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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, there may be as many as 20 million 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, increasingly by transnational criminal organizations. In FY2013, primary countries of origin for foreign trafficking victims certified as eligible to receive U.S. assistance included Mexico, Honduras, Guatemala, and El Salvador (along with Thailand, the Philippines, and India). Smaller numbers of Latin American TIP victims are trafficked 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, 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 \$10.9 million in FY2012.

On June 20, 2014, the State Department issued its 14th 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. Nicaragua and, for the first time, Chile received the top Tier 1 ranking in this year’s report. While Cuba and Venezuela are the only Latin American countries ranked on Tier 3 in this year’s TIP report, 10 other countries in the region—Antigua and Barbuda, Belize, Bolivia, Guyana, Haiti, Jamaica, Panama, St. Vincent and the Grenadines, Suriname, and Uruguay—are on the Tier 2 Watch List. Unless those countries make progress, they could receive a Tier 3 ranking in 2015.

The 114th Congress is likely to continue 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, the problem of child trafficking in Haiti, and the vulnerability of unauthorized child migrants from Central America to trafficking. Congress could consider further increasing funding for anti-TIP programs in the region, as was provided for forensic technology to combat TIP in Central America and Mexico in P.L. 113-235, possibly through the Mérida Initiative, the Central America Regional Security Initiative (CARSI), or through other assistance programs. For more information on human trafficking, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana Rosen.

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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.¹ Despite limited data on the nature and severity of the problem, the U.S. government has cited estimates that some 20 million men, women, and children may be victims of trafficking at any given time.² In 2012, the International Labor Organization (ILO) estimated that there were some 20.9 million victims of forced labor, including 1.8 million victims in Latin America.³ In 2014, the ILO analyzed the financial value of forced labor and estimated that it results in roughly \$12 billion in illegal profits annually in Latin America (out of a global estimate of \$150 billion).⁴ 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 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.⁵ At the same time, countries like Brazil that are scheduled to host major international events can become destinations for human trafficking.

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 114th Congress to consider 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

¹ For further information, see CRS Report R42497, *Trafficking in Persons: International Dimensions and Foreign Policy Issues for Congress*, by Liana Rosen.

² U.S. Department of State, *Trafficking in Persons (TIP) Report*, June 2014, available at <http://www.state.gov/j/tip/rls/tiprpt/2014/index.htm>. Hereinafter: *TIP Report*, June 2014.

³ 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. Hereinafter: ILO, 2012.

⁴ ILO, *Profits and Poverty: The Economics of Forced Labour*, 2014, available at http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—declaration/documents/publication/wcms_243391.pdf.

⁵ 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 has provided more than \$4.8 million in grants to organizations working to combat TIP in Haiti.

slavery.”⁶ 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.⁷ Trafficking in persons is often confused with human smuggling. This confusion has been particularly common among Latin American officials.⁸ 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.⁹

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.¹⁰ 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 removal (deportation).

Distinguishing the difference between a trafficking victim and a smuggled migrant can be difficult, particularly in cases involving unaccompanied children. The State Department’s June 2014 *Trafficking in Persons Report* highlighted migrants from Central America as vulnerable to human trafficking in Mexico.

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 flows from Latin America and the Caribbean. Factors that have fueled Latin American migration to the United States have included family ties, poverty and unemployment, political and

⁶ *Victims of Trafficking and Violence Protection Act of 2000 (TVPA)* (P.L. 106-386).

⁷ The United Nations Convention Against Organized Crime and Its Protocols, available at <http://www.unodc.org/unodc/en/treaties/CTOC/index.html>.

⁸ 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.

⁹ http://www.unodc.org/unodc/en/crime_cicp_convention.html.

¹⁰ U.S. Department of Homeland Security, Bureau of Immigration and Customs Enforcement, “Human Trafficking and Smuggling,” January 16, 2013, available at <http://www.ice.gov/factsheets/human-trafficking>.

economic instability, natural disasters, proximity, and (most recently) crime and violence. Aside from proximity, those factors have also driven smaller emigration flows to Europe and Canada.

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, came to rely on migrant laborers from Latin America in recent decades to fill low-paying jobs in agriculture, construction, manufacturing, and domestic service. At the same time, concerns about security, competition for jobs, 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 returned 86,949 individuals traveling illegally through its territory from the northern triangle countries of Central America (Guatemala, El Salvador, and Honduras) from January-November 2014, a 17.9% increase from the 73,695 returned to those countries from January-November 2013.¹¹ 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 FY2014, apprehensions of unauthorized Central American migrants by U.S. Customs and Border Protection exceeded those of Mexicans for the first time.¹²

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. U.S. officials estimate that 75-80% of unaccompanied minors now travel with smugglers.¹³ 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. 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.¹⁴

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

¹¹ Gobierno de México, Secretaría de Gobernación (SEGOB), *Estadística Migratoria- Síntesis 2014*, December 2014.

¹² U.S. Department of Homeland Security, U.S. Customs and Border Protection (CBP), *CBP Border Security Report: FY2014*, December 19, 2014.

¹³ White House, Office of the Vice President, “Remarks to the Press with Q&A by Vice President Joe Biden in Guatemala,” press release, June 20, 2014.

¹⁴ Washington Office on Latin America (WOLA), *Mexico’s Other Border: Security, Migration, and the Humanitarian Crisis at the line with Central America*, June 17, 2014.

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 the U.N. Office on Drugs and Crime (UNODC), the share of victims trafficked for forced labor in the region (44%) is higher than in Europe and Central Asia.¹⁵ 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. According to the 2014 Global Slavery Index produced by the Walk Free Foundation, the six countries with the greatest prevalence of their populations subjected to “modern slavery,” a term associated with human trafficking, are Haiti, Suriname, Guyana, Mexico, Colombia, and Peru.¹⁶

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, membership in an indigenous group, illiteracy, a history of physical or sexual abuse, homelessness, drug use, and gang membership. The State Department has also recently highlighted the vulnerability of lesbian, gay, bisexual, and transgender people to human trafficking.¹⁷ The International Organization for Migration (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.¹⁸ 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.

¹⁵ 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.

¹⁶ Walk Free Foundation, *2014 Global Slavery Index*, 2014.

¹⁷ *TIP Report*, June 2014.

¹⁸ Sanin et al., “Condiciones de Vulnerabilidad a la Trata de Personas en Colombia,” IOM, 2005.

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. 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, 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.¹⁹

Latin American children have been trafficked for illegal adoptions, for use as soldiers in armed conflict, and to work for organized criminal groups, sometimes as sex slaves.²⁰

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 2014 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, as well as illicit crops such as coca.²¹ While a 2013 ILO global report estimated that the number of child laborers had declined slightly in Latin America as compared to 2008, it still estimated that some 12.5 million children in the region worked, 9.6 million under hazardous conditions.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, 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

¹⁹ U.S. Department of State, *TIP Report*, June 2013; Nicholas Kristof, "A Girl's Escape," *New York Times*, January 1, 2014.

²⁰ James Bargent, "Children, Sex, and Gangs in Medellín," *Insight Crime*, December 16, 2013.

²¹ U.S. Department of Labor (DOL), *The DOL's List of Goods Produced by Child Labor or Forced Labor*, 2014, available at http://www.dol.gov/ilab/reports/pdf/TVPPRA_Report2014.pdf. Hereinafter: DOL, 2014.

²² ILO, International Program on the Elimination of Child Labour (IPEC), *Making Progress Against Child Labor: Global Estimates and Trends 2000-2012*, 2013, available at http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—ipecc/documents/publication/wcms_221513.pdf.

and central Mexico are trafficked for sexual exploitation to the northern border region each year.²³ 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.²⁴

There are also intraregional trafficking problems. Argentina and Brazil are destination countries 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.²⁵ Although that number only represents roughly 3.1% of the region's estimated population, a lower prevalence rate than in other regions, it is nonetheless significant. 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.

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 soybeans, 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.²⁶ The 2014 TIP report also highlights how indigenous peoples in Colombia and Peru have been forcibly conscripted into illegally armed groups.²⁷ Migrants from Haiti who lack proper documentation in the Dominican Republic and work in the construction, tourism, and agriculture industries have been vulnerable to trafficking and other abuses. The 2014 DOL report on goods produced by forced labor also identifies products produced in Mexico and Central America as well. Those include coffee, sugarcane, fireworks, melons, tomatoes, and shellfish, among others.²⁸

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

²³ Arun Kumar Acharya, "Tráfico de mujeres hacia la Zona Metropolitana de Monterrey: Una Perspectiva Analítica," *Revista Espacios Públicos*, Year 12, No. 24, 2009.

²⁴ U.S. Department of State, G-TIP, Power Point Presentation from Briefing on TIP in the Western Hemisphere, July 2009.

²⁵ ILO, 2012.

²⁶ For information on ILO research and programs in these countries, see http://www.ilo.org/sapfl/Projects/WCMS_082040/lang-en/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.

²⁷ *TIP Report*, June 2014.

²⁸ DOL, 2014.

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.²⁹ Mexican drug trafficking organizations, particularly Los Zetas, have been increasingly involved in the smuggling and trafficking of people.³⁰ 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 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 unclassified evidence of this to date. They argue that, just as terrorists have raised illicit financing through drug trafficking in Colombia or other operations in the Tri-Border region (Argentina, Brazil, and Paraguay), they may turn to human trafficking to fund their networks and operations.

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.

²⁹ Alejandra Gutierrez Valdizan, “Of Slaves and Serfs: Guatemala’s ‘Occupied’ Bodies,” *InSight Crime*, October 28, 2012; Oscar Martinez, “Men Who Sold Women: Human Trafficking Networks in Central America,” *InSight Crime*, October 28, 2012.

³⁰ 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*, October 28, 2012.

U.S. Policy

Anti-Trafficking Legislation³¹

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 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 reevaluating 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.³² 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

In June 2014, the U.S. government released its latest edition of the flagship annual publication on international human trafficking, the *Trafficking in Persons Report*.³³ The report categorized 187 countries into four tiers, based on their government’s level of effort to address human trafficking: Tier 1 (best), Tier 2, Tier 2 Watch List, and Tier 3 (worst). Only Tier 1 countries, approximately 16% of the countries assessed, are fully compliant with U.S.-established “minimum standards” to eliminate severe forms of human trafficking; the rest are noncompliant and vary in terms of their level of effort to improve. In 2014, the *Trafficking in Persons Report* listed 23 countries as Tier

³¹ For more, see CRS Report RL34317, *Trafficking in Persons: U.S. Policy and Issues for Congress*, by Alison Siskin and Liana Rosen.

³² 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.

³³ U.S. Department of State, *Trafficking in Persons Report*, June 2014, available at <http://www.state.gov/j/tip/rls/tiprpt/2014/index.htm>.

³⁴, including three countries that were downgraded after having stagnated on Tier 2 Watch List for four years (Malaysia, Thailand, and Venezuela). As required by law, Tier 3 countries are subjected to selected foreign assistance restrictions, unless the President determines that such provisions of aid are in the U.S. national interest. For FY2015, the President issued full waivers to 13 countries and partial waivers to seven countries; aid to three countries was restricted pursuant to U.S. anti-trafficking requirements.³⁵

As in previous years, most Latin American countries fall somewhere in the middle of the tier rankings, with 14 countries on Tier 2, and 10 on the Tier 2 Watch List (see **Table 1**). Chile and Nicaragua are the only countries in the region to earn Tier 1 rankings. Chile earned its first Tier 1 ranking by securing its first conviction for labor trafficking, increasing the number of human trafficking investigations undertaken by its police, expanding protection programs, and launching a comprehensive national anti-TIP plan. Countries on the Tier 2 Watch List include Antigua and Barbuda, Belize, Bolivia, Guyana, Haiti, Jamaica, Panama, St. Vincent and the Grenadines, Suriname, and Uruguay.³⁶ Cuba and Venezuela are the only Latin American country identified as Tier 3, but both were granted partial presidential waivers for FY2015. And, despite its Tier 3 designation, the report stated that the Cuban government acceded to the U.N. TIP Protocol in July 2013 and provided concrete data on convictions for sex trafficking to inform this year's report. Overall, Chile, Barbados, and Honduras upgraded their tier rankings, whereas Antigua and Barbuda, Belize, Bolivia, Colombia, Jamaica, Panama, and St. Vincent were downgraded.

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

In FY2012, the U.S. government obligated approximately \$10.9 million to support anti-TIP projects in Latin America.³⁷ Anti-trafficking programs are administered by a variety of U.S. agencies, including the State Department, the U.S. Agency for International Development, and the Department of Labor. 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. The largest programs obligated in FY2012 included a \$5.3 million program to help Peru and Brazil combat forced labor, \$1.2 million to support child TIP victims in Haiti, and \$750,000 to help implement Honduras' trafficking law.

³⁴ They include Algeria, Central African Republic, Congo, Cuba, Democratic Rep. of, Equatorial Guinea, Eritrea, The Gambia, Guinea-Bissau, Iran, North Korea, Kuwait, Libya, Malaysia, Mauritania, Papua New Guinea, Russia, Saudi Arabia, Syria, Thailand, Uzbekistan, Venezuela, Yemen, and Zimbabwe.

³⁵ President Obama issued full waivers to Algeria, Central African Republic, The Gambia, Guinea-Bissau, Kuwait, Libya, Malaysia, Mauritania, Papua New Guinea, Saudi Arabia, Thailand, Uzbekistan, and Yemen; he issued partial waivers to Cuba, the Democratic Republic of Congo, Eritrea, Equatorial Guinea, Syria, Venezuela, and Zimbabwe. The three countries receiving full aid restrictions in FY2015 are North Korea, Iran, and Russia. Obama Administration, *Presidential Determination with Respect to Foreign Governments' Efforts Regarding Trafficking in Persons*, PD 2014-26, September 18, 2014.

³⁶ The State Department must submit an interim report by some point in February 2015 on the Tier 2 Watch List countries in advance of the next TIP report.

³⁷ FY2012 is the last year for which comprehensive funding data are available. See U.S. Department of Justice, Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons: FY2012, October 2014, available at <http://www.justice.gov/sites/default/files/ag/pages/attachments/2014/10/28/agreporthumantrafficking2012.pdf>.

A significant percentage of the total U.S. anti-TIP obligations are provided by the State Department's Office to Monitor and Combat Trafficking in Persons (J/TIP). Each year, J/TIP awards grant funding to non-governmental organizations (NGOs) around the world through a competitive bidding process. In FY2013, J/TIP provided some \$19 million in grant funding, \$1.9 million of which went to support NGOs operating in the Dominican Republic, Honduras, and Mexico respectively.³⁸ In FY2014, J/TIP assistance to NGOs in Latin America totaled roughly \$2.1 million and supported programs in Guyana, Haiti, Mexico, and Peru.³⁹

In addition to foreign aid programs, various agencies within the Department of Homeland Security (DHS) 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.

Various units within the Department of Justice (DOJ)'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 later helped Mexican officials secure their first convictions under the country's anti-TIP law.

DHS and DOJ have formed a Human Trafficking Bilateral Enforcement Initiative with Mexico that has led to significant arrests and prosecutions in both countries.

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.

Since 2005, 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. OAS has developed several "tool-kits" and capacity-building programs for peacekeeping personnel, parliamentarians, law enforcement

³⁸ U.S. Department of State, J/TIP, "Office to Monitor and Combat Trafficking in Persons: Projects Funded During Fiscal Year 2013," press release, October 2, 2013.

³⁹ U.S. Department of State, J/TIP, "Office to Monitor and Combat Trafficking in Persons: Projects Funded During Fiscal Year 2014," press release, November 3, 2014.

officials, migration officers, and consular and diplomatic representatives to prevent trafficking and to identify and protect victims of human trafficking. By 2012, 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 officials helped police academies across the region incorporate the topic of trafficking in persons into their regular training curricula.

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 then supported a two-phase project 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," was implemented in Colombia, Costa Rica, Nicaragua, and in parts of Mexico. The IDB also supported the creation of a regional framework for action to combat human trafficking and has implemented technical cooperation projects related to TIP in Belize, Bolivia, Ecuador, Jamaica, and Paraguay. However, the IDB has not approved any TIP-related projects since 2011, and human trafficking does not appear to be one of the focuses of their Citizen Security unit.

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. Since Cuba became a party to the U.N. TIP convention in 2013, Barbados is now the only country in the region not party to that agreement. Four countries passed new or amended anti-trafficking legislation in 2013, including Haiti, 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 challenges (such as drug trafficking and gang violence) that they perceive as larger problems than human trafficking. Sometimes country efforts are thwarted by other factors, 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 on the Tier 3 list has constituted “selective indignation” on the part of the U.S. government. 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.

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. The Dominican Republic moved up to the Tier 2 Watch List in 2011 and has remained on Tier 2 since that time.

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.⁴⁰

Enforcement Improvement

In 2012, there were 1,182 prosecutions of suspected traffickers and 446 convictions in Latin America, up from 448 prosecutions and 161 convictions just five years ago. While prosecutions and convictions have risen significantly, they still pale in comparison to Europe, which recorded 3,223 prosecutions and 2,684 convictions in 2013, and to East Asia and the Pacific, which secured 2,460 prosecutions and initiated 1,271 convictions. They also pale in comparison to the number of victims that have been identified in Latin America (7,818 in 2013 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 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.⁴¹

Several groups in the United States have sought to redefine TIP to include all prostitution, but many countries have 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

⁴⁰ 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).

⁴¹ §103 (8-9) of P.L. 106-386, as amended.

given social, moral and legal permission to buy women on demand.”⁴² 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. In its 2008 TIP Report to Congress, the State Department asserted 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.”⁴³ 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. More recently, the State Department has reiterated the importance of not punishing victims of TIP who have been forced into prostitution for their actions, even in places where prostitution is illegal.

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 labor.⁴⁴ Across the region, labor trafficking prosecutions and convictions have generally been increasing: from one prosecution and one conviction in the 2007 reporting period to 369 prosecutions and 107 convictions in 2012. 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. In the 2013 reporting period, prosecutions and convictions for forced labor cases fell to 207 and 50, respectively. In addition, even in countries with well-established efforts against forced labor, like Brazil, many perpetrators have been able to avoid jail time by paying fines to settle cases.

⁴² Janice G. Raymond, “Sex Trafficking Is Not ‘Sex Work,’” *Conscience*, Spring 2005.

⁴³ U.S. Department of State, 2008 TIP Report. The 2009 TIP Report does not discuss linkages between prostitution and trafficking.

⁴⁴ Patricia Trindade Maranhão Costa, “Fighting Forced Labor: The Example of Brazil,” ILO Special Action Program to Combat Forced Labor, 2009.

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

Country	2013 Tier Placement	2014 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 and Barbuda	Tier 2	Tier 2 WL		X	X	X	X	X		
Argentina	Tier 2	Tier 2	X	X	X	X	X	X	X	X
Bahamas	Tier 2	Tier 2	X	X	X	X				
Barbados	Tier 2 WL	Tier 2	X		X	X				
Belize	Tier 2	Tier 2 WL		X (a)**	X	X	X	X	X	X
Bolivia	Tier 2	Tier 2 WL	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 1	X	X	X	X	X	X	X	X
Colombia	Tier 1	Tier 2	X	X	X	X	X	X	X	X
Costa Rica	Tier 2	Tier 2	X	X	X	X	X	X	X	X
Cuba	Tier 3	Tier 3		X (a)	X		X	X	X	X
Dominican Republic	Tier 2	Tier 2	X	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 2	Tier 2		X (a)	X	X	X	X	X	X
Guyana	Tier 2 WL	Tier 2 WL		X (a)	X	X		X (a)		X (a)
Haiti	Tier 2 WL	Tier 2 WL	X	X	X	X	X		X	
Honduras	Tier 2 WL	Tier 2		X (a)	X	X		X (a)		X (a)
Jamaica	Tier 2	Tier 2 WL	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)
Panama	Tier 2	Tier 2 WL	X	X	X	X	X	X	X	X

Country	2013 Tier Placement	2014 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)
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 and Grenadines	Tier 2	Tier 2 WL	X	X	X	X		X (a)		X (a)
Suriname	Tier 2 WL	Tier 2 WL		X (a)	X	X	X	X	X	X
Venezuela	Tier 2WL	Tier 3	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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