemisphere, July 2009.



labor.<sup>43</sup> Across the region, labor trafficking prosecutions and convictions are increasing: from one prosecution and one conviction in the 2007 reporting period to 369 prosecutions and 107 convictions in 2012.<sup>44</sup> Despite this progress, many Latin American countries have yet to broaden their anti-TIP efforts out from focusing largely on the commercial sexual exploitation of women and children.

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<sup>43</sup> Patricia Trindade Maranhão Costa, "Fighting Forced Labor: The Example of Brazil," ILO Special Action Program to Combat Forced Labor, 2009.

<sup>44</sup> *TIP Report*, June 2011.

**Table 1. Latin America and the Relevant International Conventions on Human Trafficking**

Country	2012 Tier Placement	2013 Tier Placement	U.N. TIP Protocol		ILO Convention 105	ILO Convention 182	Optional Protocol of CRC		Optional Protocol CRC Armed Conflict	
			Signed	Ratified (a)	Ratified	Ratified	Signed	Ratified (a)	Signed	Ratified (a)
Antigua & Barbuda	Tier 2	Tier 2		X	X	X	X	X		
Argentina	Tier 2	Tier 2	X	X	X	X	X	X	X	X
Bahamas	<b>Tier 2 WL</b>	Tier 2	X	X	X	X				
Barbados	<b>Tier 2 WL</b>	<b>Tier 2 WL</b>	X		X	X				
Belize	Tier 2	Tier 2		X (a)**	X	X	X	X	X	X
Bolivia	Tier 2	Tier 2	X	X	X	X	X	X		X(a)
Brazil	Tier 2	Tier 2	X	X	X	X	X	X	X	X
Chile	Tier 2	Tier 2	X	X	X	X	X	X	X	X
Colombia	Tier 1	Tier 1	X	X	X	X	X	X	X	X
Costa Rica	Tier 2	Tier 2	X	X	X	X	X	X	X	X
Cuba	<b>Tier 3</b>	<b>Tier 3</b>			X		X	X	X	X
DR	Tier 2	Tier 2	X	X	X	X		X(a)	X	
Ecuador	<b>Tier 2 WL</b>	Tier 2	X	X	X	X	X	X	X	X
El Salvador	Tier 2	Tier 2	X	X	X	X	X	X	X	X
Guatemala	Tier 2	Tier 2		X (a)	X	X	X	X	X	X
Guyana	Tier 2	<b>Tier 2WL</b>		X (a)	X	X		X(a)		X(a)
Haiti	<b>Tier 2 WL</b>	<b>Tier 2 WL</b>	X	X	X	X	X		X	
Honduras	Tier 2	<b>Tier 2WL</b>		X(a)	X	X		X (a)		X (a)
Jamaica	<b>Tier 2 WL</b>	Tier 2	X	X	X	X	X	X	X	X
Mexico	Tier 2	Tier 2	X	X	X	X	X	X	X	X
Nicaragua	Tier 1	Tier 1		X (a)	X	X		X (a)		X(a)

Country	2012 Tier Placement	2013 Tier Placement	U.N. TIP Protocol		ILO Convention 105	ILO Convention 182	Optional Protocol of CRC		Optional Protocol CRC Armed Conflict	
			Signed	Ratified (a)	Ratified	Ratified	Signed	Ratified (a)	Signed	Ratified (a)
Panama	Tier 2	Tier 2	X	X	X	X	X	X	X	X
Paraguay	Tier 2	Tier 2	X	X	X	X	X	X	X	X
Peru	Tier 2	Tier 2	X	X	X	X	X	X	X	X
St. Vincent & Grenadines	Tier 2	Tier 2	X	X	X	X		X (a)		X(a)
Suriname	<b>Tier 2 WL</b>	<b>Tier 2 WL</b>		X(a)	X	X	X	X	X	X
Venezuela	<b>Tier 2 WL</b>	<b>Tier 2WL</b>	X	X	X	X	X	X	X	X

Source: U.S. Department of State, *Trafficking in Persons Report, 2011*, June 27, 2011.

**Notes:**

\* (WL) indicates placement on Tier 2 Watch List as opposed to Tier 2.

\*\* (a) indicates accession.

Treaties and Protocols:

—U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons

—ILO Convention 105 (Abolition of Forced Labor)

—ILO Convention 182 (Convention on the Worst Forms of Child Labor)

—Optional Protocol to the Convention on the Rights of the Child (CRC) on the Sale of Children, Child Prostitution, and Pornography

—Optional Protocol to the CRC on the Involvement of Children in Armed Conflict

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