

CRS Report for Congress

Trafficking in Persons in Latin America and the Caribbean

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Trafficking in Persons in Latin America and the Caribbean

Summary

Trafficking in persons for sexual exploitation or forced labor, both within a country and across international borders, is a lucrative criminal activity that is of major concern to the United States and the international community. While most trafficking victims still appear to originate from South and Southeast Asia or the former Soviet Union, human trafficking is a growing problem in Latin America and the Caribbean. Countries in Latin America serve as source, transit, and destination countries for trafficking victims. Latin America is also a primary source region for the up to 17,500 people that are trafficked to the United States each year. In FY2007, victims from Latin America accounted for 41% of trafficking victims in the United States certified as eligible to receive U.S. assistance.

The State Department issued its eighth congressionally mandated Trafficking in Persons (TIP) Report on June 4, 2008. Each 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. sanctions since 2003. The group named in 2008 includes a total of 14 countries. While Cuba is the only Latin American country ranked on Tier 3 in this year's TIP report, seven other countries in the region (Argentina, Costa Rica, Dominican Republic, Guatemala, Guyana, Panama, and Venezuela) are included on the Tier 2 Watch List and, without significant progress, could receive a Tier 3 ranking in the 2009 report.

Congress has taken a leading role in fighting human trafficking by passing the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386), the Trafficking Victims Protection Reauthorization Act of 2003 (P.L. 108-193), and the Trafficking Victims Protection Reauthorization Act of 2005 (P.L. 109-164).

In the 110th Congress, there are several bills with trafficking-related provisions. The Implementing the 9/11 Commission Recommendations Act of 2007 (P.L. 110-53) directs the Secretary of Homeland Security to provide specified funding and administrative support to strengthen the Human Smuggling and Trafficking Center. H.R. 3887 (Lantos) approved by the House on December 4, 2007 by a vote of 405-2, would, among other provisions, reauthorize anti-trafficking programs through FY2011, and amend the criminal code and immigration law related to trafficking. A Senate version of that re-authorization bill, S. 3061 (Biden), was introduced on May 22, 2008, and is under consideration. Another bill, H.R. 2522 (Lewis), would establish a Commission to evaluate the effectiveness of current U.S. anti-slavery efforts, including anti-TIP programs, and make recommendations. S. 1703 (Durbin), approved by the Senate Judiciary Committee on September 20, 2007, would create additional jurisdiction in U.S. courts for trafficking offenses occurring in other countries.

For more information on human trafficking, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Clare Ribando Seelke and Alison Siskin.

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Trafficking in Persons in Latin America and the Caribbean

Background

Trafficking in persons for sexual exploitation or forced labor, both within a country and across international borders, is a lucrative criminal activity that is of major concern to the United States and the international community. While most trafficking victims still appear to originate from South and Southeast Asia or the former Soviet Union, human trafficking is a growing problem in Latin America and the Caribbean. Latin America is also a primary source region for the up to 17,500 people that are trafficked to the United States each year. In FY2007, victims from Latin America accounted for 41% of trafficking victims in the United States certified by the Department of Health and Human Services as eligible to receive U.S. assistance.¹

This paper 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 Latin America and the Caribbean, as well as discusses the successes and failures of some recent country and regional anti-trafficking efforts. The paper concludes by raising issues that may be helpful for the 110th Congress to consider during its second session as it continues to address human trafficking as part of its authorization, appropriations, and oversight activities.

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.”² 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.

¹ “Attorney General’s Annual Report to Congress and Assessment of the U.S. Government Activities to Combat Trafficking in Persons in FY2007,” May 2008, Available at [<http://www.usdoj.gov/ag/annualreports/tr2007/agreporhumantrafficking2007.pdf>].

² *Victims of Trafficking and Violence Protection Act of 2000 (TVPA)* (P.L. 106-386).

Trafficking and Migration. 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 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.³ Primary destination countries for Latin American immigrants have included Spain, Italy, Canada, the Netherlands, Britain, and the United States. 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, increasing illegal migration has 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). In 2007, Mexican authorities reported 115,601 deportation events, a significant decline from the 182,705 reported in 2006.⁴ The deportees, though primarily from Central America, also included individuals from South American countries. Between 2002 and 2005, the number of non-Mexican undocumented migrants apprehended along the U.S.-Mexico border more than tripled. In 2005, non-Mexicans, 90% of whom were Latin American, accounted for 60% of the 134,185 undocumented migrants apprehended in the Rio Grande section of the U.S.- Mexico border.⁵ The apprehension of non-Mexicans along the border has decreased significantly since 2006, however. Some initially attributed that decline to the National Guard troop presence and new detention facilities along the border. More recently others have credited the Department of Homeland Security's increasing arrests of illegal migrants with discouraging would-be migrants from emigrating.⁶ The recent decline in the U.S. economy is likely to be another contributing factor.

Trafficking and Alien Smuggling. In 2000, the United Nations drafted two protocols, known as the Palermo Protocols, to deal with trafficking in persons and human smuggling.⁷ Trafficking in persons is often confused with alien or human smuggling. Alien smuggling involves the provision of a service, generally procurement or transport, to people who knowingly consent to that service in order

³ There are several exceptions to this general rule, including emigrants fleeing from Cuba and Colombia.

⁴ *Estadísticas Migratorias*, Instituto Nacional de Migración, December 2006.

⁵ "Life on a Troubled Frontier," *Fort Worth Star-Telegram*, June 4, 2006.

⁶ "Migrant Arrests Drop Along Border," *Houston Chronicle*, February 22, 2007; "VOA News: Border Patrol Program Improves Security on U.S.-Mexico Border," *U.S. Federal News*, June 26, 2008.

⁷ The United Nations Convention Against Organized Crime and Its Protocols, available at [http://www.unodc.org/unodc/en/crime_cicp_convention.html].

to gain illegal entry into a foreign country. It ends with the arrival of the migrant at their 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.⁸

Some 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.⁹ The Department of Justice asserts that the existence of “force, fraud, or coercion” is what distinguishes trafficking from human smuggling.¹⁰ Under U.S. immigration law, a trafficked alien is a victim, while an alien who consents to be smuggled may be subject to criminal prosecution and deportation. Others maintain that there are few clear-cut distinctions between trafficking and smuggling cases and that many people who are considered “smuggled” should actually be viewed as trafficking victims. They argue that as immigration and border restrictions have tightened, smuggling costs have increased and migration routes have become more dangerous. Some smugglers have sold undocumented migrants into situations of forced labor or prostitution in order to recover their costs.¹¹

Global Figures on Trafficking. Trafficking in persons for sexual exploitation or forced labor, both within a country and across international borders, is one of the most lucrative and fastest growing types of organized crime. Due to the clandestine nature of this type of crime, it is difficult to gather reliable data on its prevalence in particular countries and regions of the world. Researchers have generally had to rely on estimates compiled by non-governmental organizations (NGOs) in order to assess the scope of the global trafficking industry. NGO reports on trafficking tend to contain more anecdotal evidence than concrete statistics. In addition to the difficulty of gathering good statistics on a clandestine activity, countries may be reluctant to publish data for fear of being cited by the U.S. government as having a major trafficking problem. According to U.S. government-sponsored research finished in 2006, some 800,000 people are trafficked across borders annually worldwide for forced labor, domestic servitude, or sexual exploitation. Some 80% of those trafficking victims are women and girls, and up to

⁸ Ibid.

⁹ Statement by Claire Antonelli of Global Rights, Center for Strategic and International Studies Event on Human Trafficking in Latin America, July 9, 2004.

¹⁰ U.S. Department of Justice, Human Smuggling and Trafficking Center, “Fact Sheet: Distinctions Between Human Smuggling and Human Trafficking,” January 2005.

¹¹ Ann Jordan, “Human Trafficking and Globalization,” Center for American Progress, October 2004; “Mexico-U.S.-Caribbean: Tighter Borders Spur People Traffickers,” *Latin America Weekly Report*, April 11, 2006.

50% are minors. These figures do not include the millions of victims who are trafficked within their own country's borders.¹²

The International Labor Organization (ILO) estimates that globally some 2.4 million people have been trafficked by private agents into situations of forced labor. Although most observers concur that the overwhelming majority of trafficking victims are women and children, the ILO has found that the sex of trafficking victims depends on the type of activity they are forced to undertake. Women and girls account for the vast majority of those trafficked for commercial sexual exploitation, but men and boys account for 44% of those trafficked for forced or bonded labor.¹³

Trafficking in persons affects nearly every country and region in the world. 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 trafficking victims.

Scope of the Problem in Latin America and the Caribbean

Countries in Latin America and the Caribbean serve as both source, transit, and destination countries for trafficking victims. Latin America, along with Southeast Asia and the former Soviet Union, is a primary source region for people trafficked to the United States. The U.S. State Department estimates that up to 17,500 people are trafficked to the United States annually.¹⁴ Countries in Latin America and the Caribbean also serve as transit countries for victims brought from China and other countries to Canada or the United States.¹⁵

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 focuses on trafficking in children for sexual exploitation. This research is often tied to ongoing projects in particular countries — targeted at children vulnerable to commercial sexual exploitation — that are administered by the ILO and other international organizations in partnership with local NGOs. Trafficking of children for sexual exploitation is

¹² U.S. Department of State, *Trafficking in Persons Report, 2008*, June 4, 2008, Available at [<http://www.state.gov/g/tip/rls/tiprpt/2008/>].

¹³ “A Global Alliance Against Forced Labor,” ILO, 2005.

¹⁴ The number of people trafficked to the United States each year has been revised downward from 1999 Central Intelligence Agency (CIA) estimates of 45,000 to 50,000 victims, to 18,000 to 20,000 victims reported in the 2003 Trafficking in Persons report, to the current range of 14,500 to 17,500 trafficking victims. While the U.S. government cites better methodologies as the reason for these altered figures, some have criticized them as being merely ‘guesstimates.’ See Gozdziaik and Collett, “Research on Human Trafficking in North America: A Review of the Literature,” in *Data and Research on Human Trafficking: A Global Survey*, International Organization for Migration (IOM), 2005.

¹⁵ See Nathalie Tran, “An Assessment on the Exploitation of Chinese Migrants in the Western Hemisphere,” Organization of American States, July 2006.

most common in countries that are both popular tourist destinations and centers of sex tourism. This problem is exacerbated by the fact that most countries in the region have legislation establishing (on average) 14 years of age as the legal age of consent to work. The available data show that the number of children sexually exploited in the region is increasing while the average age of exploited children is decreasing.¹⁶

Although street and orphaned children are particularly vulnerable to trafficking into the sex industry, a large percentage of children who have been trafficked remain living with their families and engage in commercial sex activity in order to contribute to household income. A 2002 study of child prostitutes in El Salvador found that 57% of those interviewed lived with their parents or other close relatives.¹⁷ Other factors associated with children at risk of trafficking include poverty, infrequent school attendance, physical or sexual abuse, drug or alcohol addiction, and involvement in a criminal youth gang.

In addition to sexual exploitation, Latin American children have been trafficked for illegal adoptions and for use as soldiers in armed conflict, domestic servants, and agricultural and mining laborers. Guatemala has been among the largest source countries of children allegedly kidnaped and trafficked internationally for adoption. Colombia has the largest number of children trafficked for use as child soldiers. As of 2004, some 14,000 Colombian youth as young as seven years old were estimated to have been trafficked to fight in the country's armed conflict.¹⁸ Since that time, the U.N. reports that some progress has been made in reducing the forced recruitment of child soldiers by illegally armed groups in Colombia.¹⁹ In addition to the recruitment of child soldiers for armed conflict, some countries, such as Brazil, are facing increasing instances of youth trafficked by drug gangs into urban warfare.

Children are also trafficked both internally and across international borders for use as domestic servants. State Department officials estimate that as many as 1 million children work as domestic servants in Latin America, many of whom are vulnerable to verbal, physical, and sexual abuse.²⁰ A 2004 U.S. Agency for International Development (USAID)-sponsored study explores this phenomenon in the case of child domestic servants from Haiti who are trafficked to the Dominican Republic. In early November 2005, the United Nations Children Emergency Fund (UNICEF) and the Inter-American Commission on Human Rights (IAHCR)

¹⁶ Pamela Coffey et al., "Literature Review of Trafficking in Persons in Latin America and the Caribbean," Development Alternatives, Inc (DAI) for the U.S. Agency for International Development, August 2004.

¹⁷ Zoila Gonzalez de Innocenti, "Explotación Sexual Comercial de Niñas y Adolescentes: Una Evaluación Rápida, ILO/IPEC, 2002.

¹⁸ "The Baby Trade," *Foreign Affairs*, November 1, 2003; "Child Soldiers Global Report 2004," Coalition to Stop the Use of Child Soldiers, November 17, 2004.

¹⁹ See [<http://www.un.org/children/conflict/english/colombia58.html>].

²⁰ Interview with representative from the Global Office to Monitor Trafficking in Persons, U.S. Department of State, September 29, 2005.

condemned this practice, which has involved the trafficking of some 30,000 Haitian children to the Dominican Republic.²¹

Finally, the ILO has documented instances from across the region of children forced to work under dangerous circumstances in agricultural or mining industries. In Bolivia, children work in the country's mines and sugarcane harvesting, while Brazilian youth harvest agro-export crops. On a positive note, a 2006 ILO report found that the number of children working in Latin America and the Caribbean, many of whom may have been trafficked for forced labor, fell by two-thirds between 2000 and 2004, faster than any other region in the world.²²

Trafficking for Sexual Exploitation. While trafficking for forced labor is a serious problem in Latin America and the Caribbean, trafficking for sexual exploitation has been perceived as a more widespread and pressing regional problem.²³ 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 are often trafficked internationally, sometimes with the consent of their husbands or other family members. Major source and recruitment countries include Brazil, Colombia, the Dominican Republic, Uruguay, Venezuela, and Suriname. Spain, Germany, the Netherlands, Portugal, and the United States are commonly identified as countries of destination for Latin American trafficking victims. Although flows are significant, some observers question 2005 TIP report estimates that some 70,000 Brazilians, 45,000-50,000 Colombians, and 50,000 Dominicans are engaged in prostitution in Europe and may be trafficking victims, noting that the figures have not been corroborated by European police officials. In addition to Europe and the United States, one 2005 study estimated that as of that time some 1,700 women from Latin America, primarily Colombians, Peruvians, and Brazilians, were trafficked each year to Japan.²⁴

There are also intra-regional trafficking problems. A 2005 report by the International Organization for Migration (IOM) report asserts that the Caribbean's relatively open borders, lax enforcement of entertainment visa and work permit rules, legalized prostitution, and burgeoning tourism industry have contributed to the problem of trafficking there.²⁵ Argentina and Brazil have also served as destination countries for women trafficked from the Andes or Caribbean countries like the

²¹ Smucker and Murray, "The Uses of Children: A Study of Trafficking in Haitian Children," USAID/Haiti Mission, December 28, 2004; "Rights Organizations Slam Illegal Trade in Children on Haitian-Dominican Border," *BBC News*, November 7, 2005.

²² "The End of Child Labor: Within Reach," International Labor Organization, May 2006.

²³ Laura Langberg, "A Review of Recent OAS Research on Human Trafficking in the Latin American and Caribbean Region," in *Data and Research on Human Trafficking: A Global Survey*, IOM, 2005.

²⁴ "Annual Report on Fighting the Crime of Trafficking in Persons, Especially Women, Adolescents, and Children in the Americas," Inter-American Commission of Women, Organization of the American States, May 5, 2005.

²⁵ "Exploratory Assessment of Trafficking in Persons in the Caribbean Region," IOM, June 2005.

Dominican Republic. Panama attracts as many as 1,000 Colombian migrants per year, many of whom are trafficked, who arrive with entertainment visas to work in prostitution, which is legal in that country for residents and non-residents. 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. Tecun Uman, a Guatemalan town near the Mexican border, reportedly had 80 brothels with some 1,000 women working as prostitutes in 2006.²⁶

Trafficking for Forced Labor. The ILO reports that trafficking victims comprise 20% (or 250,000) of the 1.3 million people in Latin America engaged in forced labor. 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.

In 2005, the International Labor Organization (ILO) estimated that some 40,000 Brazilians were trapped in situations of forced labor.²⁷ In Brazil, forced labor is most common in isolated, rural areas. In late 2006, press reports asserted that there were some 1,000 camps in the Brazilian Amazon using slave labor to produce pig iron, a key ingredient of steel. The Brazilian government has acknowledged that there have been instances of forced labor on some sugarcane properties in Brazil, especially in the northeast region of the country. In 2007, roughly half of the close to 6,000 workers freed by the Brazilian government from slave-like working conditions were employed at plantations growing sugarcane for ethanol production.²⁸

Forced labor is also used in the mahogany and gold-mining industries in the Amazonian regions of Peru. In 2005, the ILO reported that some 33,000 people work as forced laborers in Peruvian logging camps that produce mahogany, roughly 95% of which is exported illegally. Press reports have recently revealed that slave labor is also a major problem in several of the 2,000 or so gold mines in the Peruvian Amazon.²⁹

Every year thousands of undocumented Haitians flock to the Dominican Republic lured by false promises from recruiters of profits to be made in the

²⁶ Bernd Debusmann, "Fear and Loathing on U.S.'s Lawless 'Third Border,'" *Reuters*, January 17, 2006.

²⁷ The International Labor Organization (ILO) defines forced labor as any situation in which work is carried out involuntarily under the menace of a penalty. The terms "forced labor" and "slave labor" are often used interchangeably. See International Labor Organization (ILO), "A Global Alliance Against Forced Labor," 2005; ILO, "Waiting in Correntes: Forced Labor in Brazil," *World of Work* No. 50, 2004, pp. 15-16.

²⁸ Smith and Voreacos, "The Secret World of Modern Slavery," *Bloomberg Markets*, December 2006; U.S. Department of Labor, Bureau of International Labor Affairs, "2006 Findings on the Worst Forms of Child Labor," 2007; "Brazil Labor Minister Calls Sugarcane Labor 'Degrading,'" *Dow Jones Commodity Service*, June 11, 2007; TIP Report, 2008.

²⁹ *Ibid.*

sugarcane fields (*bateyes*). Haitians and their Dominican-born children are regularly denied identity documents necessary to prove their citizenship and job status and to permit their children to attend school, a practice that was condemned by an October 2005 Inter-American Court of Human Rights ruling against the Dominican government.³⁰ In early January 2006, 25 Haitian immigrants died of asphyxiation while being transported by human smugglers from Haiti to the Dominican Republic.

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.³¹

Factors that Contribute to the Rise in Trafficking. Both individual factors and outside circumstances may account for the rise of human trafficking within and from Latin America and the Caribbean. Individual risk factors include poverty, unemployment, illiteracy, history of physical or sexual abuse, homelessness, drug use, and gang membership. The IOM in Colombia has identified some 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.³² 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; (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. Even

³⁰ "Dominican Republic Rejects Criticism of Migrant Treatment," *Reuters*, December 10, 2006.

³¹ Free the Slaves, "Hidden Slaves: Forced Labor in the United States," September 2004.

³² Sanin et al., "Condiciones de Vulnerabilidad a la Trata de Personas en Colombia," IOM, 2005.

in the formal sector, women's income averages just 75% of men's income in Latin America.³³

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 Latin America, Mexican drug cartels are increasingly involved in the trafficking of people as well as drugs.³⁴ 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. Some analysts maintain that these gangs 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.³⁵

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. For example, HIV is rapidly spreading among the migrant communities in north-eastern Brazil.³⁶

U.S. Policy

Anti-Trafficking Legislation

Congress approved the first major legislation on human trafficking, the Victims of Trafficking and Violence Protection Act (TVPA) of 2000, and President Clinton

³³ Laíz Abramo and Maria Elena Valenzuela, "Women's Labor Force Participation Rates in Latin America," *International Labour Review*, Geneva, 2005, Vol. 144, Issue 4.

³⁴ "Mexican Drug Lords Seize Control of People-Smuggling Routes," *AP*, April 30, 2007; Gordon James Knowles, "Threat Analysis: Organized Crime and Narcoterrorism in Northern Mexico," *Military Review*, January 1, 2008.

³⁵ David A. Feingold, "Human Trafficking," *Foreign Policy*, September/October 2005.

³⁶ TIP Report, 2005, [<http://www.state.gov/g/tip/rls/itprpt/2005>]; UNAIDS, *Latin America Fact Sheet*, July 2005; IOM, *World Migration*, 2005; "Mobility and HIV in the Caribbean," October 2005.

signed the bill into law on October 28, 2000 (P.L. 106-386).³⁷ The law seeks to enable the U.S. government to confront the issue of human trafficking at the national and international level within the framework of “prevention, protection, and prosecution.” The law directs the Secretary of State to issue an annual report to detail the trafficking problem in each country, assess each government’s efforts to combat trafficking, and list countries that do and do not comply with minimum standards for the elimination of trafficking. Countries failing to meet the minimum standards are subject to sanctions on non-humanitarian U.S. assistance unless continued assistance is deemed to be in the U.S. national interest. The law also calls for the creation of an Interagency Task Force to Monitor and Combat Trafficking and an Office to Monitor and Combat Trafficking to fund anti-trafficking programs and initiatives in foreign countries and coordinate U.S. government efforts to combat trafficking.

In 2002, Congress amended the TVPA in Sec. 682 of the Foreign Relations Authorization Act, FY2003 (P.L. 107-228) in order to provide increasing support, especially for NGOs, to provide services and assistance to trafficking victims.

In 2003, Congress approved the Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), which President Bush signed into law on December 19, 2003 (P.L. 108-193). The law authorized large increases in funding for anti-trafficking programs in FY2004 and FY2005 (totaling more than \$100 million for each fiscal year). P.L. 108-193 refines the standards for the elimination of trafficking that governments must meet and tasks those governments with providing the information to prove their compliance. The bill also creates a “special watch list” of countries that, although not subject to sanctions, require ongoing scrutiny.

In 2004, Congress approved the Intelligence Reform and Terrorism Protection Act of 2004. The President signed the act into law on December 17, 2004 (P.L. 108-458). P.L. 108-458 establishes a Human Smuggling and Trafficking Center to be jointly operated by the Department of Homeland Security, the State Department, and the Department of Justice.

Legislative Action in the 109th Congress. On October 7, 2005, the U.S. Senate gave its advice and consent to ratify the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children. President Bush then signed the Protocol and the United States became a party to the agreement on December 3, 2005. At present, 112 countries are party to the Protocol.³⁸

In 2005, Congress approved the Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA), which President Bush signed into law on January 10, 2006 (P.L. 109-164). The TVPRA of 2005 contains provisions to increase support to foreign trafficking victims in the United States, address the needs of child victims, and develop anti-trafficking programs for post-conflict situations and humanitarian

³⁷ For more detailed information on anti-trafficking legislation, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Clare Ribando Seelke and Alison Siskin.

³⁸ See [http://www.unodc.org/unodc/trafficking_protocol.html]. For a list of signatory countries, see [http://www.unodc.org/unodc/cicp_signatures_trafficking.html].

emergencies abroad. It authorized an estimated \$361 million in FY2006 and FY2007 to combat human trafficking.

Legislation in the 110th Congress. In the 110th Congress, there are several bills with trafficking-related provisions.³⁹ The Implementing the 9/11 Commission Recommendations Act of 2007 (P.L. 110-53) directs the Secretary of Homeland Security to provide specified funding and administrative support to strengthen the Human Smuggling and Trafficking Center. H.R. 3887 (Lantos) approved by the House on December 4, 2007 by a vote of 405-2, would, among other provisions, reauthorize anti-trafficking programs through FY2011, and amend the criminal code and immigration law related to trafficking. A Senate version of that re-authorization bill, S. 3061 (Biden), was introduced on May 22, 2008, and is under consideration. Another bill, H.R. 2522 (Lewis), would establish a Commission to evaluate the effectiveness of current U.S. anti-slavery efforts, including anti-TIP programs, and make recommendations. S. 1703 (Durbin), approved by the Senate Judiciary Committee on September 20, 2007, would create additional jurisdiction in U.S. courts for trafficking offenses occurring in other countries.

Trafficking in Persons Reports

On June 4, 2008, the State Department issued its seventh annual report on human trafficking, *Trafficking in Persons Report (TIP), June 2008*, as mandated by P.L. 106-386 and P.L. 108-193.⁴⁰ The 2008 TIP report is more comprehensive than prior reports, ranking 153 countries as compared to 151 countries in the 2007 report. It also discusses trafficking in persons in 17 “special case” countries, including Haiti, for which there was not enough information available to determine a tier ranking.⁴¹

In the 2008 TIP report, as in previous reports, countries are ranked in four groups or tiers. Tier 1 is comprised of the countries that have a serious trafficking problem but fully comply with the act’s minimum standards for the elimination of trafficking. Tier 2 consists of the countries the State Department identifies as not fully complying with those standards but making “significant efforts to bring themselves into compliance.” Tier 2 Watch-list, first added in the 2004 report, are the countries that are between Tier 2 and Tier 3, that the State Department must submit an interim report for by February 2007 in advance of the next TIP report. 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.⁴²

³⁹ For more information, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*.

⁴⁰ U.S. Department of State, *Trafficking in Persons Report, 2007*, June 12, 2007, [<http://www.state.gov/g/tip/rls/tiprpt/2007/index.htm>].

⁴¹ Countries not included in the report either do not appear to have a trafficking problem (at least 100 cases per year) or there is insufficient data to ascertain whether or not they have a trafficking problem.

⁴² Beginning in 2003, countries on Tier 3 were made subject to sanctions on non-humanitarian, non-trade-related assistance and loss of U.S. support from international (continued...)

Latin America and the TIP Rankings. The 2008 TIP Report presents evidence that there has been some improvement on the part of governments in Latin America in addressing the issue of human trafficking. In 2008, Cuba is the only Latin American country identified as Tier 3 and made subject to possible U.S. trafficking-related sanctions.⁴³ However, seven other countries — including Argentina, Costa Rica, Dominican Republic, Guatemala, Guyana, Panama, and Venezuela — are on the Tier 2 Watch List in the 2008 report and could fall into the Tier 3 category by 2009.

According to the 2008 TIP report, while some countries made substantial progress in combating human trafficking, others lagged behind. Mexico, a country that spent four years on the Tier 2 Watch List, earned a Tier 2 ranking in this year's report by enacting a comprehensive anti-TIP law, constructing shelters for trafficking victims, and sponsoring training sessions and seminars to increase both government and popular knowledge about human trafficking. Honduras also moved off the Tier 2 Watch List by opening 74 TIP investigations, beginning 13 prosecutions, and securing eight TIP-related convictions. Venezuela also stepped up its anti-TIP law enforcement efforts, passed legislation with new anti-TIP provisions, and continued its preventive efforts, earning a spot on the Tier 2 Watch List after spending four years on Tier 3. In contrast, Argentina received its third consecutive Tier 2 Watch List rating for failing to increase TIP prosecutions, provide adequate assistance to victims, and punish official corruption related to trafficking in persons. The Dominican Republic is on the Tier 2 Watch List for a second straight year for failing to provide adequate assistance and legal protection to TIP victims, particularly undocumented workers of Haitian descent, and for not adequately punishing government complicity in trafficking activities. Guatemala and Guyana are also ranked on the Tier 2 Watch List for the second consecutive year.

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

In FY2007, the U.S. government obligated \$79.4 million in anti-trafficking assistance to foreign governments worldwide, up slightly from the \$74 million obligated in FY2006. Roughly 22% of U.S. international 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.

Whereas regional programs in Latin America supported initiatives necessary to address the cross-cutting nature of human trafficking, bilateral programs aimed to

⁴² (...continued)

financial institutions. Sanctions may be imposed if such countries have not made adequate progress in combating trafficking by the date that the President issues a determination (generally within 90 days of the release of the report) or have not been granted a sanctions waiver.

⁴³ The other Tier 3 countries include Algeria, Burma, Cuba, Fiji, Iran, Kuwait, Moldova, North Korea, Oman, Papua New Guinea, Qatar, Saudi Arabia, Sudan, and Syria.

help governments solve specific challenges they have had in addressing human trafficking. For example, anti-trafficking programs in the Dominican Republic were targeted at combating child labor and identifying possible trafficking of victims from Haiti. Programs in Mexico aimed to support the passage of trafficking legislation at the federal and state level and to train security and law enforcement officials on how to identify and treat TIP victims. A program in Guyana aimed to increase the capacity of the country's judicial system 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 August 2005, the Bureau of U.S. Customs and Border Protection (CBP) in DHS announced a new program, the "Operation Against Smugglers (and Traffickers) Initiative on Safety and Security" (OASISS), aimed at strengthening cooperation with Mexican officials to crack down on these types of criminal groups. As of the end of FY2007, U.S. and Mexican officials had generated 597 cases and presented 660 individuals for prosecution in Mexico under the OASISS program.⁴⁴

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 for the Prevention of Threats to Public Security.

Since that time, OAS, in partnership with IOM, has provided training and held workshops for government officials and representatives from civil society in Mexico, Bolivia, Belize, Haiti, and the English-speaking Caribbean and the Netherlands Antilles. OAS representatives have participated in numerous seminars at the country, regional, and international level to identify and disseminate information on best practices in the region. In March 2006, the first regional meeting of national anti-TIP authorities was held in Venezuela. At that time, national authorities agreed to a series of recommended country and regional actions to be taken in order to address the problem of trafficking in persons. The OAS has developed a web-site at which individuals can report cases of human trafficking. It has also begun to conduct periodic research studies, including a study on trafficking flows from Latin America to Japan, an assessment of the treatment of Chinese migrants in the Western hemisphere, and a report on trafficking of Dominicans to Puerto Rico. Recent OAS-sponsored training session have focused on helping legislators develop anti-TIP legal

⁴⁴ U.S. Department for Homeland Security, Bureau of Customs and Border Protection, "Fact Sheet: Securing America's Borders: CBP 2007 Fiscal Year in Review," November 6, 2007.

frameworks and assisting Latin America consular officials serving abroad to identify possible TIP victims from their home countries.

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. The IDB is coordinating its efforts with the OAS and the IOM, and has developed technical cooperation projects for Bolivia, Colombia, El Salvador, Guyana, and Paraguay. The IDB is also working with the Ricky Martin Foundation to raise awareness of the extent of child trafficking in the region through public service announcements, promotional materials, and a video on best practices to combat trafficking in the region. In 2006, the Bank and the Foundation opened trafficking prevention hotlines (funded by IOM) in Central America, Colombia, Mexico, and Peru. As of April 2008, those hotlines have received more than 50,000 calls and led to the initiation of at least 60 police investigations.⁴⁵

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 UN 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 UN 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. A number of countries, including seven countries in 2007, also passed new or amended anti-trafficking legislation and several created National TIP Coordinators or Task Forces to coordinate anti-TIP programs and initiatives. Most governments in the region that have received a Tier 3 designation, though initially dismayed, have worked with U.S. officials to address the problem of trafficking in persons during the 90-day grace period before the Presidential determination.

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 adequately. Sometimes country efforts are, for example, thwarted by larger problems, such as political instability. Many countries have few, if any, shelters for trafficking victims and, as in the case of Paraguay, no follow-up plans to help victims after they return from overseas or to their residences in smaller towns across the country. Some countries, including Guyana and Belize, have appeared to model their national TIP laws so closely to TVPA that they do not have the resources or the manpower to implement the

⁴⁵ "IDB, Ricky Martin Also Announce Campaign Expansion in Latin America," *U.S. Federal News*, April 29, 2008.

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.

Issues for Policy Consideration

There are a number of issues and foreign policy considerations affecting the implementation of anti-trafficking in persons legislation that make U.S. efforts on this front appear inconsistent at times. Indeed, the State Department has acknowledged that the United States has a “deep, involved relationship” with a number of the countries in the TIP report, but that trafficking is “an important moral issue” that “we’re not going to hesitate to bring up [with those countries].”⁴⁶ 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. Striking a balance between these competing concerns is exacerbated by the difficulty of gauging the effectiveness of existing implementation efforts. Issues that may be considered when evaluating the implementation of U.S. anti-trafficking policies are discussed below.

Balancing Multiple U.S. Interests

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 undocumented 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.

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 Venezuela on the Tier 3 list has constituted “selective indignation” on the part of the U.S. government.⁴⁷ U.S. Embassy officials 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, that they might undermine the broader U.S. goals of preventing democratic breakdown in the hemisphere.⁴⁸

⁴⁶ McCormack, June 3, 2005.

⁴⁷ “Politics: U.S. Trafficking Report Includes Cuba and Venezuela,” *Global Information Network*, June 10, 2005.

⁴⁸ Interviews with State Department Officials, September 2005.

Beyond Cuba and Venezuela?

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 actual sanctions. For example, some believe a Tier 3 designation motivated the government of Belize to take several positive steps against trafficking in the summer of 2006. In this view, the government of Belize may have been motivated by the sanctions threat, but it was also concerned with maintaining its international image as a good destination for foreign tourists.

Measurements of Success

It is often difficult to measure success in the fight against human trafficking. The State Department has identified the passage of new TIP legislation or the amendment of existing TIP legislation to increase prosecutions of traffickers as evidence of some success. Since many countries in Latin America have passed or amended their existing TIP laws in recent years, it follows that an increasing number of prosecutions and convictions under that legislation should be a further indicator of success in combating TIP. In 2007, there were 426 prosecutions of suspected traffickers, but only 113 convictions in Latin America. These figures pale in comparison to East Asia and the Pacific, with 1,074 prosecutions and 651 convictions, and Europe, with 2,820 prosecutions and 1,941 convictions in 2007. They also pale in comparison to the number of reported victims both in Latin America and globally. Some have asserted that the low conviction rates in Latin America may be due to the fact that it is easier to prosecute traffickers for other offenses, such as money laundering, than for trafficking in persons. Others have noted that even in the United States, there were only 89 defendants charged with trafficking and 103 individuals convicted of TIP-related crimes in 2007.⁴⁹

Enforcement Improvement

In order to improve enforcement of TIP legislation in Latin America, observers have identified several issues that they maintain should be addressed. Some have noted that countries, instead of being encouraged to pass laws modeled after other countries (such as the TVPA), need to be given time to 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 enforcement and legal professionals. Third, attention may be needed to address

⁴⁹ TIP Report, 2008.

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, lawyers, judges, or politicians caught assisting traffickers.

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

Country	2007 Tier Placement	2008 Tier Placement	UN TIP Protocol		ILO Convention 105	ILO Convention 182	Optional Protocol of CRC		Optional Protocol CRC Armed Conflict	
			Signed	Ratified (a)			Signed	Ratified (a)	Signed	Ratified (a)
Argentina	Tier 2 WL*	Tier 2 WL	X	X	X	X	X	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 WL	X	X	X	X	X	X	X	X
Cuba	Tier 3	Tier 3			X		X	X	X	X
DR	Tier 2WL	Tier 2 WL	X		X	X		X(a)	X	
Ecuador	Tier 2	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 2WL	Tier 2WL		X (a)	X	X	X	X	X	X
Guyana	Tier 2 WL	Tier 2 WL		X (a)	X	X				
Haiti	Not rated	Not rated	X		X		X		X	
Honduras	Tier 2WL	Tier 2			X	X		X (a)		X (a)
Jamaica	Tier 2	Tier 2	X	X	X	X	X		X	X
Mexico	Tier 2 WL	Tier 2	X	X	X	X	X	X	X	X
Nicaragua	Tier 2	Tier 2		X (a)	X	X		X (a)		X(a)
Panama	Tier 2	Tier 2 WL	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
Suriname	Tier 2	Tier 2		X(a)	X	X	X		X	
Venezuela	Tier 3	Tier 2 WL	X	X	X	X		X	X	X

Source: U.S. Department of State, *Trafficking in Persons Report, 2008*, June 4, 2008.

* (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