

## TIP Report (Trafficking in Persons Report)

TIP Report (Trafficking in Persons Report) คือ รายงานประจำปีที่จัดทำโดยกระทรวงการต่างประเทศสหรัฐอเมริกา เพื่อประเมินสถานการณ์และความพยายามในการต่อต้านการค้ามนุษย์ในแต่ละประเทศทั่วโลก รายงานนี้มีเป้าหมายเพื่อส่งเสริมให้ประเทศต่างๆ สามารถประเมินและดำเนินการป้องกันการค้ามนุษย์ ปกป้องเหยื่อ และดำเนินคดีต่อผู้กระทำผิด ได้อย่างเหมาะสม

TIP Report แบ่งประเทศออกเป็น 4 กลุ่มตามการปฏิบัติตามมาตรฐานขั้นต่ำของกฎหมายการป้องกันและปกป้องเหยื่อการค้ามนุษย์ ดังนี้:

Tier 1	Tier 2	Tier 2 Watch List	Tier 3
ประเทศที่ปฏิบัติตามมาตรฐานขั้นต่ำในการป้องกันและปกป้องเหยื่อการค้ามนุษย์อย่างครบถ้วน	ประเทศที่ยังไม่ปฏิบัติตามมาตรฐานขั้นต่ำ แต่มีความพยายามที่ชัดเจนในการแก้ไขปัญหาการค้ามนุษย์	ประเทศที่มีรายงานการเพิ่มขึ้นของเหยื่อการค้ามนุษย์ และไม่มีหลักฐานเพียงพอที่แสดงว่ารัฐบาลได้พยายามแก้ไขปัญหาดังกล่าว	ประเทศที่ไม่ปฏิบัติตามมาตรฐานขั้นต่ำของสหรัฐอเมริกา และไม่มี ความพยายามในการแก้ไขปัญหาการค้ามนุษย์

### อันดับของประเทศไทยตั้งแต่ปี 2019 - 2024

2019	2020	2021	2022	2023	2024
Tier 2	Tier 2	Tier 2 watchlist	Tier 2	Tier 2	Tier 2

อ้างอิง <http://www.state.gov/j/tip/rls/tiprpt/2014/index.htm/>

<http://www.state.gov/j/tip/rls/rm/2014/228067.htm>

## ผลการจัดระดับประเทศไทยในรายงานสถานการณ์การค้ามนุษย์ ปี 2024

(Trafficking in Persons Report: TIP Report 2024)

ของกระทรวงการต่างประเทศสหรัฐอเมริกา

เมื่อวันที่ 24 มิถุนายน 2567 กระทรวงการต่างประเทศสหรัฐฯ ได้เผยแพร่รายงานสถานการณ์การค้ามนุษย์ประจำปี ค.ศ. 2024 (2024 Trafficking in Persons Report: 2024 TIP Report) ซึ่งรายงานสถานการณ์การค้ามนุษย์ใน 188 ประเทศ/เขตเศรษฐกิจ โดยในปี **ประเทศไทยได้รับการจัดระดับให้อยู่ใน Tier 2 ต่อเนื่องเป็นปีที่สาม**

รายงานฯ ได้สะท้อนถึงพัฒนาการสำคัญที่รัฐบาลไทยและภาคส่วนต่างๆ ร่วมกันดำเนินการเพื่อป้องกันและปราบปรามการค้ามนุษย์ในปีที่ผ่านมา อาทิ จำนวนการสืบสวนสอบสวนและการดำเนินคดีการค้ามนุษย์ รวมถึงการระบุตัวต้นผู้เสียหายที่เพิ่มขึ้น การสืบสวนสอบสวนเจ้าหน้าที่รัฐที่กระทำผิด การจ่ายเงินชดเชยให้แก่ผู้เสียหายมากขึ้น และการจัดตั้งศูนย์คัดแยกผู้เสียหาย ตลอดจนให้ข้อเสนอแนะที่ไทยอาจพิจารณาดำเนินการในการป้องกันและปราบปรามการค้ามนุษย์ให้ครอบคลุมยิ่งขึ้น

การแก้ไขปัญหาการค้ามนุษย์เป็นวาระแห่งชาติของไทย โดยหน่วยงานในทุกภาคส่วนของรัฐบาลไทยมุ่งมั่นดำเนินการต่อต้านการค้ามนุษย์อย่างจริงจังอย่างต่อเนื่อง เพื่อปกป้องประชาชนและชาวต่างชาติที่อาศัยอยู่ในประเทศไทยตามหลักสิทธิมนุษยชน ที่ผ่านมารัฐบาลได้ปรับปรุงกฎหมายและกฎระเบียบที่เกี่ยวข้องและพัฒนาการทำงานอย่างต่อเนื่อง รวมทั้งบูรณาการความร่วมมือระหว่างหน่วยงานไทย และเสริมสร้างความเป็นหุ้นส่วนกับภาคส่วนต่าง ๆ ทั้งภาคเอกชน ภาคประชาสังคม ตลอดจนส่งเสริมความร่วมมือระหว่างประเทศ รวมถึงกับสหรัฐฯ เพื่อขยายขีดความสามารถและเพิ่มประสิทธิภาพให้เกิดความก้าวหน้าที่เป็นรูปธรรมในการป้องกันและปราบปรามการค้ามนุษย์

### ข้อมูลเพิ่มเติม

-ประเทศสมาชิกอาเซียนที่ได้รับการจัดอันดับดีขึ้นจากปีที่แล้วคือ มาเลเซีย ที่ถูกปรับจาก Tier 2 Watch List ขึ้นมาเป็น Tier 2 ในปีนี้ / ไทย อินโดนีเซีย และลาว ยังคงอยู่ใน Tier 2 เช่นเดิม / ประเทศสมาชิกอาเซียนที่ถูกจัดอันดับอยู่ใน Tier 1 ได้แก่ สิงคโปร์และฟิลิปปินส์

-ประเทศสมาชิกอาเซียนที่ถูกจัดอันดับให้อยู่ใน Tier 3 ในปีนี้ ได้แก่ กัมพูชา เมียนมา และบรูไน ที่อันดับตกลงมาจาก Tier 2 Watch List ในปีที่แล้ว

-ประเทศอื่นๆ ที่ถูกปรับลดอันดับลงมาเป็น Tier 3 คือชูดานที่กำลังเผชิญกับสงครามกลางเมือง / อียิปต์กับแอฟริกาใต้ ขยับขึ้นจาก Tier 2 Watch List มาเป็น Tier 2 ในปีนี้ / หลายประเทศที่ถูกจัดอันดับอยู่ใน Tier 3 เป็นประเทศที่มีความสัมพันธ์ที่ไม่ดีกับสหรัฐฯ เช่น จีน รัสเซีย เวเนซุเอลา เกาหลีเหนือ และอิหร่าน

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## Trafficking in Persons for the Purpose of Organ Removal

Trafficking in persons for the purpose of organ removal is one of the least reported and least understood forms of trafficking – but one that experts believe may be growing. Like sex trafficking and labor trafficking, it is ultimately a crime that exploits human beings for economic profit. Trafficking in persons for the purpose of organ removal is “a form of trafficking in which an individual is exploited for their organ, including by coercion, deception and abuse of a position of vulnerability.” The crime is sometimes confused with organ trafficking; however, organ trafficking refers more broadly to the illicit trade or exchange of organs for financial or other material gain. In organ trafficking, the focus is on the organ itself; conversely, with trafficking in persons for the purpose of organ removal, the focus is on the individual. The key global anti-trafficking instrument, the Palermo Protocol, defines exploitation to include at a minimum “the removal of organs,” alongside sexual exploitation, forced labor, and slavery or slavery-like practices.

Often, in cases of trafficking in persons for the purpose of organ removal, would-be donors are tricked into organ donation. Common deceptions include being told human beings have three kidneys or that kidneys regenerate after being removed, or being falsely told they will experience no negative side effects from a kidney removal (in fact, kidney donors may face serious lifelong medical challenges and be unable to work). Although kidneys are the most common organ involved, other organs and tissues, such as livers, corneas, or skin, are also sought, although notably the Palermo Protocol’s definition covers only exploitation for the removal of organs, not of tissues or cells. Victims may not be paid at all, or they may receive some payment; importantly, an individual can still be a victim of trafficking in persons or other human rights abuses even if they received some form of payment.

The 2022 UNODC *Global Report on Trafficking in Persons* noted trafficking in persons for the purpose of organ removal constituted only 0.2 percent of *detected* victims of trafficking compared to the much higher numbers for sex trafficking and forced labor. UNODC has warned “existing barriers to reporting suggest that the full scale of this phenomenon is not yet known.” The report also noted an uptick in cases (from 25 in 2017 to 40 in 2018), though the overall numbers are small. Between 2008 and 2022, UNODC reported 700 victims of trafficking in persons for the purpose of organ removal while noting “the scale of the problem is likely to be much larger.”

Trafficking in persons for the purpose of organ removal is difficult to detect for several reasons. Data-collection efforts are scarce, and some instances of trafficking in persons for

Twenty-one-year-old “Daniel” (not his real name) scraped out a living selling mobile-phone accessories at an outdoor street market in Lagos, Nigeria, but he thought his luck took a turn when he was offered a “life-changing opportunity” to work in the United Kingdom. The people he believed were his employers instructed him to take a blood test, which he thought was required to secure a visa. The people he had been working with put him on a flight and confiscated his passport. Within days of arriving in London, Daniel was taken to the Royal Free Hospital, where doctors discussed the risks of the upcoming “operation” – something Daniel knew nothing about. Seeing his confusion, the doctors sent Daniel away – but did not notify authorities. Later, Daniel overheard a conversation among those who had brought Daniel to the UK speaking about sending him back to Nigeria to remove his kidney. Scared, Daniel escaped, sleeping on the streets for several days until walking into a police station and telling his story. Daniel’s bravery eventually led to the UK’s first prosecution of – and convictions for – human trafficking for the purpose of organ removal. A prominent Nigerian politician and his wife who had arranged the trafficking scheme to provide their daughter with a kidney transplant, as well as a Nigerian doctor, were convicted in 2023.

This story was published by the BBC, [Organ Harvesting: Trafficked for His Kidney and Now Forced into Hiding, June 26, 2023](#); for additional details, see the Crown Prosecution Service, *Updated with Sentence: Senior Nigerian Politician Jailed Over Illegal UK Organ-Harvesting Plot, May 5, 2023*.



the purpose of organ removal may be mistakenly classified or prosecuted as organ trafficking. Moreover, unlike sex trafficking and labor trafficking, which can take place over months or years, trafficking in persons for the purpose of organ removal usually involves a brief, often one-time, interaction. Like other forms of trafficking, transactions have increasingly shifted online and become more sophisticated, facilitating the emergence of smaller networks, and even independent brokers and suppliers, which may be more difficult to track.

Both the 2020 and 2022 UNODC *Global Report on Trafficking in Persons* and a 2021 INTERPOL report suggest North Africa and the Middle East have the highest share of detected victims, in part due to the prevalence of large vulnerable communities, limited access to medical care, and corruption. The media and some NGOs have also reported instances of trafficking in persons for the purpose of organ removal for ritual purposes. However, instances of trafficking in persons for the purpose of organ removal can occur worldwide. In a case recently prosecuted in the United Kingdom, the victim was recruited in Nigeria and brought to London, where the organ removal was to take place (see inset box for additional information). In another case reported by the BBC in late 2023, revealing the connection between organ trafficking and trafficking in persons for the purpose of organ removal, Pakistani police arrested eight members of an organ-trafficking ring that “lure[d] vulnerable patients from hospitals” and conducted transplants “often without the patient knowing;” several people died from these procedures.

The government of the People’s Republic of China, in particular, has been accused of systematically forcibly removing organs from political prisoners. For example, a group of UN human rights experts noted in 2021:

Forced organ harvesting in China appears to be targeting specific ethnic, linguistic, or religious minorities held in detention, often without being explained the reasons for arrest or given arrest warrants, at different locations. We are deeply concerned by reports of discriminatory treatment of the prisoners or detainees based on their ethnicity and religion or belief.

(Note: forced organ harvesting is not a term defined in the Palermo Protocol, but the phrase is commonly used to describe trafficking in persons for the purpose of organ removal.)

While there is a need for additional studies and reporting to thoroughly assess the geographic and numeric scope of trafficking in persons for the purpose of organ removal, stakeholders are taking steps to attempt to address the issue. A number of regional instruments, including the Council of Europe Convention against Trafficking in Human Organs, the Council of Europe Convention on Action against Trafficking in Human Beings, and the ASEAN Convention against Trafficking in Persons, Especially Women and Children, recognize organ removal as a form of trafficking-related exploitation.

Experts have also proposed ideas to increase the supply of legally donated organs, with the intention of making trafficking in persons for the purpose of organ removal and organ trafficking less lucrative. These ideas include transitioning deceased organ donation from an opt-in to an opt-out system; implementing paired exchanges matching donors and patients; creating awareness campaigns targeted at potential donors, including addressing barriers to altruistic organ donation and providing guidance on how to prevent trafficking in persons for the purpose of organ removal; building the capacity of law enforcement to detect and investigate these cases; and improving transparency and reporting around transplantation.

<https://www.state.gov/reports/2024-trafficking-in-persons-report/>





## Connecting the Dots: Preventing Forced Labor by Empowering Workers

Forced labor, a form of human trafficking, is universally condemned yet prevalent in nearly every industry globally. The International Labour Organization (ILO) reports forced labor has grown in recent years – with no region of the world or private sector industry spared – and the majority of forced labor takes place in the private economy, meaning forced labor is connected to global supply chains. These facts demand a re-examination of current efforts to prevent and address forced labor, including the need to elevate the voice and agency of workers and place them at the center of prevention efforts through strategic partnerships. In addition, particular focus should be placed on vulnerable populations, such as migrant workers. ILO research shows the rates of forced labor among migrant workers are higher if migration is irregular or poorly governed, or where recruitment practices are unfair or unethical.

Although prosecuting specific traffickers and assisting individual victims are critical for governments combating forced labor, successful interventions to prevent forced labor require a range of stakeholders willing to visualize and address broader systemic issues centered on worker's labor rights, including those of migrant workers, as well as supply chain power imbalances. For governments, this may require additional resources and oversight of workplaces, especially in key sectors where forced labor is often present; better monitoring of the labor recruitment industry; increased outreach to and protections for migrant workers; and improved screening measures by well-trained officials targeting populations at greater risk of exploitation. For the private sector, it will mean proactively supporting workers and their ability to advocate for themselves, setting clear expectations of suppliers, and rooting out practices that create environments ripe for exploitation.

### Worker-led Approaches to Prevent Forced Labor

Over time, policymakers, academics, and other stakeholders have expanded their thinking to encompass worker-led approaches to address the vulnerabilities of workers and prevent forced labor. Such approaches include advancing labor rights and standards – including freedom of association, collective bargaining, and the remediation of labor rights abuses – as well as worker-driven approaches that include migrants. Research has demonstrated workers are most vulnerable to forced labor if they do not know their rights, are excluded from labor protection laws, and lack access to grievance mechanisms. Workers in the informal sector and women and girls, who often face gender-based violence and harassment in the workplace, can be particularly vulnerable. One of the most effective ways to prevent worker exploitation is to guarantee workers' full rights to freedom of association and collective bargaining. Independent and democratic labor unions, led by workers, are best able to represent workers' collective interests at multiple levels, including at the national, subnational, regional, and international levels. Collaborating with local workers, regional international organizations, and global union federations, these unions can reach the most vulnerable workers, organize across a labor sector, and advocate for key policy changes, including responsible migration management. As a result, they are well positioned to engage powerful transnational companies to address forced labor in their supply chains.

According to ILO's Director of the Bureau for Workers' Activities, there have been positive developments over time with unions reaching outside of their traditional base to include the unionization of self-employed workers. Many unions have also expanded to include more informal economy, migrant, and domestic workers, which is key as many of these workers are governed by a variety of working arrangements, including fixed-term and temporary contracts.

This diversification of representation is important as unions allow workers to negotiate for better working conditions, influence the laws and policies that impact them, and remediate labor rights abuses. Unions play a pivotal role in securing legislated labor protections and rights, such as legally entitled wages and benefits, occupational safety and health protections, overtime pay, and medical leave. Union-led efforts help raise the wages for the lowest paid and least skilled workers and lead to fewer hours of unpaid overtime work. Unions play crucial roles in identifying labor rights abuses and enforcing rights on the job. One of the most effective ways to prevent the exploitation of migrant workers is by guaranteeing their right to join unions in destination countries. The multiplier impact is notable, as industries with strong union representation tend to have lower levels of labor rights abuse, the worst forms of child labor, and forced labor.



Where there is an absence of unions, there at least should be effective, secure mechanisms for worker communication and grievances. Governments should strongly encourage employers to provide mechanisms so workers can advocate for their rights, discuss workplace issues of concern and interest, and communicate grievances, even if that takes place outside a formal union mechanism. Such mechanisms are essential to preventing forced labor, as they position workers, including migrant workers, to better protect themselves against coercion, deception, discrimination, and other forms of exploitation.

## Promising Practices in Improving Labor Conditions

Several examples stand out as raising labor conditions for workers.

- ***Dindigul Agreement, India***

Indian women and the Dalit-worker led union Tamil Nadu Textile and Common Labor Union (TTCU) signed in April 2022 a historic agreement with clothing and textile manufacturers and major fashion companies to end gender-based violence and harassment at factories in the southern state of Tamil Nadu. This enforceable brand agreement resulted in multinational companies committing to support a worker- or union-led program at certain factories or worksites. An assessment a year later by the multi-stakeholder oversight committee found that the workers are now effectively able to detect, remediate, and prevent gender-based violence and harassment. In addition, the TTCU has conducted peer education training of more than 2,000 workers and management, held more than 30 meetings with management to resolve grievances, and recruited 58 workers as monitors to help remediate gender-based violence and harassment throughout the factory units.

- ***Freedom of Association for Garment Workers, Honduras***

In the decade that has followed Honduran workers signing an agreement with major brand Fruit of the Loom, close to 50 percent of all Honduran garment workers are now employed at a factory where an independent union represents the workforce. As a result of this signed collective bargaining agreement, workers have won increased wages and benefits and witnessed a reduction in verbal harassment and gender-based violence.

- While unionization rates vary considerably across the globe, the ILO notes other encouraging examples. In Uzbekistan, trade unions have organized seasonal workers and facilitated dual affiliation to different unions in other countries. In Moldova, unions have begun to establish agreements with unions in destination countries so that migrants have protection when working abroad. In Benin, Botswana, and Mauritius, trade unions have set up Joint Trade Union Councils, which have drawn up joint declarations, charters, and protocols on the modalities of working together in national social dialogue fora. In Lithuania and Ukraine, unions have established structures of cross-border collaboration to improve the recruitment and representation of truck drivers in both countries.

Overall, research has also shown that unionization has spillover effects that extend beyond union workers. Competition means workers at non unionized firms also often see increased wages and improved workplace safety norms. Union members improve communities through heightened civic engagement and increased voter rates. Unions can also boost business' productivity by giving experienced workers more input into decisions that design better, more cost-effective workplace procedures.

## Milestones, Momentum, and Motivation

Over the last several years, government and private sector attention has become focused on resilient supply chains, and there are increasing supply chain transparency and due diligence policies, regulations, and laws globally. In addition, various initiatives have been developed to raise the importance of workers' agency. It is notable that flower-sector leader Bloomia's entire cut-flower supply chain, which encompasses farms in the United States, Chile, and South Africa, will now be certified for human rights protections by the Fair Food Program, pioneers in the worker-driven social responsibility model with its partnerships among retailers, growers, and workers. Combined, the Partnership for Workers' Rights, launched by the United States and Brazil at the 2023 UN General Assembly; the Multilateral Partnership for Worker Organizing, Empowerment, and Rights (M-POWER), which is part of the U.S. Presidential Initiative for Democratic Renewal; and the 2023 U.S. Presidential Memorandum on Advancing Worker Empowerment, Rights, and High Labor Standards present a unique opportunity to proactively advance worker empowerment in the short and long term while simultaneously preventing labor rights violations and abuses, especially forced labor. The independent UN Special Rapporteur on Contemporary Forms of Slavery made a key theme for 2024 the role of trade unions and worker organizations in preventing contemporary forms of slavery.

The timing is ideal for all stakeholders committed to preventing forced labor to fully embrace the importance of supporting, elevating, and improving labor standards, bringing workers' voices to the policy formulation and decision-making table, and working to help the public and private sector enforce rules against unfair labor practices. Governments should take every step to use a whole-of-government approach to advance worker rights and address gaps in labor rights protection and compliance, including for migrant workers; the private sector should see free and fair unions as critical partners in competing in the global economy while protecting workers; and other civil society stakeholders should ensure that workers' voices are incorporated early and often, especially when their equities are at stake.

<https://www.state.gov/reports/2024-trafficking-in-persons-report/>





## Human Trafficking in Cuba's Labor Export Program

Each year, the Cuban government sends tens of thousands of workers around the globe under multi-year cooperation agreements negotiated with receiving countries. While medical missions remain the most prevalent, the Cuban government also profited from other similarly coercive labor export programs, including those involving teachers, artists, athletes and coaches, engineers, forestry technicians, and nearly 7,000 merchant mariners worldwide. According to a report published by the Cuban government, by the end of 2023, there were more than 22,000 government-affiliated Cuban workers in over 53 countries, and medical professionals composed 75 percent of its exported workforce. The COVID-19 pandemic increased the need for medical workers in many places around the world, and the Cuban government used the opportunity to expand its reach by increasing the number of its medical personnel abroad through the Henry Reeve Brigades, which Cuba first initiated in 2005 to respond to natural disasters and epidemics. Experts estimate the Cuban government collects \$6 billion to \$8 billion annually from its export of services, which includes the medical missions. The labor export program remains the largest foreign revenue source for the Cuban government.

There are serious concerns with Cuba's recruitment and retention practices surrounding the labor export program. While the conditions of each international labor mission vary from country to country, the Cuban government subjects all government-affiliated workers to the same coercive laws. Cuba has a government policy or pattern to profit from forced labor in the labor export program, which includes foreign medical missions. The Cuban government labels workers who leave the program without completing it as "deserters," a category that under Cuban immigration law deems them as "undesirable." The government bans workers labeled as "deserters" and "undesirables" from returning to Cuba for eight years, preventing them from visiting their families in Cuba. It categorizes Cuban nationals who do not return to the country within 24 months as having "emigrated." Individuals who emigrate lose all their citizen protections, rights under Cuban law, and any property they left behind. These government policies and legal provisions, taken together, coerce workers and punish those seeking to exercise freedom of movement. According to credible sources, by 2021, the Cuban government had sanctioned 40,000 professionals under these provisions, and by 2022, there were approximately 5,000 children forcibly separated from their parents due to the government's policies surrounding the program.

Complaints filed with the International Criminal Court and the UN indicate most workers did not volunteer for the program, some never saw a contract or knew their destination, many had their passports confiscated by Cuban officials once they arrived at their destination, and almost all had "minders" or overseers. According to the complaints and survivors, Cuban heads of mission in the country subjected workers to surveillance, prevented them from freely associating with locals, and imposed a strict curfew. Cuba also confiscated between 75 and 90 percent of each worker's salary. As a result of the well-founded complaints and information about the exploitative nature of Cuba's labor export program, at the end of 2023, the UN Special Rapporteur for Contemporary Forms of Slavery filed a new communication outlining the persistent concerns with the program, particularly for Cuban workers in Italy, Qatar, and Spain.

While exploitation, including forced labor, of workers remains the primary concern with the program, Cuba's practices can also negatively impact a host country's healthcare system. Survivors of the program have reported being forced by the Cuban in-country mission director to falsify medical records and misrepresent critical information to justify their presence and need to local authorities. Some individuals reported discarding medications, fabricating names, and documenting medical procedures that never occurred. When medical workers refused to comply with the demands of the Cuban in-country mission director, they faced punishment and retaliation. While the Cuban government promotes workers as highly skilled medical professionals and specialists, these workers often lack adequate medical training to treat complex conditions. These practices are unethical, negligent, exploitative, and risk the lives of those they serve.





Migrants jump between cars on a train. A lack of economic stability or legal status can put migrants at particular risk of exploitation, including human trafficking.

Photo credit: Lisa Kristine

Governments should make efforts to combat human trafficking, and this includes not purchasing goods or services made or provided with forced labor. Governments that utilize Cuba’s labor export programs despite the serious concerns with the program should at a minimum conduct frequent and unannounced labor inspections to screen these workers for trafficking indicators and employ victim-centered interviewing techniques. These host governments should ensure all Cuban workers are subject to the same laws, regulations, and protections as for other migrant workers and that they are not brought via a negotiated agreement with the Government of Cuba that limits these protections or exempts Cuban workers from Wage Protections Systems or other tools designed to strengthen transparency. Officials should ensure workers maintain complete control of their passports and medical certifications and can provide proof of full salary payment to bank accounts under the workers’ control. They should scrutinize medical reports produced by these workers, offer protection for those who face retaliation and punishment for terminating their employment, and raise awareness of trafficking risks for all foreign workers, including government-affiliated Cuban workers.

<https://www.state.gov/reports/2024-trafficking-in-persons-report/>





## Nothing About Us Without Us: Human Trafficking and Persons with Disabilities

Human traffickers often take advantage of persons in vulnerable situations including individuals who lack access to services and programs or rely on the assistance of others. Among this group of potential targets are persons with disabilities, who represent about 16 percent of the world's population, or 1.3 billion people, according to the World Health Organization.

Of course, these 1.3 billion people are not monolithic. Some people have a disability from birth; others experience disability later in their lifetime. Some disabilities are life-long, and others may be temporary. A disability can be visible, such as a physical disability, or non-apparent, such as an intellectual or psychosocial disability. People with disabilities are of every age, race, sex and sex characteristics, sexual orientation, gender identity and expression, economic status, and nationality.

Professors Andrea Nichols and Erin Heil have noted the “heightened risk as well as heightened prevalence” of human trafficking involving persons with disabilities, although the authors acknowledged the paucity of existing research. Even when research about persons with disabilities is conducted, it rarely addresses additional intersecting identities, such as race, ethnicity, age, gender, religion, sexual orientation, gender identity, gender expression, or migratory status, that can exacerbate marginalization.

The intersection between disability and human trafficking can be cyclical. On the one hand, persons with disabilities are more likely to be targeted by traffickers; on the other hand, the experience of being trafficked can lead to or exacerbate existing disabilities through physical injuries or emotional trauma that in turn could heighten vulnerability.

Even with access to support, persons with disabilities face increased risk of exploitation. A caregiver may exploit their position to victimize the person they are assisting. Persons with disabilities who receive financial assistance may be exploited for those benefits. As the Human Trafficking Legal Center has explained with respect to the situation in the United States: “While persons with disabilities may be trafficked into sex or labor, many cases include one additional element: the theft of Social Security or disability benefits. The opportunity to steal government benefits provides an added incentive for traffickers to target persons with disabilities.” Persons with disabilities across the globe who receive benefits face similar challenges.

In light of this situation, it is perhaps not surprising that the centerpiece of the United States' statutory framework to combat trafficking, the Trafficking Victims Protection Act (TVPA), was promulgated in part as a reaction to the Supreme Court's decision in *United States v. Kozminski*, 487 U.S. 931 (1988), a case involving two men with intellectual disabilities held in what justices referred to as “slave-like” conditions on a farm. In the case, the Court held that the law banning “involuntary servitude” was limited to circumstances involving “the compulsion of services by the use or threatened use of physical or legal coercion.” However, Congress subsequently passed the TVPA, which recognized that psychological coercion and threats of nonviolent coercion can be every bit as powerful as physical force in overcoming the will of targeted individuals.

In 2009, the U.S. Equal Employment Opportunity Commission brought a case involving Henry's Turkey Service, which exploited 32 intellectually disabled men at a farm in Atalissa, Iowa. For more than 30 years, the men endured physical and mental abuse and received virtually no pay. The jury awarded the men what at the time was the largest-ever award in an employment-discrimination case – \$240 million – although it was later reduced to \$1.6 million due to a federal cap in the Americans with Disabilities Act.



Not only did the TVPA arise in part from trafficking crimes involving persons with disabilities, one of the first major trafficking prosecutions in the United States involved persons with disabilities. In that case, dozens of immigrants with hearing disabilities, including young children, were forced to work 18-hour days as trinket vendors in New York City. Traffickers targeted persons with disabilities who were also young migrants and did not speak English, exemplifying how disability can intersect with other forms of vulnerability. Sadly, this form of exploitation of persons with disabilities continues to this day.

The TIP Report enhanced its coverage of the intersection of disability and trafficking, with the 2023 TIP Report referencing persons with disabilities in 65 country narratives, up from about 50 in the 2022 TIP Report. These references also highlighted the existence or lack of specialized services for persons with disabilities who are victims of trafficking, and the particular challenges faced by persons with physical or intellectual disabilities.

The U.S. Department of State's disability rights work is led by Special Advisor on International Disability Rights Sara Minkara. In this appointed position, Ms. Minkara leads the comprehensive strategy to promote and protect the rights of persons with disabilities across U.S. foreign policy. Special Advisor Minkara embodies the slogan "nothing about us without us," which is often used by disability rights advocates to insist that persons with disabilities participate fully in policies affecting them. The role of Special Advisor on International Disability Rights was first held by Judy Heumann, who served in the position from 2010 to 2017 and is widely regarded as the "mother of the disability rights movement." Sadly, Ms. Heumann passed away in March 2023, leaving behind an indelible legacy of disability advocacy in the United States and around the world.

<https://www.state.gov/reports/2024-trafficking-in-persons-report/>





## Key Trafficking Issues in the Western Hemisphere Region

Human trafficking manifests itself differently around the world. In the Western Hemisphere – North, Central, and South America and the Caribbean – there are broad commonalities in trafficking trends countries face and how their governments and authorities approach the crime. Below is an overview of shared issues in the region to illustrate the overall situation and **coordinate the anti-trafficking efforts of governments and other stakeholders**. These regional issues are extrapolated from the individual narratives for the countries in the region, including the United States.

Unprecedented irregular migration in the region affects all Western Hemisphere countries. Migrants and asylum seekers are especially vulnerable to sex trafficking and forced labor, including by large and small organized criminal groups. Migrants who rely on migrant smugglers are at particularly high risk of exploitation as many assume debt to pay migrant smugglers. Irregular migration may also include individuals already exploited by traffickers, as victims may be motivated to migrate and seek protection elsewhere. While some countries enacted policies aimed at reducing migrants' vulnerability to trafficking by providing temporary residency and access to formal employment, education, healthcare, and other services, we encourage all countries faced with irregular migration challenges to prevent trafficking and prioritize screening among migrants.

Countries across the region generally have a good understanding of and response to sex trafficking, especially in identification of women who are victims. Governments also undertake and emphasize the importance of law enforcement and criminal justice approaches to address trafficking, even if implementation is uneven. Many governments seek to tackle both internal and transnational human trafficking. In broad terms, there is political will in many countries to address human trafficking, particularly sex trafficking.

Weak efforts targeting **forced labor** remain a concern in the Western Hemisphere. Governments generally focus on addressing sex trafficking and have weaker, poorly enumerated procedures to prosecute labor traffickers and protect victims of forced labor. Labor inspectorates are underfunded and understaffed and typically have limited or no authority to inspect informal sector worksites where many victims are exploited, especially along changing migration routes. Governments' lack of attention to labor trafficking leaves victims unprotected in multiple sectors, including **agriculture, mining, logging, maritime, and service**.

Traffickers also exploit many victims in **forced criminality**. Organized crime groups, including gangs and illegal armed groups, exploit girls in child sex trafficking, force children into street begging, forcibly recruit or use child soldiers, and coerce and threaten young men and women to transport drugs, commit extortion, act as lookouts, or commit acts of violence, including murder. Organized crime groups target groups of migrants unable to enter a country due to border restrictions or awaiting asylum decisions, including at the U.S.-Mexico border. **State-sponsored forced labor** is also a concern, specifically Cuba's labor export program, including its medical missions – which the Cuban government continues to profit from by subjecting workers to forced labor and exploitation.

Gaps in trafficking **victim protection** are another broad concern in the Western Hemisphere. For years governments have lacked (or failed to provide the necessary) financial and human resources to **screen** for and **identify** trafficking victims and provide them trauma-informed services. Some governments have developed policies and protocols for screening victims and referring them to care, but implementation has been inconsistent or ineffective. In addition, governmental interagency coordination is weak, with working groups often disjointed and disempowered, which is particularly detrimental to the cross-sectoral collaboration needed for victim protection efforts. These problems are particularly notable among migrants, whom governments rarely screen for trafficking indicators.

Furthermore, governments make weak screening and identification efforts even with **underserved populations and marginalized groups** recognized as at high risk to trafficking, including Afro-descendant, Indigenous, and LGBTQI+ persons, as well as members of other ethnic and linguistic minorities, migrants, refugees, and displaced persons. These populations also frequently experience



discrimination from authorities, often making them fearful to report crimes or access care and justice. Finally, there are **insufficient trafficking-specific services** for victims, particularly for men and boys, in most countries across the region. Governments refer identified trafficking victims to support systems designed to serve other populations, such as migrants, individuals experiencing homelessness, or victims of gender-based violence, which do not meet the specific needs of trafficking victims. Similarly, access to justice and services is concentrated in large urban areas, while the most vulnerable individuals frequently live in rural areas with limited government presence. Lack of victim-centered and trauma-informed services can hinder victim identification, prevent healing, increase risk of re-trafficking, and fuel impunity by making survivors less likely to participate in the case against their traffickers.

**Criminal justice responses and definitions** of trafficking are concerning across the region. Many governments have weaknesses in their **legal systems** and **uneven judicial application** of trafficking laws, including levying fines in lieu of imprisonment for trafficking crimes, imposing penalties not commensurate with those for other crimes, and failing to criminalize all forms of child sex trafficking. Judges, in particular, may lack adequate training in applying trafficking laws and coercive methods traffickers use, which impacts their decisions and sentences. Impunity for trafficking crimes fosters misperceptions about trafficking among both policymakers and the public. Inadequate law enforcement efforts and insufficient capacity-building for law enforcement and other first responders hinders or impacts efforts in **low-capacity countries**, especially in the Caribbean. Governments with limited resources often do not recognize or implement low-cost/high-impact anti-trafficking policies. **Official complicity** within law enforcement, the prison system, and local government facilitates trafficking crimes across some governments, but criminal prosecution of complicit officials lags behind the already low number of convictions of other traffickers. **Child sex trafficking** and **extraterritorial commercial child sexual exploitation and abuse** are also pervasive concerns, particularly due to the increased use of social media and online platforms to recruit victims. Many officials **conflate** human trafficking with other crimes, including migrant smuggling, child labor, sexual violence against children, illegal commercial sex, and illegal adoption. Because of this confusion, governments may misidentify trafficking victims, fail to give them adequate support, and therefore underreport trafficking crimes. These problems lead to **inadequate data collection** and reporting on human trafficking and, therefore, an incomplete understanding of the extent of the crime in the hemisphere.

<https://www.state.gov/reports/2024-trafficking-in-persons-report/>





## The Intersection of Forced Marriage and Human Trafficking

The question of whether forced marriage constitutes a human trafficking crime is complex, and the answer can vary depending on the circumstances of the forced marriage and the applicable national laws.

Governments around the world have taken different approaches to the issue, both in terms of the laws they have enacted and of the way those laws are implemented in practice. While the governing international law on trafficking in persons, the UN TIP Protocol, allows for flexibility in how State Parties criminalize human trafficking under domestic legislation, establishing exploitative intent is critical to considering whether the conduct constitutes trafficking in persons.

### What is Forced Marriage?

The 2022 update to the U.S. Strategy to Prevent and Respond to Gender-Based Violence Globally defines forced marriage as a marriage at any age that occurs without the free and full consent of both parties, including anyone under the age of 18 who is not able to give full consent. Forced marriage may occur when family members or others use physical or emotional abuse, threats, fraud, or deception to obtain an individual's agreement. In such cases, an individual cannot be considered to have consented to the marriage. The terms "early marriage" and "child marriage" are often used interchangeably to refer to any marriage in which at least one of the parties has not attained the age of 18. There is overwhelming evidence that child, early, and forced marriages can increase individuals' vulnerability to future exploitation and abuse – with long-term consequences for their health, wellbeing, safety, and opportunities.

### Is Forced Marriage a Form of Trafficking under International Law?

Article 3 of the UN TIP Protocol defines "trafficking in persons" to require three essential elements—an act, conducted using one or more means, for an exploitative purpose. Article 3 does not list forced marriage explicitly as a form of exploitation; instead, it provides that "exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs." Accordingly, when a forced marriage involves any of the acts, means, and purposes of exploitation listed in Article 3, it would be considered trafficking under the UN TIP Protocol. For example, forced marriages that also involve forced labor or services, or slavery or practices similar to slavery would also be trafficking in persons if the relevant acts and means are present. However, the non-exhaustive list of forms of exploitation in Article 3 allows State Parties to decide to expand the list of forms of exploitation within their own domestic definition of trafficking in line with the purpose and scope.

While the UN TIP Protocol does not explicitly include forced marriage within the definition of trafficking, many stakeholders argue that if all the elements of trafficking are present (i.e., there is an act, a prohibited means, done for the purpose of exploiting another person), it should not matter that the exploitation takes the form of a forced marriage. These stakeholders point to the identical practices used by unscrupulous recruiters who are paid by business owners or prospective husbands to deceive and obtain the consent of individuals to marry "loving wealthy husbands" or accept "lucrative job offers," in both instances only to leave victims trapped and exploited.



Countries that have chosen to include forced marriage within their domestic definitions of trafficking, either explicitly or implicitly, have taken three common approaches:

#### *Forced Marriage Included as a Form of Exploitation*

By leaving the list of forms of exploitation under Article 3 open-ended, the UN TIP Protocol allows State Parties to choose to expand the list of forms of exploitation included under domestic anti-trafficking laws. As such, some countries have chosen to include forced marriage as an exploitative purpose under their respective anti-trafficking laws. Several countries have taken this approach, including, but not limited to: Argentina, Australia, Botswana, Cambodia, Chad, Costa Rica, Croatia, Ecuador, El Salvador, Haiti, Kenya, Lithuania, Nicaragua, North Macedonia, Seychelles, and Uganda.

#### *“Practices Similar to Slavery” Interpreted to Include Some Forms of Forced Marriage*

Other countries interpret the inclusion of “practices similar to slavery” within Article 3 of the UN TIP Protocol to include certain forms of forced marriage. “Practices similar to slavery” is defined in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. Under Article 1(c) of this convention, “practices similar to slavery” refers to, inter alia, “Any institution or practice whereby: (i) A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or (ii) The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or (iii) A woman on the death of her husband is liable to be inherited by another person ...” For countries that use this definition of “practices similar to slavery” to interpret the scope of the definition of trafficking in persons under the UN TIP Protocol, some, but not all, forms of forced marriage could constitute trafficking in persons.

#### *Forced Marriage and Trafficking in Persons as Distinct Crimes.*

It is also worth mentioning that there are many countries that choose to address forced marriage and trafficking in persons as separate offenses. In its 2020 Issue Paper “Interlinkages Between Trafficking in Persons and Marriage,” the United Nations Office on Drugs and Crime (UNODC) acknowledges the viability of these different approaches and explains that there is “no one-size-fits-all approach to most effectively counter cases involving interlinkages between trafficking in persons and marriage.”

## **Establishing Exploitative Intent is Critical in All Approaches**

At the heart of the question of whether a forced marriage constitutes a human trafficking crime is the question of whether the intention was to exploit a person or persons through the marriage. Recently, the European Parliament and the Council of the European Union recognized the gravity of and increasing linkages between forced marriages and human trafficking. They formally adopted a directive noting that the exploitation of forced marriages “fall[s] within the scope of offenses concerning trafficking in human beings...to the extent that all the criteria constituting those offenses are fulfilled.”

While States that choose explicitly to include forced marriage within their definition of exploitation, or implicitly, through the inclusion of “practices similar to slavery,” consider “forced marriage as inherently exploitative,” such an interpretation is neither required nor shared by all States. As UNODC explains,

...cultural and national contexts are relevant in determining exploitation, especially in relation to forced and servile marriage. Cultural and other context-specific factors can play a role in shaping perception of what constitutes exploitative conduct for the purposes of establishing that trafficking has occurred.

Marriages generally involve domestic work and sexual relations between spouses, neither of which is generally understood to constitute abuse or exploitation. However, there are circumstances in which individuals may be exploited in connection with each of these under the guise of marital obligations. Taking into consideration the cultural and national contexts in which marriages transpire is a complex but necessary task when determining whether all three elements of a human trafficking offense are present in a case involving forced marriage.

While it is understood forced marriage is inherently harmful, rooted in gender inequality, and can often dramatically increase the risks of individuals to trafficking in persons, gender-based violence (GBV), and other abuses or crimes, it is important to acknowledge there may be circumstances in which a forced marriage has occurred, but the offense of human trafficking has not, because the purpose of the marriage was not to exploit another individual. For example, in some communities, even an untruthful allegation of sexual indiscretion or promiscuity can irreparably damage a girl’s prospects of marriage or place her in physical danger. Parents in these communities may attempt to protect their daughters by marrying them at a young age to avoid such allegations and safeguard





A survivor stands in her home. Traffickers use the promise of marriage or a romantic relationship to lure young women away from their homes and support networks, making them less likely to attempt escape once forced into labor trafficking or sex trafficking.

Photo credit: Smita Sharma

their reputations. Similarly, families who live in refugee camps or other unstable situations where there is high prevalence of multiple forms of violence, including GVB, may view marriage as a protective mechanism that will prevent their daughters from being victims of physical or sexual violence or offer them greater economic security. In these instances, such marriages commonly occur without an individual giving their full, free, and informed agreement to marry. By definition, such an arrangement would constitute a forced marriage and depending on the country, potentially a violation of domestic criminal laws. However, if no one involved in arranging the marriage (not the spouse, parents, matchmaker, etc.) is participating *for the purpose of exploiting the individual*, then the necessary elements of trafficking in persons are not met. Other crimes or human rights abuses may have occurred and should be addressed, but the specific crime of human trafficking has not occurred because the marriage was not for the purpose of exploitation. To the contrary, taking into account the relevant cultural and social norms, these actors may believe they are acting in the best interest of the individual. As in all criminal cases, the knowledge and intent of the individual matters and therefore, in the case of forced marriages as a potential trafficking crime, one must consider if an individual intended to exploit someone, or whether they intended, even misguidedly and mistakenly, to do what was believed to be in the individual's best interest. These complicated dynamics must be determined in other trafficking contexts as well.

Therefore, when allegations of forced marriage are presented, they must be evaluated on a case-by-case basis to determine whether they constitute trafficking in persons. Such an assessment neither legitimizes forced marriage nor detracts from serious concerns around such practices. Rather, it simply ensures the appropriate criminal prosecution, protection, and prevention responses are utilized to address the conduct in question because, as UNODC explains, "...qualifying a particular type of conduct as trafficking in persons has extensive consequences for both the alleged perpetrators and victims of the crime."



\* NOTE: U.S. law does not explicitly recognize forced marriage as a “severe form of trafficking in persons” or reference it in criminal trafficking laws. Therefore, forced marriage, per se, is not automatically considered a form of trafficking in persons under U.S. law. The facts and circumstances of the forced marriage must be considered to determine whether the conduct falls under a relevant definition or legal provision. Generally, if the person forced to marry is also compelled to work or to engage in commercial sex, then the forced marriage would likely fall within the definition of trafficking in persons and be a crime under U.S. law. Because the definition of “severe forms of trafficking in persons” established under the Trafficking Victims Protection Act governs the Department’s minimum standard assessments for the purposes of the TIP Report, the Department accordingly includes governments’ efforts to combat forced marriage if there is credible evidence that those efforts address forced marriage in which the objective of the marriage was to exploit another person for labor or services or commercial sex.

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### **An Example of When a Forced Marriage Involved Human Trafficking: *United States of America v. Zahida Aman, et al.***

In *United States of America v. Zahida Aman, et al.*, the United States successfully prosecuted and convicted three individuals for trafficking crimes relating to a forced marriage. On January 24, 2023, the traffickers were sentenced to five, ten, and 12 years of imprisonment, respectively, and ordered to pay restitution to the victim. The case serves as an example of how forced marriage and human trafficking can intersect and result in complex and devastating exploitation of vulnerable individuals, as abuse often goes undetected for long periods of time due to its hidden nature within the confines of familial relationships.

*A federal jury sitting in Richmond, Virginia, found defendants Zahida Aman, Mohammad Nauman Chaudhri, and Mohammad Rehan Chaudhri guilty of conspiracy to commit forced labor for compelling the domestic labor of a Pakistani woman for 12 years. The jury further found defendant Aman guilty of forced labor and document servitude, and defendant Rehan Chaudhri guilty of forced labor.*

*According to the evidence presented in court, defendant Zahida Aman arranged for her son’s marriage to the victim in 2001. The victim moved to the United States and lived in a house in Midlothian, Virginia, with her husband and the three defendants (the husband’s mother and his two brothers). The defendants compelled the victim to serve the family as a domestic servant, using physical and verbal abuse, restricting communication with her family in Pakistan, confiscating her immigration documentation and money, and eventually threatening to separate her from her children by deporting her to Pakistan.*

*The defendants slapped, kicked, and pushed the victim, even beat her with wooden boards, and on one occasion hog-tied her hands and feet and dragged her down the stairs in front of her children. Even after the victim’s husband moved away, the defendants kept the victim in their Virginia home, often forcing her to perform increasingly laborious tasks...*

*The evidence further showed that the defendants required the victim to work every day, beginning early each morning. They restricted her food, forbade her from learning to drive or speaking to anyone except the defendants’ family members and prohibited her from calling her family in Pakistan.*

*Press Release, U.S. Department of Justice*

