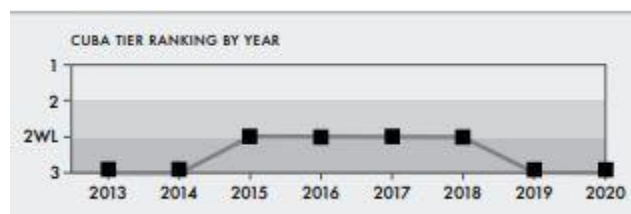


CUBA: NIVEL 3

The Government of Cuba does not fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so; therefore Cuba remained on Tier 3. Despite the lack of significant efforts, the government took some steps to address trafficking, including some examples of investigating, prosecuting, and convicting sex traffickers and sex tourists, and identifying and providing assistance to victims. However, during the reporting period there was a government policy or government pattern to profit from labor export programs with strong indications of forced labor, particularly its foreign medical missions program. The government refused to improve the transparency of the program or address labor and trafficking concerns despite persistent allegations from observers, former participants, and foreign governments of Cuban officials' involvement in abuses. The government failed to inform participants of the terms of their contracts, which varied from country to country, confiscated their documents and salaries, and threatened participants and their family members if participants left the program. Within Cuba, the government lacked procedures to proactively identify forced labor victims, lacked a comprehensive package of housing and services for victims, and did not protect potential trafficking victims from being detained or charged for unlawful acts their traffickers coerced them to commit. The government did not criminalize all forms of forced labor or sex trafficking.



PRIORITIZED RECOMMENDATIONS:

Ensure state-run labor export programs such as foreign medical missions comply with international labor standards or end them— specifically ensure participants receive fair wages, fully paid into bank accounts the workers can personally control; ensure participants retain control of their passports, contracts, and academic credentials; ensure a work environment safe from violence, harassment, and intrusive surveillance; and ensure participants have freedom of movement

including to leave the program or refuse an assignment without penalties such as being threatened, imprisoned, harmed, or banned from returning to Cuba. • Draft a comprehensive anti-trafficking law that criminalizes all forms of trafficking, including an explicit prohibition of labor trafficking, and which ensures that the use of force, fraud, or coercion is considered an essential element of adult trafficking. • Vigorously investigate and prosecute both sex trafficking and forced labor offenses. • Implement formal policies and procedures on the identification of all trafficking victims and their referral to appropriate services, and train officials, including first responders, in their use. • Proactively identify trafficking victims, including among vulnerable populations. • Adopt policies and programs that provide trafficking-specific, specialized assistance for male, female, and LGBTI trafficking victims. • Screen individuals charged or detained for prostitution-related offenses for sex trafficking and refer victims to care providers. • Train those responsible for enforcing the labor code to screen for trafficking indicators and educate all Cuban workers about trafficking indicators and where to report trafficking-related violations. • Establish a permanent inter-ministerial anti-trafficking committee. • Create a new national anti-trafficking action plan in partnership with international organizations for the period beyond 2020. • Provide specialized training on trafficking indicators for hotline staff and interpretation for non-Spanish speakers.

PROSECUTION

The government made some law enforcement efforts to combat sex trafficking but made no efforts to address forced labor; rather, some Cuban government officials in the Ministry of Justice were complicit in state labor export schemes by prosecuting people who abandoned labor export schemes due to abuses within the programs. The Cuban penal code criminalized some forms of sex trafficking and labor trafficking. Article 302 (“procuring and trafficking in persons”) criminalized inducing another person to engage in prostitution, or cooperating, promoting, or benefiting from such an act, and prescribed penalties of four to 10 years’ imprisonment. These penalties were sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. Inconsistent with the definition of trafficking under international law, the law established the use of force, fraud, or coercion as aggravating factors, rather than essential elements of the crime. Article 310 (“corruption of minors”) criminalized the use of a person

under the age of 16 for sexual purposes and prescribed penalties of seven to 15 years' imprisonment, which were sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. Article 312 ("corruption of minors") criminalized the use of a person under the age of 16 for begging and prescribed penalties of two to five years' imprisonment or a fine; these penalties were sufficiently stringent. Article 316 ("sale and trafficking of minors") criminalized the sale or illegal adoption of a person under the age of 16 for "international trafficking relating to corrupting or pornographic conduct, the practice of prostitution, trade in organs, forced labor, or activities linked to narcotics trafficking or illicit drug use," and prescribed penalties of seven to 15 years' imprisonment. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with other grave crimes such as rape. Inconsistent with international law, these provisions defined a minor as under the age of 16 instead of under the age of 18. Provisions relating to adult and child trafficking did not explicitly criminalize the acts of recruitment, transport, and receipt of persons for these purposes. Cuban law did not explicitly prohibit labor trafficking as defined in international law. The government has not made efforts to amend the criminal code to address trafficking in international law.

In December 2019, the government published official data for calendar year 2018 on prosecutions and convictions, the most recent data available. The government's annual report is the primary source of information on its efforts. The government suppresses independent domestic sources. Some international independent sources provide information on efforts. The government investigated fifteen cases of potential human trafficking. Authorities reported 15 prosecutions, which included four cases involving sex trafficking, and 24 convictions (20 for sex trafficking, one for forced child labor, and three for selling or patronizing the sale and trafficking of a minor). This compared to 20 prosecutions in 2017, 21 in 2016 and 10 in 2015, and 20 convictions in 2017, 39 in 2016 and 17 in 2015. From available data, the average sentence was 7.1 years' imprisonment, compared to 9.2 years in 2017, 10.5 years in 2016, and 12 years in 2015. In addition, some traffickers received sentences of three to five years of forced labor; one case involved three years' probation. INTERPOL identified 10 Cubans wanted for trafficking activities (six by Ecuador and four by Cuba). The government reported that it dismantled eight criminal networks that involved sexual exploitation, arresting one Turkish citizen

and twelve Cubans. Authorities imprisoned five foreign nationals for purchasing sex from child sex trafficking victims from Italy, Serbia, India, France, and the Netherlands; this compared to eight foreign nationals imprisoned for child sex trafficking the previous reporting period. The Cuban government organized and sponsored trainings for law enforcement officers, prosecutors, and judges. The government reported providing law enforcement information to the Government of Peru regarding a Peruvian citizen suspected of sexual exploitation. The government increased cooperation with the Canadian Royal Mounted Police on identifying sex tourists. The government maintained more than 20 bilateral cooperation agreements or memoranda of understanding with 15 other countries that included trafficking; the government did not provide information on the results of these agreements. The government did not report any investigations, prosecutions, or convictions of government officials complicit in trafficking, despite persistent allegations officials threatened and coerced some participants in the foreign medical missions to remain in the program.

PROTECTION

The government decreased efforts to identify and protect sex trafficking victims. Authorities identified 25 victims in 2018, compared to 24 victims in 2017, 27 victims in 2016, and 11 victims in 2015. The government reported that all victims received psychological, legal, educational, and vocational assistance, and all victims assisted with law enforcement efforts. The government reported having procedures to proactively identify and refer sex trafficking victims; however, the government lacked formal procedures to identify victims in police raids and many victims self-reported. The government did not report having procedures to identify victims of forced labor and no information was available about the number of labor inspectors. Government organized NGOs, such as the Federation of Cuban Women (FMC), the Prevention and Social Assistance Commission, and the Committees for the Defense of the Revolution, could identify and refer trafficking victims to state authorities and provide victim services including psychological treatment, health care, skills training, and assistance in finding employment. The FMC continued to receive funding from international organizations and operated centers for women and families nationwide to assist individuals harmed by violence, including victims of sex trafficking. Observers, however, noted that these organizations did not have the capacity to help trafficking victims. Observers also commented despite existing

social services that victims may be able to access, the government did not offer a comprehensive or specialized package of services or housing. Neither the government nor the government-organized NGOs operated shelters or provided services specifically for adult male or LGBTI victims.

The government funded child protection centers and guidance centers for women and families, which served all crime victims, including some trafficking victims. These centers had the ability to screen cases, make referrals to law enforcement, assist with arranging cooperation with law enforcement in preparation for prosecution, and provide victim services. The attorney general created a special Family Protection and Jurisdictional Issues Directorate in 2016 to provide specialized attention to child victims of crime and violence, including trafficking, but did not report whether it provided services to children in 2017 or 2018. Independent members of civil society lament that the government's protection efforts and limited information on the scope of sex trafficking and forced labor in Cuba were deficient and subject to virtually no credible independent monitoring by NGOs and international organizations. Police encouraged child sex trafficking victims younger than the age of 16 to assist in prosecutions of traffickers by gathering testimony through psychologist-led videotaped interviewing, usually removing the need for children to appear in court. Observers reported law enforcement did not proactively screen for indicators of trafficking as police may have detained individuals in commercial CUBA 176 sex or charged them with crimes such as "social dangerousness," thereby potentially penalizing some victims for unlawful acts their traffickers coerced them to commit. Cuban law permitted courts to order restitution be paid to victims, but the government did not report any such orders in 2018. The government did not identify any foreign trafficking victims in Cuba in 2018.

PREVENTION

The government made minimal efforts to prevent sex trafficking but did not make any efforts to prevent forced labor. The government reported it continued to implement its national anti-trafficking action plan for 2017-2020, which included some efforts to prevent trafficking, protect victims, investigate and prosecute traffickers, and promote international cooperation. The plan required the government to establish indicators to assess progress and an overall assessment in

2020, but such indicators were not made public. The government published its annual report of antitrafficking efforts in January 2020, covering 2019. Although the government has conducted research on the trafficking problem in Cuba, it has not made public any of these studies. International observers noted challenges in coordination across the government, but the government did not report whether it had established a permanent interagency committee. The Ministry of Justice led an informal working group to combat trafficking comprising various ministries and law enforcement. As in prior years, the government held training sessions for government employees, teachers and school administrators, tourist industry employees, and parents on prevention and detection of trafficking. The government and the FMC continued to operate a 24-hour telephone line for individuals needing legal assistance, including sex trafficking victims; none of the 19,192 calls to this hotline were in reference to trafficking in persons.

State media continued to produce newspaper articles and television and radio programs, including a new public service announcement, to raise public awareness about sex trafficking. The FMC raised public awareness through workshops and training with government officials, social workers, educators, and students, and the distribution of materials explaining trafficking and risks associated with it; however, there were not publicly available materials that showed the effectiveness or impact of these programs. Authorities maintained an office within the Ministry of Tourism charged with monitoring Cuba's image as a tourism destination, combating sex tourism, and addressing the demand for commercial sex acts. The Ministry of Tourism also reported training law enforcement officials assigned to the tourism sector to identify cases during inspections of state-owned hotels and tourist facilities; the government reported that this resulted in 39 tips, of which five resulted in cases referred to the Ministry of Interior for human trafficking. However, during official inspections of state-owned hotels and tourist facilities, the government reported that none of its 2,439 inspections involved human trafficking. The ministry monitored foreign tour companies and travel agencies, whose employees may be held accountable for marketing the country as a sex tourism destination or for trafficking offenses. The government did not report efforts to reduce its nationals' participation in child sex tourism. The Ministry of Labor and Social Security offered training to labor inspectors to detect trafficking, but the ministry did not identify forced labor among the 1,573 labor violations in 2017.

The government reported taking steps to identify and prevent young people who might be vulnerable to traffickers from traveling abroad. Observers noted that the government failed to monitor and combat forced labor in their own supply chains. The government did not implement policies to prohibit force, fraud, or coercion by foreign labor recruiters and state-owned or controlled enterprises in recruiting and retaining employees, despite persistent allegations Cuban officials threatened and coerced some participants to remain in the foreign medical mission program. The government did not explain international labor standards to members of their labor export schemes working in conditions which might be considered trafficking. The Cuban government is not known to maintain labor attachés abroad, nor to coordinate with other governments to ensure safe and responsible recruitment of Cuban laborers. Observers noted that the government prohibited freedom of movement of its citizens internally or abroad, rendering them without a way to legally migrate, making them more vulnerable to trafficking.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Cuba, and traffickers exploit victims from Cuba abroad. Human trafficking concerns in Cuba fall under two broad categories: sex trafficking and forced labor, and government-sponsored labor export programs. Sex trafficking and sex tourism, including child victims, occur within Cuba. Traffickers exploit Cuban citizens in sex trafficking and forced labor in South America, the Caribbean, Asia, Africa, Mediterranean region, and the United States. Traffickers exploit foreign nationals from Africa and Asia in sex trafficking and forced labor in Cuba to pay off travel debts. The government identified children, young women, elderly and disabled persons as being the most vulnerable to trafficking. Experts raised concerns about Cuba's LGBTI population and its vulnerability to sex trafficking and the increasing vulnerability of Cuban economic migrants, including cases of professional baseball players, to labor and sex trafficking. The government uses some high school students in rural areas to harvest crops and does not pay them for their work but claims this work is voluntary.

International observers and former participants reported government officials force or coerce individuals to participate and remain in the Cuban government's labor export programs, particularly the foreign medical missions program, managed by

the Unidad Central de Cooperación Médica and Ministry of Health. The government has not taken action to address its exploitative and coercive policies in these missions, which are clear indicators of human trafficking. According to statements from government officials, the government employed between 34,000-50,000 healthcare professionals in more than 60 countries in Africa, the Americas, Asia, the Middle East, and Europe in foreign medical missions through contracts with foreign governments and, in some countries, with international organizations serving as intermediaries or providing funds for their work. According to the government, 75 percent of their exported workforce are medical professionals. Experts estimated the Cuban government collected \$6 billion to \$8 billion annually from its export of services, namely foreign medical missions program. The government has stated the postings are voluntary, and some participants also have stated the postings are voluntary and better-paid compared to low paying jobs within Cuba, where basic wages for a doctor are \$55 a month. However, observers report the government does not inform participants of the terms of their contracts or allow them to retain a copy of said contract, heightening their risk of forced labor. Workers receive only a portion of their salary ranging from five to 25 percent, and these funds are retained in Cuban bank accounts which are relinquished if the participant leaves the program. The Cuban government acknowledges that it withholds passports of overseas medical personnel in Venezuela; the government provided identification cards to such personnel. Many Cuban medical personnel claim they work long hours without rest and face substandard and dangerous working and living conditions in some countries, including a lack of hygienic conditions and privacy, and are forced to falsify medical records. In 2019, at least six Cuban medical professionals died, two more were kidnapped, and others have been sexually assaulted. Many medical professionals reported being sexually abused by their supervisors. Observers note Cuban CUBA 177 authorities coerced some participants to remain in the program, including by: withholding their passports and medical credentials; restricting their movement; using “minders” to conduct surveillance of participants outside of work; threatening to revoke their license to practice medicine in Cuba; retaliate against their family members in Cuba if participants leave the program; or impose criminal penalties, exile, and family separation if participants do not return to Cuba as directed by government supervisors. In early 2020, the Cuban government sent

more medical professionals to assist countries to respond to the global COVID-19 pandemic under unclear financial arrangements.