

**IN MODERN BONDAGE: SEX  
TRAFFICKING IN THE  
AMERICAS**

**Central America and the Caribbean**

**Belize, Costa Rica, Dominican Republic, El Salvador,  
Guatemala, Honduras, Nicaragua & Panama**

**International Human Rights Law Institute  
DePaul University College of Law**

**October 2002**

*In association with the Inter-American Commission of Women and the Inter-American Children's Institute of the  
Organization of American States*

## **International Human Rights Law Institute**

In 1990, the International Human Rights Law Institute was established within DePaul University College of Law in response to sweeping global changes that created new opportunities to advance human rights and strengthen domestic and international legal institutions. The Institute is dedicated to developing and promoting international human rights law and international criminal justice through fieldwork, research, documentation, publications and advocacy.

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## **Preface**

In 1998, the International Human Rights Law Institute (IHRLI) began its work examining the international trafficking of women and children for sexual exploitation within a human rights framework. A review of the efforts of various United Nations bodies and UN Special Rapporteurs over the past ten years, and a study of the publicly available literature on the subject including relevant treaties suggested that a global approach was required for an appropriate understanding of the phenomenon, even though its characteristics may be regional or national and are often influenced by unique cultural, economic and geographic factors.

The global research perspective on human trafficking has highlighted the common elements of this practice in modern-day slavery and its consequences to every nation. It has also underscored the need to establish and support a worldwide response regime to this human rights, social and crime problem. Several important steps have been taken in recent years to build momentum for an international response: the international community has signaled its support for the UN Convention against Transnational Organized Crime (2000, *not yet in force*) and its supplemental Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000, *not yet in force*); the UN High Commissioner for Human Rights issued a set of Recommended Principles and Guidelines for Human Rights and Human Trafficking (2002) applicable universally; and as a result of recent legislation, the United States government has begun to collect information and report on the status of trafficking around the globe. As these developments continue, research on the particular needs of countries and regions will become more important to ensure the effectiveness of international efforts.

As a result of its long-standing involvement in human rights work in the Americas and the lack of information on human trafficking in the region, IHRLI began to focus research efforts on Latin America and the Caribbean in 2000. By virtue of its past experience in investigating gender violence elsewhere in the world, IHRLI focused its attention on trafficking of women and children for purposes of commercial sexual exploitation.

The project responded to both the nature of the information available at the time and the research goals. First, the regional literature that existed as this project began demonstrated that most of what was known about trafficking for sexual exploitation was based on anecdotal reports in the media and derived from certain human rights organizations, particularly those assisting victims. In view of the clandestine and criminal nature of the phenomenon, the inadequate monitoring by law enforcement agencies, and public confusion about the nature of the problem, accurate quantitative data of the trafficking for sexual exploitation was impossible to obtain. In fact, available quantitative data was purely speculative and based on extrapolations. Therefore, the approach taken in this research was to develop a qualitative methodology that would elicit a more reliable level of anecdotal data and combine with other data and information to achieve a rich and nuanced assessment of patterns of conduct and public policy responses.

The more policy-oriented aims of the project—to heighten the attention given by governments to this phenomenon, increase public awareness, and contribute to the public and private debate on the types of policies that are needed to prevent and suppress trafficking without further harming the victims—also contributed to the methodological framework. Moreover, by clearly identifying and defining the problem, the research also aimed at facilitating the gathering of increasingly accurate information about the nature and extent of the problem. Finally, IHRLI wanted to focus greater attention on the plight of the victims in the hope that more would be done by governments and international organizations to reduce the level and number of victims and to provide them with greater material and human support.

IHRLI proceeded to develop an innovative methodology through which to study the veiled practice of sex trafficking, which is explained in detail within the report. The methodology, which includes broad public consultation and field investigation, intends to be explorative. The goal of the public consultation was to encourage a discussion of definitions and perspectives on trafficking—considering the important conceptual differences between smuggling and trafficking, the challenges of defining “sexual exploitation,” and standards of treatment for women and children. The field investigations aimed for a qualitative review of information and an

explanation of why quantitative data may or may not be available. In constructing the project's design, IHRLI sought a method that would be applicable elsewhere in the world but able to record the cultural, linguistic, historical, economic and social patterns that may figure into the realities of sex trafficking as they may exist in the region.

The discussion of country selection for purposes of study was complicated by the large number of countries within the Americas and their differences. In consultation with experts, IHRLI identified nine countries in the hemisphere in which to begin concentrated investigations. They are: Belize, Brazil, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua and Panama. The countries representing Central America and the Caribbean were selected because of a perceived nexus between them in terms of regional organizations, geographical proximity and other factors. Studying them as a group also allowed researchers to develop a detailed understanding of trafficking within the individual countries as well as the interrelationship between the countries and the region as a whole. Brazil was also deemed an important focal point.<sup>1</sup>

On this basis, IHRLI turned to the Inter-American Commission of Women of the Organization of American States (OAS), to seek the involvement of the Commission in this initiative. After the Commission agreed to IHRLI's proposal and to its partial funding, it suggested involving the Inter-American Children's Institute of the OAS, who also joined in the sponsorship of this project.

Prior to conducting field investigations, IHRLI organized and the Commission hosted a Meeting of Experts in April 2000 to consult with individuals, organizations and government representatives on the viability of the study and the methodological framework. Over sixty non-governmental organization (NGO) and government experts participated in the meeting. Several important contributions were made

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<sup>1</sup> The project in Brazil was implemented with a welcomed degree of local ownership by IHRLI's counterpart, CECRIA, and the dozens of local partners and research contributors. The comprehensive, five-region study was conducted over the course of almost two years. It followed the same methodology as was applied in Central America and the Caribbean. The findings and conclusions are being published in a separate report, which is available from IHRLI.

by the participants, which advanced the implementation of the project in the region.

Over the course of the research, the project developed and evolved in its learning, drawing knowledge from those who participated in the effort. The project greatly benefited from the assistance and support of the OAS Country Offices and the Principal Delegates of the Inter-American Commission of Women in the countries under study. Important contributions were also made to the project through the advice and insights of many government officials in the selected states, as well as from representatives of international organizations in and outside the region. In particular, IHRLI is grateful for the open discussions that have been possible with numerous government officials in the region who have demonstrated the concern of their governments for trafficking in women and children for sexual exploitation, not only in appreciation of its criminal nature, but also, and above all, for its human dimensions.

In carrying out this project, IHRLI involved NGOs, international organizations and government representatives: as consultants in the development and formulation of the methodology and its implementation; as coordinating agencies in the countries under study; and as information sources, participants and partners in the research. In each country, IHRLI aimed to generate local interest and ownership, so as to secure a network of actors at the national and regional level that was committed to turning research findings into action. Toward that end, IHRLI selected NGO counterparts to act as country coordinators in the following states: Brazil\_*Reference Center for Studies and Actions in Favor of Children and Adolescents (Centro de Referência, Estudos e Ações Sobre Crianças e Adolescentes: CECRIA)*; Costa Rica\_*Inter-American Legal Services in Human Rights (Servicios Interamericanos de Abogados en Derechos Humanos)*; Dominican Republic\_*CIPAF (Centro de Investigación para la Acción Femenina)*; El Salvador\_*FESPAD (Fundación de Estudios para la Aplicación de Derecho)*; Guatemala\_*PRONICE (Pro Niños y Niñas Centroamericanos)*; Nicaragua\_*INPRHU (Instituto Nicaragüense de Promoción Humana)*; and Panama\_*Casa Esperanza*. The National Committee for Families and Children in Belize and *Alternativas y Oportunidades* in Honduras contributed to early project activities. In many instances, these organizations brought numerous other groups



into the project; in Brazil, for example, the project benefited from the participation of over 130 NGOs and academic institutions. We are grateful to these organizations and to those in them who have worked with us over the last two years. The project also benefited from the experience, advice and counsel of many other NGOs and international organizations in the region.

In the course of this experimental project, IHRLI learned a great deal about how to conduct such fieldwork. Hopefully, the lessons learned will serve as a guide to others who will follow.

Chicago  
October 15, 2002

M. Cherif Bassiouni  
Professor of Law, President, IHRLI

## Acknowledgments

The present report is the product of many years of research and learning at IHRLI on the complex issue of human trafficking. It builds on the knowledge gained through a rigorous review of trafficking literature around the world. Student and volunteer researchers examined over 200 United Nations reports from treaty-monitoring bodies, Special Rapporteurs and other bodies for information on trafficking and related practices.<sup>2</sup> In addition, international and regional treaties were analyzed and specially assessed for their force and application in the Central American region.<sup>3</sup> Domestic legislation and policy statements were also collected, reviewed and compared.<sup>4</sup> All of these research efforts have contributed to the current report.

The present regional report was prepared by Elissa Steglich, Trafficking Project Officer. David E. Guinn contributed to the editing of the report. Contributions were made by volunteer lawyers, IHRLI Fellows and staff: Erin Abrams, Michele Dempsey, Jill Esenwein-Holly, Carolyn Frazier, Jennifer Healy, Anne Relias, and Sara Wraight. Laura Langberg of the Inter-American Commission of Women assisted in the final eight weeks of the project's fieldwork. Angela Hernandez provided translation services.

IHRLI is grateful to the Inter-American Commission of Women, and to its Executive Secretary, Carmen Lomellin, for assistance in this project and for the generous funding that IHRLI received through the Commission from the U.S. Mission to the Organization of American States, the U.S. Agency for International Development and the Pan American Health Organization. The Inter-American Children's Institute of the OAS provided additional financial underwriting.

The OAS Country Directors and the Principal Delegates to the Inter-American Commission of Women deserve recognition for the keen interest they assumed in the investigations as they advanced, and

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<sup>2</sup> See UN Documents Index in the Appendix.

<sup>3</sup> See International Legal Protections in the Appendix.

<sup>4</sup> See Criminal Legislation in the Appendix.

the technical support they offered to researchers during country visits. Their efforts facilitated access to many critical information sources, without which this research would have been lacking.

The NGO partners in selected states and named in the Preface proved invaluable for their contributions to this project. Their commitment to improving the situation of human rights in their countries and advocating for the protection of the most vulnerable sectors of society inspired the development of the investigations. As the constant on-ground eyes and ears for this project, their significance cannot be overstated. Special mention should also be made to Romeo Magaña who assisted researchers in Belize, and the Offices of the National Human Rights Ombudsman in Santa Rosa de Copán, San Pedro Sula and La Ceiba who provided invaluable support and assistance for research in Honduras.

Lastly, IHRLI would like to express its appreciation and gratitude to DePaul University for its financial support of this project and, in particular, to its President, the Rev. John Minogue, C.M., and to Ambassador John Kordek, Associate Vice President for External Relations, for their support in so many ways. The University Research Council of DePaul University also generously supported the project. In addition, the Institute extends its sincere thanks to the Jeanne and Joseph Sullivan Foundation, which supports the Jeanne and Joseph Sullivan Program for Human Rights in the Americas.

## EXECUTIVE SUMMARY

The trafficking of women and children for sexual exploitation is an everyday reality for the Central American and Caribbean region. It affects each country uniquely, presenting a different combination of challenges to relevant government agencies, non-governmental service providers and society as a whole. This investigation's research findings in the region indicate the following:

- Traffickers in the region work primarily by means of deception, with false promises of decent and lucrative employment in *maquilas*, restaurants, bars, hotels and homes, among others. Following these promises of prosperity, women and children are pressed into sexual servitude in order to work off transportation fees and additional debts. Control is maintained through violence and threats, debts and fines, a restriction of access to earnings, physical restraint and use of armed guards, and demonstrations of impunity through open collaboration with authorities. The initial investment in migration and the lack of viable alternatives once transported leave many women and children without options. The risk of deportation, return or institutionalization (in the case of minors) keeps many victims silent as to their condition.
- Numbers are not available. Quantification of trafficking has been complicated by several factors: lack of a uniform definition and understanding; absence of direct indicators and registries aimed at identifying the magnitude of the problem; extremely low number of prosecutions due to investigative limitations (human and technical capacity) and absence of complaints/reports of trafficking-related criminal activity; and difficulties in the identification of trafficked persons.
- With the exception of the Dominican Republic, trafficking has not been incorporated into the national agendas of the countries in the region.
- Government representatives in all eight countries recognize trafficking as a problem, and often as an increasing one. Some

serious efforts are being taken to combat the problem, although on an *ad hoc* basis. In most cases, it is a single official supporting the effort.

- All countries except El Salvador have criminalized international sex trafficking, although these laws are rarely applied. Most jurisdictions use the crime of procuring (*proxenetismo*) to counter sex trafficking, although the number of prosecutions is still extremely low. Investigation and prosecution is often compromised by the need to have a complaint registered before pursuing a case. Anti-smuggling legislation is increasingly being applied in El Salvador, Honduras and Guatemala, although distinctions between trafficking and smuggling are not made. As a result, victims' needs are ignored.
- Thus far, government response mechanisms have been non-existent or inadequate. Disinterest, corruption and constrained resources plague law enforcement and immigration sectors, which have severely limited their effectiveness. Child and women's welfare agencies offer little to no services adequate to meet the needs of survivors of trafficking.
- Special protections or attention for child trafficking victims have been legislated in most of the countries, either through reforms or special laws on child sexual exploitation. Many of these assistance plans are unfunded, however, so they do not exist or are woefully inadequate in practice. Integration and rehabilitation programs were particularly lacking.
- In many of the countries, the media has begun to report on cases of trafficking, although investigative reporting on the issue is still rare.
- Overall, the region suffers from an absolute paucity of prevention, protection, suppression and integration strategies. Nascent attention has been drawn to the trafficking of children, but lack of funding and other obstacles have stalled implementation of targeted programs.

## Country Overviews

Belize: Despite an absence of prosecutions, government representatives (health, immigration, law enforcement) and consulates reported trafficking of women and minors from Guatemala, Honduras, El Salvador and Nicaragua. Occasional arrests and deportations of trafficked women occur for immigration violations following police raids of brothels.

Costa Rica: Trafficking of women and minors occurs from Colombia and the Dominican Republic. Minimal trafficking from Nicaragua appears to exist, although its incidence may be obscured by the general migration flow, which is significant. Rumors of trafficking from Thailand and Eastern Europe were documented. Significant internal trafficking of Costa Rican minors for sexual exploitation exists toward tourist points and ports.

Dominican Republic: International trafficking of women from the Dominican Republic to Argentina, Costa Rica, Panama, nearby Caribbean islands (St. Martin, Curacao) and Europe is widely recognized. Internal trafficking of minors for sexual exploitation from the interior to tourist areas occurs, and some trafficking cases of Dominican and Haitian girls along the border also have been reported.

El Salvador: Women and children are trafficked in from Nicaragua and Honduras. Some transit of women and minors to Guatemala and other points north occurs. Salvadorans themselves are also victims of trafficking to Guatemala and Mexico. Most of the recent prosecutions have been under new general smuggling legislation, which does not distinguish or specifically contemplate situations of trafficking.

Guatemala: Trafficking into, within, and out of Guatemala is alarming. Strong border controls by Mexico, a high level of corruption, and a large number of migrants seeking opportunities to travel north foster conditions that allow for trafficking. In addition to the usual method of trafficking through false promises of work ending in forced prostitution, female migrants who may have arrived independently or with assistance of smugglers are

coerced into prostitution. Immigration and police have increased arrests for smuggling, but further identification of trafficking cases is not done.

Honduras: Honduran nationals are trafficked to neighboring states of El Salvador, Guatemala, Belize, and on to Mexico and the United States. Trafficking from Nicaragua also passes through Honduras. Internal trafficking for purposes of sexual exploitation occurs with recruitment from interior points to the northern coast cities of San Pedro Sula, Puerto Cortes, Tela, and La Ceiba, among others. Few trafficking or procuring cases reach the justice system.

Nicaragua: A strong trafficking route north begins in Nicaragua. Researchers documented cases of trafficking to El Salvador, Honduras, Guatemala and Belize. Young women and girls leave with promises of jobs in hotels, as domestics, factory workers, etc. Some cases have been reported and investigated, but weaknesses in the justice system have resulted in delays, dismissals and lack of follow-up. Victim willingness to participate in judicial proceedings is minimal due to fear of reprisal and lack of confidence in the judicial system.

Panama: Women and girls are trafficked from the Dominican Republic and Colombia. In the past few years, prosecutors have also investigated a case of Panamanian women and girls being trafficked to Israel. Trafficking assumes a cover of legality under a visa program for “*alternadoras*” (escorts) managed by the Directorate of Migration and the Ministry of Labor. In 2000, over 700 women from Colombia were granted such visa for temporary work in establishments. While female migrants may be aware of the type of work they will be entering, deception as to the conditions of work is common. In theory, these women work under a contract and can seek protection under local labor laws; the exploitation and abuse, however, is consistent with situations of trafficking: documents are seized, women have no freedom of movement and no access to earnings, and many work under threat of deportation.

## **Recommendations**

In order to be effective, efforts to address trafficking require that States adopt tactics that respond to the specific dynamics of the problem in the region. Government actors also will need to build partnerships with civil society actors to ensure that all aspects of the prevention, prosecution and integration or recovery efforts are comprehensive and meaningful. The following actions are recommended:

### **At the Regional Level**

***Create a Regional Framework.*** As this research and the long history of sex trafficking in this region reveals, a common understanding of trafficking and agreement on basic principles does not yet exist. Yet the variety of existing international instruments provides a useful framework through which to coordinate a response. States are encouraged to:

- Adopt the UN Convention on Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons; the Inter-American Convention on International Traffic in Minors; and the Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.
- Implement existing related treaties. Toward this end, the Recommended Principles and Guidelines on Human Rights and Human Trafficking issued by the UN High Commissioner for Human Rights will offer important guidance.
- Coordinate law reform and the development of model legislation against trafficking in persons of all forms through the Central American Parliament (PARLACEN).

***Regional Coordination.*** Trafficking in the countries that participated in this study has a heavy regional dynamic, particularly between the states of Nicaragua, Honduras, El Salvador, Guatemala and Belize. In order to address this reality it is recommended that:



- States conclude bilateral and multilateral agreements. Based on current trafficking activity, priority issues for regional agreements include:
  - law enforcement and immigration cooperation and exchange of intelligence;
  - safe and secure return of trafficked citizens;
  - special procedures for interventions, treatment, protection and return of trafficked children within the region;
  - mechanisms for the participation of non-national material victim-witnesses in criminal and other legal proceedings; and
  - regional information collection systems and databases.
  
- States fully engage multilateral forums and support organizational collaboration. Existing regional mechanisms and forums<sup>5</sup> governmental, non-governmental and mixed can play an important role in facilitating dialogues between the States. In addition, the coordination between non-governmental organizations that currently contribute to combating trafficking can be further encouraged; partnerships between state and non-state actors should also be enhanced.

#### **At the National Level**

The trafficking of women and children for purposes of commercial sexual exploitation in the region has demonstrated itself to be a complex and sensitive matter affecting the core dignity and human rights of its victims. To effectively respond, States will need to:

*Create a comprehensive information system* to collect, assemble, analyze and distribute reliable data on trafficking. Such a data collection system must be sensitive to how information is kept in other systems, including that:

- Information can be registered in incompatible ways by a number of different institutions: law enforcement, migration

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<sup>5</sup> See Regional Mechanisms in the Appendix.

authorities, health and labor departments, ombudsman's offices, and the justice sector.

- Data may be hidden or obscured by the particular registry systems of an institution, where, for example, the status of a person as trafficked is hidden by recording only their status as an undocumented migrant.
- Available information may not be collected due to incomplete forms and other deficiencies.

***Establish an integrated, policy framework.*** As has been done on the issue of commercial sexual exploitation of children and child labor, a National Action Plan on Trafficking in Persons can contribute to awareness, encourage reporting, articulate clear policy aims and assist in information sharing between institutions. Plans should reinforce existing trafficking provisions in National Plans against Commercial Sexual Exploitation of Children and other policies.

***Provide effective public leadership.*** Experience with policy development and implementation in the region has demonstrated the importance of strong, independent leadership of a coordinating body and the need for independent financial resources to underwrite the plan. An independent, staffed and financed technical group to oversee and manage this process is important. Given the constantly changing features of trafficking, it will be crucial to periodically review and update policies, plans and initiatives.

***Tailor programs to meet the needs of trafficked persons.*** As repeatedly noted, the evils of trafficking cannot be fully addressed\_either in terms of prosecuting traffickers or remedying the harms of trafficking\_without careful attention to the needs of the victims. These include protection measures available at the points of destination and return, recovery and integration services, and education and legitimate labor alternatives, among numerous others. The following steps should be taken:

- Training officials. The first challenge is to identify victims and direct them towards appropriate care. Sensitive and trained protection officers at all points of a trafficking experience (from recruitment to recovery) can help ensure that needs are recognized and responded to. Training should target

those officials most likely to come in contact with victims including consular officials and service providers.

- Provide transition integration programs. Programs need to be developed that offer survivors hope. Tailored health services for returning women and children including physical and psychological care are also required. Participation of adult trafficked persons in any such programs should be voluntary.
- Develop support mechanisms for victim participation in prosecutions. Many victims are unable to participate in prosecution efforts due to fear, mistrust or problems relating to their status within the country to which they have been trafficked. Programs need to be developed to counterbalance this, including consular treatment protocols and services to provide orientation and accompaniment through legal proceedings.

## CODA: A SURVIVOR'S NARRATIVE<sup>6</sup>

A young boy named A. from “*El Viejo*” called me. He spoke with me, and he told me that if I could go work somewhere, I would earn more. But he never told me directly where, if it was a business for women or anything. Instead he told me that it was a *maquila* where he was working and earning well. There was a girl named R. where I was working also, and [A.] came and ... took us to Guatemala. [R.] went without documents, and I went with my identification card. When we reached the border, we crossed but R. stayed. She couldn't cross because they asked for her documents. Well, he went to leave with me and the other girl but R. stayed at the border. When we reached the place in Guatemala City, we saw that it was a brothel located in Zone 6. The next day I asked for [R.], for the girl, and the owner of the business told me that we were going to return to the border where she had stayed, to bring [R.], because if she didn't appear, I would have to pay the money that he had paid A. for us.

*How much money did they give him?*

He gave him 1,500 quetzal [approximately US \$190] for three of us. Once we were there, we headed toward the border with the owner's wife. Once we reached the border we asked for [R.] and a boy that exchanged currency told us she was in a business and that he had left her there. We went to the business and [the wife of the owner to where we had been sold] entered inside with me. By telling lies, they let us see [R.] and she left with us. We left the business and reached the other one where [A.] had sold us. The three of us were there and [A.] disappeared and we never saw him again. We stayed there, we weren't well because we always had to be with men, obligated because it was a business and we weren't accustomed to that type of business. We had to do it because the owner forced us to do what the clients wanted. The clients called us; they invited us for beer, for drinks, and things of that sort. We had to do it because it was a business, and it

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<sup>6</sup> Transcript of a video-recorded victim statement to police officers in Nicaragua. The video was provided by Nicaraguan law enforcement and is on file at the International Human Rights Law Institute. Translated from the Spanish. All names have been changed to protect the identities of the individuals.

was forced labor. The owner would tell us we had to do it. Once there, we wanted to leave.

[...]

We worked every day. We slept and went with ten men. And it was obligated, it wasn't our choice but rather it was obligated in order to repay the money they had given [A.] when we were sold. We had to do it because we couldn't leave not even for tricks. When they took us to leave we had to go with the same workers and return to the same spot so they could lock us up again. He mistreated us, we weren't well, the food bad...

*What is the owner's name?*

The owner's name is R.C. and his wife's name is B.C. She was also part of the same business. He took her from one business and was with her. She is Salvadoran.

*The name of the person?*

The name of the person who took me is A. ... He deceived me by telling me that I was going to work at a factory where he was working in Guatemala, that it was a *maquila* and I would be earning well. ... And he told us that we could come along without a problem, that he would pay for all the expenses, food, travel and everything, that we shouldn't worry about that, that we should only worry about the ID card, because I had an ID card and the other girl didn't, because by then they couldn't give her an ID card. She didn't have an ID card, and he had only given her a birth certificate that was not hers\_who knows whose it was. She didn't use it. She became nervous, and then at the border they asked her for documents, and that's how they stopped her. But at the same time a person who exchanges currency took her to a business and hid her to cross the border.

[...]

***Other than yourself and the girl you mentioned, were there more people there from Nicaragua or from other places?***

No, where I was staying, where they took me, there were only the three Nicaraguans, but there were Salvadorans, Hondurans, and Guatemalans.

***In Guatemala, ... how many people were there more or less than the person had captive beside yourself?***

When they took me, there were about thirty minimum, could have been more possibly, because there were a lot of women, more Salvadorans and Guatemalans.

***When they told you that you would work there and you went there, what was ... the situation presented and what reaction did you have when you discovered it wasn't what you expected?***

We felt bad when we got to the place because [A.] told us that we had to remain there and we would stay there to wait for the owner, the owner of the factory, and when we entered the business where there were a lot of women. It was strange to see so many women when he had told us we were going to a factory. We felt strange. We asked the owner why we were there. He asked us if we knew where we were going. Then I answered that I didn't know because he had told us that we would work in a factory and that in reality we did not know, we didn't know if it was a business made up of women. By then we were ... inside and everything, and we couldn't leave, because when we wanted to leave, they locked us up and then they didn't let us leave.

We had to do what the owner told us that same day. We got to Guatemala in two days at seven at night, we arrived at the place and at that moment the owner told us to go get ready, to put on short clothes so that we could come out to the room to work. I was not used to that environment. We began to cry. They took us upstairs where there were some rooms. We stayed there talking with other women and they told us that if we wanted to stay, we had to do what they did because otherwise the owner would give us what we deserved, and then we did the things, but not voluntarily or anything, but rather forced. We had to do it.

[...]

There were more than thirty women and six male workers and the one that operated the disco. Because of him I managed to escape because supposedly he says that he fell in love with me. He helped me and told me that if I didn't want to do it, I shouldn't do it, but secretly. Because if the owner found out that he was helping me then he would fire him and lock me up forever.

[...]

*What happened to R.?*

She stayed. She is now at another business because where we were [was sold]. The owner of the business ... has two more in Zone 12. He stayed with his other two businesses. But she left and they took her to another business. It was in Zone 11.

[...]

Now she has a child. The child doesn't have papers, and neither does she and she's still there.

*Did you have any communication with her?*

Yes, before leaving I maintained contact with her. I spoke to her and everything and she also asked me for help, if I would do her the favor of bringing her child but I couldn't bring him because the child did not have papers.

*How much time did you stay there in that type of profession?*

They kept me captive a year and a half.

[...]

[At the other bar, the owner] sells drugs and he sells the same women held captive. There are many young girls there.

*Are they minors?*

Yes. They are into drugs.

*What age are we talking about?*

There are young girls of all ages, they are 15, 16, 18. Since he doesn't ask for papers, what he likes is the women, then that's why he accepts women without papers. And he supports many women because he manipulates them and he supports them there because he also gives them drugs. He has them dance naked with the clients.

*Did they attempt this with you?*

With me they tried various times, but because I didn't want to, I was always bad with him, because he always forced me to do what I wasn't used to. I didn't like it. I also didn't use any type of drug. That is why the young man felt sorry for me and was able to get me out of there.

***Besides being subjected to this against your will were you satisfied with the money that those people gave you to do this?***

When we would ask about the sum, how much we owed or something, [the owner] never told us anything. He never said 'this is how much is left, this is yours, you earned this' or anything. The clients arrived and would ask us how much we charged. We would say fifty quetzal [US \$6.45]\_fifteen for the house and thirty-five for us. We never had the joy of using a bill we had earned.

There were clients who didn't sleep with us or didn't arrive at the room because we would tell them our situation, what we were going through. You see we were there like this, but then I managed to escape because of that boy and thanks to him I managed to leave and discovered new places in Zone 19 in the "Florida" district where there are businesses and many women that go through the same thing.



*And the places?*

...These businesses are in the same zone in the same block, businesses with many known women from here, from Nicaragua, that maybe I can't give the exact names because they only have nicknames.  
[...]

Some girls from "*El Viejo*" who are my friends asked me if I had been there in Guatemala. I told them yes, and they told me that A. had told them to go. I told them no, why should they go if he was a mafia man? He was there to sell them. Why should they go with him? They shouldn't pay attention to him.

### ***Afterword***

According to police authorities in Nicaragua, the woman who provided this statement requested that a formal complaint not be filed. Accordingly, no further investigation in her case occurred.

## I. INTRODUCTION

The trafficking of women and children for commercial sexual exploitation is not a new phenomenon to the Americas. In the wake of World War I, the League of Nations embarked on a three-year investigation of trafficking in women around the world. It concluded that “Latin America is the traffic market of the world....”<sup>7</sup> Markets have shifted over time, moving the trafficking trade through different regions, but the practice is well entrenched and remains a significant problem in the hemisphere.

Despite its long history in the region, trafficking in persons has failed to receive government attention or be the subject of coordinated action toward its eradication. The international community’s early efforts to curb trafficking in women for the purposes of prostitution through the passage of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949) passed largely without notice in or participation of the Latin American and Caribbean states.<sup>8</sup> Similarly, these early international efforts failed to trickle down into the national laws and policies of the Central American countries.

The failure of governments in the region to acknowledge and/or respond to trafficking activity over the years has resulted in the near invisibility of the issue in policy, official records, and state action. None of the countries included in this study have mechanisms in place that permit trafficking activity to be accurately registered. This absence of record has fortified a willful ignorance of reality; policy priorities have followed the belief that “if not seen, it does not exist” (“*si no lo veo, no existe*”).

Despite the lack of concrete data, the trafficking of women and children for sexual exploitation in Central American and the Caribbean has become a very visible phenomenon on the ground. It affects each country individually and the extended Central American region as a whole. Women and children are being trafficked into

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<sup>7</sup> H. WILSON HARRIS, HUMAN MERCHANDISE: A STUDY OF THE INTERNATIONAL TRAFFIC IN WOMEN 187 (1928).

<sup>8</sup> Of the eight countries included in this report, only Honduras has ratified the Convention. See International Legal Protections included in the Appendix.

sexual exploitation within countries, within the region and internationally. In interviews, both governmental and non-governmental sources alike noted patterns of trafficking: young women and minors being promised employment in factories or homes, or being offered educational or modeling opportunities only to be pressed into sexual servitude. These offers have become more attractive as labor alternatives remain unavailable in many areas, especially for women. This increase in supply of women and adolescents is met with an unchecked demand for sexual services. In addition, the lack of governmental response, particularly in the area of law enforcement, has allowed trafficking networks and individual traffickers to practice with impunity.

A myriad of factors enters into the existence of each of these characteristics, which has produced a wide range of sex trafficking scenarios and poses challenges to finding an adequate response. On the supply side: continuing gender stereotypes in the region limit the options for women and youth in the workplace; prevailing attitudes toward women and children contribute to their vulnerability; cultural tolerance of sexual abuse and domestic violence leave many women and children without protection or recovery services which can lead to exposure to sex trafficking; and the advertisement of the “American dream” and limited possibilities for legal migration to the United States, Canada and Europe generate a market for illegal migration, which carries the risk of trafficking. On the demand side: the legalization of adult prostitution and other commercial sexual activities in the region offers an open market for sexual services supported by local and foreign clientele; male migrants (seasonal workers, truck drivers, undocumented migrants en route to the United States and Canada, and elsewhere) also contribute to the demand; and the existence of sex tourism in certain areas has generated new needs.

Smuggling and trafficking networks mediate the supply and demand by readily exploiting the region’s most vulnerable citizens’ economic needs and ambitions toward a better life. The behavior of these criminal networks existing at all levels of organization and sophistication remains largely unchecked, further fueling the trafficking trade. Children, many who have suffered past sexual abuse, have become particularly unprotected against domestic and

international exploitation rings, encouraged by a growing child prostitution market.

The information collected over the course of this research paints a disturbing picture of criminals acting with near-absolute impunity and an absence of identification, treatment, and protection of victims. Many forums for action, advocacy and attention are not being utilized at the moment, in part, because trafficking in persons has not been placed on the national agenda of the majority of countries in the region. These instances, if mobilized, can generate awareness, help to harmonize data collection from different institutions and countries, contribute research, draft policy and legislative reform, and articulate strategies for victim protection and integration, prevention and sanction.

This report begins with an introduction to the study and its methodology in Part II, examining the definitions and the conceptual framework used in the elaboration of investigation and analysis. Part III offers a socio-economic profile of the region and the general patterns of migration through the territory, whose characteristics in many ways inform current trafficking activity. Part IV provides an overview of the characteristics of trafficking in women and children for purposes of sexual exploitation in the expanded Central American region. Trafficking routes, risk factors, root causes, conditions and consequences are all explored. International commitments, national policies and relevant domestic legislation are analyzed in Part V together with the identified weaknesses that will be major obstacles in effectively combating trafficking in the region. Conclusions and recommendations are presented in Parts VI and VII.

## II. A PROJECT IN THE AMERICAS

Since 1998, the International Human Rights Law Institute (IHRLI) of DePaul University College of Law has monitored the rapidly growing problem of trafficking of women and children for purposes of commercial sexual exploitation. Preliminary studies revealed a surprising paucity of reliable and comprehensive data available on the trafficking phenomenon, despite increasing international attention to the subject. In response to this deficiency, IHRLI endeavored to implement a research initiative aimed at providing governments, regional bodies, organizations and advocates with the information necessary to create concrete action plans to combat trafficking and its effects worldwide. The Americas study was conducted with the Inter-American Commission of Women (*Comisión Interamericana de Mujeres*: CIM) and the Inter-American Children's Institute (*Instituto Interamericano del Niño*: IIN) of the OAS.

The Trafficking Project sought information from government institutions, civil society organizations, academic institutions and individuals directly involved and impacted by trafficking practices in order to present a social, economic, political and legal analysis of trafficking of women and children for commercial sexual exploitation. Thematically, the study explores two distinct human rights concerns: first, the trafficking of women and children; and second, commercial sexual exploitation. The broader categories of trafficking in persons and commercial sexual exploitation (prostitution, pornography, sex tourism, etc.) have been the subject of recent international scrutiny and legislation, and many organizations have dedicated efforts toward looking at the problems individually. IHRLI, however, decided to adopt a combined focus due to the interrelated nature of these problems.

In April 2000, after IHRLI had conducted an extensive review and analysis of relevant laws, treaties and governmental and UN reports relating to trafficking, IHRLI and the Inter-American Commission of Women hosted a Meeting of Experts to examine the issue of trafficking in the Americas and to solicit recommendations on a proposed project methodology.<sup>9</sup> Participants included U.S. government representatives,

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<sup>9</sup> See Meeting of Experts documents in the Appendix.

experts from non-governmental organizations (NGOs) and international organizations, and officials from OAS agencies and missions. With contributions from this meeting, a pilot project was developed to study nine countries: Brazil and an extended Central American sub-region (Belize, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua and Panama).

The project was designed to assess the existence of sex trafficking in Latin America and the Caribbean, to survey existing programs and policies responsive to the problem, and to identify local and regional needs to formulate effective strategies to combat the problem. This study undertakes to break the cycle of inaction, especially in light of the availability of new strategies to combat trafficking developed by the international community in partnership with human rights organizations in other areas of the world. It is an explorative work, with conclusions based on documentary research and extensive interviews with government authorities, international organizations, non-governmental organizations, independent experts, and individuals involved in the trafficking sphere.<sup>10</sup>

#### **A. Methodology**

The Trafficking Project included four key elements: (1) collaboration with counterpart organizations in each participating country; (2) initiation of public debate on the issue of trafficking through a National Consultation in each participating country; (3) general assessment of the trafficking of women and children for sexual exploitation; and (4) use of the study's findings and conclusions to recommend concrete measures at regional and national levels to respond to trafficking. In actual project implementation, Brazil and the expanded Central American region were separated. This report presents an overview of the results of the study in Central America and the Dominican Republic only.<sup>11</sup>

Between March and May 2001, National Consultations were held in each participating country to introduce the project,

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<sup>10</sup> See Consulted Institutions and Organizations in the Appendix.

<sup>11</sup> For each country, a national assessment was completed. These national reports are available separately from IHRLI.

conceptualize and discuss terms, identify possible sources of information, and raise public awareness on the issue of trafficking of women and children for sexual exploitation. These meetings included the participation of national NGOs, state agencies, international organizations, academics and the media.

Following the National Consultations, organizational partners in each country except Belize initiated a nine-month period of investigation on the trafficking of women and children for sexual exploitation in each of their countries. Counterparts collected all available written materials on trafficking and its related issues, including relevant legislation and media coverage. In addition, investigators sought information from representatives of government institutions, NGOs, academics and others who might have pertinent information. Interviews were based on a common questionnaire that IHRLI developed for the purposes of investigation.<sup>12</sup>

A second period of investigation was conducted between February 4-13, 2002 and April 7 – June 14, 2002 through country visits by researchers from the International Human Rights Law Institute of DePaul University and the Inter-American Commission of Women of the Organization of American States. Between four and ten days were spent in each country, during which researchers met with a wide range of government actors (police and immigration officials, judges, prosecutors, offices of the ombudsman, institutions of child welfare and women's issues, ministries of labor and health, legislatures, and foreign consulates); NGOs working in the field; and international organizations such as UNICEF, the International Labor Organization (ILO), International Organization for Migration (IOM), INTERPOL, and Save the Children. Where possible, researchers visited areas most affected by trafficking such as border points and locations of recruitment and exploitation.

The study in the expanded Central American region aimed to assess trafficking in the region based on reliable information and data. However, the collection of accurate data posed a great challenge to researchers. First, as a result of the violence, abuse, coercion, trauma and stigma associated with trafficking, victims are inclined to maintain

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<sup>12</sup> See Questionnaire in the Appendix.

their silence\_ as is common for most victims of gross human rights violations. Institutional disincentives such as policies that criminalize rather than protect victims and judicial proceedings that tend to revictimize trafficked persons remain in place, which further encourage the silence. Second, public denunciations by social and political leaders are rare. As a social taboo, the sex industry is kept veiled. Equally so, cultural norms including notions of sexuality and gender foster an acceptance of the sexual exploitation in trafficking. These elements together ensure that knowledge of trafficking activity remains anecdotal. Third, as is the nature of the black market, essential information is guarded. Traffickers work ahead of law enforcement, whose investigative capacities are extremely limited by human, technical and financial constraints. Corrupt police, immigration, other public functionaries and the more powerful sectors of communities who in certain locations have been shown to be involved in the trade also protect information. Finally, the scant data that reaches government offices is often lost in poor and inadequate management and coordination systems.

The most reliable and consistent information available to researchers was from consulates, who often directly intervene in cases of international trafficking affecting their nationals, and health service providers\_ both public and private\_ who have regular access to and contact with individuals in the commercial sex industry, including trafficked persons and traffickers. Even these sources admit that they cannot offer a complete picture of the problem. In general, consulates see only those individuals who have escaped their trafficking experience; health officers, for their part, attend to only the most visible populations who work in streets, parks, markets, relatively open bars and other establishments. From all indications, the sector that includes the greatest number of trafficking cases\_ women and minors who are trapped and/or are forced to remain undetected\_ is the least accessible.

This overview seeks to examine key features of trafficking for sexual exploitation in the region. These include: root causes and vulnerabilities, trafficking networks, routes, existing responses by government institutions and civil society, and applicable domestic and international legislation. While the government and civil society responses to trafficking have been minimal, researchers encountered a keen interest and willingness from both these groups to participate in



formulating and implementing eradication strategies. Many of the proposals offered by interviewees are reflected in the recommendations. This research initiative was a first step in bringing to light the brutal realities of sex trafficking in Central America and the Caribbean. More targeted research remains necessary to strengthen and complete our understanding of this modern practice in slavery.

## **B. Definitions and Key Concepts**

It is widely agreed in principle that trafficking in persons is a crime and a human rights violation. Further delineating its elements, however, has and continues to pose challenges to researchers, advocates and government actors. The long history of combating trafficking, especially for purposes of sexual exploitation, has been marked by an absence of unified understanding of the issue. The consultations that initiated research in the region made clear that a common view regarding trafficking does not yet exist.

Recent actions at the international level, however, have brought us closer than ever to a baseline definition. In December 2000, a UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,<sup>13</sup> supplementing the UN Convention against Transnational Organized Crime<sup>14</sup> was adopted, which for the first time supplied an international, legal definition of the trafficking phenomena. This definition suffers limitations, but does assist in identifying the core characteristics of trafficking.

As a basic framework, this study adopts the UN Trafficking Protocol's general definition, which identifies trafficking as:

the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of

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<sup>13</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, Report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime on the work of its first to eleventh sessions, UN Doc. A/55/383 (2000), Annex II [hereinafter UN Trafficking Protocol].

<sup>14</sup> United Nations Convention Against Transnational Organized Crime, opened for signature 12 Dec. 2000, U.N. GAOR 55<sup>th</sup> Sess., Annex 1, Agenda Item 105, at 25, UN Doc. A/55/383 (2000) [hereinafter Organized Crime Convention].

deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation ....<sup>15</sup>

The UN Trafficking Protocol imposes several requirements that were modified for the purposes of this study. Recognizing that trafficking can and does occur within a country's borders, cases and circumstances of internal trafficking were considered to be within the scope of the project. Further, researchers and investigators examined trafficking activity regardless of the number or nature of traffickers identified as participants.<sup>16</sup>

This study was designed to examine trafficking for purposes of commercial sexual exploitation as it affects both women and children (female and male). Because of the qualitative differences between these populations and the separate legal regimes and protection policies to which each is subject, it was necessary to formulate further qualifications to the definition of sex trafficking relative to each group.

### *Women*

Issues of agency and consent have complicated a clear definition of the trafficking for sexual exploitation of adult women. A central inquiry is under what circumstances, if any, can a woman migrate into a position in the commercial sex industry without being trafficked.

The UN Trafficking Protocol sets out that “the consent of a victim of trafficking in persons to the intended exploitation ... shall be

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<sup>15</sup> UN Trafficking Protocol, *supra* note 13, art. 3(a).

<sup>16</sup> The UN Trafficking Protocol only applies to acts perpetrated by an organized criminal group, which under the Convention means “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.” Organized Crime Convention, *supra* note 14, art. 2(a).

irrelevant where [the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability<sup>17</sup> or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person] have been used.”<sup>18</sup> While exploitation includes “exploitation of the prostitution of others” and “sexual exploitation,” neither of these terms is defined. This leaves open the possibility that non-coerced sex work should be included under the rubric of “sexual exploitation,” but does not mandate it.

In all of the countries under study, adult prostitution and other commercial sexual activities are legal. Respectful of the existing legal framework, the study used a definition of “sexual exploitation” limited to circumstances where the individual participated in prostitution, the production of pornographic materials or other remunerated sexual activities as a result or due to the Protocol-defined means of threats, force, coercion, abduction, fraud, deception, abuse of power or position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person. This definition includes situations where debt bondage, threats of exposure to deportation, arrest or other punishment, and other control mechanisms are used against women to prohibit their leaving.

### *Children*

The definitional issues regarding child trafficking are different from those related to adult women. Specifically, following the UN Trafficking Protocol and basic human rights standards, the issue of consent for minors engaged in commercial sexual activities is always irrelevant.<sup>19</sup> Instead, the questions relate to the nature of the prohibited act (*e.g.* sexual exploitation) and status.

First, the international community has outlined several basic norms that help shape an understanding of commercial sexual

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<sup>17</sup> “The *travaux préparatoires* should indicate that the reference to the abuse of a position of vulnerability is understood to refer to any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved.” Interpretative Notes, UN Doc. A/55/383/Add.1, para. 63 (2000).

<sup>18</sup> UN Trafficking Protocol, *supra* note 13, art. 3(b).

<sup>19</sup> *Id.*, art. 3(c).

exploitation. In 1996 and 2001, UNICEF, in partnership with other organizations, hosted the First and Second World Congresses against Commercial Sexual Exploitation of Children. The general definition of commercial sexual exploitation adopted in the Declaration and Action for Agenda of the World Congress Against Commercial Sexual Exploitation of Children (1996) states:

The commercial sexual exploitation of children is a fundamental violation of children's rights. It compromises sexual abuse by the adult and remuneration in cash or kind to the child or a third person or persons. The child is treated as a sexual object and as a commercial object. The commercial sexual exploitation of children constitutes a form of coercion and violence against children, and amounts to forced labor and a contemporary form of slavery.

Accordingly, the study examined all circumstances of "recruitment, transportation, transfer, harboring or receipt" of children for prostitution, the production of pornographic materials, or other commercial sexual activities (stripping, table dancing, "*barra show*," etc.).

Second, determining whether or not an individual is a "child" or minor arises as a significant concern. Variations exist within the region as to when a child comes of age. Thus, in some countries, a child over the age of twelve or fourteen is considered an adult whereas in other countries anyone under eighteen years of age is considered a minor. For purposes of this study, researchers considered a child to be any person less than eighteen years of age, consistent with the UN Convention on the Rights of the Child and the UN Trafficking Protocol.<sup>20</sup>

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<sup>20</sup> UN Convention on the Rights of the Child, G.A. Res. 44/52, U.N. GAOR, 44th Sess. (1989) (entered into force Sep. 2, 1990), art. 1; UN Trafficking Protocol, *supra* note 13, art. 3(d).

### **III. SOCIO-ECONOMIC CONTEXT: POVERTY AND MIGRATION**

The trafficking of women and children detected in the region occurs within the context of larger migratory movements and economic struggle. These characteristics form an important backdrop to trafficking activity, as they affect the supply of women and children, the demand for available sexual services, and the quality of the government response.

#### **A. Status of Development**

Central America is easily considered a single territory. The countries, which share numerous economic, historical, social and political characteristics, enjoy a variety of regional inter-governmental bodies and forums, and since the early 1990s, have been negotiating toward economic and trade integration. Within the hemisphere, it is one of the more impoverished regions; over 70% of the region's population lives below the poverty line.<sup>21</sup> These longstanding economic woes have been exacerbated by the recent natural disasters of Hurricane Mitch in 1998 that significantly impacted Nicaragua and Honduras and earthquakes in El Salvador in 2001.

Women, in particular, face enormous challenges, as they increasingly assume sole responsibility for families. From 1988 to 1999, in Costa Rica, the percentage of women as head of the house rose from 19.3% to 27.9%. During the same time period in Honduras, the number of women increased from 27.9% to 30.3%. From 1991 to 1998 in Panama, the percentage of women as heads of a household increased from 26.0% to 30.6%. In 1997, women headed 30.2% of the houses in El Salvador. In that same year in Nicaragua, the percentage was 36.6% and in the Dominican Republic it was 31.4%. In 1999 in Guatemala, women ran 24.3% of the households.<sup>22</sup>

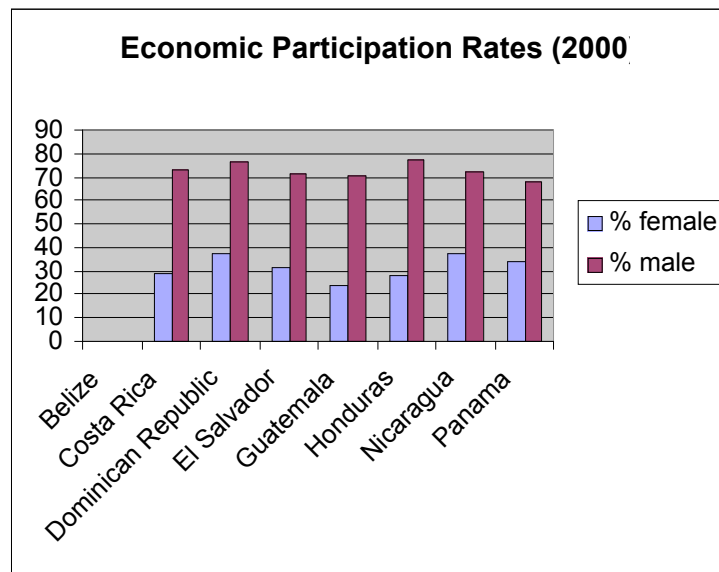
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<sup>21</sup> Luis Solis and Patricia Solano, *Central America: The Difficult Road Towards Integration and the Role of Canada*, FOCAL POLICY PAPER (May 2001) <[http://www.focal.ca/summary/summary\\_central.htm](http://www.focal.ca/summary/summary_central.htm)>.

<sup>22</sup> COMISIÓN ECONÓMICA PARA AMÉRICA LATINA Y EL CARIBE (CEPAL), STATISTICAL YEARBOOK FOR LATIN AMERICA AND THE CARIBBEAN 2001 58 (2002).

With this increased responsibility, women are seeking jobs and active earning lives. In all eight countries of the region, the participation rates for women have risen steadily since 1995 and are projected to continue along the same incline.<sup>23</sup> Despite these developments, women continue to participate less in the marketplace and earn far less than their male counterparts.

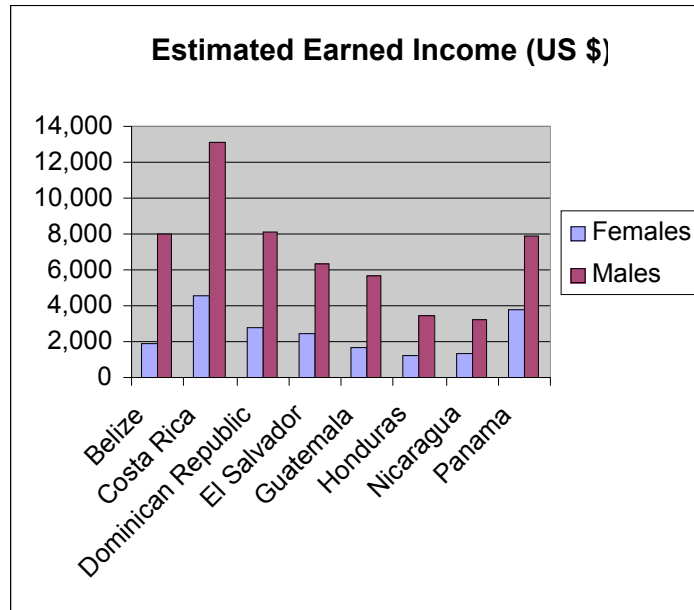
**Graph 1**



Source: *Comisión Económica para América Latina y el Caribe (CEPAL)*, Statistical Yearbook for Latin America and the Caribbean 2001 (2002).

<sup>23</sup> See *id.*

**Graph 2**



Source: CEPAL, Statistical Yearbook for Latin America and the Caribbean 2001 (2002). Earning based on non-agricultural wages for 1999.

Girls, too, struggle against lower earnings potential as a significant number assume roles of caretaker at early ages. Teenage birth rates throughout the region are high:

**Table 1**  
**Birth Rates in Adolescent Girls<sup>24</sup>**

Belize	79
Costa Rica	81
Dominican Republic	93
El Salvador	87
Guatemala	111
Honduras	103
Nicaragua	138
Panama	75

Source: UNFPA, State of World Population 2001.

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<sup>24</sup> The global average was 50 births per 1000 women; in less developed regions the average was 54 births, and for least developed countries averages were 127 births. UNFPA, STATE OF WORLD POPULATION 2001, available at <<http://www.unfpa.org/swp/2001/english/indicators/indicators1.html>>.



Women and girls in the region continue to be impacted by reduced educational opportunities and job access.

**Table 2**  
**Development Indicators**

	Belize	Costa Rica	Dominican Republic	El Salvador	Guatemala	Honduras	Nicaragua	Panama
GNP per capita (in US \$)	3110	3810	2130	2000	1680	860	400	3260
Total population (millions)	0.2	3.8	8.4	6.3	11.4	6.4	5.1	2.9
% Female	49.6	50.1	49.2	50.9	49.6	49.7	50.2	49.5
Female Primary enrollment rate (%)	99	89	N/A	87	80	N/A	N/A	N/A
Youth illiteracy (male) (% aged 15-24)	2.7	2	9.6	11	14.5	17.8	29	2.8
Youth illiteracy (female)	1.3	1.4	8.1	12.6	27.2	15.4	27.7	3.6
Female labor (%)	24	31	31	37	29	32	36	35
Female unemployment	20.3	8.2	N/A	6	N/A	3.8	14.5	16.9

Source: World Bank, Statistics for 2000.

## **B. Migration Flows**

In the last ten years, the Central American states have experienced migration phenomena at all levels. A rural to urban transfer has largely resulted from a weakening agricultural sector and the move to larger cities in search of work. Intra-regional migration patterns also emerged. Nicaraguans flowed in significant number to Costa Rica such that currently, some eight percent of the population of Costa Rica is comprised of Nicaraguan nationals.<sup>25</sup> The temporary and permanent movement from El Salvador, Honduras and Guatemala into Belize has also been recorded. The figures from the 2000 census in Belize show that the foreign-born population in the country (just under 14% of the total population) is comprised of Guatemalans (42.5%), Salvadorans (17.6%) and Hondurans (14%).<sup>26</sup> Finally, migration outside the region to Mexico, the United States and Canada has also increased.

The strongest and most visible migration in the region is to the United States. Movement of all kinds occurs alongside the land route north. Some of the more obvious migrations include the following:

- Nicaragua has experienced significant emigration, with its citizens destined for Costa Rica and points north (Honduras, El Salvador, Guatemala, Mexico and the United States). The migration is both legal and illegal. Nicaraguans have constituted roughly 3% of the Central Americans apprehended by immigration authorities along the southwest border of the United States from 1999-2001.<sup>27</sup>
- Migration from Honduras flows to Belize, El Salvador, Guatemala, Mexico and the United States. Belize and Guatemala host many Hondurans as temporary agriculture

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<sup>25</sup> STATE OF THE NATION PROJECT, A BINATIONAL STUDY: THE STATE OF MIGRATION FLOWS BETWEEN COSTA RICA AND NICARAGUA 11 (2001).

<sup>26</sup> BELIZE CENTRAL STATISTICS OFFICE, POPULATION CENSUS 2000: MAJOR FINDINGS (2001).

<sup>27</sup> UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE, MONTHLY STATISTICAL REPORT (1999-2001)

<<http://www.ins.gov/graphics/aboutins/statistics/workload.htm#monthly>>.

workers. In addition, it is estimated that 108,000 Hondurans transit through Guatemala annually.<sup>28</sup> Hondurans comprised 36% of all border apprehensions in Mexico in 1999<sup>29</sup> and 46% of the Central Americans apprehended by immigration authorities along the southwest border of the United States from 1999-2001.<sup>30</sup>

- Salvadorans migrate to Guatemala as temporary agricultural laborers. They also use Guatemala as a transit point into Mexico and the United States. An estimated 36,000 Salvadorans passed through Guatemala in 2001.<sup>31</sup> Salvadorans comprised 19% of all border apprehensions in Mexico in 1999<sup>32</sup> and 32% of the Central Americans apprehended by immigration authorities along the southwest border of the United States from 1999-2001.<sup>33</sup> Migration to Belize also occurs.
- Guatemala sends between 100 and 120 thousand temporary agricultural workers into Mexico a year. In addition, many Guatemalans attempt to cross into Mexico illegally and are likely to continue to the United States. Guatemalans comprised 43% of all border apprehensions in Mexico in 1999<sup>34</sup> and 19% of the Central Americans apprehended by immigration authorities along the southwest border of the United States from 1999-2001.<sup>35</sup> Guatemalan migration has also been registered to Belize.

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<sup>28</sup> MINISTRY OF PUBLIC HEALTH, GUATEMALAN SOCIAL SECURITY INSTITUTE, AND OPS-OMS, VII REGIONAL CONFERENCE ON MIGRATION (2002).

<sup>29</sup> ELENA AZAOLA, BOY AND GIRL VICTIMS OF SEXUAL EXPLOITATION IN MEXICO 69 (2000).

<sup>30</sup> U.S. INS, *supra* note 27.

<sup>31</sup> MINISTRY OF PUBLIC HEALTH, *supra* note 28.

<sup>32</sup> AZAOLA, *supra* note 29.

<sup>33</sup> U.S. INS, *supra* note 27.

<sup>34</sup> AZAOLA, *supra* note 29.

<sup>35</sup> U.S. INS, *supra* note 27.

**Table 3**  
**General Migration Flows in Central America**

	Nicaragua	Honduras	El Salvador	Guatemala	Belize	Mexico	United States
Nationals of Nicaragua		T	T	T D	D	T	D
Nationals of Honduras			T	T D	D	T	D
Nationals of El Salvador	T	T		T D	D	T	D
Nationals of Guatemala					D	D	D

T=Transit; D=Destination.

The Central American Commission of Migration Directorates has estimated the Central American migrant population to be nearly five million.<sup>36</sup> The income generated through these migrants has developed into an important source of wealth for the Central American countries.

<sup>36</sup> STATE OF THE NATION PROJECT, *supra* note 25.

Remittances, which have increased consistently over the last ten years, now contribute a significant amount to the region's resources:

**Table 4**  
**Remittances**

Country	Remittance (in millions)	As % of GNP
El Salvador	\$1,920	17
Nicaragua	\$610	22
Guatemala	\$584	3.1
Honduras	\$460	7.5
Dominican Republic	\$1,807	10

Source: Manuel Orozco, Inter-American Dialogue, "Remittances to Latin America and its Effect on Development."

Much of the regional and international migration is illegal. For unskilled workers, including many women and adolescents, few legal migration opportunities exist, forcing them to explore illicit means of transportation.<sup>37</sup> Family reunification is also being conducted outside the law, with undocumented immigrants in destination countries lacking legal means to bring their spouse and children into their country of illegal residence.

#### *Women in Migration*

Women's participation in migration is increasing. A recent survey of individuals in the process of migration in Central American countries reported female participation ranging from 10% in Guatemala to 43% in the Dominican Republic.<sup>38</sup> This so-called "feminization of migration" includes young single women and women with primary

<sup>37</sup> Only one formal temporary unskilled work program was identified in the region to which women had access. The Dominican Republic and Spain recently established the program offering temporary work visas to qualifying Dominicans for employment as domestic laborers in Spain.

<sup>38</sup> FLACSO, SEGUIMIENTO A LA VIOLACION DE LOS DERECHOS HUMANOS Y SITUACIONES DE RIESGO QUE VIVE LA POBLACION MIGRANTE (preliminary results) (2002).

earning responsibility. Motives include reunification with family members abroad and the search for job opportunities.

More so than any other country within the region, the Dominican Republic has a unique and longstanding history of female migration. Academics have identified three significant period of female migration from the Dominican Republic since the 1960s:

- Between 1961 and 1973, women participating in migration toward the United States, principally motivated by domestic political strife.
- From 1974 to 1984, women began to move to other destinations.
- Since 1985, female migration has been directed toward Europe, provoked by economic crisis and decreased opportunities to migrate to the United States due to changes in immigration policy and legislation. Spain has been the most frequent destination.<sup>39</sup>

According to various studies, women account for approximately 60% of the migration flow from the Dominican Republic.

#### *Children in Migration*

A recent study on child migrants in the countries of Central America, the Dominican Republic, Mexico, the United States and Canada, concluded that the number of unaccompanied children in the migration process is increasing, with a growing percentage of girl children.<sup>40</sup> While most of these movements are under informal family unification programs, many are adolescents moving independently.

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<sup>39</sup> GINA GALLARDO RIVAS, TRAFICO DE MUJERES Y EXPLOTACION SEXUAL EN LA AGENDA PUBLICA DOMINICANA (1999).

<sup>40</sup> ACTION CANADA FOR POPULATION AND DEVELOPMENT, MENORES MIGRANTES: DERECHOS HUMANOS, PROTECCION Y SERVICIOS EN LOS PAISES MIEMBROS DE LA CONFERENCIA REGIONAL SOBRE MIGRACION, RESUMEN EJECUTIVO (2002).

## **IV. SEX TRAFFICKING IN THE REGION**

Trafficking of women and children for commercial sexual exploitation in Central America and the Caribbean is an undeniable reality that is occurring within and without national borders. The following overview will explore the most salient features of the practice.

### **A. Risk Factors**

#### *Relating to the Individual*

Throughout the region, government and private practitioners identify the same bundle of individual factors that contribute to making certain persons vulnerable to trafficking and sexual exploitation. None of these factors are determinative, but their existence in a field littered with demand for commercial sexual services and criminal networks functioning with impunity increases the risk of falling into a trafficking cycle. Studies in other regions of the world have also identified these elements as contributing to trafficking; their degree of intensity in Central America and the Caribbean directly contribute to the level of trafficking activity that occurs.

For women, the pursuit of the basic needs of food, clothing and shelter and the lack of employment alternatives at home are primary elements contributing to their vulnerability. Compounding economic need are other factors such as sole responsibility for children, illiteracy or minimal education, and lack of training or technical skills. A history of physical or sexual abuse also appears to contribute to a risk of being trafficked.

The economic and educational factors are clearly illustrated on a macro-level. Just within the region, source countries (Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua) suffer from the lowest gross national product relative to the destination points for their nationals (Costa Rica, Panama and Belize). Comparatively, countries of origin also face the highest youth illiteracy rates and the lowest female primary school entrance rates.

Many of the individual researchers and service providers consulted commented on the need for real employment alternatives to reduce the risk of women being trafficked and, especially, re trafficked. Victims of sex trafficking are being paid, and while the level is poor, in many cases it remains significantly higher than other options. Where female labor training programs do exist, they have focused on beautician skills, sewing and cooking. Most advocates reported that these programs are largely ineffective.

In 1995, a study on adult prostitution in Panama concluded that “the lack of housing, unemployment and economic reasons were the most common causes among those interviewed, representing 42.5% of the total. Another important indicator is the corruptive influence that the [sex worker] was a victim to by friends, neighbors or familiar persons, reflecting 26%; family disintegration and abandonment also were part of the principal causes of her current lifestyle, registering 22% and 16% respectively. Sexual abuses were other diversion motives, but to a lesser extent, with 12%.”<sup>41</sup>

For children, issues related to sexual abuse, physical abuse, family disintegration, school abandonment, teenage pregnancy, homelessness, gang participation and drug use appeared to combine with economic need (of the child and of his/her caretakers) to create a risk of being trafficked. Homosexuality, transvestitism and transexuality among males are also risk factors.

The majority of young women in prostitution in Guatemala had been sexually abused by family members with their first sexual contact occurring between the ages of 8 and 11.<sup>42</sup>

In Honduras, a survey of 100 children being sexually exploited showed that 42% had their first sexual relations between 12 and 13. 50% of the children in the study were victims of sexual violence between 10 and 13 years old.<sup>43</sup>

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<sup>41</sup> GREGORIO VILLARREAL V., ANÁLISIS SOCIO-JURÍDICO Y CRIMINOLÓGICO DE LA PROSTITUCIÓN (1995). Original in Spanish. Translation by IHRLI.

<sup>42</sup> TERRE DES HOMMES, CENTRAL AMERICA: CHILD TRAFFICKING IN GUATEMALA, EL SALVADOR AND NICARAGUA (2000).

<sup>43</sup> UNICEF, LA EXPLOTACIÓN SEXUAL INFANTIL EN SAN PEDRO SULA (1999).



A sample of 166 women and minors in prostitution in Belize revealed that the majority had their first sexual experience between the ages of 13 and 15.<sup>44</sup>

A study in Panama focused on victims of child sexual exploitation showed that “around 50% of interviewees fled their homes, due to different abuses.”<sup>45</sup>

In Costa Rica, a recent survey of 100 children in situations of sexual exploitation indicated that 55% of girls interviewed in the capital San Jose and 50% of girls in the port city of Limon were victims of sexual abuse prior to the age of twelve.<sup>46</sup>

Unfortunately, the vast majority of these issues remain unattended. Child abuse and family disintegration are under-prioritized areas in government attention. Legal sanction and protection measures are generally ineffective and social services for victims are nascent. In several of the countries studied, complaints about the exceedingly poor functioning of child welfare agencies were common. Immediate protection measures for children are often unavailable due to limited working hours and the absence of 24-hour shelters; counseling and rehabilitation programs are ill equipped and understaffed; and treatment is often generalized without considering the particular needs of the child.

#### *Relating to Outside Circumstances*

Numerous external conditions also contribute to an environment conducive to sex trafficking. Interviewees commonly credited trafficking to the existence of gender discrimination, prevalent attitudes which objectify children, weak immigration controls, corruption and the impact of globalization policies. The demand for sexual services and the existence of trafficking networks are elements that will be explored later.

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<sup>44</sup> NCFC/UNICEF, STUDY ON THE SEXUAL EXPLOITATION OF WOMEN AND CHILDREN SEX PROVIDERS (2001) (unpublished manuscript on file with IHRLI).

<sup>45</sup> ENRIQUETA DAVIS, EXPLOTACIÓN SEXUAL COMERCIAL DE NIÑOS, NINAS Y ADOLESCENTES EN PANAMÁ (2001).

<sup>46</sup> MARIA CECILIA CLARAMUNT, COSTA RICA – EXPLOTACION SEXUAL COMERCIAL DE PERSONAS MENORES DE EDAD: UNA EVALUACION RAPIDA (2002).

### Trafficking and migration

Traffickers are keenly aware of the immigration policies, legislation, and practices, often operating through legal processes for illicit purposes. Police and immigration authorities, who function jointly along international borders in the region, recognize that sex trafficking occurs. In interviews, authorities pointed to several obstacles that inhibit their capacity to combat trafficking, including the existence of vast unmonitored border areas, lack of adequate personnel, lack of computerization or efficient information sharing systems, lack of specialized training, and corruption.

Many individuals consulted also mentioned the CA-4 Plan as a contributing factor to the rise in trafficking activity. This agreement revolutionized movement between its participating states: Nicaragua, Honduras, El Salvador and Guatemala. Under the plan, an adult national of any of the four countries can remain in one of the other countries for a period of 90 days before having to depart or seek permission to remain. A simple identification card, rather than a passport, is used to pass across borders. For intra-regional trafficking, this liberalized movement allows traffickers and their victims to travel undetected.

### Trafficking and globalization

Many experts have linked the liberalization of markets and the structural adjustment strategies of the World Trade Organization, World Bank and Inter-American Development Bank with an erosion of human rights guarantees. Globalization has also been noted as a contributing cause of trafficking in persons. In 2001, the UN Secretary-General requested information on globalization and its impact on the enjoyment of human rights from Member States. The solicitation included a question on the perceived relationship, if any, between “processes of globalization and negative aspects of international trade such as trafficking in people, arms and the increase in international crime.” Of the countries under study, only Costa Rica responded, stating that

...[G]lobalization has encouraged trafficking in people and arms and has led to an increase in international crime and

drug trafficking in particular. These new illicit activities are further facilitated by new technologies and modern means of communication. However, these technologies should also be used to combat them.<sup>47</sup>

The Government also responded that “[g]lobalization of the economy should be followed by globalization of genuine human rights. If globalization is to promote dignity and human rights and itself become consolidated and permanent, people must be at the center of the effort, and their social, legal and cultural rights must be guaranteed.”<sup>48</sup>

**Table 5  
Risk Factors Contributing to Sex Trafficking**

<b>Individual factors</b>	<b>Outside factors</b>
<ul style="list-style-type: none"> <li>• Poverty (self or family / guardians)</li> <li>• Lack of economic alternatives</li> <li>• Dependents (children)</li> <li>• Illiteracy / minimal education</li> <li>• Physical or sexual abuse</li> <li>• Family dissolution</li> <li>• Homelessness</li> <li>• Drug use</li> <li>• Gang membership</li> <li>• Sexual orientation</li> </ul>	<ul style="list-style-type: none"> <li>• Gender discrimination</li> <li>• Objectification of children</li> <li>• Ease of migration (CA-4) / weak border controls</li> <li>• Globalization policies</li> <li>• Public corruption</li> <li>• Existence of trafficking networks</li> <li>• Existence of demand (prostitution / stripping / sex tourism)</li> </ul>

**B. Forms of Trafficking: Entering the Cycle**

Recruiting strategies and entrance into sex trafficking appear in numerous forms throughout the region. The following means of induction were detected:

*Deception/False Promise of Employment* – This strategy of recruitment of women and adolescents is by far the most common. Known and unknown persons present attractive offers for jobs as

<sup>47</sup> *Globalization and its impact on the full enjoyment of all human rights, Report of the Secretary General*, UN Doc. A/56/254/Add.1 (Oct. 2, 2001), paras. 41-42.

<sup>48</sup> *Id.* at para. 45.

waitresses, dancers, bartenders, factory workers (*maquiladoras*), domestic laborers, and models, among other positions. Adolescents may travel with legitimate parental permission, the families having been victim of the deception as well. This type of trafficking was detected for domestic and international destinations.

*Misadventure* – Increasingly, women and adolescents in pursuit of employment or adventure will seize opportunities to be transported outside their home country. Young women petition for rides with truck drivers traveling north to Mexico and the United States. Migrant smugglers are also used. In both these circumstances, authorities reported that abandonment of the women was frequent. Far from home and lacking finances, many of these women and adolescents are pressed into prostitution. In one case, a bar owner reportedly paid for the release of a young woman in custody for immigration violations, and upon that debt forced the adolescent into prostitution.<sup>49</sup> In Tecún Umán, one local NGO reported that residents serve as recruiters for women. Reportedly, the recruiters are paid according to the amount of time the woman stays.

*Abduction* – Reports of children being abducted and trafficked for commercial sexual exploitation were received, although it appears to occur to a lesser extent than other means of trafficking.

*Gang-related* – In Honduras and El Salvador, young women and adolescent gang members were reported to have been trafficked for sexual exploitation in order to raise capital for the gang.

*Peer-influenced* – Trafficking of children, often homeless, runaways or seeking an escape from a troubled home, was reported to occur as a result of peer recruitment. Such cases appeared to be largely limited to domestic movement.

*Family controlled* – A few reports of parents or guardians allowing their children to enter into circumstances of sexual exploitation were reported, but this appears to occur only on a very minor scale. More often, family members who may have been trafficked themselves or are in the sex trade become recruiters for

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<sup>49</sup> *Pesadilla a la mexicana*, LA PRENSA (Honduras), May 12, 2002, at 28A.

younger relatives. This latter case was particularly evident in the Dominican Republic.

*Marriage fraud* – In the Dominican Republic, foreign men have been reported to pursue marriages with local women in order to take them abroad for purposes of prostitution.

*Visa system* – Panama presents atypical circumstances of a state-sponsored migration program for sex workers. This system is commonly abused and participating women are trafficked as a consequence. In most cases, it appears that there is material deception as to the conditions of employment. While women are recruited under guaranteed contract provisions, none of the terms are met upon arrival. In addition, passports and other travel documents are confiscated and earnings are often withheld.

### **C. Participants in Trafficking Activity**

The forms of trafficking outlined above exist at the hands of a wide variety of actors. Traffickers include known and unknown persons, state and non-state actors. The limited information available on traffickers and their *modus operandi* suggests that small and large criminal organizations largely contribute to trafficking, but do not control the entire market.

#### *Private actors*

The networks that facilitate and maintain trafficking for sexual exploitation involve a variety of private sectors, including transportation, tourism, media/communications, entertainment and legal.

- Taxi drivers, rickshaw drivers (*tricicleros*), and truck drivers participate in the movement of women and children to and between places of exploitation. Often, drivers add to the exploitation by forcing sexual favors for their service. They may also be engaged as recruiters, working under agreements with establishment owners or independently.

- Throughout the region, the media was a noted method of recruitment through classified and radio advertisements. Increasingly, the Internet is being used to support and encourage the demand for commercial sexual services, through web-based tourism operations, sex tourism guides and chat rooms.
- Hotels and motels are often used as “safe houses” for those in a migration process (which may be for the purpose of sexual exploitation) and also to support prostitution.
- The legal profession has been implicated in trafficking activities by arranging for false documentation to allow children to travel without parental permission and fixing immigration status in destination countries. In Nicaragua, researchers were told that fifteen attorneys were suspended in 2001 for producing fraudulent documents to allow minors to leave the country. Lawyers have also been tied to trafficking in Panama and Costa Rica, where fraudulent marriages are used to arrange resident status of predominantly Dominican women.
- Owners and managers of the bars, nightclubs and brothels where trafficked women and minors are exploited and pressed into sexual servitude most obviously participate in the trafficking. Owners receive and control the majority of profits from trafficking, money which secures the owner’s position in the community and guarantees a certain degree of impunity.

At the moment, the tourism industry and associated transportation services are the only sectors beginning to participate in efforts to combat trafficking related to child sex tourism and child prostitution. In Costa Rica, for example, the government tourism institute has launched a campaign against child sexual exploitation in partnership with the Association of Costa Rican Hotels (*Camara Costarricense de Hoteles*). Several hotels in San Jose, Costa Rica also organized a campaign against such behavior, posting public warnings that child sexual exploitation would not be tolerated.

### *Public actors*

In many cases, immigration, police and other civil servants aid traffickers. Public participation has been identified in providing fraudulent birth certificates and other documents, arranging for illegal border crossings, protecting bar and brothel owners from investigation or prosecution, and becoming clients.

Immigration and police officials with whom researchers consulted did not deny the presence of official corruption. Some countries have installed disciplinary measures to be used against corrupt officers. The numbers, however, seem to suggest that these procedures are ineffective. For example, Belizean immigration authorities reported disciplinary proceedings against six agents implicated in migrant smuggling. All were disciplined but kept their jobs. Similarly, Belizean police authorities attempted to dismiss two officers for alleged corruption involving illegal entry of immigrants. Their dismissals were reversed. Guatemala has reportedly attempted to curb large-scale corruption along its northern border by rotating police officers every three months. Such efforts appear not to have had much impact; one diplomatic officer observed that the rotations are only succeeding in sharing the wealth obtained through corruption. An immigration representative in Guatemala confided that one of his agents specifically requested to be transferred to Tecún Umán (a heavy trafficking area) due to emergency financial needs. According to a police official in Nicaragua, Chinandega has one of the highest corruption rates in the country. It is also a recognized area of recruitment.

Sources in Nicaragua cited the ease of “repositioning” identities through obtaining birth certificates misrepresenting ages and identities. A majority of these documents are likely to have been obtained through legitimate processes, because national and local institutional weaknesses create opportunities for abuse. In Honduras, a *Casa Alianza* study reported the suspected involvement of employees of the National Registry of Persons in providing falsified documentation to minors.<sup>50</sup>

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<sup>50</sup> CASA ALIANZA, INVESTIGACIÓN REGIONAL SOBRE TRÁFICO, PROSTITUCIÓN, PORNOGRAFÍA INFANTIL Y TURISMO SEXUAL INFANTIL EN MÉXICO Y CENTROAMÉRICA: HONDURAS 70 (2001).

### *Clients*

The root cause of trafficking is demand for commercial sexual services, without which trafficking for purposes of sexual exploitation would dissolve. The demand connected to trafficking in the region is predominately for prostitution and stripping. While some advocacy groups, most notably *Casa Alianza*, have investigated and denounced pedophiles, child pornography rings and internet sites promoting the sexual exploitation of minors, the information available does not yet draw a clear line of connection between trafficking activity and the production of pornographic materials in the region.

Demand within the region is concentrated in “zones of tolerance,” tourist areas, ports, along international trucking routes, and in certain agricultural areas where migrant laborers are predominantly male. The growth of the tourism industry and the increasing number of gambling establishments in the region have also opened markets for the industry. Varying forms of prostitution also occur in public markets and border areas. Bar owners, taxi drivers, hotel managers, market vendors and independent pimps all serve the demands of clients.



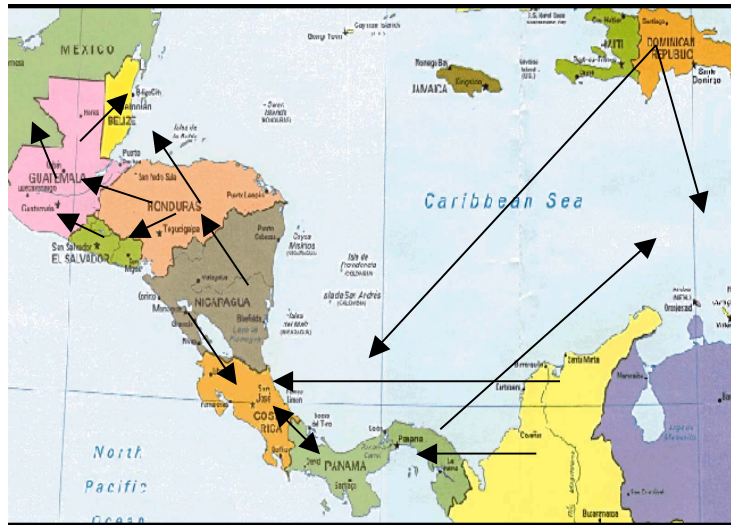
**Table 6**  
**Trafficking in Central America**  
**and the Dominican Republic:**  
**Forms and Agents**

<b>Forms</b>	<b>Countries Implicated</b>	<b>Agents</b>
Deception / False promise of Employment	All	Recruiters Intermediaries Bar/Brothel owners
Misadventure	Nicaragua Honduras El Salvador Guatemala	Smugglers Truck drivers
Abduction	Nicaragua Costa Rica Honduras El Salvador Guatemala Belize	Common criminals
Gang-related (domestic)	El Salvador Honduras	Gang members
Peer-influenced (primarily domestic)	Nicaragua Costa Rica Honduras El Salvador Guatemala Belize Panama	Friends Adolescents
Family-controlled	Honduras Dominican Republic	Parents and other family members Intermediaries
Marriage fraud	Dominican Republic Costa Rica Panama	Independent males from Europe Lawyers
Visa system	Panama	Bar owners State agents (immigration/labor) Recruiters

#### D. Trafficking Routes

Trafficking activity was detected at all levels. The reported domestic, intra-regional and extra-regional routes are described below. The one characteristic common to all is that they move from poorer areas towards areas that are, at least relatively, more prosperous.

**Map 1  
Intra-Regional Routes**



*Nicaragua, Honduras, El Salvador, Guatemala and Belize*

In terms of trafficking networks, the Central American region can be divided roughly along a North-South axis, with Nicaragua serving as a point of origin for trafficking flows in both directions. A trafficking experience beginning in Nicaragua would likely move through Honduras, possibly El Salvador, and end in Guatemala, Belize or southern Mexico. Following this route, women and minors are recruited in Honduras for establishments in El Salvador, Guatemala and Belize; El Salvador is a source country for Guatemala, Mexico and Belize; and Guatemala is a source country for southern Mexico and

Belize. From the cases and testimony collected, trafficking from Nicaragua north to Mexico is principally over land routes. The northward push is eased by the free transit agreement (CA-4) between Nicaragua, Honduras, El Salvador and Guatemala and relatively weak border monitoring. With economic development and perceived job opportunities increasing with each country up from Nicaragua, recruiters can make credible-sounding offers of employment.

Commercial truck drivers traveling along the Pan-American Highway contribute to the demand and provide transportation. The ports along the Atlantic and Pacific coasts also generate demand and attract trafficking activity. Prostitution near border areas and in larger cities further increases the demand, caused by local patrons, male migration north, and migrant worker populations.

#### **The Passage North**

Heightened immigration requirements in Costa Rica and Mexico have essentially boxed in the trafficking phenomenon from Nicaragua to Guatemala. With the promise of employment and the “American dream” pulling greater numbers north, trafficking activity is perhaps the most visible and concentrated along the Guatemala-Mexico border at Tecún Umán. Well deserving of its “New Tijuana” name, Tecún Umán was referred to by many government and non-governmental representatives as indicative of the grave problem of trafficking in the region.

The situation of Tecún Umán illustrates the nature of trafficking and the major elements that contribute to a fertile environment for trafficking activity. First, the availability of women and children is extremely high. Many sources indicated that Tecún Umán has served as the principal crossing point for migrants, both legal and illegal. Migrating women and minors will often find themselves at the border with insufficient funds to secure their further progress. In addition, the Central Americans who have crossed without success are returned to the Guatemalan side of the border, rather than to their countries of origin. Many desire to try again, for which money is necessary.

The demand for sexual services is provided by male migrants, finding themselves in similar situations of waiting at the border for a first or subsequent attempt to cross into Mexico. In addition, international truckers who often must wait days to cross provide a consistent floating population. The existing demand supports a reported sixty-seven establishments offering sexual services in Tecún Umán alone.

Innumerable criminal networks function in the area, trading in persons, cattle, vehicles, drugs and other illicit goods. The trafficking of women and children into prostitution is easy business. The networks involved in sex trafficking include establishment owners, rickshaw drivers (*tricicleros*), and migrant smugglers. Corruption of municipal public officials, and police and immigration authorities is reported as being extremely high. The corruption in the form of bribes, payment through sexual services, and direct participation has secured total impunity for traffickers.

#### *Costa Rica, Panama and the Dominican Republic*

The relative economic well being of Costa Rica, Panama and the Dominican Republic give these countries distance from the rest of Central America. The trafficking situations in each of these countries are very different, although routes have been found to run between them. Dominican women have been trafficked to Costa Rica and Panama, and suspected trafficking activity occurs along the border between Costa Rica and Panama. In contrast to the other five countries in the region, Costa Rica, the Dominican Republic and Panama have been implicated in extra-regional trafficking to a greater degree. Routes from the Dominican Republic reach into the Caribbean (Aruba, St. Martin, Curacao), to South America (Argentina), and to Europe (Austria, Switzerland, Germany, Italy, The Netherlands, and Spain, among others). Trafficked women from the Dominican Republic and Colombia have been brought to Costa Rica, and unconfirmed reports of trafficking activity from Bulgaria, Russia and the Philippines were also noted. According to media reports, Costa Rican women have been recruited into the sex sector in Canada. From Panama, trafficking activity was identified through Egypt and to Israel. Colombian and Dominican women have been trafficked to Panama. The trafficking

activity from, to and between these countries requires air or sea transport, which appears to have reduced the numbers of child victims, in comparison to the rest of Central America.

#### *Domestic Trafficking Routes*

The detection of domestic trafficking routes in the region is significantly more difficult than cross-border behavior. Lack of appropriate legislation, public perception and the characteristics of victims all complicated visibility of domestic manifestations of trafficking. The crime of trafficking (*trata de personas*) in all countries except Nicaragua apply only to instances of cross-border movement. Domestic trafficking cases are therefore prosecuted as other crimes, such as pimping or pandering, and inquiries regarding forced movement or migration are not made. In the media and as a topic of public concern, domestic trafficking activity is overshadowed by the sexual exploitation itself, prostitution, pornography, sex tourism and other forms. Finally, by virtue of shared nationality, trafficked persons are not as easily identified.

Nevertheless, internal trafficking was noted, generally flowing from rural and poorer areas to large cities or tourist centers, and from there among the cities. In Guatemala, for example, researchers were informed of routes moving women and minors between establishments in Izabal, Escuintla, and Retalhuleu. In Honduras, one NGO reported a case of a girl trafficked from Comayagua to a bar in Progreso. San Pedro Sula, La Ceiba and other places along Honduras' northern coast also appeared to be destination points for predominately adolescents from more rural towns, Progreso, Yoro, Santa Barbara, Copan, Ranchito, Tocoa, Colon, Masita among others. The Dominican Republic also contains internal routes, from rural locations to tourist areas along the coast.

Several unique characteristics of domestic trafficking are worthy of note:

- Particularly in the Dominican Republic, domestic trafficking appears to involve children to a much greater degree than international traffic.

- The participation of gangs in Honduras and El Salvador in domestic trafficking was noted, with gangs appropriating young women and girls for their own purposes and to prostitute for financial gain.
- Mobility and sexual exploitation mark the experience of street children in all countries under study. This population is extremely vulnerable to sex trafficking. The movement of this community is often peer-influenced.

### **E. Conditions and Consequences**

Regardless of form, a trafficking experience will include numerous human rights abuses and other sufferings. These violations result from the mechanisms of control and coercion that traffickers use to keep victims in situations of sexual exploitation. Most commonly, traffickers exercise control in the following ways: retention of identification, travel and required health documents; imposition of debts for transportation, clothing, lodging, food, and other basic needs; threats of reporting immigration status to authorities; beatings and other physical abuse; and the posting of guards and other means of restraining liberty. The physical distance and isolation from support networks further secures complacency. These measures have serious physical, emotional and health consequences for victims. The resulting trauma is rarely treated, heightening the risk of being re trafficked for those who do escape.

#### *Debt Bondage*

A consistent feature in reported cases of trafficking is the imposition of a debt on the trafficked person. Initial values are established based on transportation fees or the “purchase price” of the victim. Amounts are increased for the cost of clothing, makeup, housing, food, drugs, condoms, and health testing (required in most countries). Time spent not working is often charged and added to the debt. House fines for improper behavior were also reported as being levied.

In a recent case of trafficking to the United States involving women and girls from Honduras, women were forced into prostitution to repay a \$10,000 transportation fee. In two other cases of trafficking

within the region, family members had to pay bar owners the “price” of girls to secure their release.

In most cases, these debts never diminish. Service providers report that pimps, hotels and other establishments usually charge or keep a majority percentage of client revenues. Victims become entirely dependent on bar owners.

#### *Restriction of Movement*

Another common feature of trafficking in the region is the limitation of movement once in conditions of sexual exploitation. In most cases, this is achieved through confiscation of documents, which leaves victims vulnerable to deportation. Reports were also received of armed guards being placed outside of private brothels (*casas de cita*). Even where restrictions are more lenient, women must purchase their free days or free time, contributing to their debt bondage.

In Panama, immigration officials, health officers and advocates all reported that women’s passports and return tickets are regularly retained by bar owners, even if the woman has a valid “*alternadora*” visa. It was reported that in practice, women having “*alternadora*” visas are not permitted to leave Panama without the bar owner’s release. Bar owners in Belize also are in the practice of retaining passports and travel documents.

According to a recent survey of women and minors in prostitution in Belize,

...[W]orkers [in the Corozal district] feel that they are not able to leave as they desire. Respondents noted that it is possible to purchase free days. Many of the workers are brought to work on a contractual basis. This contract involves the owners paying for transportation to Belize, which need to be repaid by the girls as they are working. Those girls living in rooms at established locations pay a percentage of their earnings to the employer. Their free day if they have any is to purchase any needed accessories or such. Time off is not given to those who have children

but rather that time must be bought, as it is a loss of earnings to the employer.<sup>51</sup>

Often, justifications are created for retaining documents. In Belize, one brothel manager stated that such practice was necessary to prevent them from being robbed from the women and in case of immigration revisions. An immigration official in Panama attempted to explain why most bar owners demand documents, citing the need to secure against the women finding other employment for the duration of the visa and to guarantee the bar owner's investment.

#### *Threats and Use of Force*

More infrequently, traffickers rely on threats and use of force to ensure their power over victims and to guarantee their silence. Some reports of bar owners beating victims were received. In three identified cases, threats of violence were used to discourage reporting and participating in trial proceedings. One Colombian woman was cut on her face after complaining to authorities in Panama of her condition. Upon her return to Colombia, she was attacked, her assailants reportedly stating: "This is for what you did in Panama."

#### *Forced Drug Use*

On occasion, it was reported that bar owners used drugs to control women and children and to make them more compliant. They are also a means to induce dependence on the owner and to increase the debt of the victim. Even at its most benign, women and children are regularly expected to drink with clients. This daily high-volume intake of alcohol often has health consequences. Alcohol and drugs in many instances become coping mechanisms for women and children.

#### *Physical Health Implications*

The health consequences to trafficked women and children in the region are serious. Victims have reported physical and sexual abuse by clients and law enforcement. Trafficked women and children also appear to be at greater risk of HIV/AIDS and other sexually

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<sup>51</sup> NCF/UNICEF, *supra* note 44.



transmitted diseases (STDs) due to a relative ignorance of sexual health and contraception and the lack of access to health services. They are also in less of a position to be able to negotiate with clients regarding condom use. The occurrence of unwanted pregnancies and unsafe abortions was also detected.

One NGO that counsels women in prostitution in Guatemala informed researchers that their staff has found it necessary to introduce informal classes on proper condom use, especially to trafficked women and adolescents from El Salvador, Nicaragua, and Honduras, who neither anticipated working in a brothel nor were familiar with how to use a condom.

A survey of 100 sexually exploited girls and boys in San Pedro Sula, Honduras found that 68 had suffered an STD, 29 of whom had contacted an STD more than once. One quarter of these children self-treated their symptoms.<sup>52</sup>

According to UNICEF, 67% of sexually exploited girls and boys in San Pedro Sula, Honduras suffered some type of abuse that produced an injury. The children identified clients and municipal/national police as aggressors.<sup>53</sup>

A recent survey of 100 minors in Costa Rica in conditions of sexual exploitation showed that 86% drank alcohol, 82% smoked tobacco, 80% used marijuana, and 34% and 41% consumed cocaine and crack, respectively.<sup>54</sup>

Due to the nature of their circumstances, trafficked women and children are more likely to have these health conditions go undetected and untreated. Despite the mandatory health revision requirements for sex workers in the region, the establishment owner usually controls access to health services. Even if available, not all trafficked women are willing to participate in testing. In many cases, trafficked women are undocumented and will evade such controls for fear of deportation. Similar fears keep women from seeking medical

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<sup>52</sup> UNICEF, *supra* note 43.

<sup>53</sup> *Id.*

<sup>54</sup> MARIA CECILIA CLARAMUNT, *supra* note 46.

treatment for injuries. In addition, the private organizations that provide health screenings to sex workers report that they do not have access to many establishments, especially private homes that are used as brothels, and thus probably are not seeing the majority of trafficked women. The situation of children is particularly acute. Since child prostitution is illegal in all countries of the region, medical centers are prohibited from registering children in sex worker health programs and thus from providing regular health exams.

#### *Mental Health Implications*

Little information regarding the specific emotional health consequences to trafficked women in the region was discovered. It can be assumed that the violence, isolation, and dependence associated with trafficking results in depression and lowered self-esteem, among other conditions. Groups working with sex workers in the region commented on the low self-worth and inability to participate in a healthy partnership that many female sex workers exhibit. Damage to adolescent and child victims is more pronounced, with effects of sexual exploitation lasting into adulthood and interrupting full emotional development.

#### *Exit*

Relatively limited information exists about the exit of trafficked women and children from conditions of sexual exploitation. Police, immigration, prosecutors and juvenile judges have facilitated a small number of rescues of trafficked children through coordinated raids. Immigration raids and counter-smuggling activities have also extricated women from trafficking situations, who in turn usually face deportation. Some reports of independent escapes were received. Finally, bar owners sometimes release victims if diagnosed with disease or pregnancy (although many women have had children while remaining in conditions of exploitation).

## **V. RESPONSE MECHANISMS: POLICY AND LEGISLATION**

The problem of trafficking remains almost completely hidden and largely ignored in the region. In terms of institutional responses, the Dominican Republic alone has effectively placed the trafficking of persons on the national agenda; no other government has directed resources to specific programs or policies on the issue. Initial steps have been taken against child trafficking for sexual exploitation, but concrete initiatives have not yet been developed and plans remain without funding. Within the ambit of their duties, consular missions and law enforcement have provided assistance to victims and prosecution of traffickers. Punishment efforts, however, can only be described as minimal. In some countries, Offices of the Human Rights Ombudsman have positively intervened in cases and have conducted minor investigations within the scope of their mandate. Finally, some encouraging developments toward articulating national and regional responses to trafficking were noted.

In an area where civil society has traditionally been strong, few groups have focused on sex trafficking for women and children or advocated the issue within a human rights framework. Nevertheless, region-wide efforts against child trafficking and other forms of commercial sexual exploitation of children are beginning, and many positive partnerships between non-governmental organizations and official agencies have resulted. These relationships are precarious, however, and are in need of further strengthening.

Services for trafficked persons, whether by government or other sources, are non-existent, with the exception of in the Dominican Republic where important orientation, assistance, protection and health services are available through NGO providers. This lack of attention has left women and child survivors at greater risk of being re-trafficked. Overall, the deficiencies in consciousness, articulation, and coordinated response strategies to trafficking in both women and children have facilitated continuation of trafficking activity in the region and the reinforcement of a culture of impunity.

## A. International Legal Obligations

The region as a whole has assumed important legal obligations ensuring the protection of women and children against trafficking. All eight states are party to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women,<sup>55</sup> the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women,<sup>56</sup> and the ILO Convention No. 182 on the Worst Forms of Child Labor.<sup>57</sup> Together, these treaties require states to take meaningful action against trafficking, especially that of women and children. Under CEDAW, States Parties must act to suppress “all forms of traffic in women and exploitation of prostitution of women.”<sup>58</sup> Trafficking and forced prostitution are specifically recognized as constituting violence against women under the Convention of Belem do Para, under which States Parties agreed to condemn such activity and to pursue policies to prevent, punish and eradicate trafficking.<sup>59</sup>

With special regard to children, the Convention on the Rights of the Child obligates States to take measures to prevent trafficking of children and to ensure their protection against all forms of sexual exploitation.<sup>60</sup> Further, appropriate measures should be taken to promote physical and psychological recovery and social reintegration of child trafficking victims.<sup>61</sup> The ILO Convention No. 182 specifies that State Parties are to take immediate and effective measures to secure the prohibition and elimination of child trafficking as well as to provide necessary and appropriate direct assistance for the removal of

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<sup>55</sup> Convention on the Elimination of All Forms of Discrimination against Women, 1249 U.N.T.S. 13 (1979) (entered into force Dec. 18, 1981) [hereinafter CEDAW].

<sup>56</sup> Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (1994) (entered into force Mar. 5, 1995) [hereinafter Convention Belem do Para].

<sup>57</sup> ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, *adopted by* ILO Conference, 87<sup>th</sup> Sess., June 17, 1999 (entered into force Nov. 19, 2000) [hereinafter ILO Convention No. 182].

<sup>58</sup> CEDAW, *supra* note 55, art. 6.

<sup>59</sup> Convention of Belem do Para, *supra* note 56, arts. 2(b), 7.

<sup>60</sup> Convention on the Rights of the Child, *supra* note 20, arts. 34-35.

<sup>61</sup> *Id.*, art. 39.

children from situations of sexual exploitation, for their rehabilitation and for their social integration.<sup>62</sup>

Several states are party to the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography and the Inter-American Convention on International Traffic in Minors, which both outline important provisions on child trafficking. Under the Optional Protocol, which has been ratified in half of the countries under study, States Parties commit to preventing and punishing the sale of children into prostitution and other forms of sexual exploitation.<sup>63</sup> Appropriate measures are to be adopted “to protect the rights and interests of child victims” in judicial processes.<sup>64</sup> States Parties further are required to make all efforts to ensure appropriate assistance to victims, including programs aimed at their social reintegration and physical and psychological recovery.<sup>65</sup> The Inter-American Convention on International Traffic in Minors specifically requires States to prevent and punish international trafficking in minors for “unlawful purposes” including prostitution, sexual exploitation and servitude.<sup>66</sup>

Within the region, Honduras is the lone party to the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. This treaty obligates States Parties to penalize trafficking for purposes of prostitution and other associated acts,<sup>67</sup> among numerous other provisions aimed at the control and eradication of sex trafficking.

None of the states have yet ratified the UN Convention on Transnational Organized Crime and its Trafficking Protocol, with the exception of Nicaragua which has only ratified the Convention.

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<sup>62</sup> ILO Convention No. 182, *supra* note 57, arts. 1, 3 and 7(2).

<sup>63</sup> Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, G.A. Res. 54/263, U.N. GAOR, 54th Sess., Supp. No. 49, at U.N. Doc. A/54/49 (2000), arts. 1, 3, and 9(1) (entered into force Jan. 18, 2002) [hereinafter *Optional Protocol*].

<sup>64</sup> *Id.*, art. 8.

<sup>65</sup> *Id.*, art. 9.

<sup>66</sup> Inter-American Convention on International Traffic in Minors (1994), art. 2.

<sup>67</sup> Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 9 U.N.T.S. 271 (1949), art. 2.

Several states have signed both documents, however, and are in the process of reviewing these instruments for possible ratification.<sup>68</sup>

The region is failing in its international commitments, especially with respect to prevention, protection and integration measures regarding adult women. Throughout the region, the counter-trafficking provisions of the CEDAW and the Convention of Belem do Para are completely ignored. While the Convention of Belem do Para specifically defines trafficking as a form of violence against women, only the Dominican Republic has trafficking incorporated into policy and legislation on gender violence.

In general, and despite obligations, periodic reports by States Parties to the various UN monitoring mechanisms have not contained information on trafficking, an omission commented on by the Committee on the Elimination of Discrimination Against Women.<sup>69</sup> Regardless of these urgings, researchers saw little evidence of steps being taken toward the collection of evidence on trafficking activity.

UN and OAS mechanisms have been underutilized with respect to trafficking in the region. The visit of the UN Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography to Guatemala in 1999 was a promising signal of international intervention on the issue. Her report includes many valuable and important recommendations regarding trafficking, although Government action on these points has not been immediate.<sup>70</sup> Within the Inter-American system, the Special Rapporteur on Migrant Workers of the Inter-American Commission on Human Rights asked states to provide information on trafficking but received few responses. Comments provided reference to relevant legislation but did not assess its application. Finally, groups in the region have not yet turned to UN forums for civil society participation and the Inter-American

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<sup>68</sup> For a complete list of relevant treaties and ratification status, see International Legal Protections in the Appendix.

<sup>69</sup> See *Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Nicaragua*, UN Doc. A/56/38 (July 31, 2001) paras. 314-15, 317.

<sup>70</sup> *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Ofelia Calcetas-Santos*, UN Doc. E/CN.4/2000/73/Add.2 (Jan. 27 2000).

Commission and Court on Human Rights to advocate or register concern for sex trafficking.

## **B. Policy**

While institutionalization of counter-trafficking initiatives has yet to occur, a few common policy platforms are beginning to emerge in the region that may support more targeted response strategies. International mobilization against the commercial sexual exploitation of children, the worst forms of child labor, and violence and discrimination against women have encouraged the creation and adoption of national plans in these areas. In great measure, these platforms follow the principles established in the Declaration and Agenda for Action against the Commercial Sexual Exploitation of Children (World Congress in Stockholm, 1996) and the international instruments mentioned in the previous section. In addition, the IOM, through its country offices, has been supporting coordinated national policy responses to issues related to migration although, with the exception of the Dominican Republic, none have focused on trafficking.

**Table 7**  
**Policies, Platforms and Forums on Trafficking Related Issues**

<b>Country</b>	<b>Commercial Sexual Exploitation of Children</b>	<b>Violence against Women</b>	<b>Child Labor</b>	<b>Immigration</b>
Belize	---	---	---	---
Costa Rica	National Plan against Child Sexual Exploitation; National Council against Child Sexual Exploitation (CONACOES)	---	International Program for the Eradication of Child Labor	Permanent Forum of Migrants
Dominican Republic	National Plan; National Commission on the Eradication of Commercial Sexual Exploitation of Children	Inter-Institutional Committee for the Protection of Migrant Women (CIPROM)	International Program for the Eradication of Child Labor	Inter-Institutional Committee for the Protection of Migrant Women (CIPROM)
El Salvador	National Plan; ECPAT Network	National Policy on Women	National Plan for the Eradication of Child Labor; International Program for the Eradication of Child Labor	Migration Forum



Guatemala	National Plan against Commercial Sexual Exploitation of Children; Articulating Group	National Policy on the Promotion and Development of Guatemalan Women; National Commission on the Prevention of Violence against Women (CONAPREVI)	National Plan for the Eradication of Child Labor; International Program for the Eradication of Child Labor	Proposed National Plan; National Table on Migration (MENAMIG)
Honduras	---	National Plan	International Program for the Eradication of Child Labor	National Forum
Nicaragua	Public Policy against the Commercial Sexual Exploitation of Children and Adolescents; National Board for Integrated Attention and Protection of Children and Adolescents (CONAPINA)	National Plan for the Prevention of Domestic and Sexual Violence	International Program for the Eradication of Child Labor	Nicaraguan Forum on Migration (FONIMI)
Panama	---	---	---	---

Unfortunately, the existence of these plans has not necessarily translated into action. Concerning the National Plans against the Commercial Sexual Exploitation of Children, none of the countries that adopted such plans have obtained the necessary funding for implementation. Instead, application is dependent on the availability of already strained resources of participating government and civil society institutions. Most of the child sexual exploitation policies also lack

operational plans. Guatemala and Nicaragua are the only countries beginning the process of transforming the policy principles into concrete projects through their inter-institutional, coordinating bodies.

Maintaining coordinating bodies has also proved an overwhelming challenge. After successfully articulating guidelines, the mixed forums in El Salvador and Costa Rica have nearly dissolved, essentially halting implementation of drafted plans. None of these National Plans has resulted in the creation of a trafficking-specific program or project.

Policies directed toward issues of violence against women have predominately focused on domestic abuse, and none specifically address trafficking of women. Nevertheless, several women's institutions in the region expressed eagerness to incorporate counter-trafficking platforms into existing policies.

The region-wide ratification of the ILO Convention No. 182 has enabled UNICEF and the International Programme on the Eradication of Child Labor of the ILO, among others, to help governments establish common policies and programs combating child labor and elaborate measures against child sexual exploitation, as one of the worst forms of child labor. These programs generally highlight enforcement capabilities of the respective Ministries of Labor against child employment in corrupting environments.

In practice, the contributions of these programs against trafficking have been minimal, largely due to extremely limited inspection capabilities. Even if inspection occurs, victim attention is not a priority. For example, the Ministry of Labor in Nicaragua has implemented a pilot project monitoring nightclubs and other establishments where children may be sexually exploited. Under the plan, a preliminary investigation is conducted undercover. If a suspected minor is found, the inspector formally notifies the owner and confirms the age of the child. If shown to be a minor, the owner is informed of the violation and requested to cease the practice. A formal second inspection is scheduled for a later date. Labor inspectors provide no services to the child, do not remove her or him from the exploitative situation, and in practice, do not inform police or other authorities of the activity.

Lastly, regional integration plans, the formation of regional coordination and consultation bodies for immigration issues, and the activities of the IOM national offices have prompted some progress toward the development of national migration plans. Guatemala is currently considering a National Plan, which includes provisions for human rights protection mechanisms for migrants. El Salvador and Honduras, while not working under a national plan, have created inter-institutional coordinating bodies that assist in the development and implementation of immigration-related programs.

The most promising of these bodies is the Inter-Institutional Committee for the Protection of Migrant Women (CIPROM) in the Dominican Republic. Focused exclusively on issues affecting migrant women, its activities have centered on combating trafficking in the country. CIPROM currently supports programs for consular training on trafficking in persons; a certificate program in trafficking and gender for government and non-governmental representatives; awareness programs; legislative reform; and other activities.

### **C. Criminal Legislation**

While no country in the region has legislation against all forms of trafficking in persons, or specifically against trafficking for the purposes of commercial sexual exploitation, virtually all countries in the region—with the exception of El Salvador—do have laws in their penal codes that punish trafficking activity for the purposes of prostitution. While these laws bear a general resemblance to one another, they do vary from country to country. Notable differences in these laws include: various countries' definition of what acts constitute trafficking; the characteristics a victim of trafficking must possess to receive protection under these laws; the scope of geographic coverage contemplated by each law; the purposes for which trafficking is prohibited; and the strength of the penalty imposed when trafficking has occurred. The crime of trafficking is not explicitly identified in all countries. For example, in Belize and the Dominican Republic, trafficking is best characterized as a modality of the crime of "procurement." Other countries have criminalized trafficking for prostitution in name – *trata de personas* or *trata de blancas*.

### *Trafficking Victims*

The various pieces of trafficking legislation contemplate three basic characteristics an individual might need to possess to be considered a victim of trafficking. These characteristics consider gender, age, and nationality. Regarding gender, all laws except for those of Belize are gender-neutral; that is, both males and females can be victims of trafficking. Some laws establish this gender neutrality via express provisions in the trafficking law; for example, Honduras's and Costa Rica's laws explicitly include "people of either sex," and the Dominican Republic's law includes "persons, men or women ...." Laws which do not contain such express gender provisions, such as those of Nicaragua and Panama, contain general terms such as "victim," "foreigners," and "nationals," which can all be read to be gender-neutral. In contrast to the rest of the laws in the region, Belize's trafficking legislation applies only to "women."

Without exception, the trafficking provisions in these criminal codes contemplate that both adults and minors can be trafficked. As with the provision on gender, different countries use different statutory language to include/acknowledge minors as potential trafficking victims. For example, the Dominican Republic explicitly refers to "minors" in the text of the law, while Honduras explicitly offers protection to "people of...any age." Guatemala, Nicaragua, and Panama do not expressly refer to minors in their codes; however, as mentioned above, the general language used in these countries' trafficking provisions can be understood to include both adults and minors. In many cases, age and/or status as a minor is considered as an aggravating factor in the crime as described below.

Most of these trafficking provisions can be understood to apply both when certain acts are carried out upon nationals of a country and also when they are carried out upon foreigners. In Belize, Costa Rica, Guatemala, Honduras, and Panama's legislation, this is implied by the fact that the provisions contemplate that trafficking can include both a person's entry into and exit from the national territory. In the cases of Nicaragua and the Dominican Republic, it is less clear whether these countries' trafficking provisions apply both when the victims are nationals and foreigners. Nicaragua's law includes those who are trafficked for prostitution "within or outside of the country," and the

Dominican Republic’s law encompasses those situations where victims of procuring have been submitted or incited to engage in prostitution “outside of national territory,” “upon their arrival abroad,” or “on their location prior to their arrival abroad.”

**Table 8**  
**Victims of Trafficking**

<b>Country</b>	<b>Both Men and Women Protected</b>	<b>Minors Protected</b>	<b>Both Nationals and Foreigners Protected</b>
Belize			
Costa Rica			
Dominican Republic	–	–	unclear
Guatemala			
Honduras			
Nicaragua			unclear
Panama			

*Defining Acts*

With the exception of Costa Rica, every country in the sub-region with trafficking legislation specifically limits the crime of trafficking to acts that are done for the end purpose of prostitution. Costa Rica’s law further applies to trafficking for “sexual servitude.” In only one country is “prostitution” further defined, and it remains unclear whether trafficking for other forms of sexual exploitation such as pornography, sex tourism, and stripping would be covered.

A comparison of the laws of this region shows both similarities and differences in the specific acts that constitute trafficking. In Costa Rica, Guatemala, Honduras, and Panama, for example, the act of trafficking is defined as “promoting” and/or “facilitating” a victim’s entry into or exit from national territory for purposes of prostitution. In the Dominican Republic, trafficking is defined as “delivering” or “inciting” victims to engage in prostitution abroad, and in Nicaragua, “recruiting” or “enlisting” people for the purpose of prostitution are the acts which the law regards as trafficking.

**Table 9**  
**Acts that Constitute Trafficking**

Country	Acts That May Constitute Trafficking	Purpose of Act (Required for Act to Constitute Trafficking)
Belize	<i>Procuring</i> victims' exit of country or abandonment of regular residence	Prostitution
Costa Rica	<i>Promoting, facilitating or encouraging</i> victims' entry to or exit from country	Prostitution, Sexual Servitude or Forced Labor
Dominican Republic	<i>Delivering or inciting</i> victims to engage in prostitution abroad	Prostitution
Guatemala	<i>Promoting, facilitating, supporting</i> victims' entry to or exit from country	Prostitution
Honduras	<i>Promoting, facilitating</i> victims' entry to or exit from country	Prostitution
Nicaragua	<i>Recruiting and enlisting</i> victims (within or outside country)	Prostitution
Panama	<i>Promoting or facilitating</i> victims' entry or exit from country	Prostitution

*Penalties*

All states in the region that have trafficking statutes penalize trafficking activities with prison sentences. In addition to imposing a prison sentence on traffickers, the statutes of the Dominican Republic, Guatemala, and Honduras also provide that a monetary fine will be imposed. Comparing the severity of penalties across States, the statutes which carry the lightest penalties are found in Guatemala (1-3 years in prison plus a fine) and Panama (2-4 years in prison). The rest of the statutes under review here carry substantially similar penalties (see table below). While most of the statutes make no mention of attempt, Belize and the Dominican Republic expressly establish the attempt to

commit the crime as punishable to the same extent as the successful completion of the trafficking act.

In all states except for Belize, the Dominican Republic,<sup>71</sup> and Honduras, the penalty for trafficking is increased when aggravating factors are present. The most common aggravating factors found in the trafficking statutes in this region are where the trafficking victim is a minor, and where the acts which constitute trafficking are carried out using coercion, deceit, violence, or abuse of authority. Other aggravating factors include: when the perpetrator is a close relative or caregiver; when the act of trafficking is done with an intention to make a profit or satisfy the desires of a third person; or when as a consequence of being trafficked, the victim suffers a deprivation of liberty abroad, has a crime committed against them, or dies due to violent causes. The table below illustrates which aggravating factors correspond to the statutes of the various countries in the region.

**Table 10**  
**Criminal Penalties for Engaging in Trafficking**

Country	Basic Penalty	Penalty if Aggravating Factors Present	Aggravating Factors	Penalty for Attempt
Belize	5 years	N/A	N/A	Yes
Costa Rica	3-6 years	4-10 years	<ul style="list-style-type: none"> <li>_Victim is under 18</li> <li>_Use of coercion / fraud / violence / abuse of authority / abuse of victim's situation of need / any other form of intimidation</li> <li>_Perpetrator is a relative or caregiver</li> </ul>	No
Dominican Republic	2-10 years	N/A	Trafficking itself is an aggravating factor	Yes

<sup>71</sup> The legislation of the Dominican Republic presents a special case in that the crime of trafficking is itself an aggravating factor of the crime of procuring.

	plus fine of 100,000-1 million pesos		of the crime of pimping. Additional aggravating factors: _ Victim is a minor _ Use of threats / violence / abuse of authority / fraud	
Guatemala	1-3 years plus fine of 2,500-15,000 quetzals	Penalty increased by 2/3	_ Victim is under 12 _ Act done with intention to make a profit or satisfy the desires of a third person _ Use of deceit / violence / abuse of authority	No
Honduras	5-8 years plus fine of 100,000-200,000 lempira	N/A	N/A	No
Nicaragua	4-10 years	Max. penalty	_ Victim is under 14 _ Victim is married to or in a stable common law union with the perpetrator	No
Panama	2-4 years	6 years	_ Victim is under 12 _ Act carried out for profit _ Use of deceit / violence / abuse of authority / any other means of intimidation or coercion _ Perpetrator a close relative or guardian	No

As discussed briefly above, a survey of the trafficking laws in the region illustrates that in all countries, minors are afforded protection from trafficking, and in most countries, the penalty for trafficking at least some subgroup of minors is higher than that for trafficking adults. The main difference in the various countries' statutes is that while some



regard the trafficking of *any* minor as an aggravated offense, others only define a trafficking offense as aggravated if the minor is younger than a certain cut-off age. For example, Nicaragua does not consider the trafficking of a minor to be an aggravated offense unless the minor is under the age of 14. Honduras, Panama, and Nicaragua have chosen an even younger cut-off age: under their trafficking statutes, a victim who is a minor must be under 12 years old for the offense to qualify as aggravated. By contrast, in Costa Rica, the trafficking of minors under 18 constitutes an aggravated offense.

The inclusion of these laws in the various penal codes of the region represent improvements—many of them recent—over the attention previously given to the issue of human trafficking in these countries. It is important to mention, however, that by and large these laws are rarely enforced, and even more rarely do they result in the conviction of traffickers.

#### *Criminal Legislation Against Procuring and Pandering*

Individuals who traffic women and children for the purposes of commercial sexual exploitation can also be prosecuted for their actions under domestic pimping and pandering prohibitions. As with the trafficking laws discussed above, these crimes focus almost exclusively on acts connected to prostitution; unlike trafficking legislation, they are concerned primarily with acts that do not involve the crossing of international borders.

#### Procuring

The procurement laws within the region are quite similar from country to country. While the exact language varies somewhat from statute to statute, each of these laws have at their core the criminalization of the acts of promoting or facilitating the prostitution of another person. In all countries except for Belize, which limits the application of its procurement law to situations where the person being prostituted is female, the law applies regardless of whether the victim (or would-be victim) is male or female. In all countries except for Guatemala, a conviction for procurement carries a possible prison term (see table below for exact penalties). Just as Guatemala's penalty for trafficking is the most lenient in the region, its penalty of a fine and no

prison term is the most lenient penalty for procuring that exists in the sub-region.

As is illustrated in the table below, all countries in the sub-region except for Belize contemplate increased penalties for the crime of procurement when aggravating factors are present. While some countries include these aggravating factors in the basic provision on pandering, other countries have established a separate crime entitled “aggravated procurement.” The most common aggravating factors for pandering include the following: where the victim is a minor (in countries where prostitution is legal for adults); where deceit, violence, abuse of authority, or coercion are involved; where the perpetrator is a partner, close relative or guardian; and where the perpetrator is a repeat offender or vested with public authority.

A handful of other differences in the scope of these provisions prohibiting procurement are significant enough to be highlighted. For example, Panama and Guatemala limit the definition of procuring to apply only to those individuals who promote or facilitate prostitution for profit or to satisfy the desires of others. The Dominican Republic, on the other hand, expands the basic definition of pandering to include individuals who “by threats, pressure, or any other means disturb the prevention, assistance and re-education activities of those qualified organizations working with males and females engaged in or at risk of engaging in prostitution.” Finally, Honduras includes in the scope of its procuring law the individual who “prevents or impedes another person from abandoning prostitution.”

#### Pandering

Living off the profits of a person engaged in prostitution is another crime under which traffickers can be prosecuted. The crime of pandering is nearly identical in the countries that have this crime, which includes all countries in the region except for El Salvador and Honduras. To be guilty of pandering, it is not necessary that an individual makes his or her entire living off of others’ prostitution; rather, the provisions in this region explicitly provide that maintaining oneself—even if only in part—off of a person engaging in prostitution is sufficient. The Dominican Republic, while it does not have a specific provision on pandering, does include in its definition the broad phrase

“whoever receives benefits from the exercise of prostitution.”  
 Arguably, this phrase could include pandering activities.

**Table 11**  
**Criminal Penalties for Procuring and Pandering**

Country	Penalty for Basic Procurement Offense	Penalty for Procurement Aggravating Factors Present	Penalty for Pimping	Attempt Punishable Same Penalty
Belize	5 years	N/A	1 <sup>st</sup> Conviction: Fine up to BZ \$100 or up to 6 months Subsequent conviction: up to 1 year	•
Costa Rica	2-5 years	4-10 years	2-8 years 3-9 years where victim is 12 to 18 4-10 years where victim is under 12	
Dominican Republic	6 months-3 years and fine of 50,000-500,000 pesos	2-10 years and fine of 100,000-1,000,000 pesos	N/A	•
El Salvador	2-4 years	2-4 years and fine of 50-100 days' pay	N/A	
Guatemala	Fine of 2,500-10,000 quetzals	Penalty increased by one-third	Fine of 2,500-15,000 quetzals	
Honduras	5-8 years and fine of 50,000-100,000 lempiras	Penalty increased by half	N/A	
Nicaragua	3-6 years	10 years	2-4 years	
Panama	2-4 years	3-5 years	2-4 years	

#### **D. Treatment of Trafficked Persons under Domestic Legal Regimes**

##### *Trafficking and Prostitution*

Trafficking for purposes of sexual exploitation is intimately related to prostitution itself. As was discovered in the region, individuals offering sexual services are considered to be prostitutes, regardless of age, the circumstances of their involvement, or current conditions. Similarly, the demand for sexual services does not discriminate between coerced and voluntary service providers who may have been trafficked and maintained under debt bondage, coercion and violence, and those who may enjoy a greater sense of agency. The response from state actors—police, prosecutors, judges, immigration officers, public health workers, social service agents—is equally informed solely by an individual’s position in the commercial sex industry, rather than answering to the particular circumstances of the woman, adolescent or child or whether they have been trafficked. In the expanded Central American region, the legislation, regulation and policies toward prostitution provide a working context for sex trafficking.

In the absence of specific trafficking legislation or programs offering victim services, trafficked persons are subjected to the particular laws and regulations regarding prostitution, including health controls.

The following chart summarizes the regulatory regime of each country in the region:

**Table 12**  
**Status and Regulation of Prostitution**

<b>Country</b>	<b>Relevant Legislation</b>	<b>Health Controls</b>
Belize	Adult prostitution is legal except for solicitation in public areas; procuring, trading on prostitution, and owning a brothel are prohibited. Facilitating the movement or exit of a woman for prostitution is illegal. Child prostitution is illegal.	Ministry of Health provides STD and HIV/AIDS testing. Considering instituting required health exams and issuing health cards.
Costa Rica	Adult prostitution is legal. Pimping and pandering are prohibited. Facilitating the entry or exit of a person for prostitution is illegal. Child prostitution is illegal.	Required health exams through the Ministry of Health. Required to carry health card. NGOs offer testing as well.
Dominican Republic	Adult prostitution is legal. Pimping and pandering are prohibited. Facilitating the exit of a person for prostitution is illegal.	Regular testing is required.
El Salvador	Adult prostitution is legal; solicitation in public areas is punishable by fine in San Salvador and other municipalities. Pimping and pandering are prohibited. Induction into prostitution is a crime. Child prostitution is illegal.	Health exams are provided by Ministry of Health and several NGOs.
Guatemala	Adult prostitution is legal. Pimping and pandering are prohibited. Facilitating the entry or exit of a person for prostitution is illegal. Child prostitution is illegal.	Health checks are required and offered by the Ministry of Health. An NGO in Guatemala City offers testing and education to women inside bars and brothels.

Honduras	Adult prostitution is legal; solicitation in public is punishable under municipal police code. Pimping and pandering are prohibited. Facilitating the entry or exit of a person for prostitution is illegal. Child prostitution is illegal.	Health checks required. Ministry of Health issues cards.
Nicaragua	Adult prostitution is legal. Pimping and pandering are prohibited. Facilitating the entry or exit of a person for prostitution is illegal; inducing prostitution is also a crime. Child prostitution is illegal.	N/A
Panama	Adult prostitution is legal; solicitation in public is punishable under municipal police code. Pimping and pandering are prohibited. Facilitating the entry or exit of a person for prostitution is illegal, unless accomplished by petitioning for a special “ <i>alternadora</i> ” visa, regulated by Immigration and the Ministry of Labor. Child prostitution is illegal.	Mandatory weekly testing. Required to carry health cards.

Enforcement of procuring and pandering crimes is extremely poor. In most countries, bar and brothel raids are conducted where child prostitution is suspected, but adults found in circumstances of prostitution, even as a result of coercion, deception, force, etc. are ignored. Further, law enforcement and prosecution sources in the region reported obstacles to successful raids—either minors are counseled to lie about their age or carry false identification, or children are removed from the premises having been forewarned of police activity. Police complicity is certain. In addition to being clients, many sources suspect police involvement in notifying owners of planned inspections and raids. Throughout the region, judges, prosecutors, police officers, and forensic doctors acting together often

perform raids. Some sources complain that this level of coordination inevitably results in information reaching suspected criminals.

#### *Trafficking and Health*

The increasing numbers of persons suffering from HIV/AIDS in the region have prompted the creation of special legislation on HIV/AIDS treatment and rights of its victims, the establishment of inter-sectorial AIDS commissions involving state and non-state participation, and the emergence of regional forums for information sharing and coordination. These bodies recognize not only the particular vulnerabilities of the community of commercial sex providers, but also the dangerous implications of migration of both sex providers and their clients. Unfortunately, these groups have not yet addressed the particular health needs of trafficked persons or identified trafficked persons as a separate vulnerable group apart from sex providers.

Many health professionals consulted explained their compromised position: often, they are forced to choose between reporting a crime and providing for the health needs of trafficked women and children in prostitution. One NGO in Guatemala explained that sharing any information with women and minors regarding their rights would result in bar owners automatically restricting access to their establishments. Health professionals have convinced bar owners that it is in their business interest to maintain the health of the women and minors but cooperation extends no further than that.

#### *Trafficking and Illegal Immigration*

Immigration policies and legislation have a profound impact on victims of trafficking and the trafficking trade. As a function of being trafficked, many victims are often in destination points illegally. Their legal status has made them vulnerable to deportation and the threat of reporting is a frequent control mechanism used by traffickers. Within the region, the legal status of trafficked persons was most frequently an issue in Belize and Panama, and to a lesser extent Guatemala and Costa Rica.

The application of immigration and related criminal provisions most often further victimizes trafficked women and children. Victims face fines, imprisonment and/or deportation. Currently, none of the countries have formal procedures in place to identify trafficked persons. According to immigration sources in Panama, for example, women who claim to have been trafficked are allowed to report the crime to law enforcement authorities. In practice, because identification mechanisms are not in place, trafficked women are not informed of their legal rights as a victim. Threats, stigma and a general unwillingness to cooperate with authorities also keep women quiet as to their experiences, so options, even if available, are rarely used. Protection measures were similarly undeveloped, although instances of positive intervention by consulates of the trafficked individual were noted.

The destination countries of Belize and Panama presented the most visible reliance on immigration measures to respond to foreign women and children found in situations of prostitution and other forms of sexual exploitation. In Belize, for example, women from Guatemala, Honduras and El Salvador discovered in brothels are arrested and prosecuted for being illegally in the country. This offense is punishable by six months imprisonment and a \$500 fine. Immigration authorities in Belize stated that immigration law is being used to control prostitution because such offenses are easier to prosecute successfully than procurement and related crimes, which would hold traffickers responsible. In Panama, women are also subject to deportation through immigration proceedings. Consulates, who have largely proven to be the sole instances of protection for trafficked women in the region, are sometimes able to secure early release of their nationals.

### **E. Major Obstacles**

In consideration of the above policies and legislative schemes that are available to combat trafficking, it is important to highlight how these measures have been applied in practice. Overall, implementation of existing protection measures is weak, contributing to impunity for traffickers and rendering trafficking victims and survivors without necessary services. One of the most significant problems is the scarcity of available resources\_human, technical and financial. A vast majority



of the region's police and immigration units are working without adequate equipment (computers, vehicles, video cameras, tape recorders, phones, faxes, etc.). With the limited technology available, activities such as strict border monitoring and undercover operations are extremely compromised. Many sources indicated the need for increased personnel in law enforcement, immigration, and protection and welfare services. Understaffing has kept pressing issues ignored and has not allowed for the specialization that is required, especially when responding to trafficking activity. Finally, financial limitations overall have required government services to prioritize. Because of the lack of information on trafficking, minimal reporting (via *denuncia*), lack of political pressure and other factors, the issue loses in the competition for scarce resources.

Certain incentives exist in maintaining the status quo. As recent experience has taught many countries in other areas of the world, an effective response to trafficking must not only target the criminal behavior, but also provide protection, recovery and integration services to victims. It has been recommended that these human rights protection measures include provision of shelter, legal assistance, medical attention and counseling, temporary visa programs in states of destination to allow victims to recover and participate in judicial proceedings, and continued support services and vocational training programs for those who return to countries or regions of origin. For already impoverished infrastructures, these financial obligations may be too overwhelming to assume.

While appreciative of such resource constraints, this alone does not explain the extent of the neglect. Many other factors contribute to existing inaction, the most visible being the following: (1) scarcity of information on trafficking and a minimal reporting level by victims; (2) absence of the issue on regional and national agendas; (3) weaknesses in enforcement mechanisms; (4) lack of expertise and specialized services; and (5) minimal coordination between relevant actors at all levels (within agencies; between institutions; and between governments). These elements often occur together, consequentially reducing the possibility of positive intervention against trafficking, and increasing the potential for continued victimization or revictimization of trafficked women and children.

### *Information Needs*

The process of consultation and investigation in the region has revealed how relatively unfamiliar government institutions and, to a lesser extent, non-governmental agencies, are with trafficking. This lack of knowledge is not surprising, given the vast information gaps that have kept the issue largely hidden.

Existing data systems do not produce information that would assist in formulating a clear understanding of the phenomenon. Law enforcement and court records on trafficking and related crimes only reflect those cases that resulted from complaints, which for many reasons is extremely rare. Child welfare reports use the most basic classifications to register children\_either as juveniles in conflict with the law or at risk. Information that may be revealed in the course of treatment does not filter into generalized databases. Statistics on migration, where they exist, are rarely disaggregated by sex and/or age and do not report the conditions of exit or return. The health monitoring systems of sex workers and programs focused on HIV/AIDS, while providing consistent information, offer only indirect indicators about trafficking. Further, these records are not likely to include the population of trafficked women and children in the most extreme circumstances\_those unable or unwilling to access services. Currently, no statistics are available to accurately quantify the magnitude of trafficking in the region or within particular countries.

The little information that is being collected is not being meaningfully circulated. Throughout the region, researchers were told of instances where crucial information was not shared with appropriate authorities. For example, labor inspectors who knew of children working in bars and nightclubs did not coordinate intelligence with police and prosecutors; judicial authorities have failed to inform consulates of trafficking cases involving their nationals, either as defendants or victims; consulates, in turn, have overlooked notifying law enforcement authorities in their home countries, even when recruitment and other activities occurred there. Lists of suspects involved in international trafficking are often unavailable to all border posts. Finally, NGO and civil society sources have valuable information that does not always reach government actors.

A final challenge is that it appears from interviews that intelligence, even government-generated, is often more easily accessible on the black market than through official channels. In several states, prosecutors and advocates complained of the inability to respond quickly enough to reports. Coordinated raids of establishments would often find that the bar had been closed or an absence of minors that had been reportedly working there just hours earlier. Authorities suspect corruption, but little action has been taken to address the problem.

### ***Absence of Political Commitment***

Perhaps due to the lack of information, the issue of trafficking in persons, and particularly trafficking of women and children for commercial sexual exploitation, has not been adopted as a significant priority in national agendas. Some attention is beginning to emerge through policy initiatives against the commercial sexual exploitation of children. But even where counter-trafficking language is included in such platforms, it does not benefit from full explanation. Recommendations for action rarely respond to the particular nature of trafficking—the coerced movement and dislocation that differentiates it from other exploitative practices. Furthermore, these policies have struggled with lack of independent funding and frequent destabilization of their coordinating bodies throughout the region. Attention is even weaker for trafficking of women. Out of all eight states, the Dominican Republic is the only one to have assigned institutional resources to combat female trafficking.

In absence of strong policy statements, attention to the issue has been difficult to obtain. Law enforcement, immigration and welfare institutions, which juggle many competing priorities, turn to other issues. In addition, coordination between agencies is difficult absent a clear, unified vision that can recognize the appropriate roles of each institution and of civil society.

### ***Enforcement Challenges***

The application and enforcement of criminal and administrative penalties against traffickers is extremely weak in the region for a variety of reasons. First and foremost is the problem of

reporting. The prevailing attitude in policing and prosecution is that the crime of trafficking does not occur unless it is reported. In many cases, this position reflects a legal requirement that permits investigation of adult trafficking only upon receipt of an official complaint.<sup>72</sup> Since reports and complaints of trafficking involving women rarely occur, time and resources are diverted elsewhere. Even in the case of child trafficking, independent investigations do not happen unless prioritized, which rarely is the case. In addition, units are ill equipped to perform undercover operations due to lack of training, time, and technical equipment.

In practice, trafficking cases are prosecuted on the basis of a victim's statement and little else. Cooperation after initial proceedings often falters, and the majority of cases are dismissed for want of evidence. States are particularly incapable of handling trafficking cases where the victim is a non-national and lacks independent means to remain in the country. Cases will commonly be opened with an initial victim statement but abandoned after the individual is deported or returned to her country of origin. It is up to the victim to find the means to return to testify in court at the proper time.

As applied, police and enforcement actions usually result in greater consequences (positive and negative) to the victim than the trafficker, since laws applicable to the victim's circumstances are easier to apply. More regularly, instead of prosecuting traffickers, law enforcement simply remove victims. They focus on immigration-based arrests of adults, many of who may be victims, and protection-based rescues of child victims. Since criminal charges related to trafficking and other crimes have proved difficult to prosecute, especially with material witnesses unavailable, the trafficker remains unpunished.

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<sup>72</sup> However, prosecutors can initiate independent investigations into suspected trafficking of children and child prostitution.

### **Child Trafficking**

The trafficking of minors incurs a greater responsibility and burden on governments and service providers than adults due to the particular vulnerabilities of this population. The rising number of unaccompanied children in the migration process will only increase the number of potential child victims of sex trafficking.

Based on interviews, identification of children in trafficking has grown more difficult with the use of false identification documents and the counseling of minors to report to authorities that they are of age. Once identified, children rarely get the necessary attention and treatment appropriate to their experience. Government institutions charged with caring for children were ranked as some of the worst in the region, suffering from poor financing, lack of human resources (in numbers and quality) and poor organization. As reported by *Casa Alianza*, trafficked girls rescued from brothels in Guatemala City in early July 2002, were placed in prison “for their safety.” Institutions rarely offer integration programs and little to no follow-up is given to cases.

### ***Specialization Needs***

While police and law enforcement have been advancing toward establishing specialized units to handle such crimes as violence against women, child sexual exploitation, and organized crime, most of these units are poorly funded and few reach beyond the capital city of each country. Additional problems arise when one branch is specialized but investigative or other key branches remain generalized. Information is often lost or misdirected in the necessary handoffs between them.

Specialized training in organized crime, including trafficking of persons, is beginning with the assistance and cooperation of countries such as the United States and Spain. Many of those consulted, however, noted that once trained, the individuals often are not placed in positions where the training can be used, or the training is given to individuals who already handle different matters.

Changes in administration often hinder continuity in policies and services. In the course of this investigation, Nicaragua, Costa Rica and Honduras hosted presidential elections, which radically altered the governmental framework. Programs in place from a prior administration, even of the same political party, were interrupted for evaluation, if not discontinued. A high percentage of political and technical staff was replaced, sacrificing any capacity building that occurred under the prior administration.

***Lack of Regional or International Cooperation and Coordination***

Trafficking in the region most commonly involves transnational movement; yet coordinated law enforcement activities across these borders do not exist. Facilitated rescues of foreign minors may prompt an investigation by police and prosecutors in the destination country, but case information is never transmitted to law enforcement agencies in the country of origin. Even along border areas, government officials have not engaged in any bi-lateral enforcement activities. As noted by a police investigator in Nicaragua, communication between counterparts is crucial not only for information sharing, but also to better understand the human and technological resource strengths and limitations of the partner country. None of the police and prosecuting units consulted had the ability to make international telephone calls or transmit faxes. INTERPOL assists to a limited extent by providing lists of international fugitives, but few of the agents consulted view INTERPOL as sufficiently active.

Primary means of regional information sharing are through consulates, Human Rights Ombudsman's offices and non-governmental organizations. Consulates have served important liaison functions between complainants, such as parents of missing minors, and the local enforcement agencies of the host country. Complaints received through Human Rights Ombudsman's offices in one country are usually shared with the counterpart institution in the concerned country. Finally, the loose network of human rights organizations that accept complaints on these issues regularly correspond and rely on each other to investigate, transmit complaints to local authorities, or report it to media sources. These communication networks have proved extremely effective and are well poised to provide necessary protection and

integration services to victims. Nevertheless, they are limited in significant ways: the organizations and institutions often are constrained in their ability to continue with additional investigations and have no competence to pursue and arrest traffickers. Absent similar coordination between law enforcement agencies, the region's trafficking problem will only be treated but not solved.

## VI. CONCLUSIONS

Trafficking is a crime and a human rights violation that affects each country individually and the extended Central American region as a whole. Women and children are being trafficked into sexual exploitation within countries, within the region and internationally. Smuggling and trafficking networks readily exploit the region's most vulnerable citizens' economic needs and ambitions of a better life. The behavior of these criminal networks existing at all levels of organization and sophistication remains largely unchecked, further fueling the trafficking trade. Children, many who have suffered past sexual abuse, have become particularly unprotected against domestic and international exploitation rings, encouraged by a growing child prostitution market.

Traffickers work primarily by means of deception, with false promises of decent and lucrative employment in *maquilas*, restaurants, bars, hotels and homes, among others. Following these promises of prosperity, women and children are pressed into sexual servitude in order to work off transportation fees and additional debts. Control is maintained through violence and threats, debts and fines, a restriction of access to earnings, physical restraint and use of armed guards, and demonstrations of impunity through open collaboration with authorities. The initial investment in migration and the lack of viable alternatives once transported leave many women and children without options. The risk of deportation, return or institutionalization (in the case of minors) keeps many victims silent as to their condition.

In the course of trafficking, traffickers violate the following human rights of their victims:

- the right not to be held in slavery, involuntary servitude, or slave-like conditions;
- the right to be free from exploitation;
- the right to be free from cruel and inhumane treatment;
- the right to be free from violence;
- the right to be free from discrimination based on gender;
- the right to health;
- the guarantee of freedom of movement.



Societal tolerance of the commercial sexual exploitation of women and children, taboos regarding sexuality, and a culture that discourages the reporting of suspected trafficking and sexual exploitation activity contribute to the invisibility of the phenomenon.

Thus far, government response mechanisms have been non-existent or inadequate. Disinterest, corruption and constrained resources plague law enforcement and immigration sectors, which have severely limited their effectiveness. Criminal prosecutions for sex trafficking and related crimes are minimal and convictions are rare. Child and women's welfare agencies offer little to no services adequate to meet the special needs of trafficking survivors.

Overall, the region suffers from an absolute paucity of prevention, protection, suppression and integration strategies. Nascent attention has been drawn to the trafficking of children, but lack of funding and other obstacles have stalled implementation of targeted programs.

The information that is available paints a disturbing picture of criminals acting with near-absolute impunity and an absence of identification, treatment, and protection of victims. Many forums for action, advocacy and attention are not being utilized at the moment, in part, because trafficking in persons has not been placed on the national agenda of the majority of countries in the region. These fora, if mobilized, can generate awareness, help to harmonize data collection from different institutions and countries, contribute research, draft policy and legislative reform, and articulate strategies for victim protection and integration, prevention and sanction.

## VII. RECOMMENDATIONS

In order to be effective, efforts to address trafficking require that the states adopt tactics that respond to the specific dynamics of the problem. Trafficking involves both intra-state and international activities involving vulnerable populations largely unable to avail themselves of existing protection mechanisms. This requires a state strategy that attacks the problem from a regional, international and local level.

### A. At the Regional Level

**1. Create a Regional Framework.** As this research and the long history of sex trafficking in this region reveals, a common understanding of trafficking and agreement on basic principles does not yet exist. Yet the necessary coordinated response cannot proceed without such an agreement. Since a variety of international instruments provide a useful framework through which to address this problem it is recommended that governments:

*a. Adopt the UN Convention on Transnational Organized Crime and its Trafficking Protocol.* The UN Convention on Transnational Organized Crime and its Trafficking Protocol, already adopted by the international community and expected to enter into force in the near future, can be used to introduce a uniform language to facilitate the creation and implementation of regional strategies. Ratification of these documents will give meaningful guidance to States as they begin to address trafficking in the region.

*b. Implement Existing Related Treaties.* Recognizing that the Organized Crime Convention and Trafficking Protocol were designed to assist states in combating international crime, the provisions of the Trafficking Protocol should be understood as complementary to the human rights protections related to trafficking contained in treaties universally ratified by the region's states: Convention on the Rights of the Child, ILO Convention No. 182, Convention on the Elimination of All Forms of Discrimination Against Women, and the Inter-American Convention of Belem do Para. Toward this end, the Recommended Principles and Guidelines on

Human Rights and Human Trafficking issued by the UN High Commissioner for Human Rights will offer important guidance.

*c. Adopt the Inter-American Convention on International Traffic in Minors and the UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.*

*d. Coordinate through the Central American Parliament (PARLACEN).* Given the similarities in existing legislation on trafficking, bringing existing laws into conformity with each other and enhancing those laws where necessary may be facilitated through PARLACEN and the development of model legislation against trafficking that includes all forms of exploitation.

**2. Regional Coordination.** Trafficking in the countries that participated in this study has been shown to have a heavy regional dynamic. Particularly between the states of Nicaragua, Honduras, El Salvador, Guatemala and Belize, trafficking occurs in a manner ignorant of the borders that lie between the states. As has been shown, the required institutional responses from law enforcement, immigration departments, courts, child welfare agencies, women's protection agencies and others are still constrained by national boundaries. In order to address these problems it is recommended that:

*a. Bilateral and Multilateral Agreements.* Regional mechanisms and bi- and multi-lateral agreements in these areas are necessary tools that work despite the physical separation of states. Based on current trafficking activity, priority issues for regional agreements include:

- law enforcement and immigration cooperation and exchange of intelligence;
- safe and secure return of trafficked citizens;
- special procedures for interventions, treatment, protection and return of trafficked children within the region;
- mechanisms for the participation of non-national material victim-witnesses in criminal and other legal proceedings; and
- regional information collection systems and databases.

***b. Bilateral Forums and Organizational Collaboration.*** Existing regional mechanisms and forums<sup>73</sup> governmental, non-governmental and mixed can play an important role in facilitating dialogues between the States. In addition, the coordination between non-governmental organizations that currently contribute to combating trafficking can be further encouraged; partnerships between state and non-state actors should also be enhanced.

## **B. At the National Level**

The trafficking of women and children for purposes of commercial sexual exploitation in the region has demonstrated itself to be a complex and sensitive matter affecting the core dignity and human rights of its victims. Accordingly, strategies to combat trafficking activity will need to engage and address the diversity of issues that contribute to its existence. Broad, coordinated actions between all relevant actors in law enforcement, immigration, social services, health, education, labor, foreign affairs and human rights will assist in responding to this characteristic of trafficking.

**1. Create a Comprehensive Information System.** In order to develop policy and measure the expenditures of resources and the achievement of identified goals, it is necessary to first develop accurate reporting systems to measure the problem. To do this, it is recommended that governments create a centralized information management system to collect, assemble, analyze and distribute reliable data on trafficking. Such a data collection system must be sensitive to how information is kept in other systems, including that:

- Information can be registered by a number of different institutions: law enforcement, migration authorities, health and labor departments, ombudsman's offices, and the justice sector.
- Data may be hidden or obscured by the particular registry systems of an institution.
- Available information may not be collected due to incomplete forms and other deficiencies.

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<sup>73</sup> See Regional Mechanisms in the Appendix.

**2. Establish an Integrated, Policy Framework.** Broad, coordinated actions between all relevant actors in law enforcement, immigration, social services, health, education, labor, foreign affairs and human rights will assist in responding to the multidimensional characteristics of trafficking. As has been done on the issue of commercial sexual exploitation of children and child labor, a National Action Plan on Trafficking in Persons can contribute to awareness, encourage reporting, articulate clear policy aims and assist in information sharing between institutions. It is also a means to further strengthen and enforce international legal obligations effective throughout the region such as those found in the Convention on the Rights of the Child, ILO Convention No. 182, CEDAW and the Inter-American Convention of Belem do Para. Plans can also reinforce existing trafficking provisions in National Plans against Commercial Sexual Exploitation of Children and other policies.

**3. Provide Effective Public Leadership.** Experience with policy development and implementation in the region has demonstrated the importance of strong, independent leadership of a coordinating body and the need for independent financial resources to underwrite the plan. An independent, staffed and financed technical group to oversee and manage this process is important. Given the constantly changing features of trafficking, it will be crucial to periodically review and update policies, plans and initiatives.

**4. Tailor Programs to Meet the Needs of Trafficked Persons.** As repeatedly noted, the evils of trafficking cannot be fully addressed\_ either in terms of prosecuting traffickers or remedying the harms of trafficking\_ without careful attention to the needs of the trafficking victims. It has been well documented that the specific needs of trafficked persons are unique as compared to other crime victims. In particular, the fact that trafficking involves dislocation results in the unavailability of the victim's usual sources of protection. This includes government services that are unavailable to victims trafficked abroad.

*a. Training Officials.* The first challenge is to identify victims and direct them towards appropriate care. Sensitive and trained protection officers at all points of a trafficking experience (from recruitment to recovery) can help ensure that needs are

recognized and responded to. Training should target those officials most likely to come in contact with victims including:

- Consular Officials: Consular officials have been shown to work at the forefront of this problem. Those likely to interact with victims should receive appropriate training.
- Service Providers: Training for child social workers in areas of welfare agencies where child victims may receive evaluation and attention.

*b. Provide Transition Integration Programs.*

Programs such as the following need to be developed:

- Well-funded and effective integration programs to meet the specific needs of trafficked victims. Participation of adult trafficked persons should be voluntary.
- Tailored health services for returning women and children including physical and psychological care.

*c. Develop Supports for Victim Participation in Prosecutions.* Many victims are unable to participate in prosecution efforts due to ignorance or problems relating to their status within the country to which they have been trafficked. Programs need to be developed to counterbalance these circumstances, including:

- Consular treatment protocols. Consulates should establish a uniform protocol to handle trafficking cases. This would include adopting measures to register cases and facilitate victim participation in legal proceedings against traffickers, if they so desire.
- Services to provide orientation and accompaniment through legal proceedings.

## APPENDIX

### A GLOBAL PERSPECTIVE ON TRAFFICKING

*By M. Cherif Bassiouni*

To most people, slavery is a terrible relic of the past; yet approximately two million women and children are presently held in sexual servitude throughout the world, half of who are estimated to have been trafficked by force, deceit, or economic coercion. In addition, sources suggest that between 100,000 and 200,000 women and children, some as young as six years old, are trafficked across borders for the purpose of sexual exploitation each year. Many of these individuals never reach the age of thirty. They die of AIDS and other sexually transmitted diseases, ill health, physical and psychological abuse, violence, and drug abuse. Trafficking in persons is one of the most compelling human rights problems of our time, yet this tragic situation has prompted minimal to no response from most governments around the world.

The phenomenon is fueled by several factors, among them poverty, conflict and political upheaval, gender attitudes leading to inequality in opportunity, and the general indifference to the plight of women and girls. The advent of globalization has exacerbated the problem by creating what some call market opportunities for traffickers and exploiters in human beings. Liberalized borders and the ease of movement of people across them have increased opportunities for irregular migration. When this illegal smuggling of human beings across borders is connected to their sale into sexual servitude, the activity becomes significantly more profitable. Trafficking in persons constitutes the third most lucrative international criminal activity after drugs and arms trafficking.

Current government policies around the world only encourage or facilitate trafficking and further victimize trafficked persons. While the underground nature of trafficking makes prosecution of those responsible for the trade almost impossible without the cooperation of the trafficked individual, most victims have no incentive to collaborate with governments in identifying those who have exploited them. In turning to authorities, they risk detention, their own prosecution for prostitution and other crimes, involuntary deportation or repatriation, and reprisals from traffickers. They rarely receive or have access to legal assistance, medical attention, and other support. This policy of

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criminalizing women in sexual servitude not only re-victimizes them, it often forces them to remain under the control of their exploiters.

Because of the high profitability of this activity, it has become part of small and large criminal organizations in many countries. Smaller organizations limit themselves to cross-border illegal smuggling of persons or combine that activity with the sale of women and children to other organizations. Larger organizations that directly exploit trafficked persons may also involve themselves in the cross-border smuggling activity.

Regional distinctions in form, incidence and manifestations exist. The patterns of trafficking from Africa to Europe differ from those within Latin America, Southeast Asia or the Indian Sub-Continent. Invariably, however, the end result is that women and children become hopelessly trapped in sexual slavery without much chance to extricate themselves from it.

Unfortunately, much of the energy channeled into combating this horrendous practice continues to be absorbed by the ongoing debate over consent. Some argue for an irrefutable presumption of invalidity to any agreement to engage in prostitution and other forms of sex work, based on the exploitative nature of the job. Others support this stance by viewing agreements to work as a sex provider as the result of economic coercion or abuse of the economic vulnerability of the individual. Those who stand on the opposing side of the debate believe that women can voluntarily agree to be sex workers and that their choice should be recognized.

Unlike the case with women, consensus does exist as to the inability of a minor to give valid consent to sexual exploitation. Even this certainty, however, is loosened by the differing ages of majority and social conceptions of when a child becomes an adult around the world.

Many governments are reluctant to acknowledge the existence of sexual servitude and trafficking in their countries. Other nations avoid the subject so as not to embarrass countries where the practice is significant, yet untreated. In countries where prostitution is legal or tolerated, sex trafficking is hidden by a pervasive assumption that all



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prostitution is consensual sex for money. As a result, sexual servitude is given the appearance of legitimacy.

A lack of concerted attention and response to trafficking around the world has occurred for several reasons. Among them are the following:

First, victims rarely denounce traffickers. Trafficked persons are held in locations far from any support networks, often have their identification papers and travel documents withheld, and may be threatened by their keepers. In addition, traffickers have power over their victims because in many instances they are from the same country of origin and have the capability of threatening or harming members of the victim's family.

Second, trafficked women and children often are from the lowest economic and social strata of their societies, and their families have neither the economic nor the political capability of bringing about pressure on public authorities to try to save their loved ones from this terrible fate. In some societies, it is in fact poverty that drives families to sell their children into what they frequently believe are legitimate jobs.

Third, national laws, policies, and practices have engendered a series of disincentives against aggressively combating trafficking. Most national criminal laws are inadequate to deal with this contemporary phenomenon. Even when such laws are sufficient, policy considerations make it difficult to reach the traffickers, exploiters, and pimps. Law enforcement and prosecutorial authorities in most countries place prostitution at the lowest end of their enforcement priorities. Corruption of law enforcement and immigration officials also contributes to the lack of investigation and prosecution. Furthermore, many of these victims may be in need of medical and social services which states are reluctant to provide.

Finally, economic, racial, and gender prejudices are the unarticulated premise for the neglectful way in which national laws and policies respond to this widespread criminal phenomenon. This is particularly true in developing and least developed countries, where women and children are generally the weakest members of society.

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Whether as a result of desperate economic conditions or in the hope of acquiring better ones, women and children are deceived into believing that offers of work in another country are legitimate. The lure of a relatively well paying job in a foreign country which does not require language or other skills, such as domestic help, is enough to lead many unsuspecting women and children into the hands of recruiters and traffickers.

No matter how these women and children are recruited, they find themselves transported across borders into unfamiliar countries, where they have no support or contacts, and whose language they do not speak. They are then forced into sexual servitude in places such as brothels, bars and massage parlors, from which most of them cannot leave. Their exploiters beat them, mistreat them, and decide what type of sexual services they are to perform and the manner they are to perform them. They determine their dress, food, working hours, and everything else that touches their lives. Brothel or bar owners decide if, when, and what type of medical treatment the women will receive in case of illness, venereal disease, and pregnancy. All associated costs usually are charged to the trafficked woman or child, further increasing the debt to exploiters. Owners also sell them to other sexual exploiters. In most cases, these women and children can never break out of their bondage. A common practice of traffickers is to addict these victims to drugs as a way of subduing them and as a means of control. In short, the hope and promise of a legitimate job turns into an abhorrent form of modern slavery.

Sometimes, these women and children rebel, either before entering into the cycle of bondage or during its course. If they do, they may be subjected by their captors to severe beatings and terrorizing acts such as rapes involving additional physical torture. If resistance continues and the victim is killed, no one questions it; they are considered to be disposable human beings.

Exploiters benefit from almost total impunity. Victims have no one to turn to for help. Law enforcement officials frequently act in collusion with traffickers and exploiters. Even if a victim succeeds in escaping, the agents from which she seeks protection often return her to

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her captors. The resulting despondency and despair is beyond description.

The absence of empirical data has allowed governments to deny this criminal phenomenon and systematic human rights violation. The United States is among the few countries to have taken ambitious steps toward eradicating trafficking of all forms within its borders. After a Central Intelligence Agency report estimated that 50,000 women were illegally trafficked into the United States for sexual exploitation, Congress reacted with new legislation designed to penalize traffickers, protect victims and prevent future trafficking activity. The resulting Trafficking Victims Protection Act was signed into law in 2000. As a result, the U.S. Department of State has established a new office staffed by experts to monitor this activity abroad and develop means to combat it. In June 2002, the State Department issued its second annual report on trafficking in persons around the world. These and similar efforts should be fully supported through proper funding and staffing and encouraged as models for other nations.

In December 2000, the United Nations adopted the Convention on Transnational Organized Crime that includes a Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Addressing all forms of trafficking in persons, including for purposes of sexual exploitation, forced labor and organ removal, the Protocol is the most comprehensive international instrument to date. Despite its restricted applicability to trafficking of a transnational nature that involves an organized criminal group, it will be a valuable tool in the campaign against this exploitative practice. Unfortunately, neither the Convention nor the Protocol is in force. As of October 2002, only twenty-four nations had ratified the Convention and eighteen nations had ratified the Protocol. Forty ratifications are needed to bring the Convention into effect.

Other conventions dealing with slavery, slave-related practices, traffic in persons, and the international exploitation of prostitution have proven inadequate. A telling sign is that only twenty-five percent of the world's countries have ratified the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

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The United Nations, European Union and European Parliament have expressed concern for human trafficking activity, as have a number of national governments, which has engendered an increased interest in combating this worldwide phenomenon. This attention should incorporate programs to more fully document the realities of trafficking. Empirical data will make it impossible for governments to avoid facing this criminal phenomenon and the terrible toll it takes on the lives and dignity of the world's most vulnerable people\_women and children. Only a surge of public indignation by civil society can lead to putting an end to this cruel form of modern human slavery.

**MEETING OF EXPERTS  
ON TRAFFICKING OF WOMEN AND CHILDREN  
FOR SEXUAL EXPLOITATION IN THE AMERICAS**



*INTER-AMERICAN COMMISSION OF WOMEN (CIM)  
INTER-AMERICAN CHILDREN'S INSTITUTE (IIN)  
INTERNATIONAL HUMAN RIGHTS LAW INSTITUTE (IHRLI)  
at DePAUL UNIVERSITY*



**April 11, 2000**  
**Organization of American States**  
Padilha Vidal Conference Room  
1889 F Street, N.W. Washington, D.C.

DEPAUL  
UNIVERSITY



PROGRAM

**9:00a.m. - 10:30a.m.                    Inauguration**

Carmen Lomellin, Executive Secretary,  
Inter-American Commission of Women (CIM/OAS)

**Opening Remarks:**

Ambassador Luis J. Lauredo, Permanent Representative of the United States to the  
Organization of American States

M. Cherif Bassiouni, President,  
International Human Rights Law Institute (IHRLI), DePaul University

**Remarks:**

Alejandro Bonasso, Director, Inter-American Children's Institute (IIN/OAS)

Claudio Grossman, First Vice-President, Inter-American Commission on Human Rights  
(IACHR/OAS)

Jane Connors, Chief of Women's Rights Unit,  
Division for the Advancement of Women, United Nations

Guillemette Meunier, United Nations Children's Institute (UNICEF)

Ann Jordan, International Human Rights Law Group

**10:30a.m. - 10:45a.m.**

**Coffee Break**

Distribution of written forms for observations and comments

**10:45a.m. - 12.30p.m.**

**Open discussion and debate**

Moderator Prof. M. Cherif Bassiouni

**12:30p.m. - 2:00p.m.**

**Lunch**

(Light lunch will be provided)

**2:00p.m.- 4:00p.m.**

**Continuation of discussion and debate**

Participants will consider and debate strategies to be recommended with respect to the development of the project and its future work in the field.

**4:00p.m. - 5:00p.m.**

**Final Conclusions**

# ORGANIZATION OF AMERICAN STATES



## MEETING OF EXPERTS ON TRAFFICKING OF WOMEN AND CHILDREN FOR SEXUAL EXPLOITATION IN THE AMERICAS



April 11, 2000



DEPAUL  
UNIVERSITY



### Message from His Excellency, Kofi A. Annan, Secretary General of the United Nations

(English only)

**THE SECRETARY-GENERAL****Message to the Meeting of Experts on the Trafficking  
of Women and Children for Sexual Exploitation.****OAS Headquarters,****11 April 2000**

It is a pleasure to convey my greetings to OAS Secretary-General, His Excellency, Cesar Gaviria Trujillo, to Mr. Cherif Bassiouni, President of the International Human Rights Law Institute at De Paul University, and to the experts and representatives of governmental and non-governmental organizations who have gathered here today in preparation for the International Human Rights Law Institute's study on the trafficking of women and children for sexual exploitation in the Americas.

It is difficult to calculate the exact number of women and children whose survival is endangered by this scourge. What is clear however, is that this phenomenon is increasing worldwide, both in its extent and in its scope. The United Nations Office for Drug Control and Crime Prevention estimates that traffickers move as many as 4 million illegal migrants each year. Many of those trafficked are women and children who are kidnapped, coerced, or falsely lured away from their families and into a life of forced prostitution.

Children are also favoured targets for sexual exploitation. Although accurate estimates of the number of children being trafficked are not available for all geographic regions, incidences of trafficking in children for the purpose of sexual exploitation into western countries such as Canada and the United States have been widely documented by organizations such as UNICEF, the Office of the United Nations High Commissioner for Human Rights and the International Organization for Migration. Trafficking within and from countries that will be examined in your study such as Argentina, Brazil, Colombia, Costa Rica, the Dominican Republic, Jamaica, Mexico and Uruguay has also been documented by INTERPOL and other NGOs.

Such numbers demand a decisive and coordinated international response to address both causes and consequences. For all its potential benefits, globalization has also provided the environment for a growing internationalization of criminal activities and allowed multinational criminal syndicates to significantly broaden the range of their operations. Increasingly, traditional drug and contraband smuggling routes are being used to move people. The countries of destination are primarily rich countries where there is a market.



The United Nations is also concerned that the presence of military personnel, both national and international, deployed to help bring peace and humanitarian assistance to global "hot spots," has the unintended consequence of creating new markets which encourage traffickers to move into new regions. Poverty, war, and persecution, which leave the poor and women and children especially vulnerable to exploitation, have also contributed to the increase in this phenomenon.

Action to combat this problem must therefore be undertaken on many fronts. Various UN agencies are currently working to create new structures for collaboration between police, immigration, victims' support networks and the judiciary both within countries and internationally; to campaign for new laws to protect women and children from all forms of discrimination; and to formally integrate child protection into every aspect of IN peace operations. These are crucial first steps.

Although attention is generally paid to the prevalence of the problem in South East Asia and Eastern Europe, it is just as much an issue in the Americas, Western Europe, Asia and Africa. Given the vast geographic area across which traffickers operate, and the wide variety of contexts in which the trafficking of women and children occurs, it is vital that the issue be properly analyzed so that we can find solutions which reflect the particular circumstances of a given country or region. Your study is an important element in this fight.

I would like to commend the International Human Rights Law Institute and De Paul University for taking this initiative, and the Inter-American Commission of Women and the Inter-American Children's Institute of the Organization of American States for their active cooperation in this study. I wish all of you success in your important work.



Kofi A. Annan

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**Meeting of Experts on Trafficking of Women and Children  
for Sexual Exploitation in the Americas  
April 11, 2000**

Remarks of Dean Claudio Grossman  
First Vice-President, Inter-American Commission  
on Human Rights<sup>1</sup>

First of all, I would like to thank the Inter-American Commission of Women, the Inter-American Children's Institute and DePaul University for inviting me to be here in my position as Vice-President of the Inter-American Commission on Human Rights. I welcome and join the initiative to place a fundamental human rights issue on the table and to also reinforce the importance of that issue: the trafficking of women and children for sexual exploitation in the Americas.

The Inter-American Commission (IACHR) develops distinct initiatives aimed at promoting and protecting human rights. I would like to mention some of them in order to introduce some means of action into the discussion regarding what can be done when faced with human rights violations as flagrant as the ones that we deal with at this meeting today.

Firstly, one of the activities of the Inter-American Commission is to conduct on-site visits to specific countries. The use of on-site visits by the Commission during a period of systematic and massive violations of fundamental political rights is one way to plant the human rights flag in a country and to mobilize and affect public opinion about what is happening in that country. On this subject, it is always important to present legitimate and accurate reports about events; consequently, the Inter-American Commission's public report

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<sup>1</sup> This text is based on oral remarks presented at the Meeting of Experts on April 11, 2000 at the OAS in Washington, DC. The presentation and original text were in Spanish. Translated by the International Human Rights Law Institute.

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is a way to establish that there were disappearances and summary executions in the face of denial by many countries that these acts occurred. With the change in the region's conditions, the on-site visits, except in those cases with massive and systemic violations of political rights, have been redefined and are now devoted primarily to specific categories of rights or are linked to our case system. It is not inconceivable that in the future there could be an on-site visit of the Inter-American Commission to investigate the issue of trafficking of women and children for sexual exploitation, if a serious problem is alleged in a particular country. I am pleased to tell you that during its periodic sessions in February-March [2000], the IACHR conducted a hearing on the subject of child exploitation at the request of different non-governmental organizations (NGOs). This was at the specific request of the NGOs. At the time, the NGOs requested the realization of on-site visits to Central America to observe this subject. Accordingly, the topic was placed on the agenda.

A second activity of the IACHR is to administer a system of cases or individual petitions from individuals who consider their rights violated under the American Convention or the American Declaration. Twenty-seven countries have ratified the Convention, and the rest can be supervised under the American Declaration. The case system is managed according to the juridical tradition: there are hearings; there are attempts to reach a friendly settlement; and afterwards there is a report. If the country decides not to implement the recommendations of the Commission, there are two possibilities: take the case to public opinion; or bring the case before the Inter-American Court of Human Rights, which can only be done when countries have accepted the Court's contentious jurisdiction. The Commission has taken more than thirty cases to the Inter-American Court. Again, the use of cases is a way to place the subject in the public eye and to achieve binding decisions obligating State compliance. I wanted to mention a case relating to children\_I am not referring to sexual exploitation\_that has gone before the Inter-American Court of Human Rights: one such case is *Amstram Villagrán Morales and Others* against the State of Guatemala for the killing of children, street children who beg, etc. In this case, the Commission's position was that business owners paid the police to exterminate these children so that their businesses would not suffer. There are hundreds of thousands, if not millions of street

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children and one way to promote and achieve change is through the Court's decisions and advancements in this direction. Again, cases involving sexual exploitation of children and women could fall within the individual petition system and could proceed all the way to the Inter-American Court of Human Rights, which is the most effective component within the system.

These types of proceedings fulfill different roles, above all to avoid harm. In this region we have seen the emergence of a political system where relatively free elections occur in the majority of the countries within the framework of judicial powers that are neither modern nor efficient; police who do not obey the law and resort to methods that are incompatible with democracy; overarching poverty; the existence of vulnerable groups like women, children, indigenous populations, and disabled persons; and a culture built on the systematic denial of values by authoritarian governments, and what has occurred far back into history. In this context, the case system is not only a way to provide an early warning that a country has begun to deteriorate and could once again open up possibilities of having extra-constitutional actors intervene in the country's affairs, but it is also a way to begin broadening democracy, to begin extending democracy, and to transform the Inter-American System into a system that permits the expansion of values. There have been many advances in this sense in terms of the modification of norms of contempt that gag the press, of the illegitimate searches of women who visit their loved ones in the prisons, in terms of what is detention and a reasonable period of time to be detained, etc., with a jurisprudential impact that will broaden and strengthen democracy.

Again, cases concerning sexual exploitation of women and children could succeed in broadening IACHR's manner of action. The cases that are taken could be based on express provisions of the American Convention of Human Rights. In reviewing all the Convention's provisions, the trafficking of women and children violates the following: 1) the right to juridical personality (this will deal with children of course); and 2) the right to personal integrity, as stated in Article 5, paragraph 1: "Everyone has the right to have their physical, psychological and moral integrity respected". Paragraph 2 states: "No one shall be subjected to torture or to cruel, inhuman, or

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degrading punishment or treatment.” When a country offers no adequate protection to infants and children who are the repeated objects of violations and of sexual abuse and are given in to corruption, in a sense, we see cruel, inhumane or degrading treatment, which could lead to torture.

The Inter-American Commission was one of the first bodies to establish that rape is a form of torture—an issue that has been dealt with by international tribunals for international crimes. Here, the right to personal integrity is compromised, and even though a case has not arisen on this issue to date, it could be addressed and resolved jurisprudentially. Article 6 [of the American Convention] prohibits slavery and servitude. Article 7, the right to personal liberty, deals with the freedom of movement, and if the laws of a State do not provide this guarantee, that could also be challenged—the principle of legality, the laws of a country should prohibit child trafficking. Again, non-compliance with the law violates Article 9 of the American Convention. Article 11, according to which every person has a right to have their honor respected and dignity recognized intrinsically becomes vulnerable. Family protection (Article 17) is also made vulnerable. The right to one’s name in specific cases (Article 18) could also be violated. Rights of the child (Article 19) specifically states that every minor child has the right to some measure of protection because of his condition as a minor, on the part of his family, society and the state. I would like to hear of a case involving trafficking of children that does not involve a violation of Article 19. Without any prejudgment, it does not seem, in the abstract, that someone could make an argument that child trafficking does not violate this article of the American Convention. Article 23 on political rights is also pertinent. Sometimes a superficial vision exists as to what a political right is, *e.g.* to vote and to be elected. But Article 23, paragraph 1, states “Every citizen shall enjoy the following rights and opportunities to take part in the conduct of public affairs....” Could children that are exploited or transported to different countries participate in those public affairs? No, it does not appear so. This is the principle of equality before the law, of legal protection, and so on.

In addition, I would like to call your attention to the following: Article 29 of the American Convention makes other international

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treaties, even treaties concluded outside the hemisphere, applicable to the interpretation of the Convention's norms. In addition, the Commission and the Inter-American Court have jurisprudentially developed the principle that human rights treaties should be interpreted in accordance with their object and purpose, which reflects the norms of the Vienna Convention on the Law of Treaties, and that the purpose and object of a human rights treaty is the protection of the human person. In case a doubt exists as to interpretation, it is resolved in favor of the people and not the State. Accordingly, there are jurisprudential norms that validate an interpretation within the terms of the Convention that protect children and women. In addition, the drafters of the American Convention gave importance to those subjects in that they established that certain rights could not be restricted, even in situations of emergency, when the continuation of civilized life in a country is threatened. It is interesting to read Article 27, paragraph 2 of the American Convention that makes Article 19 on the rights of the child non-derogable even in an emergency situation. (Other similarly protected rights include: the right to nationality; the principle of legality; the right to recognition of juridical personality; the right to personal integrity; and the prohibition of torture and other cruel, inhumane and degrading treatment.)

I also wish to point out that under Article 1, paragraph 1 of the American Convention, the Inter-American Court of Human Rights established the following ruling in the case of *Velasquez Rodríguez*: that it is the duty of the State to not only abstain from violating human rights but it is the duty of the State to create a legal order in which compliance with the human rights established by the American Convention is actually guaranteed. In this way, state responsibility exists when these rights are violated and also exists if a legal order does not exist that requires and guarantees compliance with human rights. This includes women who are objects of the sex trade and children who are objects of sexual exploitation in the region.

Now, I could continue by giving you a legal analysis with respect to the American Declaration of Human Rights that also contains similar norms, or the Additional Protocol of San Salvador that has come into force and also contains norms that are violated, as well as the Belem do Para Convention among other agreements. I won't bore

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you with respect to that. But I would like to point out that it is fundamental to understand that legal norms exist which allow the case system to function. Allowing on-site visits of the Inter-American Commission to be redefined, in a way that makes such visits available and specifically aimed at the issue of sexual exploitation would be an important step. Regarding on-site visits, I also want to say that the following must be achieved: that when there is a on-site visit to evaluate the human rights situation in general in a country, a chapter regarding the issue of exploitation of women and children should be added to the report. The Commission has been expanding the reports it provides regarding its on-site visits, and it not only refers to the situation of civil and political rights in a country, but it also refers to the economic, social, and cultural rights. For example, the issue of women and children's rights has been incorporated. I believe that including the issue of sexual exploitation, specifically, is another very important way of placing it on the agenda, and there have been some movements in this direction. But this needs to be done as a central procedure.

I would like to say that another possibility is for the Inter-American Commission on Human Rights to offer up its system of rapporteurships through the Rapporteur on Children's Rights and the new Rapporteur on the Rights of Women, Marta Altolaguirre. I served in that position for several years, and we issued a report regarding the compatibility and incompatibility of the laws and practices of the hemisphere with the Convention and American Declaration of Human Rights. The advantage [of the rapporteurship] is that because it deals with freely established treaties, norms exist that can be mobilized. Currently, the Rapporteur on Children's Rights is Hélio Bicudo, current President of the Human Rights Commission, and I believe that he could also be involved in some activities. I would like to tell you, nevertheless, that one who lacks priorities does not have a program, and there is only one component of the Inter-American system that can do things that no other part can do. And one of the things that we can do that no other component can do is manage the case system.

Facing insufficient resources, many times we face what some of us call a situation of "Sophie's choice." I don't know if you saw this movie where a mother has to decide which of her two children will die. But many times we find ourselves in that situation: there are close to

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600 cases presented annually to the Inter-American Commission and with inadequate resources, but with very important support from democratic states in the hemisphere, and with a significant legitimacy regarding men and women from this hemisphere, the Commission has a voice that would otherwise not exist to correct domestic problems. But at the crux and center of all these things a tendency exists to immediately attack the Commission, in circumstances where cases are before the Inter-American Commission, and there is a threat of maintaining the Commission in light of continuous efforts by some to reduce its legitimacy, and other sectors of the Organization of American States. As an early warning system, we are first in line to face cases that arrive and begin to show that things are going poorly. Afterwards, others will join, but those first moments are very stormy, I would say. Nevertheless, our significant legitimacy has allowed us to progress, even with sizeable resource problems that force us to respond to all our cases in only two sessions annually. The Inter-American Court has announced that it is suspending its June session due to budget cuts. Therefore, I believe all these issues should also be discussed.

I would like to conclude my commentary with the following: to begin with, I believe discussing matters on hemispheric terms is positive because it calls attention to the issue, it defines the agenda, captures imaginations, and makes things a priority. At the same time, the hemisphere has had an extensive imagination and tradition, combining excellent declarations with a totally incompatible practice—that is fundamental. This is derived from the time when laws and orders were received from the King of Spain, and they were placed on one's head, and they said, "It is obeyed but not carried out." At that time, great creativity existed in having declarations without practice. Now, this does not imply that we should not have declarations because if there are no declarations or other normative instruments then there is a legal void. But I believe things need to run parallel, because many times we set out in one direction that results in the creation of a document and the provisions of that document are not carried out. With the knowledge that non-compliance occurs, I believe we should work in a parallel fashion regarding declarations with mechanisms of supervision and control. With respect to the mechanisms of supervision and control, one possibility is the use of the Inter-American



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Commission's case system with the goal of resolving ten to fifteen cases regarding the exploitation of children.

There is an important quality to the legal strategy of the case system: that issues of abstract character are transformed into concrete situations containing a first and last name. In addition, there is a very important component to mobilizing public opinion: that is placing a first and last name on every individual that suffers a violation of rights. In case of the disappeared, one of the reasons why the Chileans who fought for democracy in Chile managed to mobilize international public opinion regarding the disappearances is because they managed to place a first and last name along with a historical account on every single disappearance. And if all people count, placing a name on all of these women and children is also very important, and these should not be abstract. Now a strategy of cases allows this; it permits the discussion of concrete stories that both capture the imagination and provoke the horror of humanity. Then, I believe that concurrent with any resolution, a strategy of cases that mobilize public opinion must be considered.

I believe it is also important to think in terms of instruments or institutions that work together because unfortunately these problems are not resolved at one time. What are permanent institutions or instruments? We have the Inter-American Commission of Women, the Children's Institute, DePaul University, NGOs, and the Inter-American Commission on Human Rights. Organizing an annual action-oriented conference that takes note of or revises our current status\_ where we are going\_ and mobilizes and coordinates efforts in one direction, is another idea worth considering. Around that strategy meeting, a press conference could also be held so as not to waste time. And many organizations would seek to participate even without resources.

I would like to end by expressing the following: we have heard many times that poverty is a structural issue, and endemic, offering an excuse for everything. Traffickers are not poor. Traffickers are not in this because of poverty, but because of exploitation and the desire to reap big fortunes. The penalization and criminalization of those who do this cannot be further delayed. Poverty cannot be used as an excuse. Ortega y Gasset once said that every one of us is "ourselves

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and our circumstances,” but this expression leaves room for individual freedom as well as the ability to change the circumstances. Not only is this a matter of great importance, of priority importance, but the future of this region is on the line, and therefore I believe we should give it the importance it deserves. Once again, I appreciate the invitation to speak here today.

Many thanks.

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**Meeting of Experts on Trafficking of Women and Children  
for Sexual Exploitation in the Americas  
April 11, 2000**

Remarks of Guillemette Meunier  
United Nations Children's Fund (UNICEF)<sup>1</sup>

I am very pleased to join you today for this important meeting of experts and to have this opportunity to offer UNICEF's perspective on trafficking particularly with regard to the implementation of international standards and their impact on the study that will be conducted on trafficking of women and children for sexual exploitation.

The issue of trafficking of children and women, especially related to sexual exploitation, has attracted increasing attention from the international community as a whole. Today, trafficking in human beings has become a large-scale industry, especially in its most virulent form—the trafficking of children for sexual purposes. As UNICEF stressed in its 1997 Progress of Nations, more than one million children, overwhelmingly female, are forced into prostitution every year. Built on greed and the abuse of power, the commercial sexual exploitation of children and women has become a worldwide, multi-billion-dollar industry, fueled by extreme poverty, a growing demand for the kind of cheap and easily exploitable labor and the rapid expansion of trafficking operations, often aided and abetted by organized crime. Colleagues fight over the question of definition, claiming that it is not always appropriate to associate trafficking of children with trafficking of women. I will focus on children.

In many places, younger and younger children are being sought for sex in the mistaken belief that clients can lessen their risk of HIV infection. Further, it should be noted that this trafficking of children and women for sexual purposes is increasingly international in nature, with women and children trafficked across borders. Such

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<sup>1</sup> This text is based on oral remarks presented at the Meeting of Experts on April 11, 2000 at the OAS in Washington, DC.

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flagrant violations of children's rights constitute a modern form of slavery, and there is an urgent need for international cooperation to counter this illicit trade.

The children most likely to be targeted for sexual exploitation are girls, especially members of ethnic minorities, stateless children, and children in refugee camps. But both boys and girls are vulnerable to sexual exploitation. The situations they wind up in are tantamount to slavery. Forced labor, forced prostitution, illegal adoptions or involuntary marriage cause human beings to be stripped of their rights. Often, they have little recourse in the law; they are too fearful of further abuse, including abuse from authorities.

The effects of sexual exploitation of children are profound and may be permanent. Normal sexual, physical and emotional development is compromised. Self-esteem and confidence are undermined. Violence, drugs and sexually transmitted diseases only heighten their vulnerability. Even if trafficked children return home, they are likely to be stigmatized, ostracized by their families and communities. At the same time, the vast majority of sexually exploited children are denied their right to education.

Four years ago, in Stockholm, scores of governments represented at the World Congress against the Commercial Sexual Exploitation of Children sent a clear and unequivocal message: that this gross violation of the human rights of children cannot be allowed to continue. Governments and civil society came together to affirm, without compromise, that children are not property to be bought and sold; that their human rights are to be regarded with utmost seriousness and that their voices must be heard in the fulfillment of those rights.

At the same time, it was recognised that there is no single remedy to the complex problem of child commercial sexual exploitation and that solutions must arise from the diverse national, local and cultural realities in which the commercial exploitation of children is grounded.

In its standard-setting activities, the international community has also demonstrated concern for sexual exploitation, forced labor and

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related issues, including contemporary forms of slavery with specific reference to children. These instruments have been drawn up in different contexts from human rights to humanitarian law. Thus, various international instruments are relevant to the consideration of the question of trafficking of persons generally.

It must be recalled that different international instruments already exist:

- the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others continues to be the main international convention on the subject;
- the 1979 Convention on the Elimination of All Forms of Discrimination against Women; and
- the Convention on the Rights of the Child (CRC), which is almost universally ratified (191 states). Trafficking in children, for any purpose and in any form, is explicitly prohibited under articles 34 and 35 of the CRC.

Articles 34 and 35 of the CRC call on all States Parties to take all appropriate national, bilateral and multilateral measures to prevent and address these flagrant violations of children's rights. Such measures must include law reform, improved law enforcement, increased educational opportunities for disadvantaged children (particularly girls), recovery and social reintegration programmes for child victims of trafficking, support to families at risk and appropriate social welfare and the training of law enforcement officials and judicial authorities.

In its monitoring activities, the Committee on the Rights of the Child has on many instances expressed its concerns about the different forms of trafficking in children. For example, the Committee has raised concern about the trafficking of children for the purposes of child labor, adoption, sexual exploitation and for involvement of children in armed conflicts.

Mention should also be made of the 1926 Slavery Convention and the 1956 Supplementary Convention on the Abolition of Slavery, the ILO Conventions, including the new ILO Convention concerning

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the prohibition of and immediate action on the elimination of the worst forms of child labor (adopted by the ILO Conference in June 1999) and the 1993 Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption.

In addition to the relevant international instruments, some initiatives have documented the different forms that the traffic of children may take: the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography adopted by the Commission on Human Rights and the Programme of Action for the Elimination of the Exploitation of Child Labour. The Programmes recommend that legislation be reviewed to ensure that all forms of trafficking in children are penalized. A Special Rapporteur of the Commission on Human Rights on the sale of children, child prostitution and child pornography has also been appointed.

At the regional level, mention should be made of the Inter-American Convention on International Traffic in Minors and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Para).

An Optional Protocol to the Convention on the Rights of the Child has recently been adopted by the Commission on Human Rights and a proposed UN Convention on Transnational Organized Crime is being drafted with a special protocol on trafficking. Throughout that process, UNICEF has emphasized the importance of not criminalizing children themselves and protecting the victims of trafficking – especially children, who require special protection consistent with their age and needs, including legal assistance and help in reintegrating into their homes and communities. These international texts offer definitions or perspectives of definitions of trafficking and sexual exploitation.

Different activities have been undertaken in other regions. I would like in this regard to mention the work that has been done by the South Asian Association for Regional Cooperation (SAARC) countries, especially the drafting of a regional convention on trafficking of women and children. The adoption of this Convention has been postponed due to criticism from NGOs and other bodies working in this

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area. The criticisms have focused on the narrow definition of trafficking (only for prostitution) and the absence of distinction between the trafficking of women and the trafficking of children.

Thus, it could be problematic to limit the scope to the specific problem of commercial sexual exploitation since trafficking, as demonstrated, can exist for different reasons. Trafficking for the purpose of sexual exploitation and forced labor or even for illegal adoption are harmful activities and constitute contemporary forms of slavery.

Any new legislative activity should be closely linked with other international conventions. It is important to ensure that any new legal instrument not only enhances existing standards, but also that it complements and reinforces the human rights obligations contracted by States in relation to individuals under their jurisdiction, particularly children and women, ensuring that they are fully observed by countries of origin, transit and destination.

In addition, one of the major goals is to promote and reinforce cooperation among Member States that they may deal effectively with the various aspects of prevention and suppression of trafficking in persons for sexual exploitation. The criminal aspects cannot be separated from the other important aspects, including the prevention of trafficking and the protection of victims. In this area, it is essential to ensure that the child victim is not criminalised and to consider adequate programmes intended to promote the child's physical recovery and social reintegration, as well as adequate compensation.

It is also vital to ensure that child victims of sexual trafficking have access to assistance that meets their needs, such as legal aid, protection, secure housing, economic assistance, counseling, health and social services, physical and psychological recovery services. Special assistance is especially important for those suffering from HIV/AIDS. Emphasis should be placed upon family and community-based rehabilitation or placement in foster families rather than institutionalisation.

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In view of the transnational dimension of these activities, close cooperation between national policies and national judicial authorities become of decisive relevance to ensure the effective prosecution and punishment of the perpetrators or to ensure their extradition, as appropriate, as well as the necessary identification, protection, return and reintegration of the child victim.

In conclusion, raising and keeping children on national and international agendas is a major priority for UNICEF. Guided by the Convention on the Rights of the Child, we are attempting to decrease the risks of sexual abuse and exploitation. UNICEF's strategy for combating child trafficking is focused on four main areas: raising public awareness of the problem; providing economic support to families; improving access to quality basic education; and advocating for the rights of the child.

This has translated, for example, in a number of countries and in cooperation with governments and NGOs, into numerous programmes such as preventive education for girls and their families in rural communities in northern Thailand and police training in Nepal; a multi-media campaign in Brazil to raise awareness; financial support provided to NGO counseling services and community rehabilitation in Philippines; and support to studies on child prostitution carried out by local NGOs in Costa Rica. The country office has initiated a project to design and disseminate intervention strategies and methodologies for the prevention of child prostitution, the treatment of the child victims, as well as monitoring.

Despite attempts, we have made few in-roads into the eradication of situations where children are used in sexual activities including for profit making purposes. Why do such realities remain to a large extent hidden? Why do they constitute a social taboo and yet are persistently present and damaging for the lives of so many children? And how can we improve our policies and programmes and meaningfully translate our commitments into effective action?

There is certainly a long way to go before the values of equity, solidarity, social justice and non-discrimination are fully upheld, before all decisions are fully guided by the best interests of the child, before



## **APPENDIX**

children stop to be used as modern slavers, or simply ignored.

Together, we must find ways of ensuring that the sexual exploitation of children is an issue which remains high on political and policy agendas and is never again allowed to slip into the unspoken world which has so protected abusers and “tolerators” until very recently.

Thank you.

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**TRAFFICKING PROJECT CHRONOLOGY**  
**Central America & the Caribbean**

<b>Date</b>	<b>Activity</b>	<b>Host</b>	<b>Location</b>
April 11, 2000	Meeting of Experts	IHRLI/OAS	Washington, DC
March 9, 2001	Costa Rica National Congress	<i>Servicios Interamericanos de Abogados para Derechos Humanos</i>	San Jose, Costa Rica
March 13, 2001	Panama National Congress	Casa Esperanza	Panama City, Panama
March 30, 2001	Guatemala National Congress	PRONICE	Guatemala City, Guatemala
April 3, 2001	Honduras National Congress	<i>Alternativas y Oportunidades</i>	Tegucigalpa, Honduras
April 5, 2001	El Salvador National Congress	FESPAD	San Salvador, El Salvador
April 17, 2001	Belize National Congress	NCFC	Belize City, Belize
April 20, 2001	Dominican Republic National Congress	CIPAF	Santo Domingo, Dominican Republic
May 15, 2001	Nicaragua National Congress	INPRHU	Managua, Nicaragua
July 20, 2001	Central American Counterparts Meeting	<i>Servicios Interamericanos de Abogados para Derechos Humanos/IHRLI</i>	San Jose, Costa Rica

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Feb. 4-13, 2002	Fact-finding Mission to Belize	IHRLI/CIM	Belize
April 7-13, 2002	Follow-up Visit to Nicaragua	IHRLI/CIM	Nicaragua
April 13-20, 2002	Follow-up Visit to Costa Rica	IHRLI/CIM	Costa Rica
April 20-25, 2002	Follow-up Visit to Panama	IHRLI/CIM	Panama
May 8-17, 2002	Follow-up Visit to Honduras	IHRLI/CIM	Honduras
May 17-22, 2002	Follow-up Visit to El Salvador	IHRLI/CIM	El Salvador
May 22-30, 2002	Follow-up Visit to Guatemala	IHRLI/CIM	Guatemala
June 10-14, 2002	Follow-up Visit to Dominican Republic	IHRLI/CIM	Dominican Republic

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QUESTIONNAIRE

**The Trafficking of Women and Children for Commercial Sexual Exploitation**

Country:  
Counterpart Organization:  
Legal status of the organization:  
Legal representative:  
Designated project coordinator:

Brief description of the work of the counterpart organization on the topic of trafficking of women and children for commercial sexual exploitation. When was the organization founded? Does it have any relationship with the government or other political institutions? Indicate the number of organization staff members and their positions.

**A. Conceptualization and Articulation of the Problem**

1. Based on the opinion of different sectors, what is the history of the problem of trafficking of women and children for sexual exploitation in your country? Please include sources of the information.
2. What forms of trafficking exist in your country? (prostitution, pornography, domestic work, sexual tourism, others)
  - a. Do you consider that the situation has varied in the last ten years? If so, due to what circumstances have these changes occurred?
3. In what areas, provinces or regions of your country is the problem of trafficking most visible?
  - a. What is the common knowledge regarding the problem in these areas?

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4. What are the risk factors that influence the problem of trafficking (*e.g.*, internal or external migration, national or international criminal networks, unemployment and labor situations, education, domestic violence)? Distinguish responses by type of source: (a) government; (b) non-governmental; (c) civil society/general public information; (d) academic; (e) other.

### **B. Statistical Aspects**

1. Is a quantification of women and children that are being sexually exploited available? If possible, distinguish between (a) women; (b) girls; and (c) boys.
  - a. Are any direct statistics available? *E.g.*
    - no. persons trafficked by age, gender, nationality
    - no. reports / investigations / prosecutions / convictions for trafficking & related crimes with information on victim age, gender, nationality; defendant age, gender, nationality; summary of facts; penalty, if any
  - b. Are any indirect statistics available? *E.g.*
    - no. sex workers by age, gender, nationality
    - no. known or licensed establishments related to sex industry with breakdown of type of activity in each establishment (official and unofficial)
    - no. entertainment/artist visas issued by gender and age
    - no. visas issued for unaccompanied minors
    - no. deportations and repatriations by age, gender, nationality
    - statistics on health of sex workers

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- no. reports of missing children by age, gender
- no. requests to consular office/embassy for assistance with missing person
- no. consular facilitated repatriation
- no. persons deported following prostitution-related conviction

2. What instruments are used or have been used in the country to measure the incidence and prevalence of the problem of trafficking (e.g., survey, polls, census, registries, complaints)?

Type of Instrument	Applied by? When? Coverage?	Results (please provide copies of final documents)	Sources and Means Utilized
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3. What is the perception of different sectors regarding the problem of trafficking of women and children for sexual exploitation? Distinguish responses by type of source: (a) government; (b) non-governmental; (c) civil society/general public information; (d) academic; (e) other.
4. What individuals, groups or organizations have financed studies, research or other data on the subject of trafficking of women and children for sexual exploitation? What were the objectives of these studies?

**C. Social Aspects**

1. What policies exist that address the problem of trafficking of women and children for sexual exploitation? Divide in the following categories: (a) awareness; (b) investigation and research; (c) training; (d) victim attention and treatment; (e) rehabilitation.
2. Are there any government institutions, councils, ministries or other agencies that address, either alone or inter-

## APPENDIX

institutionally, the issue of trafficking of women and children for sexual exploitation? Include information on membership, main objectives, activities, and achievements to date.

3. What portion of the national or local budget is assigned to combating the problem of trafficking of women and children for sexual exploitation? What is the actual amount available or spent?
4. What government programs and projects have existed over the past ten years for the assistance and protection of women and children trafficked? Include the implementing agency, program/project description, results obtained, geographical target or scope.
5. What resources exist for victim and family assistance (including prevention) for women and children that are sexually exploited? Include information on services offered, name of the coordinating institution or organization, results obtained, and funding.
6. Are any reintegration programs (short and long term) offered including provisional treatment of minors? Are these or other services available to foreign women and minors?
7. What civil society organizations work directly with the issue of trafficking of women and children for sexual exploitation in your country?
  - a. What type of work do they do?
  - b. Since when have they worked with this issue?
  - c. Are they based on principles contained in the Convention on the Rights of the Child, the Stockholm Declaration or other international treaties?
  - d. Do they receive state/official funding?
  - e. Are there situations or practices that constitute obstacles to their work?

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8. Have there been any reports, evaluations or assessments regarding the work, programs and projects on the issue of trafficking of women and children for sexual exploitation? Describe.
9. Please provide case studies, anecdotes or other information both official and unofficial regarding the issue. All stories are important, as long as they have a source.

**D. Legal Aspects**

1. Is sexual exploitation and the trafficking of women and children and considered a crime in your country? Is consent taken into account? How is consent understood? Is it taken or seen as an attenuating factor?

Type of crime	Frequency with which it occurs	Penalty	Statistical relationship between cases reported and sanctions

2. Are there other crimes typified in your country that relate to trafficking of women and children for sexual exploitation?
3. What is the age at which children become adults? Does this coincide with the criminal age? Do minors have the legal capacity to denounce? What are the procedures?
4. What laws, proposed legislation, reforms or amendments to the law currently exist regarding trafficking of women and children for sexual exploitation in your country?

Law or Bill #	Date of approval or current status	General content	Objectives



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5. Do these laws respond to the principles of the Convention on the Rights of the Child, the Stockholm Declaration or other international treaty obligations?
6. How is prostitution treated in legal terms (criminalization / regulation / tolerance)?
7. Are trafficked persons vulnerable to criminal charges or other administrative penalties? Do they have access to legal assistance or translation? Witness protection? Access to medical treatment and counseling? Shelter?
8. In circumstances of international trafficking, how are victims treated (*e.g.* deportation, temporary stay based on cooperation with authorities, option for voluntary repatriation, etc.)? What agencies are responsible? Is the treatment different for minors?

### **E. International Protection**

1. Has your country ratified the following international human rights instruments?
  - UN Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949)
  - Slavery Convention (1926)
  - UN Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutions and Similar Practices (1956)
  - UN Convention on the Elimination of All Forms of Discrimination Against Women (1979) & its Optional Protocol
  - UN Convention on the Rights of the Child (1989) & Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000)

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- UN Convention Against Transnational Organized Crime & its Protocol to Prevent, Suppress and Punish Trafficking of Persons, Especially Women and Children (2000, not in force)
- International Covenant on Civil and Political Rights (1966) & its first Optional Protocol
- International Covenant on Economic, Social and Cultural Rights (1966)
- ILO Convention No. 29 concerning Forced Labor (1930)
- ILO Convention No. 105 concerning the Abolition of Forced Labor (1957)
- ILO Convention No. 182 concerning the Worst Forms of Child Labor (1999)
- OAS American Convention on Human Rights (1969)
- OAS Inter-American Convention on International Traffic in Minors (1994)
- OAS Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (“Belem do Para,” 1994)

Others?

2. How are these treaties being implemented with respect to trafficking?
3. Have other legislative measures been adopted to adjust domestic legislation to these norms?
4. Have any complaints against the government been presented before international organs for the violation of rights regarding sexual exploitation in any of its forms during the past five years? If so, please describe them as well as the results to date.
5. Has your country been included in any report of international organizations regarding the generalized and systematic violations of rights caused by sexual exploitation in any of its forms during the past five years? If so, please list the causes and reports.

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6. Has the government participated in any international or regional cooperation or intelligence sharing programs relating to trafficking? Does the government work with INTERPOL? Provide information on activities.

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**CONSULTED INSTITUTIONS AND ORGANIZATIONS**

**BELIZE**

*Government Agencies*

Ministry of Human Development, Women and Civil Society

District Court (Belize City, Orange Walk)

Family Court (Belize City)

Ministry of Human Development – Women’s Division

Office of the Attorney General – Solicitor General’s Office

Belize Tourism Board

Ministry of Human Development – Human Services Department

Office of the Ombudsman

National Committee for Families and Children

National HIV/AIDS Commission

Central Statistics Office

Office of the Mayor (Orange Walk)

Office of the Commissioner of Police

Police Prosecutor (Orange Walk)

Office of the Director of Migration

*International Organizations*

Ministry of Labor

UNICEF

Office of the Deputy Public Prosecutor

*Non-Governmental Organizations*

Ministry of Health - National HIV/AIDS Program

SPEAR

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National Organization for the Prevention of Child Abuse: NOPCA	Embassy of Honduras
Human Rights Commission of Belize	Embassy of Guatemala
	Embassy of Mexico
	<b><i>Other</i></b>
<b><i>Media</i></b>	British Army
Red Sweeney, Radio Journalist	Site visits to four bars in Orange Walk Town during which researchers spoke with six women working as sex providers and one bar owner.
<b><i>Diplomatic Missions</i></b>	
<b>COSTA RICA</b>	
<b><i>Government Agencies</i></b>	Poder Judicial
Dirección General de Migración	Comisión Nacional contra la Explotación Sexual (CONACOES)
Poder Judicial - Fiscalía de Delitos Sexuales	Instituto de la Mujer
Ministerio de Seguridad Publica – Unidad contra la Explotación Sexual	Instituto Costarricense de Turismo
Ministerio de Justicia – Dirección Nacional de Prevención de la Violencia y el Delito	Ministerio de Educación Pública
Organismo de Investigación Judicial (OIJ) - Estadística del	Ministerio de Trabajo y Seguridad Social
	Policía Especial (Guanacaste, Liberia)

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Policía de Migración (Liberia)	Agenda Política de Mujeres
Patronato Nacional de la Infancia (PANI)	Asociación Costarricense de Promotores de Turismo (Acoprot)
PANI (Liberia, Nicoya, San Carlos, Osa, Pérez Zeledón, Santa Cruz, Puntarenas, Esparza, Paquera, Monteverde, Miramar, Chomes, Quepos, Turrialba, Sixaola, Siquirres, Heredia, Limón, Cartago, Golfito, Alajuela, Coto Brus)	Asociación de Trabajadoras del Hogar (Astrodomes)
Alcaldía (Santa Cruz, Guanacaste, Pérez Zeledón, Liberia, Puntarenas y San Carlos)	Casa Alianza
Oficial de la Ciudad (Neyli, Liberia y Guanacaste)	CEFEMINA
	CEJIL Mesoamérica
	El Productor
	Fundación PANIAMOR
	Fundación PROCAL
	FUNDESIDA
<b><i>International Organizations</i></b>	Liga Internacional de Mujeres Pro Paz y Libertad
International Labor Organization (ILO)	Redes de Atención de la Violencia Intrafamiliar
International Organization for Migration (IOM)	
UN High Commissioner for Refugees (UNHCR)	<b><i>Media</i></b>
Visión Mundial (Guanacaste)	Marianella Argüello, Periodista
<b><i>Non-Governmental Organizations</i></b>	<b><i>Diplomatic Missions</i></b>
	Consulate of Colombia

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Consulate of the Dominican Republic	<i>Others</i> Universidad de Costa Rica, Facultad de Derecho
Consulate of Nicaragua	Universidad Nacional, Centro de Estudios Económicos
<b>DOMINICAN REPUBLIC</b>	
<i>Government Agencies</i>	
Secretaria del Estado de la Mujer/ The Secretary of State of Women	y Adolescentes/Lead Office of the System of Protection of Children and Adolescents
Dirección General de Migraciones/ Office of General Migration	COPRESIDA
Secretaria de Estado de Relaciones Exteriores/Secretary of State of Foreign Affairs	CIPROM/Inter-institutional Committee on the Protection of Migrant Women
Fiscalia General de la Nación/ District Attorney of the Nation	Policia Nacional/National Police
Procuraduría General de la Nación, Departamento de Mujer, Adolescentes y Menores/ Attorney General of the Nation, Department of Women, Adolescents and Minors	Secretaria de Estado de Salud Publica/Secretary of State of Public Health
Organismo Rector del Sistema de Protección de Niños, Niñas	Secretaria de Estado de Trabajo/ Secretary of State of Labor
	Consejo Nacional de la Niñez/ National Council for Children
	Corte de Apelación Penal (Distrito Nacional)/Court of Appeals (National District)

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Secretaria de Estado de  
Turismo/ Secretary of State of  
Tourism

PARLACEN, Representantes  
para la Republica Dominicana  
/Representatives for the  
Dominican Republic

### *International Organizations*

IOM

UNICEF

### *Non-Governmental Organizations*

Centro de Investigación para la  
Accion Femenina  
(CIPAF)/Center of  
Investigation for Female  
Action

Centro de Orientación e  
Investigación Integral (COIN)/  
Center of Orientation and  
Integral Investigation

## EL SALVADOR

### *Government Agencies*

Instituto Salvadoreño de  
Protección al Menor (ISPM)

Movimiento de Mujeres  
Unidas  
(MODEMU)/Movement of  
United Women

Pastoral de la Movilidad  
Humana, Iglesia  
Catolica/Pastoral of the Human  
Mobility, Catholic Church

Proyecto Caminante (Boca  
Chica)/ Project in Motion

Movimiento de Autodesarrollo  
de la Solidaridad Internacional  
(MAIS)/ Movement for Self  
Development and International  
Solidarity

Instituto de la Famlia  
(IDEFA)/Family Institute

### *Individual Experts*

Gina Gallardo Rivas

Denise Paiewonsky, Technical  
Institute of Santo Domingo

Dr. Frias Agramante

ISPM - Centro Reducativo  
Rosa Virginia Peletier



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Juzgado Primero de Menores de San Salvador	Instituto Salvadoreño de Turismo
Juzgado Tercero de Familia de San Salvador	Procuraduría para la Defensa de los Derechos Humanos - Procuraduría Adjunta para la Defensa de los Derechos de la Niñez
Fiscalía General de la República - Unidad de Delitos contra Menores y la Mujer en su Relación Familiar	Procuraduría para la Defensa de los Derechos Humanos - Procuraduría Adjunta para la Defensa de los Derechos Humanos de la Mujer
Unidad Técnica Ejecutiva para el Sector Justicia	CORSATUR
Dirección de Migración - Ministerio de Gobernación	Asamblea Legislativa - Carmen Elena Calderon de Escalón, Miembra de la Comisión Interamericana de Mujeres, de la Comisión de Relaciones Exteriores, Integración Centroamericana y Salvadoreños en el Exterior y de la Directiva del ISDEMU
Cancillería	
Ministerio de Trabajo y Previsión Social	
Ministerio de Salud Pública y Asistencia Social	
Consejo Nacional de Seguridad Pública	
Fiscal General de la República	Asamblea Legislativa - Blanca Flor America Bonilla, Presidenta de la Comisión de la Familia, La Mujer y la Niñez y miembra de la Comisión de Relaciones Exteriores, Integración Centroamericana y Salvadoreños en el Exterior
Policía Nacional Civil (PNC) - Departamento de Fronteras de la División de Finanzas y Fronteras	
PNC - Policía Comunitaria	
PNC - Departamento de la Familia	Ministerio de Educación

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Instituto Salvadoreño de Mujeres (ISDEMU)	Fundación Olof Palme
Alcaldía Municipal de San Salvador	Defensa del Niño Internacional (DNI)
Cuerpo de Agentes Metropolitanos, San Salvador	Fundación Nueva Vida Pro Niño y Niña de la Calle
<i><b>International Organizations</b></i>	Centro de Estudios de la Mujer (CEMUJER)
Save the Children - Sweeden	Asociación de Mujeres Flor de Piedra
UNICEF	Red ECPAT
Terre des Hommes Alemania (Tierra de la Humanidad)	Fé y Alegría
GTZ (Cooperación Alemana)	Comité Nacional de Mujeres (CONAMUS)
Organización Panamericana de la Salud (OPS)	FUNDE
Programa Internacional para la Erradicación del Trabajo Infantil IPEC- OIT	FUNDASIDA
Federación Luterana Mundial	Asociación Entre Amigos
INTERPOL (Policia Internacional-PNC)	Asociación para la Autodeterminación y el Desarrollo de las Mujeres (AMS)
Médicos del Mundo-España	Fundación Dolores Médina
<i><b>Non-Governmental Organizations</b></i>	Las Dignas
	<i><b>Diplomatic Missions</b></i>

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Consulate of Nicaragua

Consulate of Honduras

### **GUATEMALA**

#### ***Government Agencies***

Secretaría de Bienestar Social  
Programa de Prevención y  
Erradicación de la Violencia  
Intrafamiliar

Comisión Presidencial de  
Derechos Humanos  
(COPREDEH)

Gobernadora Deptal. de  
Guatemala

Secretaría de Obras Sociales  
de la Esposa del Presidente

Subsecretaria de la Paz

Defensoría de la Niñez (PDH)

Dirección General de  
Migraciones

Defensoría de la Mujer (PDH)

Congreso de la República -  
Comisión de la Mujer, el  
Menor y la Familia

Dirección General de Servicios  
de Salud

Fiscal General de la Republica

Programa Nacional de SIDA

Ministerio de Seguridad  
Publica

Ministerio de Educación

Secretaría Presidencial de la  
Mujer

Policia Nacional

Procuraduría General de la  
Nación

Jueza de Menores

Procuraduría de Menores  
(PGN)

Magistrada de Menores (CSJ)

PGN - Unidad de la Mujer

#### ***International Organizations***

PARLACEN – Comisión de la  
Mujer

PGN - Procuraduria de Familia

IOM

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### *Non-Governmental Organizations*

Casa Alianza  
Grupo Ceiba

CIPRODENI

Oficina de Derechos Humanos  
del Arzobispado de Guatemala

Pastoral Migratoria  
Arquidiocesana

Asociación de Salud Integral  
(ASI) – La Sala

Hogar Manchén

OASIS

Gente Positiva

APAES/Solidaridad

AGES

Red de Periodistas La Cuerda

ECPAT/Guatemala

Comision Nacional contra el  
Maltrato Infantil (CONACMI)

Casa de la Mujer (Tecun  
Uman)

### *Media*

La Cuerda

### *Diplomatic Missions*

Embajada de México en  
Guatemala

Consulado de México en  
Tecun Uman, Guatemala

Consulado de Honduras en  
Guatemala

Consulado de Nicaragua en  
Guatemala

Consulado de El Salvador

## HONDURAS

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### ***Government Agencies***

Principal Delegate, Inter-American Commission of Women

General Directorate for Population and Migratory Policy (*Dirección General de Población y Política Migratoria*)

National Congress - Commission of Women

National Women's Institute (INAM)

Special Prosecutors in the areas of Human Rights, Children, Women and Organized Crime (Tegucigalpa)

Women's Office (San Pedro Sula)

Honduran Children and Family Institute (IHNFA)

Special Prosecutor for Children (San Pedro Sula)

Juvenile Judges (Tegucigalpa, San Pedro Sula, La Ceiba)

Prosecutor (La Ceiba)

Ministry of Public Health - Programa Mujer, Salud y Desarrollo

Secretariat of Foreign Relations

Office of the Ombudsman (*Comisionado Nacional de Derechos Humanos*) (Tegucigalpa, San Pedro Sula and La Ceiba)

### ***International Organizations***

IOM

Save the Children – UK

National Police (*Policía Preventiva*)  
Police Judges (*Juez de Policía*) (San Pedro Sula, La Ceiba)

### ***Non-Governmental Organizations***

Casa Alianza

General Directorate of Criminal Investigation (DGIC) (La Ceiba)

OFALAN (*Oficina de Asistencia Legal de la Niñez y Mujer Desprotegida*)

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CIPRODEH (Tegucigalpa, La Ceiba)

PRODIM

Fundación Amiga de los Niños

Centro de Estudios de la Mujer

Centro de Derechos de la Mujer

Comunidad Gay Sampedrano (San Pedro Sula)

COCSIDA (La Ceiba)

Coordinadora de Instituciones Privadas Pro los Niños y sus Derechos (COIPRODEN)

Movimiento Visitación Padilla

CODEH

## NICARAGUA

### *Government Agencies*

Departamento de Migración y Extranjería – Managua y Guasaule

Ministerio de Educación, Cultura y Deporte (MECD)

Ministerio de Trabajo

Ministerio de Salud (MINSAL)

Procuraduría de Derechos Humanos - Procuraduría de la Niñez y la Adolescencia

Instituto Nicaragüense de la Mujer (INIM)

Procuraduría de Derechos Humanos - Procuraduría de la Mujer

Ministerio de la Familia (MIFAMILIA)

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Consejo Nacional de Atención  
y Protección Integral de la  
Niñez y Adolescencia  
(CONAPINA)

National Congress –  
Commission on Women,  
Children and Family

National Police – Chinandega  
y Gausaule

Ministerio Publico

Juez Penal de Adolescentes  
Managua

Juez VIII de Distrito del  
Crimen de Managua

Procurador Especial de la  
Niñez y Adolescencia

Juez V de Distrito del Crimen  
de Managua

Director Nacional Escuela  
Judicial Corte Suprema de  
Justicia

Juez VII de Distrito del  
Crimen de Mangua

Juez IV de Distrito del Crimen  
de Mangua

Magistrada Tribunal de  
Apelaciones – Presidenta Sala  
Laboral

Magistrada Tribunal de  
Apelaciones – Sala Penal

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Instituto de Medicina Legal – Corte Suprema de Justicia	ley y su reintegración social (FUNPRODE)
Procuradoras Auxiliares de Managua	Red de Mujeres
<i><b>International Organizations</b></i>	<i><b>Diplomatic Missions</b></i>
Save the Children – Canada	Consulate of El Salvador
<i><b>Non-Governmental Organizations</b></i>	<i><b>Other Sources</b></i>
Instituto Nicaraguense de Promocion Humana (INPRHU)	Universidad Politécnica de Nicaragua (UPOLI)
Casa Alianza Nicaragua	Mujeres Empresarias
Visión Mundial Nicaragua	<i><b>In Granada</b></i>
Dos Generaciones	Comisaría de la Niñez
Asociación TESIS	Ministerio de la Familia
Comunidades Eclesiales de Base	Policía Nacional
<i><b>INHJAMBIA</b></i>	Casa de la Mujer
Centro Nicaragüense de Derechos Humanos (CENIDH)	<i><b>In Esteli</b></i>
Fundación de Protección de los Derechos de Niños, Niñas y Adolescentes infractores de la	Comisaría de la Mujer
	Policía
	Ministerio de la Familia
	MINSA



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Red de Mujeres	Comisión Municipal de la Niñez
Asociación de Mujeres de Estelí	Reportero Municipal
Comisión Municipal de la Niñez	<b><i>In Masachapa</i></b>
Acción YA	Policía
<b><i>In Rivas</i></b>	Mi Familia
Migración y Extranjería	MINSA
Policía	<b><i>In Puerto Cabezas</i></b>
MIFAMILIA	Ministerio de la Familia
MINSA	Procuraduría de la Niñez
Casa de la Mujer	Policía Nacional
<b><i>In Chiandega y Somotillo</i></b>	Comisión Municipal de la Niñez
<b><i>MIFAMILIA</i></b>	Migración y Extranjería
Policía	Ministerio del Trabajo
MINSA	<b><i>In Bluefields</i></b>
Casa de la Mujer	Ministerio de la Familia
Promotoría del MILAVF	Alcaldía
Migración y Extranjería	Comisaría de la Mujer

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Migración	CISAS
Policía Nacional	Migración y Extranjería
CEDEHCA	
<i><b>In Ocotol</b></i>	<i><b>In Somoto</b></i>
Ayuda en Acción	Policía
Policía	Migración y Extranjería
	Comisaría de la Mujer y la Niñez

## PANAMA

<i><b>Government Agencies</b></i>	Fiscal Juzgado Segundo de Niñez y Adolescencia
Caja de Seguro Social / Directora	Foro Mujer y Desarrollo (Alcaldía de Panamá)
Institucional de Bocas del Toro	Foro Mujer y Desarrollo (Instituto de la Mujer)
Consejo Nacional de Estadísticas Criminales	Grupo Género (Caja de Seguro Social)
Defensoría del Pueblo	Juzgado de Niñez y Adolescencia - Chiriquí
Dirección Nacional de Migración	Juzgado de Niñez y Adolescencia - Bocas del Toro
Dirección Regional de Migración - Bocas del Toro	Ministerio de Educación / Programa de Oficina de Asuntos de la Mujer
Fiscalía Primera Fiscalía Séptima del Primer Circuito Judicial	

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Minsiterio de Educación / Dirección Regional de Bocas del Toro	Tribunal Superior Niñez y Adolescencia <i>International Organizations</i>
Ministerio de Salud / Programa Salud, Mujer y Desarrollo	Organización Panamericana de la Salud
Ministerio de Salud / Programa Nacional de VIH/SIDA	UNICEF
Ministerio de Trabajo, IPEL / Programa Mujer Trabajadora	<i>Non-Governmental Organizations</i>
MINJUMNFA / Dirección Nacional de la Mujer	Asociación Panameña de Planificación Familiar
MINJUMNFA / Dirección Nacional de la Niñez	Casa Esperanza
MINJUMNFA / Dirección Regional de Bocas del Toro	Centro de Estudios y Capacitación Familiar (CEFA)
Policia Nacional	Comité de America Latina y del Caribe para la Defensa de los Derechos de la Mujer (CLADEM)
Policía de Menores	
Policía de Menores - Bocas del Toro	Foro Mujer y Desarrollo (Consejo de la Mujer)
Policía de Menores - Chiriquí	Foro Mujer y Desarrollo (Ceaspa)
Policía Técnica Judicial / Departamento de Delitos Sexuales	Foro Mujer y Desarrollo (Cealp)
Policía Técnica Judicial - Bocas del Toro	Foro Mujer y Desarrollo (Clara González)

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Foro Mujer y Desarrollo  
(Justicia y Paz)

Red Contra la Violencia  
*Diplomatic Missions*

Embajada de Colombia en  
Panamá

Consulado General de  
Colombia

Consulado de República  
Dominicana

### *Media*

Diario Crítica Libre /  
Periodista

### *Other*

Universidad de Panamá /  
Instituto de la Mujer

Universidad de Panamá /  
Departamento de Criminología

Universidad de Panamá /  
Maestría Género y Desarrollo

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### REGIONAL MECHANISMS

The following regional bodies and networks are some of the many forums available for counter-trafficking initiatives and/or development and coordination of strategies.

Forum	Action
PARLACEN: Commission on Women, Children and Family	Legislative assistance
Central American Police Organization	Policy and coordination
Central American Council of Human Rights Ombudsmen ( <i>Consejo Centroamericana de Procuradores de Derechos Humanos</i> )	Policy and coordination
Central American Commission of Migration Directors (OCAM) and the Regional Conference on Migration	Policy and coordination
International Organization for Migration	Technical assistance
Save the Children	Financing and coordination
International Program for the Eradication of Child Labor (ILO/IPEC) – Regional program against child sexual exploitation	Financing and technical assistance
UNICEF	Financing and coordination
ECPAT (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes)	Advocacy
<i>Casa Alianza</i> (Costa Rica, Guatemala, Honduras and Nicaragua)	Advocacy and victim assistance
Local NGO Networks	Advocacy, coordination, victim assistance

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### BEST PRACTICES

The following initiatives take meaningful steps toward establishing an effective strategy to reduce, control and combat the trafficking of women and children for sexual exploitation in the Americas.

#### **Prevention:**

- Campaign Viajera (Dominican Republic): The NGO COIN has produced multiple information and awareness materials for potential and actual female migrants. The materials include: a booklet with NGO and consular contacts in traditional destination countries and basic legal protections; and a comic book of stories of trafficked women, based on actual experiences.
- Police Warnings (Guasaule, Nicaragua): Police stations at the border in Guasaule inform young female migrants traveling alone of the dangers of trafficking. Written advisory materials (press reports) are distributed.

#### **Protection:**

- Consular Training (Dominican Republic): Trafficking and gender issues have been incorporated into the foreign service training curricula. In addition, posted consuls in Europe were specially trained on trafficking and related issues.
- Mobile Health Services (Belize, El Salvador, Guatemala): Public health officials in Belize and independent NGOs in El Salvador and Guatemala provide direct health services, HIV/AIDS and contraceptive use awareness, and self-esteem courses to women in their locations of employment/captivity (streets, parks, bars and brothels).

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- Police Training (Honduras): Save the Children-UK has trained over 500 police officers on combating child sex trafficking and related issues of child sexual exploitation.

### **Investigation & Prosecution:**

- Gender-Sensitive Policing (Nicaragua): The Nicaraguan Women's Institute together with the National Police have opened offices to assist women and children who are victims of violence. Legal orientation and assistance, accompaniment, and basic medical attention are offered.
- Trafficking and Sexual Exploitation Investigation Unit (Chiandega, Nicaragua): Police created a special unit of female officers to investigate trafficking and other crimes related to sexual exploitation. The unit works in consultation with an NGO women's network, Red de Mujeres. [A similar unit exists in San Jose, Costa Rica within the Ministry of Public Security.]
- NGO Partnerships (Costa Rica, Nicaragua, Honduras, Guatemala): *Casa Alianza* has worked directly with law enforcement partners to assist in detection and investigation of trafficking activity. These partnerships have been especially successful. The pooled resources yield stronger investigations and improved victim protection.

### **Integration:**

- *Casa de la Mujer* (Guatemala): Offers shelter and educational opportunities to trafficked women and girls.
- *Casa Alianza* (Nicaragua, Honduras, Guatemala): Provides shelter, vocational training programs and specialized counseling to child victims of trafficking.

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- COIN (Dominican Republic): Offers orientation and health services to trafficked women.

### **Awareness:**

- Certificate Program on Trafficking and Gender (Dominican Republic): CIPROM and FLACSO offer a certificate program for public officials and NGOs on issue of Gender, Migration and Trafficking in the Dominican Republic. A similar program has been incorporated into diplomatic corps curricula.
- *La Cuerda* (Guatemala): A network of women journalists. Members, acting individually and through the network's publications, have published sensitive reports on trafficking and child sexual exploitation.
- Association of Relatives of Missing Migrants (Progreso, Honduras): Hosts a weekly radio broadcast, "Without Borders," on issues of migration including trafficking and other migration risks.
- Campaign against Child Sexual Exploitation (El Salvador): The Office of the Human Rights Ombudsman launched a campaign against the commercial sexual exploitation of children. A symbolic pin of an orange triangle was distributed to be worn in a public showing of protest against child sexual exploitation.



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INTERNATIONAL LEGAL PROTECTIONS

International treaties have significantly contributed to providing a framework and guidance for domestic legislation. For the extended Central American region, the impact of the UN Convention on the Rights of the Child, the UN Convention on the Elimination of All Forms of Discrimination against Women, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (“Belem do Para”), and the ILO Convention No. 182 on the Worst Forms of Child Labor have been particularly effective. Each of these instruments contain provisions against trafficking in some form; together they offer potential tools in combating the proliferation of trafficking.

<b>CENTRAL AMERICA &amp; THE DOMINICAN REPUBLIC</b>	Belize	Costa Rica	Dominican Republic	El Salvador	Guatemala	Honduras	Nicaragua	Panama
UN Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949)						-		
Slavery Convention (1926)					s		s	
_ Protocol amending the Slavery Convention (1953)					-		-	
UN Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutions Similar Practices (1956)			-	s	-		-	

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UN Convention on the Elimination of All Forms of Discrimination Against Women (1979)	-	-	-	-	-	-	-	-
- Optional Protocol to CEDAW (1999)		-	-	s	s			-
UN Convention on the Rights of the Child (1989)	-	-	-	-	-	-	-	-
- Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000)	s	-			-	-		-
UN Convention Against Transnational Organized Crime (2000, <i>not in force</i> )		s	s	s	s	s	-	s
- Protocol to Prevent, Suppress and Punish Trafficking of Persons, Especially Women and Children (2000, <i>not in force</i> )		s	s	s				s
International Covenant on Civil and Political Rights (1966)	-	-	-	-	-	-	-	-
International Covenant on Economic, Social and Cultural Rights (1966)	s	-	-	-	-	-	-	-
ILO Convention No. 29 concerning Forced Labor (1930)	-	-	-	-	-	-	-	-
ILO Convention No. 105 concerning the Abolition of Forced Labor (1957)	-	-	-	-	-	-	-	-

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ILO Convention No. 182 concerning the Worst Forms of Child Labor (1999)	-	-	-	-	-	-	-	-
OAS American Convention on Human Rights ("San Jose," 1969)		-	-	-	-	-	-	-
_ Additional Protocol in the Area of Economic, Social and Cultural Rights ("San Salvador," 1988)		-	s	-	-		s	-
OAS Inter-American Convention on International Traffic in Minors (1994)	-	-						-
OAS Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women ("Belem do Para," 1994)	-	-	-	-	-	-	-	-

\_ = ratification; s = signature only. Status as of October 4, 2002.

**Special Note on the UN Convention on Transnational Organized Crime and Supplemental Protocol on Trafficking**

The UN Convention on Transnational Organized Crime and its supplemental Trafficking Protocol is still relatively unknown in the region. In almost all interviews with relevant government and non-government officials, interviewees expressed their ignorance as to its existence and/or terms. Nicaragua has been the first country in the region to ratify the Convention, and only four countries have signed the Protocol. Nevertheless, signs do exist of its increasing support. In Honduras, the Special Prosecutor on Organized Crime has encouraged the government to take steps toward signature and ratification of all three instruments – the Convention and both its protocols. In the Dominican Republic, the inter-institutional working group, CIPROM,

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together with the IOM hosted a seminar in June 2002 to discuss national trafficking legislation in the context of the Trafficking Protocol. In addition, a university in Costa Rica hosted a seminar on the UN Convention and its protocols. Finally, ratification of the Convention and its protocols has been placed on the agenda of the Regional Conference on Migration, and ratification status was discussed at its last meeting of ministers in May 2002.

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**Criminal Legislation<sup>1</sup>**

<b>TRAFFICKING FOR SEXUAL EXPLOITATION</b>	
<b>Belize</b>	Limited provision against trafficking for sexual exploitation as a form of procuring. <i>See below.</i>
<b>Costa Rica</b>	<p><b>Article 172 (Criminal Code), Trafficking in Persons (<i>Trata de personas</i>)<sup>2</sup></b> - “One who promotes, facilitates or encourages the entry to or exit from the country of persons of either sex to practice prostitution or to hold them in sexual slavery or forced labor, shall be punished by imprisonment of three to six years. The penalty shall be four to ten years if any of the circumstances listed in aggravated procurement [Art. 170] are present.”</p> <ul style="list-style-type: none"> <li>▪ Such circumstances include whether the victim is a minor; when coercion/fraud, violence, abuse of authority, or other form of intimidation or coercion was involved; and whether the perpetrator was an ancestor/offspring, husband/wife, brother/sister, teacher/one charged with education/care/custody of victim. In none of these cases may the consent of the victim be taken into account.</li> </ul> <p><b>Article 374 (Criminal Code), Crimes of International Character (<i>Delitos de carácter internacional</i>)<sup>3</sup></b> - “Ten to fifteen years prison shall be imposed on those who direct organizations of international character dedicated to the trafficking of slaves, women or children, stupefying drugs or their parts, commit acts of</p>

<sup>1</sup> Excerpt of legislation from Belize are original. For all of the countries, the original text is in Spanish. Unofficial translation prepared by the International Human Rights Law Institute.

<sup>2</sup> As reformed by Law No. 7899 on Commercial Sexual Exploitation of Minors (1999).

<sup>3</sup> As reformed by Law No. 8127 (2001).

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	extortionist kidnapping or terrorism and infringe provisions contained in treaties on human rights protection to which Costa Rica is a party.”
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<b>Dominican Republic</b>	Limited provision against trafficking for sexual exploitation as an aggravating factor of procuring. <i>See below.</i>
<b>El Salvador</b>	None.
<b>Guatemala</b>	<p><b>Article 194 (Criminal Code), Trafficking in Persons (<i>Trata de personas</i>)</b> - “Whoever, in whatever form, promotes, facilitates, or supports the entry or exit of women from the country so that they shall engage in prostitution, shall be sanctioned with imprisonment of one to three years and with a fine of 2,500-15,000 Quetzals.</p> <p>Whoever engages in the activities referred to in the preceding paragraph with males shall incur the same penalties.</p> <p>The punishment will be increased by two-thirds if any of the circumstances mentioned in Article 189 of this Code are found to coincide with such activities.”</p> <p>The aggravated circumstances in Article 189 include: if the victim is under twelve years; if the act was done with the intention to make a profit or satisfy the desires of a third person; the use of deceit, violence, or abuse of authority; a perverse or excessive sexual act; the perpetrator is an ancestor, sibling, or guardian; or an habitual act.</p>
<b>Honduras</b>	<p><b>Article 149 (Criminal Code)</b> – “Whoever promotes or facilitates the entry into the country of persons of either sex or any age in order that they engage in prostitution, and whoever promotes the exit from the country of persons so that they may engage in prostitution abroad, will be punished with imprisonment from five to eight years and a fine of from 100,000-200,000 lempiras.”</p>

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<p><b>Nicaragua</b></p>	<p><b>Article 203 (Criminal Code), Trafficking in Persons (<i>Trata de personas</i>)</b> – “One who recruits or enlists a person with their consent or through the use of threat, offers, misrepresentations or other similar manipulation so that they might engage in prostitution within or outside of the country, or introduces into the country persons to engage [in prostitution] commits the crime of trafficking in persons. This crime shall carry a penalty of four to ten years’ imprisonment. The maximum penalty shall be imposed where the perpetrator is married or in a stable de facto union with the victim, or where the victim is under fourteen years of age.”</p>
<p><b>Panama</b></p>	<p><b>Article 231 (Criminal Code)</b> – “One who promotes or facilitates the entry or exit of a person from the country so that they might engage in prostitution shall be sanctioned with imprisonment for two to four years. The penalty shall increase to six years if any on the circumstances described in article 227 are present.”</p> <ul style="list-style-type: none"> <li>▪ The aggravated circumstances under article 227 include: if the victim is less than twelve years of age; if done for profit; if carried out by deceit, violence, abuse of authority or other means of intimidation and coercion; the perpetrator is a relative or guardian.</li> </ul>



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<b>PROCURING/PANDERING</b>	
<b>Belize</b>	<p><b>Section 49 (Criminal Code, Ch. 101), Procurement</b> – “Every person who procures or attempts to procure</p> <ul style="list-style-type: none"> <li>(a) any female under eighteen years of age, not being a common prostitute or of known immoral character, to have unlawful carnal knowledge either within or without Belize with any other person or persons; or</li> <li>(b) any female to become, either within or without Belize, a common prostitute; or</li> <li>(c) any female to leave Belize, with intent that she may become an inmate of or frequent a brothel; or</li> <li>(d) either within or without Belize, any female to leave her usual place of abode in Belize (such place not being a brothel), with intent that she may, for the purposes of prostitution, become an inmate of or frequent a brothel either within or without Belize</li> </ul> <p>shall be liable to imprisonment for five years.” <i>(Emphasis added.)</i></p> <p><b>Section 18(1), Trading on Prostitution</b> – “A person who</p> <ul style="list-style-type: none"> <li>(a) being a male person, knowingly lives wholly or in part on the earnings or prostitution; or</li> <li>(b) being a male person, in any public place persistently solicits or importunes for immoral purposes; or</li> <li>(c) loiters about or importunes any person in any street or other place for the purpose of prostitution</li> </ul> <p>is guilty of an offence and is on summary conviction liable</p> <ul style="list-style-type: none"> <li>(i) in the case of a first conviction, to a fine not</li> </ul>

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	<p>exceeding one hundred dollars [US\$50] or to imprisonment for a term not exceeding six months; and</p> <p>(ii) in the case of a second or subsequent conviction, to imprisonment for a term not exceeding twelve months.”</p> <p><b>Section 50, Procuring defilement of female by threats or fraud or administration of drugs</b> – “Every person who</p> <p>(a) by threats or intimidation or any other method of compulsion, procures or attempts to procure any female to have unlawful carnal knowledge, either within or without Belize; or</p> <p>(b) by false pretense or false representation, procures any female, not being a common prostitute or of known immoral character, to have any unlawful carnal knowledge, either within or without Belize; or</p> <p>(c) applies, administers to, or causes to be taken by, any female any drug, matter or thing, with intent to stupefy or overpower her so as thereby to enable any person to have unlawful carnal knowledge with such female,</p> <p>shall be liable to imprisonment for three years.”</p>
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<p>Costa Rica</p>	<p><b>Article 169 (Criminal Code), Procuring (<i>Proxenetismo</i>)</b><sup>4</sup> – “Whoever promotes the prostitution of persons of either sex or induces the exercise of prostitution or maintains a person in prostitution or recruits for the purpose of prostitution shall be sanctioned by a penalty of prison of two to five years. The same penalty shall be imposed on whoever maintains another person in sexual servitude.”</p> <p><b>Article 170, Aggravated Procuring (<i>Proxenetismo agravado</i>)</b><sup>5</sup> – “The penalty shall be four to ten years in prison when, in addition to the occurrence of one of the acts outlined in the previous article [procuring], one of the following circumstances exists:</p> <ul style="list-style-type: none"><li>(1) If the victim is under eighteen years old;</li><li>(2) When there is deceit, violence, abuse of authority, or any other means of intimidation or coercion;</li><li>(3) If the perpetrator is an ancestor, husband, sibling, legal guardian, or in charge of the education, care or custody of the victim;</li><li>(4) If the accused abused a relationship of trust with the victim or family, regardless of blood relation.”</li></ul> <p><b>Article 171, Pimping (<i>Rufianería</i>)</b><sup>6</sup> – “Whoever maintains oneself, even partially, by a person who exercises prostitution, exploiting the profits provided by such activity, shall be sanctioned by a penalty of prison of two to eight years. The penalty shall be:</p>
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<sup>4</sup> As reformed by Law No. 7899 on Sexual Exploitation of Minors (1999).

<sup>5</sup> As reformed by Law No. 7899 on Sexual Exploitation of Minors (1999).

<sup>6</sup> As reformed by Law No. 7899 on Sexual Exploitation of Minors (1999).

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	<p>(1) Four to ten years if the victim is under twelve years old. (2) Three to nine years if the victim is between twelve and eighteen.”</p>
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<b>Dominican Republic</b>	<p><b>Article 334 (Law No. 24-9, Law Against Domestic Violence<sup>7</sup>), Procuring (<i>Proxenetismo</i>):</b> “The following persons will be considered a procurer:</p> <ol style="list-style-type: none"> <li>1. One who in any manner helps, assists, or harbors persons [men or women] with a view to prostitution or to the recruitment of people with a view towards sexual exploitation;</li> <li>2. One who from the exercise of that practice, receives benefits from prostitution;</li> <li>3. One who, related to prostitution, cannot justify/explain the means corresponding to his/her way of life;</li> <li>4. One who consents to the prostitution of his/her partner and obtains benefits from such;</li> <li>5. One who hires, trains, or supports a person [male or female, minor or adult] with a view to prostitution, even with their consent; submits them to prostitution or to the licentiousness and moral laxity of such customs;</li> <li>6. One who serves as an intermediary, by any title, between persons [male or female] who dedicate themselves to prostitution or to the relaxation of customs or the individuals who exploit or remunerate prostitution and the relaxation of the customs of another;</li> <li>7. One who by threats, pressure, or maneuvers, or by any other means, disturb the actions of prevention, assistance, or habilitation carried out by qualified</li> </ol>
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<sup>7</sup> Amending the Code of Criminal Procedure of the Dominican Republic. These articles have the same content and numbers as the corresponding articles in the Criminal Code of the Dominican Republic.

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	<p>organizations to help persons (men or women) who are engaging in prostitution or who are at risk of becoming prostitutes.</p> <p>Procuring is punishable by six months to three years in prison and a fine of 50,000-500,000 pesos.</p> <p>The attempt to carry out the infractions discussed in the present article will be punished with the same penalty as the completed act.”</p> <p><b>Article 334-1</b> : “The penalty will be two to ten years in jail and a fine of 100,000-1,000,000 pesos in the following cases:</p> <ol style="list-style-type: none"><li>1. When the infraction has been committed upon a child or adolescent of either sex, without prejudice to that set forth in Articles 126-129 and 187-191 of the Code for the Protection of Children and Adolescents;</li><li>2. When the infraction has been accompanied by threats, violence, by de facto, abuse of authority, or fraud;</li><li>3. When the perpetrator of the infraction was carrying arms (open or hidden);</li><li>4. When the perpetrator of the infraction was the spouse, cohabitor, or parent of the victim or belongs to one of the categories established in Article 303-4;</li><li>5. When the perpetrator is vested with public authority, or when, because of such vesting, he/she is called to participate, due to the nature of his/her functions, in the fight against prostitution, protection of health, or the maintenance of public order;</li><li>6. When the infraction has been committed upon multiple persons;</li><li>7. <i>When victims of the infraction have been delivered or incited to dedicate themselves to prostitution outside of</i></li></ol>
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	<p><i>national territory;</i></p> <p>8. <i>When victims of the infraction have been delivered or incited to dedicate themselves to prostitution on their arrival abroad or on their stop over point;</i></p> <p>9. When the infraction has been committed by various perpetrators, co-perpetrators, or accomplices.</p> <p>The penalties set forth in Article 334 and in the present Article will be passed even when the many acts which comprise the elements constituting the crime have been committed/carried out in different countries.</p> <p>The attempt to commit these acts will be punished with the same penalties as the completed act.</p> <p>In none of the cases set forth in the first paragraph of the Sexual Aggressions [including 334 and 334-1] can the aggressor benefit by taking refuge in attenuating circumstances.” <i>(Emphasis added.)</i></p>
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<p><b>El Salvador</b></p>	<p><b>Article 169 (Criminal Code), Inducement, Promotion, and Facilitation of Prostitution (<i>Induccion, promocion y favorecimiento de la prostitucion</i>)</b> - “One who induces, facilitates, promotes, or fosters the prostitution of persons under eighteen years of age shall be punished by imprisonment of two to four years. When any of these modalities is carried out taking advantage of the superiority stemming from any relationship, a fine of 50-100 days shall also be imposed.”</p> <p><b>Article 170 (Criminal Code), Determination of Prostitution (<i>Determinacion a la prostitucion</i>)</b> - “One who imposes the practice of prostitution on a person coercively, or abusing of a situation of need, or keeps her in it, shall be punished by imprisonment of one to three years. When any of these modalities is carried out taking advantage of the superiority stemming from any relationship, a fine of 50-100 days shall be imposed along with the criminal punishment. The prison term shall be two to four years when the victim is less than eighteen years of age.”</p>
<p><b>Guatemala</b></p>	<p><b>Article 191 (Criminal Code), Procuring (<i>Proxenetismo</i>)</b> - “Whoever, with aim to profit or to satisfy another’s desires, promotes, facilitates, or supports prostitution, without distinction as to sex, will be penalized by a fine of 2,500-10,000 Quetzals.</p> <p>Whoever, for their own benefit, engages in the activities referred to in the preceding paragraph, will be sanctioned with a fine of 1,500-5,000 Quetzals.”</p> <p><b>Article 192 (Criminal Code), Aggravated Procuring (<i>Proxenetismo agravado</i>)</b> - “The punishment set forth in the above Article will</p>



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	<p>be increased by one third in the following cases:</p> <ol style="list-style-type: none"> <li>1) if the victim is a minor;</li> <li>2) if the perpetrator is a legal relative, a relative within the degree established by law, guardian, or in charge of the education, custody, or care of the victim;</li> <li>3) If violence, deceit, or abuse of authority is involved.”</li> </ol> <p><b>Article 193 (Criminal Code), Pandering (Rufianería)</b> - “Whoever, without being covered in the prior articles of the present chapter, lives, in full or in part, off the expenses of a person or persons who engage in prostitution or off the profits that come from such activities, will be sanctioned with a fine of 2,500-15,000 Quetzals.”</p>
<b>Honduras</b>	<p><b>Article 148 (Criminal Code)</b> – “Whoever habitually or in abuse of their authority or confidence or with the goal of profit promotes or facilitates the prostitution or corruption of persons of either sex in order to satisfy the sexual desires of another, will be punished with prison from five to eight years plus a fine of 50,000-100,000 lempiras.</p> <p>This penalty will be increased by half if the victim is less than eighteen years of age.</p> <p>Whoever prevents another person from abandoning prostitution will be punished in the same manner.”</p>

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<p><b>Nicaragua</b></p>	<p><b>Article 202 (Criminal Code), Procuring / Pandering (<i>Proxenetismo / Rufianería</i>)</b> – “The following persons commit the crime of procuring or pandering:</p> <ol style="list-style-type: none"> <li>1. whoever creates or exploits places of prostitution or, with intent to profit, through physical or moral violence, abuse of authority or position, by deceitful strategies or by making use of any other similar scheme, causes a person to enter such places or obligates him or her to remain there or to dedicate him or herself to any other form of sexual commerce. This person will be sanctioned with three to six years' imprisonment.</li> <li>2. whoever, with intent to profit or to satisfy the desires of others, promotes, facilitates, or supports prostitution. This person will be sanctioned with three to six years' imprisonment. The maximum penalty will be increased to ten years if the perpetrator is united in marriage or a stable de facto union with the victim.</li> <li>3. whoever, without right to claim support from a person, shares in his or her earnings from the practice of prostitution and whoever, having this right, obligates that person by force to surrender all or part of these earnings. The penalty for this crime will be two to four years' imprisonment.</li> </ol> <p>Prostitution means the exercise of sexual commerce for money between persons of the same or different sexes.”</p>
<p><b>Panama</b></p>	<p><b>Article 228 (Criminal Code)</b> – “One who, for profit or to satisfy the desires of others, promotes or facilitates the prostitution of persons of either sex shall be punished by two</p>

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	<p>to four years imprisonment.”</p> <p><b>Article 229 (Criminal Code)</b> – “The punishment for committing the foregoing deed shall be imprisonment for three to five years in the following cases:</p> <ol style="list-style-type: none"><li>1. If the victim is a female less than twelve years old or a male who is less than fourteen;</li><li>2. When there is deceit, violence, abuse of authority or any means of intimidation;</li><li>3. When it is committed by close relatives of the victim or the guardian, or any or any other person to whom the care or custody has been entrusted for family reasons, for oversight, upbringing, or education; and,</li><li>4. When the perpetrator is a repeat offender or professional criminal in these matters.”</li></ol> <p><b>Article 230 (Criminal Code)</b> – “One who is supported, at least in part, by a person who exercises prostitution, shall be punished by imprisonment for two to four years.”</p>
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<b>MIGRANT SMUGGLING</b>	
<b>Belize</b>	<p><b>Section 32 (Immigration Act, Ch. 156) -</b>  “(1) Any master of a vessel who knowingly suffers any prohibited immigrant who arrives in such vessel to land therefrom contrary to the provisions of this Act commits an offence.  (2) Any person who knowingly lands or procures to be landed or who aids or assists in landing any prohibited immigrant contrary to the provisions of this Act commits an offence.  (3) Any prohibited immigrant who knowingly and willfully lands or suffers himself to be landed contrary to the provisions of this Act commits an offence.”</p> <p><b>Section 34 (Immigration Act, Ch. 156) –</b>  “(1) Any person who, for the purpose of entering Belize or of remaining therein, or of assisting any other person to enter Belize or to remain therein, in contravention of this Act-      (a) fabricates or falsifies any passport, permit, certificate or other document; or      (b) uses, utters or attempts to use or utter-          (i) any passport, permit, certificate or other document which has not been issued by lawful authority or which he is not entitled to use or utter; or          (ii) any fabricated or falsified passport, permit, certificate or other document, knowing it to have been fabricated or falsified, commits an offence.  (2) Any person who-      (a) makes a statement which to his knowledge is untrue in a declaration required to be made by an applicant for the issue of a temporary permit to facilitate him to travel to the Mexican and Guatemalan towns and villages as agreed</p>

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	<p>between the Government of Belize and the Governments of Mexico and Guatemala; or</p> <p><i>(b)</i> obstructs, hinders or opposes an immigration officer or police officer in the execution of his duty under this Act; or</p> <p><i>(c)</i> without lawful excuse knowingly harbours or conceals-</p> <ul style="list-style-type: none"><li><i>(i)</i> any other person who is within Belize in contravention of this Act; or</li><li><i>(ii)</i> any other person who, having entered Belize under the authority of a permit issued under this Act, has contravened or failed to comply with any condition subject to which the permit is granted; or</li></ul> <p><i>(d)</i> fails to comply with or contravenes the conditions under which any permit, certificate or other document has been issued to him under this Act; or</p> <p><i>(e)</i> being a prohibited immigrant, disembarks in Belize without previously obtaining a permit issued under this Act; or</p> <p>or</p> <p><i>(f)</i> contravenes or fails to comply with any of the conditions subject to which any permit has been granted under this Act; or</p> <p><i>(g)</i> directly or indirectly, instigates, commands, counsels, procures, solicits or in any manner purposely aids, facilitates, encourages or promotes the commission of any offence under this Act, whether by his act, presence or otherwise; or</p> <p><i>(h)</i> employs any person who is not in possession of an employment permit, commits an offence.</p> <p>(3) Any person who commits an offence</p>
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	<p>against any of the provisions of this Act for which no penalty is prescribed shall be liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and term of imprisonment:</p> <p>Provided that the punishment for the first offence under this Act shall not be less than a fine of one thousand dollars, and the punishment for a second or subsequent offence under this Act shall not be less than a fine of three thousand dollars or imprisonment for one year.</p> <p>Provided further that where a person is found guilty of the offence of employing a person who is not in possession of an employment permit, contrary to subsection (2) (h) of this section, the Court shall, in addition to the penalties prescribed above, order that the employer shall pay the expenses of removing such immigrant from Belize.”</p> <p><b>Section 35 (Immigration Act, Ch. 156) –</b>  “Every airline, or the master of a vessel, or the driver of a vehicle, who brings an immigrant into Belize contrary to the entry requirements and other provisions of this Act or the regulations made thereunder, commits an offence and the court shall, in addition to any other punishment specified by law, upon conviction order the convicted person to pay the expenses of removing such immigrant from Belize.”</p>
<b>Costa Rica</b>	None.

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<p><b>Dominican Republic</b></p>	<p><b>Article 1 (Law 344-98)</b> - “Any person who, from national territory or abroad, dedicates him/herself to the planning, sponsoring, financing, facilitation, or organization, in any form or manner, of the act of transferring/transporting people for illegal entrance to or exit from the national territory, be these people nationals or foreigners, will be penalized with three to ten years in jail and fines of 10,000-50,000 pesos.</p> <p>The attempt to carry out the above will be punished in conformance with the Dominican Penal Code....”</p> <p><b>Article 2-</b> “If as a result or on the occasion of such illegal travels, the death of one or more persons results, those responsible for any of the actions punishable in this article will be penalized with a prison term of no less than twenty years and no more than thirty years, and a fine of 25,000-100,000 pesos, as well as the obligation to indemnify the families of the victim for harm and damages.”</p>
<p><b>El Salvador</b></p>	<p><b>Article 367-A (Criminal Code) Illegal Trafficking in People (<i>Trafico ilegal de personas</i>)</b> - “The person who on his own or via other person[s], in contravention of the law, intends to introduce or actually introduces foreigners into the national territory, or harbors, transports, or guides them, with the purpose of evading migratory controls of this and other countries, will be punished with prison for four to eight years.</p> <p>The person who harbors, transports, or guides nationals with the purpose of evading migratory controls of this or other countries will be punished with the same penalty.</p> <p>People who with false or fraudulent documentation try to or do effectuate the exit of</p>

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	<p>Salvadorans or citizens of any other nationality, or those who use authentic documentation whose bearer is another person, will incur the same punishment.</p> <p>If as a consequence of the commission of this crime, the victims suffer deprivation of liberty abroad, are victims of crimes of any sort, or die due to violent causes or criminal nature, the penalty will be increased by two-thirds.”</p>
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<p>Guatemala</p>	<p><b>Article 103 (Law of Migration, Decree No. 95-98), Illegal Entry of Persons (<i>Ingreso ilegal de personas</i>)</b> - “Whoever promotes or facilitates the entry into the country of one or more aliens without complying with the legal requirements of entry and staying in the country commits the crime of the illegal entry of persons. The person responsible for this crime will be sanctioned with five to eight years in prison, noncommutable.”</p> <p><b>Article 104 (Law of Migration, Decree No. 95-98), Illegal Transit of Persons (<i>Transito ilegal de personas</i>)</b> - “Whoever promotes or facilitates the entry and transit of one or more persons without complying with the legal requirements of entry and permanence in the country in order to transport them to another country commits the crime of illegal transit of persons. The person responsible shall be sanctioned with five to eight years’ imprisonment, noncommutable.”</p> <p><b>Article 105 (Law of Migration, Decree No. 95-98), Transport of Illegal Aliens (<i>Transporte de ilegales</i>)</b> - “Whoever conducts or makes available whatever means of transportation for the purpose of transporting foreign persons who have entered or remain in Guatemalan territory in an illegal manner commits the crime of transporting illegal alien. The person responsible for this crime will be sanctioned with three to six years’ imprisonment.”</p> <p><b>Article 106 (Law of Migration, Decree No. 95-98), Harboring of Illegal Aliens (<i>Ocultacion de ilegales</i>)</b> - “Whoever permits the concealment of foreigners who have entered</p>
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	<p>or remain in Guatemalan territory, without complying with legal requirements, in any movable or immovable property, for the purpose of concealing them in their transit to another country or to facilitate their stay in Guatemala commits the crime of harboring illegal aliens. The person responsible for this crime will be sanctioned with three to six years in prison.”</p> <p><b>Article 108 (Law of Migration, Decree No. 95-98)</b> - “When the conduct described in the previous articles covered by this Title occur with respect to minors, under conditions or by means which endanger their health, integrity, or life, or when it is committed by a civil servant or a public employee, the penalty will be increased by one-third.”</p>
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<b>Honduras</b>	<b>Article 195 (Criminal Code):</b> “Whoever traffics Hondurans or people of any nationality or origin, transporting them or having them transported within national territory, in order to introduce them illegally into another state for any purpose, shall be punished with six to nine years imprisonment. The sanction shall be increased by a third when the perpetrators are public employees or civil servants. If as a consequence of the commission of this crime the subjects of the trafficking suffer deprivation of liberty while abroad, are victims of any sort of crime, or die by violent causes, whether or not accidental in nature, the penalty referred to above will be increased by two-thirds.”
<b>Nicaragua</b>	None.
<b>Panama</b>	<p><b>Article 310 (Criminal Code)</b> – “One who directs or forms part of an organization of international character dedicated to human or drug smuggling shall be sanctioned by imprisonment of ten to fifteen years.”</p> <p><b>Article 310A (Criminal Code)</b> – “One who intervenes in any form of trafficking in persons with the consent of the subjects, fraudulently avoiding or evading, by whatever means, the migratory controls established in the continental territory of the republic shall be sanctioned by penalty of five to ten years’ imprisonment.”</p>

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Since 1998, the International Human Rights Law Institute of DePaul University College of Law has monitored the rapidly growing problem of trafficking of women and children for purposes of commercial sexual exploitation. In 2001, the Institute launched research efforts in nine Latin American and Caribbean countries: Belize, Brazil, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. The project sought information from government institutions, civil society organizations, academic institutions and individuals directly involved and impacted by trafficking practices in order to present a social, economic, political and legal analysis of trafficking of women and children for commercial sexual exploitation. This groundbreaking study in the Americas was conducted in association with the Inter-American Commission of Women (*Comisión Interamericana de Mujeres*) and the Inter-American Children's Institute (*Instituto Interamericano del Niño*) of the Organization of American States.