



## Commonwealth Human Rights Initiative (CHRI) London

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### **Human Trafficking Concerns in the Commonwealth Caribbean: the 2009 U.S. State Department Trafficking in Persons Report in focus**

#### **1. Background Human Trafficking**

1. Human trafficking is the recruitment, transporting, providing or obtaining a person for labour or services. This includes *inter alia* bonded labour, forced labour (for example involuntary domestic servitude), forced child labour, involving children in armed conflict, and sex trafficking (including the sexual exploitation of children). Trafficking of persons is defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), supplementing the United Nations Convention against Transnational Organized Crime (the so-called Palermo Protocol). Article 3 of this Protocol defines 'trafficking in persons'<sup>1</sup>.

#### **2. Recent Concerns Regarding Human Trafficking in the Caribbean**

1. The Commonwealth Human Rights Initiative (CHRI) London office monitors, reports and raises awareness regarding human rights issues in Commonwealth member states within the Western hemisphere, this includes the Caribbean. Thus, the inclusion of Caribbean Commonwealth members in this year's U.S. State Department Trafficking in Persons Report (hereinafter TIP Report), is of particular concern.
2. In previous years few Caribbean states and overseas territories appeared in the TIP Reports. For example, human trafficking in St. Vincent and the Grenadines has not previously been addressed. The previous lack of information on trafficking of persons in these reports reflects a wider lack of awareness and reporting on human rights issues

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<sup>1</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) available at <http://untreaty.un.org/English/TreatyEvent2003/Texts/treaty2E.pdf> (accessed 19 June 2009)

in Caribbean members of the Commonwealth. However, this report offers a window into troubling reports of human trafficking in places like St. Vincent and the Grenadines, Belize and Guyana.

3. The Commonwealth Caribbean states mentioned in 2009's TIP Report are Antigua and Barbuda, The Bahamas, Barbados, Jamaica and Trinidad and Tobago. Especially troubling is the inclusion of Belize, Guyana and St. Vincent and the Grenadines on the 'special watch list'<sup>2</sup>. According to the U.S. those countries on the 'watch list' do not comply fully with minimum standards set by American law for cooperating in efforts to reduce the increase of human trafficking. They have effectively been placed on notice that they may face political and economic sanctions unless their record improves.<sup>3</sup>

#### 4. The U.S. Trafficking in Persons Report 2009 in more detail<sup>4</sup>

##### *Aims of the Report*

1. The Department of State is required by law to submit an annual Report to the U.S. Congress on foreign governments' record on attempts to eliminate severe forms of trafficking in persons. The aim of this report is to raise global awareness, to highlight efforts of the international community, and to encourage foreign governments to take effective actions against countries that are involved in the trafficking in persons.
2. U.S. anti-human trafficking work is guided by the Trafficking Victims Protection Act of 2000 (TVPA).<sup>5</sup> The TVPA states that the purpose of combating human trafficking is to punish traffickers, to protect victims, and to prevent trafficking from occurring. The U.S. has a strong regional interest in the Caribbean and the U.S. State Department has a particular interest in this area given that trafficking impacts the U.S. domestically.

##### *Ranking countries – the tier system*

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<sup>2</sup> See BBC Caribbean News website [http://www.bbc.co.uk/caribbean/news/story/2009/06/090617\\_newsbriefsam.shtml](http://www.bbc.co.uk/caribbean/news/story/2009/06/090617_newsbriefsam.shtml) (accessed 19 June 2009)

<sup>3</sup> Ibid.

<sup>4</sup> See the TIP Report 2009, available at <http://www.state.gov/g/tip/rls/tiprpt/2009/> (accessed 19 June 2009)

<sup>5</sup> The Act is available at <http://www.state.gov/documents/organization/10492.pdf> (accessed 19 June 2009)

3. The TIP Reports categorise each country into one of the three 'tiers'. The tier system is calculated on the extent of government action to combat trafficking, rather than the size of the problem. This allows for a proper analysis and a comparative understanding of the scale of the problem.
4. Governments that fully comply with the TVPA's minimum standards for the elimination of trafficking are placed in Tier 1. Tier 2 governments are defined as governments that are making 'significant efforts' to meet the minimum standards. Governments that do not fully comply with the minimum standards and are not making significant efforts to do so are considered as falling into Tier 3.

#### *The 'Special Watch List'*

5. The Special Watch List created under the TVPA is designed to put certain countries under closer scrutiny. A country is placed on the watch list depending on a number of factors including: the country's ranking in the previous report (whether the situation has improved or deteriorated); where the absolute number of victims of severe forms of trafficking is very significant or significantly increasing; if there has been a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; evidence of complicity in severe forms of trafficking by government officials; or the determination that a country is not making significant efforts to bring itself into compliance with the minimum standards. Governments of countries in Tier 3 may be subject to certain sanctions. For example, the U.S. government may withhold non-humanitarian, non-trade-related foreign assistance and impose 'soft sanctions'.

## **6. The Caribbean in focus**

### *Belize*<sup>6</sup>

1. Belize is a source, transit, and destination country for people (including children) trafficked for the purposes of sexual exploitation and forced labour. Internal trafficking for sexual exploitation is also a concern, especially when poorer families often feel obliged or, pressured to compel girls to engage in sexual activity in exchange for payment.
2. In 2008 Belize was placed in Tier 2, however, the 2009 TIP Report has moved Belize into the Watch List category largely in response to its failure to prosecute human trafficking offences properly. The government of Belize has made significant efforts to raise awareness and increase efforts of prevention and protection. For example, there has been increased anti-trafficking training made available for police and social workers. There are also government sponsored residential care facilities available for victims of trafficking and the government is

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<sup>6</sup> TIP Report 2009, pp.79-80

supportive of local anti-trafficking NGOs. The prosecution of offenders however remains inadequate and the Report found disturbing incidences of official involvement in trafficking, often associated with corruption.

3. Human trafficking is prohibited under Belize domestic law by the Trafficking in Persons Prohibition Act of 2003. Punishment for those prosecuted under this act constitutes one to five years of imprisonment and a \$5,000 fine. Tough as these penalties are, they are not proportionate to penalties for other serious criminal offences such as rape, which carries a penalty of eight years to life imprisonment. The laws are also not adequately enforced and there were no convictions last year despite a number of cases being brought to trial. As it currently stands one prosecution was dismissed, two remain pending and another pending appeal.

#### *Guyana*<sup>7</sup>

4. It is concerning that Guyana has been placed on Tier 2 of the Watch List for a third consecutive year. The evidence presented shows a persistent failing to provide evidence of increasing efforts to combat trafficking, particularly in the area of law enforcement actions against trafficking offenders. Although, the government of Guyana has increased support for victims of trafficking its enforcement remains poor. Guyana has yet to prosecute any trafficking offenders under its 2005 anti-trafficking law.
5. Guyana is a source, transit, and destination country for people (including children) trafficked for the purposes of sexual exploitation and forced labour. According to the TIP Report official reporting of human trafficking is limited; the majority of trafficking appears to take place in remote mining camps where Amerindian girls are trafficked to brothels near the camps and to coastal areas for sexual exploitation and domestic servitude. Also, young Amerindian men are exploited for forced labour. Other countries trafficking reports point to the trafficking of Guyanese women and girls for sexual exploitation to neighbouring countries such as Barbados, Trinidad and Tobago, Brazil, Suriname, and Venezuela. Reports also indicate that Guyanese men and boys are subject to labour exploitation in construction and agriculture in these same countries. Trafficking victims from Suriname, Brazil, and Venezuela transit Guyana en route to Caribbean destinations.
6. According to the TIP Report, the Government of Guyana does not fully comply with the minimum standards for the elimination of trafficking; furthermore the report has found cases of official complicity in human trafficking (see below at 5.3).

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<sup>7</sup> TIP Report 2009, pp.149-151

*St. Vincent and the Grenadines*<sup>8</sup>

7. This the first time that St. Vincent and the Grenadines has been mentioned in a TIP report. Although the government of St. Vincent and the Grenadines deny any problem with trafficking of persons<sup>9</sup>, the TIP report places St. Vincent and the Grenadines on the Watch List. Due to lack of available information into the full extent of trafficking, the TIP Report relies on anecdotal reporting, which suggests that human trafficking does occur but on a small scale. The TIP report states that neither the government nor NGOs have conducted any investigations into human trafficking nor is it discussed as political issue.
8. This lack of substantiated information is problematic, as it belies the actual extent of trafficking. Furthermore, lack of information allows for the official sidestepping, even denial of the issue. Indeed, the lack of investigation and information on human trafficking in St. Vincent and the Grenadines reflects the lack of comprehensive domestic anti-trafficking law enforcement and protection and prevention policies. St. Vincent and the Grenadines has no specific law prohibiting the trafficking in persons.
9. In theory traffickers could be prosecuted under existing immigration, prostitution or labour laws, however this is highly problematic (for example such laws may in practice penalise unduly the victims of trafficking rather than the offenders) and there is no record of this being attempted. The country is currently in the process of passing a new constitution which does not refer specifically to human trafficking but does contain extensive anti- servitude and anti- forced labour provisions.<sup>10</sup> These would potentially catch people who engaged in people trafficking within the country but would not cover those based 'in country' who perpetrate crimes outside the jurisdiction.
10. The TIP Report recommends that St. Vincent and the Grenadines strengthen and develop anti-trafficking laws and prevention and protection policies, as well as health and social provisions for the victims of trafficking, in cooperation with local NGOs.

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<sup>8</sup> Ibid., pp.250-251

<sup>9</sup> See SVGToday.com 'Government objects to being placed on U.S. human trafficking report' available <http://www.svgtoday.com/default.asp?sourceid=&smenu=1&twindow=&mad=&sdetail=233&wpage=1&skeyword=&sidate=&ccat=&ccatm=&restate=&restatus=>(accessed 19 June 2009)

<sup>10</sup> The 2009 Constitutional Bill Article 10 (Right to Work) Article 28 (Protection from forced Labour)

*Antigua and Barbuda, The Bahamas, Barbados, Jamaica and Trinidad and Tobago*<sup>11</sup>

11. The TIP Report also highlighted human trafficking concerns in Antigua and Barbuda, The Bahamas, Barbados, Jamaica and Trinidad and Tobago, which were placed under Tier 2. Tier 2 countries are considered as not complying with minimum standards set out by the TVPA, but are making demonstrable efforts to reach compliance levels.
12. The TIP Report also documented the prevalence trafficking between and beyond Caribbean states and territories. For example, in Jamaica the trafficking of women and girls, and increasingly boys, for sexual exploitation is a serious problem, especially in holiday resorts where so-called 'sex tourism' is rife. There are cases of women and girls being trafficked from the Dominican Republic, Russia, and Eastern Europe into sexual exploitation and Jamaican women and girls are trafficked into to Canada, the United States, The Bahamas, and other Commonwealth Caribbean destinations for commercial sexual exploitation.
13. Antigua and Barbuda, Barbados and Trinidad and Tobago have no specific anti-trafficking laws and the TIP Report recommends that such laws be developed, implemented and enforced.

## **5. CHRI London Concerns**

### *Raising the Profile of Human Trafficking Issues in the Caribbean*

1. The lack of reporting on the Caribbean in previous TIP Reports is symptomatic of the general lack of awareness and reporting of the problems of human trafficking. The inclusion of smaller Caribbean states and territories is encouraging as it helps raise awareness of the issue in civil society. Greater demand for transparent laws and a freedom of information culture surrounding this issue will allow for greater accountability in the future.
2. Greater awareness, reporting and investigation of human trafficking throughout the Caribbean are especially important due to the cross-border nature of the problem. Many women, men, girls and boys are trafficked within the Caribbean, from Caribbean sources (such as Guyana and Jamaica) to other Caribbean destinations such as The Bahamas, Barbados and Trinidad and Tobago, and beyond.

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<sup>11</sup> See the TIP Report, pp.63-64, 71-2,75-76, 169-170, 284-285

Coordinated enforcement, prevention and protection are crucial to providing much needed justice and support to victims.

*Complicity of police and security forces*

3. The TIP Report 2009 highlighted the worrying involvement of some officials, including police, in trafficking in Belize and Guyana. Although, some efforts have been made by governments to address this, complicity of officials remains an obstacle to effective prevention, protection of victims of trafficking and prosecution of traffickers. This is compounded by a lack of specialised anti-trafficking training for the police and judiciary.<sup>12</sup> Police reform and awareness of the issue among civilian bodies tasked with monitoring and regulating the police forces would help reduce such incidences of corruption.

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<sup>12</sup> See Gomes C. (2007) "Police Accountability in the Caribbean: where are the People?" paper presented at the Workshop on police Accountability, Civicus World Assembly: may 23-27, 2007 Galsgow, Scotland