

HUMAN TRAFFICKING AND MEDIATION

By Lina Meneses Espinoza and Barbara Zanette

Human trafficking is an international crime that has seriously developed all over the world; this illegal global trade is continuously growing. Recent estimates¹ of global profits from human trafficking are as high as 32 billion Dollars, if both the sale of individuals and the value of their exploited labor or services are taken into account. In order to properly understand what can be counted into this “modern day slavery”, it is important to define the concept of human trafficking. According to the UN Protocol Act 2000², at art. 3 human trafficking is defined as *the recruitment, transposition, transfer, harbouring or receipt of persons, by means of 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 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 minimum, the exploitation of the prostitutions of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs*”.

Before going into the different manifestations of the crime, it is important to distinguish between the terms *human trafficking* and *smuggling*. While many victims of trafficking are victims of smuggling, not all victims of smuggling are trafficked victims. A person who is smuggled is free to leave once he or she is smuggled across the border; however, smuggling can become trafficking once a person is compelled to provide labor or services³.

It is important to note that the crime of human trafficking does not require that victims cross the border, although the majority of the victims usually come from a foreign country; the focus should be on the exploitation and control of a person through force, fraud or coercion, not on the movements of the person.

Whether human trafficking occurs internally or externally, the crime operates in different forms:

- Forced labour: this occurs when employers seek to employ and hire workers in deplorable conditions, especially when they are immigrants, afraid of the law, poor and illegal; this can be viewed as a kind of involuntary servitude;
- Bonded labour: this is a form of trafficking in which the offenders use a bond or form of debt as coercion against the person to keep him or her subjugated;

¹ *Trafficking in person report*, June 2008, USA Department of State, available at www.state.gov/g/tip

² *Protocol to prevent, suppress and punish trafficking in persons, especially women and children*, Dec. 13 2000, supplementing the U.N. Convention against transnational organized crime G.A. Res 55/25, Annex II, U. N. Doc. A/res/55/25 (Nov.15, 2000).

³ *Final Report*, California Alliance to combat trafficking and slavery Task Force, October 2007.

- Debt bondage and involuntary servitude: these arise when the trafficker works in complicity of labor agencies and employers in the destination to hire workers under abusive contract. This is an involuntary servitude with a constant threat to continue in the involuntary work relationship;
- Domestic servitude: this occurs primarily inside private homes;
- Forced child labour: this consists of child soldiers and children exploited for sex, here, traffickers exploit children not only in labor, domestic or sexual fields, but also in wars, recruiting them as soldiers into the conflicts;
- Child sex tourism: this is increasingly developing, due primarily to the demand for anonymity. Child sex tourism occurs when tourists engage sexual activity with children in poor countries they are travelling to. In these countries, legal systems are obsolete or weak in the area of children protection;
- Fake adoptions: this consists of illegally selling children under the guise of legitimate adoption;
- Sex and prostitution: This comprises a significant portion of overall trafficking and the majority of transnational modern-day slavery;
- Organ trafficking: this consists of the illicit extraction of human organs for the purpose of selling them on the black illicit market.

While globalization is developing political and social relationships between countries (trade, immigration, etc.), it is also influencing the increase of the human trafficking crimes. It is important to examine how the globalization process, generally considered an economic force, generates transnational organized crime in the sex trade or trafficking of women and minors. According to the Annual Report on Human Trafficking of the United States State Department⁴, between 600,000 and 800,000 people each year cross international borders as trafficked victims. Also, according to the Organizacion Internacional del trabajo (OIT)⁵, 450,000 people are victims of forced labor, the majority of these victims are women and children.⁶

While sexual trafficking has no boundaries, the greatest demand can be found in those societies with greater economic power.

In United States it is estimated that there are over fifty thousand trafficked women and illegal people forced to work in prostitution.

⁴ Report available at www.state.gov.

⁵ Oficina Internacional del Trabajo, Conferencia Internacional del Trabajo 93ª reunion, Geneva 2005.

⁶ These results should be even higher in the last years.

In Japan it is estimated that there are more than 40,000 Thai women that are victims of illegal human trafficking.

In Europe, the demand for women used for sexual exploitation comes primarily from rich countries that seek people of the former Soviet Union that are weak or vulnerable.

The United Nations has reported that in the European Union there are between 200,000 and half a million women that are employed as illegal sex workers. These women are exploited and physically violated. The 'demand' for women, especially from Russia has increased in recent years due in large part to the economic crisis. There are as many as 50,000 trafficked Russian women, of whom 15,000 are in Germany, 5,000 in Japan and around a thousand in the United States.

This emerging trade has been labeled the “fourth wave” by the International Organization for Migration, to identify the wave of women coming from Eastern and Central Europe. Prior to the “fourth wave”, trafficked women used in the sex trade were primarily from the Philippines and Thailand, then from Dominican Republic and Colombia, and at a third level from Ghana and Nigeria. This does not imply that only these countries have been involved in the sex trade, however, these are the countries where the demand has increased in recent years.

Some African countries, especially South Africa and Nigeria, are countries of origin, travel and destination for both victims and traffickers, as well as for both national and international exploitation: According to OIM, the number of South African women sexually exploited in Asian countries is increasing. In the opposite direction, the number of Chinese, Russian and Thai women used for sexual exploitation is increasing in South Africa⁷.

The trafficking of African children has also increased in recent years. According to several UNICEF statistics, thirty two percent of minors exploited around the world are children coming from African countries.

An average of one third of all human trafficking occurs in Asian countries. Hong Kong, for example, is a transit area to China or other nearby areas. Hong Kong is also a destination country for sexual exploitations of young girls. Japan, South Korea, Taiwan and Malaysia are the most important centres of sexual exploitation of minors in the Asian region. Many victims between fifteen and forty five are trafficked from Vietnam and forced into marriages in China.⁸

In the Middle East, Saudi Arabia, Lebanon, Bahrain, Egypt and the United Arab Emirates are transit and destination countries for women coming from Asia, Africa and the ex Soviet republics. These areas are also a destination for children from Bangladesh, India and Pakistan, used as riders for camel competitions in Qatar, United Arab Emirates and Saudi Arabia.

⁷ IOM, *World Migration 2005*, Geneva.

⁸ IOM, cit.

In terms of Central and South America, origin countries include Brasil, Colombia, Dominican Republic, Suriname, Antillas and recently Mexico, Argentina, Ecuador and Peru. Destination countries for human trafficking from Central and South America include; the United States, Spain, Netherlands, Germany, Belgium, Israel, Japan and other asian countries.

It is also important to highlight another aspect related to tourism, sex tourism. Sex trafficking generally occurs from south to north: many men travel to exotic countries in order to meet their sexual fantasies, repressed in their own countries. The tourism industry has become an accomplice of the sex industry in many countries such as Cuba, Dominican Republic, Costa Rica, Guatemala, Colombia, Jamaica and other regions of the world. With the Cuban economic crisis in the early nineteen nineties and the opening to tourism from Europe, there was a significant increase in the sex industry in Cuba: to Cuba arrive planes full of men coming from Spain, Italy, Germany, Canada and United States, whose purchasing power is multiplied by ten compared to local currency. In the year 2000 more than one million tourists entered Cuba, generating an income of \$2000 million dollars. In Costa Rica and Dominican Republic the same phenomenon has been observed. Even if these countries have different social and economic characteristics, they all have a strong turism industry.

In terms of offenders, human trafficking is basically owned by criminal organizations, that use people that are familiar with the victims (friends, family members, neighbours, people of same race, etc.) to lure victim's into the world of human trafficking; it is important to point out that female participation in human trafficking is increasing, as women are more likely to gain the trust of the victims⁹.

Criminal organizations that are involved in human trafficking can have big economic gains and recently have enjoyed reduced risks of punishment; this is why many criminal organizations, including big mafias, are interested in this illegal trade. In fact, human trafficking is now superior to the drug trade.

From the victim's perspective, it has to be said that anybody can be a victim of human trafficking. However, the categories that are most vulnerable to human trafficking are women and children, usually coming from poor and uneducated families and environments. The use of very young children for sexual exploitation is increasing enormously every year¹⁰ a reality that requires the attention of authorities around the world.

Trafficked victims face difficult obstacles and have unique short and long term needs: first, survivors must trust that they will not be automatically deported and that their immediate health, safety and housing needs will be met. High security shelters are important for these victims because criminal

⁹ IOM, *World Migration 2005*, Ginebra.

¹⁰ IOM, cit.

organizations are often involved. Trafficked victims also have unique medical and psychological needs due to the traumas experienced. These conditions can be so severe that they often make victims incapable or unwilling to speak.

There are multiple entities involved in the fight against human trafficking. First, governments are necessary actors, taking part in legislative and political initiatives to combat human trafficking. They have a responsibility to find and implement effective programs to combat human trafficking with adequate means of prevention, punishment and victims protection. There are also other entities that have an important role in the fight against human trafficking. Law enforcement, including various policing entities such as the FBI, ICE and Police, are involved in the application of the law that applies in human trafficking cases. However, these entities need to be specifically trained. Also important are the non-profit organizations and government agencies that fight against human trafficking in its various aspects, including prevention, awareness, help for victims, in-the-field activity, etc. All of the actors involved in the fight against human trafficking need to communicate and cooperate in order to be more effective.

As interns at Bridge-Mediation, an international company specialized in mediation for domestic and international businesses, we have been able to observe and be involved in a pilot project to use mediation and its techniques as a tool in the fight against human trafficking. Human trafficking is a serious and very real crime. As long as communication and implementation problems persist, victims will remain unprotected.

Mediation is a peaceful mechanism for resolving conflict. It is a voluntary and non-binding process that occurs outside the courtroom. During the mediation process, a neutral third party facilitates the interaction between disputing parties, helping them to agree on a resolution that is fair, durable, and workable. The parties, not the mediator, create the final decision.

Mediators use techniques that assist parties in reaching a final agreement. These techniques include neutral reframing, summarizing, setting the agenda, acknowledging, active listening, brainstorming, redirecting, reframing, reality check, open-ended questions and silence,¹¹ Some of these techniques

¹¹ *Neutral reframing* is the technique by which the mediator restates the principal concept of a party's statement, leaving out strong words and angry tones;

Summarizing is a technique wherein the mediator repeats what has been said to identify the topic of discussion and address the concerns of the parties;

Setting the agenda consists of the mediator defining critical issues and arranging the order in which each issue will be discussed;

Acknowledgement occurs when mediators have the opportunity to repeat back what they heard about the stories, feelings and interests of the parties;

Active listening is a specific type of listening that involves paying respectful and focused attention to the content and feelings of the speaker.

Brainstorming is used to generate options and alternative solutions for resolving the dispute;

Redirecting is a technique used when the mediator shifts the focus from one subject to another;

can be useful as communication tools in the fight against human trafficking. For example, a trafficked person who has been severely abused may need intensive counselling before being able to talk to the FBI, ICE or police. Even after treatment by counsellors, the victim may not want to speak with these authorities because they lack the skills or capacity to communicate effectively with the victims. A person who has proper training can communicate in a much more effective and less intimidating manner, without using improper language or even body language that affects the victim. It is important to keep in mind however, that a communication problem is not always related to the victims who are often incapable or unable to speak. A problem may also arise between the entities involved in assisting the victims: non-profit organizations, governments agencies and law enforcement agencies. As mediation is a tool that is universal and can be adjusted into different fields and conflicts, even if it cannot actually resolve the crimes, it can be used as a tool that will allow the parties involved in fighting human trafficking (government Agencies, law Enforcement, and NGO's) to be able to communicate, negotiate, manage and resolve the issues, and to be strong and unified against the crimes. Mediation can accomplish this by helping to open a dialogue between the actors assisting the victims and the victims themselves.

Mediation can work to help the fight in human trafficking. It is a tool that can overcome some of the difficulties between organizations and law enforcement to help them work more effectively as a team. Mediation can also help the non – profit sector and NGO's when addressing and working with the industries that are responsible for trafficking, such as hotel, bars, and agricultural entities among others.

However, mediation and cross-cultural negotiation techniques not only help to open a dialogue, but also to respect and understand different cultures involved in human trafficking in order to be more effective.

Because crimes associated with human trafficking involve many different countries and cultures, and because the fight against human trafficking involves many international organizations, training given to parties on Cross-culture negotiation and conflict management, with a focus on mediation, can be an effective means of fighting this expanding crime.

Reframing is the process of changing the way a thought is presented so that it is more likely to support a possible resolution while retaining the fundamental meaning of the thoughts expressed;

Reality check occurs when the mediator confront the parties with reality when they are not cooperative in mediation;

Open-ended questions are those questions that cannot be answered with a simple yes or no and that the mediator asks to establish a relationship with the parties, gather informations and increase understanding of the situation;

Silence is a technique that can be used to let the parties take a break, when they are using very strong words, being manipulative or acting unreasonably.

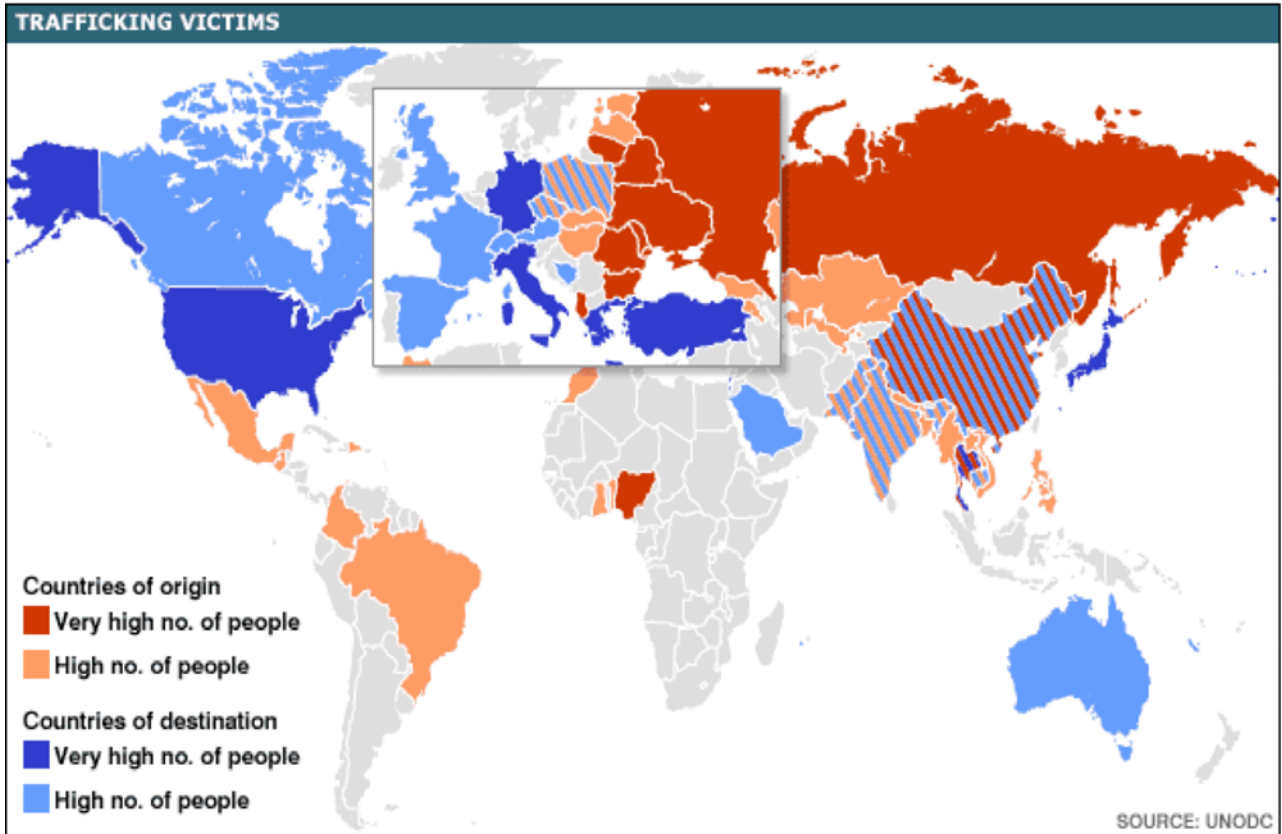
Bridge-Mediation provides mediation services and trainings that focus on cross-cultural negotiation techniques. These techniques enable trainees to open a dialogue between different cultures and break down barriers to effective resolution of conflicts. In addition, the training creates a greater awareness of the needs and feeling of other parties, which helps to open the dialogue and to communicate in a more effective way.

The effectiveness of mediation in dealing with cross-cultural issues is the reason why Bridge-mediation and BSCC¹² established a pilot project in order to apply mediation and its techniques to help the fight against human trafficking. The project's goal is to help subjects involved to communicate and cooperate in order to be more effective. The project discusses the common and real obstacles faced by human trafficking fighters and proposes the implementation of mediation as a tool, including the use of mediation techniques to solve the communication problem existing between the entities involved and the victims.

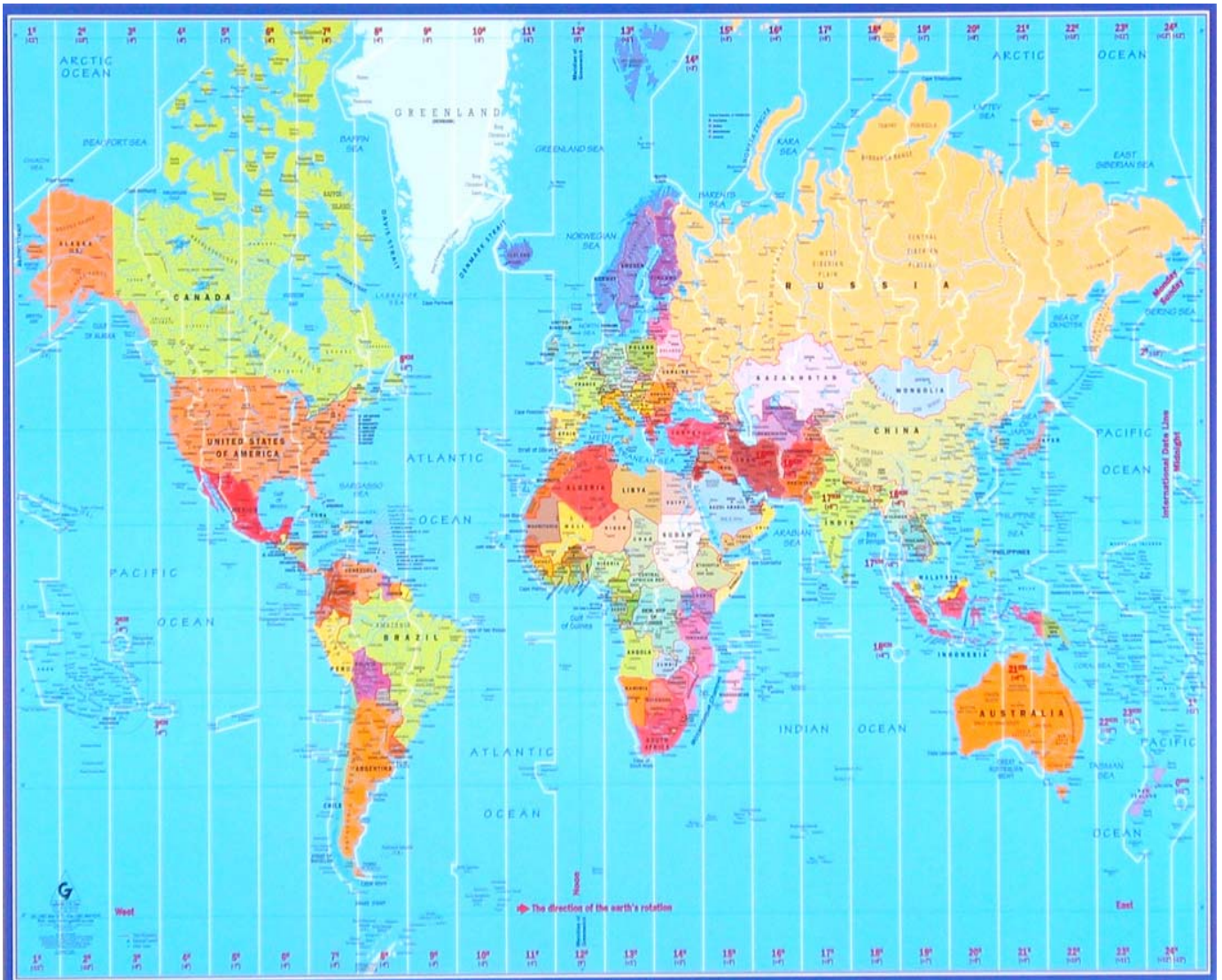
If mediation can be implemented on a large scale, all nations would benefit.

TRAFFICKING VICTIMS MAP

¹² Bilateral Safety Corridor Coalition is a non-profit organization whose aim is to eradicate human trafficking in Usa and Latin America, in coalition with over 60 organizations and agencies, and empowering victims so that they may return to families, friends and daily life. The mission of the association is to preserve the dignity and well being of trafficked victims trough prevention, intervention and education, in order to reach a world without exploitation and where men, women and cildren's lives are protected.



HOW ARE COUNTRIES RANKED



Tier 1 (green) - This rating is assigned to countries that fully comply with the U.S. State's minimum requirements. These include criminal enforcement and prosecution of trafficking, establishment of protective services for victims, and coordination of prevention campaigns.

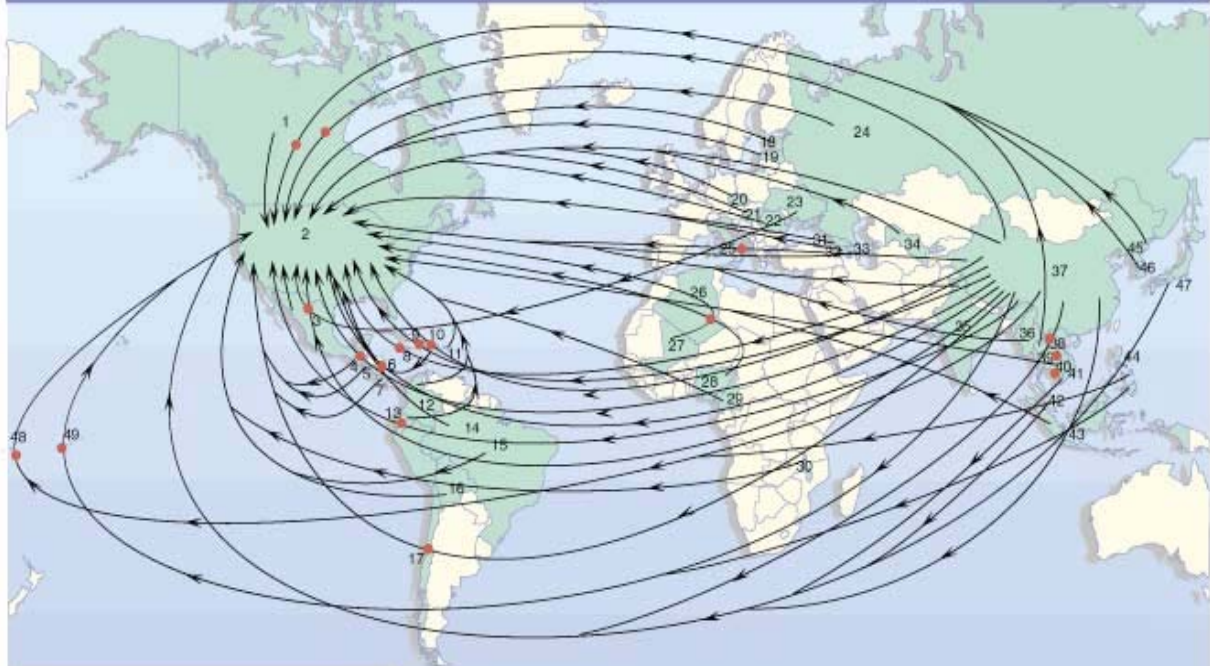
Tier 2 (yellow) - This rating is assigned to countries that do not yet fully comply with minimum standards but are making significant efforts to do so.

Tier 2 Watch List (orange) - For countries either in danger of falling into tier 3 or countries on the verge of entering tier 2.

Tier 3 (red) - These countries do not comply with minimum standards and are not making significant efforts to do so.

No Tier Rating (gray) - Several countries were unable to be assigned a tier rating because of transitioning governments or incomplete data. The U.S. is also not assigned a rating.

Trafficking of Persons, Especially Women and Children: USA Routes



- 1) Canada, 2) USA, 3) Mexico, 4) Guatemala,
- 5) El Salvador, 6) Nicaragua, 7) Costa Rica, 8) Jamaica,
- 9) Haiti, 10) Dominican Republic, 11) Puerto Rico,
- 12) Colombia, 13) Ecuador, 14) Peru, 15) Brazil, 16) Bolivia,
- 17) Chile, 18) Estonia, 19) Latvia, 20) Czech Republic,
- 21) Hungary, 22) Romania, 23) Ukraine, 24) Russia,
- 25) Italy, 26) Algeria, 27) Mali, 28) Nigeria, 29) Cameroon,
- 30) Malawi, 31) Georgia, 32) Armenia, 33) Azerbaijan,
- 34) Uzbekistan, 35) India, 36) Burma, 37) China, 38) Laos,
- 39) Thailand, 40) Cambodia, 41) Vietnam, 42) Malaysia,
- 43) Indonesia, 44) Philippines, 45) North Korea,
- 46) South Korea, 47) Japan, 48) Nauru, 49) Kiribati.

Routes represent at least one documented case of trafficking of persons. See individual country reports for additional information.

■ Countries with trafficking activity
● Transit Stop

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 School of Advanced
 International Studies

Created by Neha Mathur
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