

# Forced Labor in Latin America: Case Studies of Bolivia, Chile and Peru

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## Introduction

Juana worked on a cattle ranch in the Chaco region of Paraguay for ten years. Her job was to cook, clean and launder clothes for the forty workers on the estate, as well as perform the domestic work for the ranch owner and milk the cows. Every day she worked from two in the morning until five in the evening, receiving approximately \$0.65 U.S. dollars a month. However, she was only paid quarterly, and since she was in debt at the ranch store, she accumulated very little money. Juana was not given time off and was therefore unable to leave the estate. Thus, she was left with no opportunity to find another job. On top of her long hours and low pay, she was sexually exploited and was unsure of the legal actions available to her to report the crime.<sup>1</sup>

Juana's story counters the popular narrative that human trafficking is primarily an issue of prostitution. There are other ways people can be coerced for the purpose of exploitation, like an ineffective legal system that does not adequately protect workers' rights, or the nature of particular employment sectors that are "dirty, dangerous and demanding."<sup>2</sup> Forced labor proves to be a challenging phenomenon for governments to prevent, even though governments protect "normal" labor rights. It is not always easy to distinguish between labor rights violations and human trafficking, because forced labor is unclear in its exploitative purpose since it can be utilized by legitimate and legal employers.<sup>3</sup> How does a country's labor laws affect human trafficking in that country? One might assume that the more laws enacted focusing on the protection of labor rights, the more a government is concerned about the rights of the laborer.<sup>4</sup> If that is the

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<sup>1</sup> Mike Kaye, "Contemporary Forms of Slavery in Paraguay," *Latin America Reports* (London:

<sup>2</sup> International Labour Organization, "Hazardous Work," *Occupational Safety and Health*, accessed December 8, 2015, <http://www.ilo.org/safework/areasofwork/hazardous-work/lang-en/index.htm>.

<sup>3</sup> Asif Efrat, "Global Efforts against Human Trafficking: The Misguided Conflation of Sex, Labor, and Organ Trafficking," *International Studies Perspectives*, January 1, 2015, 30.

<sup>4</sup> Lauren A. McCarthy, "Human Trafficking and the New Slavery," *Annual Review of Law and Social Science* 10 (2014): 233. Her overview of the human trafficking literature delineates

case, then in Latin America, the results are puzzling. I find that Latin American countries with higher numbers of labor laws also report higher numbers of human trafficking victims.<sup>5</sup> Part of the dilemma is understanding the nature of labor in each country. Assuming that more labor laws are indicative of strong labor laws is an oversimplification. However, for a law to be enforced, it first needs to be in existence. This exercise shows the nuance and difficulty in capturing labor law strength through quantitative indicators.<sup>6</sup> In order to capture a more accurate representation of the strength of a country's labor laws, qualitative analyses are needed. I argue that there are three factors that best explain labor trafficking in a country: the ineffective enforcement of labor laws, the limited ability of the law to regulate certain industries, and the employment of discriminated against racial and ethnic groups.

The remainder of the paper is divided into four sections. In the first section, I review the scholarly literature on human trafficking, paying specific attention to where my research addresses the weaknesses in the literature. My paper focuses on the experience of the laborer and how that experience can be evaluated on a continuum of exploitation: from the most successful possible conditions to the worst outcome (forced labor).<sup>7</sup> I attempt to gain a deeper understanding of the

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authors that examined policy adoption, and its increase in number of adopted laws, yet the number of human trafficking victims have remained low.

<sup>5</sup> I did a simple bivariate correlation between the number of victims reported in the 2015 TIP report with the number of laws in NATLEX (ILO "database of national labour, social security and related human rights legislation"). The higher number of labor laws had a positive and significant relationship with the reported number of trafficked victims. The countries examined were in Central and South America (excluding Caribbean countries).

<sup>6</sup> There is a debate on how best to quantitatively measure a country's adherence to labor standards and labor flexibility. However, they are critiqued as being highly flawed for not accurately capturing labor law and effective implementation. For a detailed critique on these indicators (e.g. adherence to ILO ratifications, World Bank's Doing Business Report, The National Academy of Sciences and United States Department of Labor Indicators, European Labor Indicators and indicator systems constructed by academic researchers), see: Mark Barenberg, "International Labour Indicators: Conceptual and Normative Snares," in *Research Handbook on Transnational Labour Law*, ed. Adelle Blackette and Anne Trebilcock (Cheltenham, UK and Northampton, MA: Edward Elgar, 2015), 76–92.

<sup>7</sup> Danièle Bélanger, "Labor Migration and Trafficking among Vietnamese Migrants in Asia," *The ANNALS of the American Academy of Political and Social Science* 653, no. 1 (May 1, 2014): 87–106; Denise Brennan, "Trafficking, Scandal, and Abuse of Migrant Workers in Argentina and the United States," *The ANNALS of the American Academy of Political and Social Science* 653, no. 1 (May 1, 2014): 107–23; Kamala Kempadoo, "The Modern-Day White (Wo)Man's Burden: Trends in Anti-Trafficking and Anti-Slavery Campaigns," *Journal of Human Trafficking* 1, no. 1 (January 2, 2015): 8–20; McCarthy, "Human Trafficking and the New Slavery," 221–42; Ronald

labor continuum by focusing on Latin America, specifically the cases of Bolivia, Chile and Peru. Studying this region is important since most research on human trafficking is focused on the United States and Europe.<sup>8</sup> In the second section, I discuss my research design, including the definition of key concepts, the data and methods used and the rationale for case selection. The third section reports the findings of my research based on the independent variables of labor enforcement, type of industry, and race and ethnicity. In the concluding section, I analyze my findings across cases, discussing the broader implications and the potential for future research.

## Literature Review

The literature on human trafficking is expansive and at the same time fraught with competing definitions and modes of analysis. Organized crime and how best to punish and prosecute criminals took center stage in the beginning of scholarly analysis, as “trafficking in persons” falls under the United Nations Office of Drugs and Crime. Many of these authors show that the act of trafficking and the surrounding organized crime is an external security threat to destination, transit and source countries.<sup>9</sup> Jennifer Lobasz gives a feminist analysis of human trafficking through the lens of the security framework. She states that human trafficking flourishes because it is a low risk and high reward activity for the crime syndicates.<sup>10</sup> Alex Kreidenweis and Natalie Hudson argue that “human” security offers a conceptualization that enhances scholarship and activism.<sup>11</sup> By asking questions, like “security for whom?” and “security from what?” those being

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Weitzer, “New Directions in Research on Human Trafficking,” *The ANNALS of the American Academy of Political and Social Science* 653, no. 1 (May 1, 2014): 6–24.

<sup>8</sup> McCarthy, “Human Trafficking and the New Slavery,” 235.

<sup>9</sup> Kevin Bales, “Expendable People: Slavery in the Age of Globalization,” *Journal of International Affairs* 53, no. 2 (2000): 461; Jacqueline Berman, “(Un)Popular Strangers and Crises (Un)Bounded: Discourses of Sex-Trafficking, the European Political Community and the Panicked State of the Modern State,” *European Journal of International Relations* 9, no. 1 (March 1, 2003): 37–86; Seo-Young Cho and Krishna Chaitanya Vadlamannati, “Compliance with the Anti-Trafficking Protocol,” *European Journal of Political Economy* 28, no. 2 (June 2012): 249–65; David A. Feingold, “Human Trafficking,” *Foreign Policy*, no. 150 (September 1, 2005): 26–32; Mojca Pajnik and Veronika Bajt, “Migrant Women’s Transnationalism: Family Patterns and Policies,” *International Migration* 50, no. 5 (October 1, 2012): 153–68; Louise Shelley, *Human Trafficking: A Global Perspective* (Cambridge University Press, 2010).

<sup>10</sup> Jennifer K. Lobasz, “Beyond Border Security: Feminist Approaches to Human Trafficking,” *Security Studies* 18, no. 2 (June 12, 2009): 319–44.

<sup>11</sup> Alex Kreidenweis and Natalie F. Hudson, “More Than a Crime: Human Trafficking as Human (In)Security,” *International Studies Perspectives* 16, no. 1 (February 2015): 72.

trafficked (as well as their families and communities) are made visible.<sup>12</sup> Overall, the security and crime analyses are criticized because the focus is on the prosecution of criminals rather than the victims and because they overlook structural factors.<sup>13</sup>

It is important to consider feminist debates because this discourse encouraged the initial focus of scholarship and advocacy on sex trafficking. Essentially, there are two basic feminist camps surrounding human trafficking—those that view all commercial sex as a form of forced labor and call for the abolition of prostitution, and those that view sex work as a choice of labor and call for stricter regulation of labor laws.<sup>14</sup> Stephanie Limoncelli understands human trafficking as sex trafficking and as “the general movement of women across territorial borders for prostitution.”<sup>15</sup> This notion of human trafficking does not distinguish between different types of human trafficking more broadly, and more specifically, it does not distinguish between voluntary or involuntary prostitution. The other problem is that there is evidence, from surveys done in Argentina and South East Asia, to show that some women choose to perform sex work as their employment.<sup>16</sup>

Siddharth Kara expresses a moralistic view that prostitution is bad not only for the woman but for the culture. His view is that sex trafficking is an economic response to “bad” male desire, and his solutions for reforming this culture are to focus on prosecuting traffickers and to reduce the profitability of trafficking.<sup>17</sup> Charles and Heather Smith also acknowledge the importance of demand. Through their case studies in the crisis areas of Kosovo, Haiti, and Sierra Leone, they find

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<sup>12</sup> *Ibid.*

<sup>13</sup> McCarthy, “Human Trafficking and the New Slavery,” 221–42.

<sup>14</sup> Sule Tomkinson, “The Multiplicity of Truths About Human Trafficking: Beyond ‘The Sex Slave’ Discourse,” *CEU Political Science Journal* 7, no. 1 (2012): 50–67. A critical literature review of the feminist discourse, where she agrees with the pro-rights group, arguing that “trafficking must be understood within the larger framework of exploitation of undocumented workers that are vulnerable to exploitation.” Stephanie A. Limoncelli, *The Politics of Trafficking: The First International Movement to Combat the Sexual Exploitation of Women* (Stanford, CA: Stanford University Press, 2010): 15. The IAF (International Abolitionist Federation; liberal feminists) saw the regulation of commercial sex as forced labor and called for the abolition of prostitution; whereas, the IB (International Bureau of Trafficking in Women and Children) sought stricter regulation of prostitution and labor laws.

<sup>15</sup> Limoncelli, *The Politics of Trafficking*, 15.

<sup>16</sup> Donna J. Guy, “True Womanhood in Latin America,” *Journal of Women’s History* 14, no. 1 (2002): 170–73; Brennan, “Trafficking, Scandal, and Abuse,” 107–23; Bélanger, “Labor Migration and Trafficking among Vietnamese Migrants in Asia,” 87–106.

<sup>17</sup> Siddharth Kara, *Sex Trafficking: Inside the Business of Modern Slavery* (New York: Columbia University Press, 2009): 33, 37.

that an increase in demand, in this case by the UN Peacekeeping forces, increases the rates of human trafficking in the destination country.<sup>18</sup>

Contrary to previous views, the following authors understand human trafficking to be embedded in the context of labor and migration processes as opposed to moments of criminal activity.<sup>19</sup> In their distinct articles, Lauren McCarthy, Asif Efrat, Ronald Weitzer, and Sheldon Zhang each conclude that focusing on sexual exploitation of women and children overlooks other types of trafficking of workers, namely the labor and migration experiences.<sup>20</sup> As a result, empirical research on labor trafficking is rare. Besides the lack of research, the exclusive emphasis on sex trafficking is also problematic, as international organizations like the International Labour Organization (ILO) find that labor trafficking is more prevalent than sex trafficking.<sup>21</sup>

McCarthy states that predictors of trafficking vulnerability mirror predictors of migration vulnerability. Nazli Avdan's article also focuses on migrant laborers by analyzing the feedback mechanism between visa policies and trafficking.<sup>22</sup> He finds that states tighten visa policies as a response to trafficking threats. The vicious versus virtuous cycle is based on the idea that loose controls at borders have let trafficking thrive; conversely, tighter controls at the borders have increased demand for traffickers, as migrants must use illegal channels to move to a new place. For Avdan, what matters is that any type of migrant (moving for economic or political motivations) "may fall prey" to the influence of traffickers, as restrictions on movement and the options available to migrants to legally cross borders are restricted.<sup>23</sup>

Danièle Bélanger finds that temporary migration programs may create conditions that lead to extreme forms of exploitation among legal workers in Asia.<sup>24</sup> Her case study of low-skilled migrant workers from Vietnam, who worked in Malaysia, Japan, Taiwan, or South Korea, show elements of trafficking, such as

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<sup>18</sup> Charles Anthony Smith and Heather M. Smith, "Human Trafficking: The Unintended Effects of United Nations Intervention," *International Political Science Review* 32, no. 2 (March 2011): 126, 137.

<sup>19</sup> Weitzer, "New Directions in Research," 15-16.

<sup>20</sup> *Ibid.*; McCarthy, "Human Trafficking and the New Slavery;" Asif Efrat, "Global Efforts against Human Trafficking: The Misguided Conflation of Sex, Labor, and Organ Trafficking," *International Studies Perspectives* (January 1, 2015): 1-22; Sheldon X. Zhang, "Measuring Labor Trafficking: A Research Note," *Crime, Law and Social Change* 58, no. 4 (September 13, 2012).

<sup>21</sup> Zhang, "Measuring Labor Trafficking," 470; Weitzer, "New Directions in Research," 7.

<sup>22</sup> Nazli Avdan, "Human Trafficking and Migration Control Policy: Vicious or Virtuous Cycle?," *Journal of Public Policy* 32, no. 3 (December 2012): 193.

<sup>23</sup> *Ibid.*, 176.

<sup>24</sup> Bélanger, "Labor Migration and Trafficking among Vietnamese Migrants in Asia," 92.

fraud, deception or coercion, are not isolated from labor migration, but can be embedded in legal migration and potentially be encountered at various stages of the migration process. However, unlike Avdan, she states that there is a choice to migrate, and therefore, the worker has agency. Bélanger writes that “despite the risks involved in legal labor migration within Asia, a large share of migrants report successful migration and assess their experience as neutral or positive... Far from being only the victims of an abusive system, migrants display a strong will to better their lives through international labor migration.”<sup>25</sup> Denise Brennan studied trafficked victims from the Dominican Republic and their distinct and range of experiences in Argentina and in the United States. The Dominican Republican workers in Argentina experienced a range of exploitation and were assisted by the government.<sup>26</sup> Comparatively in the United States, only the migrant workers who experienced extreme exploitation received assistance; even then, only a few T visas have been issued to date (indicative of a restrictive immigration laws).<sup>27</sup> Brennan’s concluding remarks underscore the findings by Weitzer and Bélanger: “Anti-trafficking measures should address this entire spectrum of exploitation and offer protections to a range of migrant workers who are exploited—not just the most extreme cases.”<sup>28</sup>

Asif Efrat’s typology of human trafficking can help readers understand the importance of distinguishing between the various types of human trafficking. The conflation of sex, labor and organ trafficking overlooks three major differences: the type of perpetrators, the norms involved and the cost of enforcement.<sup>29</sup> In his case study of Israel, he explains why the state combats sex trafficking, but remains hesitant to also combat labor and organ trafficking.<sup>30</sup> Efrat emphasizes that labor trafficking is the most complex form of trafficking for governments to stop, as it requires the most from the state through constant monitoring of labor laws.<sup>31</sup> Additionally, it goes against norms to penalize legal jobs held in various industries,<sup>32</sup> or someone who needs help around the home (domestic service). In organ removal and prostitution, “criminals,” such as pimps or brothel owners, fit

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<sup>25</sup> *Ibid.*, 103.

<sup>26</sup> Brennan, “Trafficking, Scandal, and Abuse,” 114.

<sup>27</sup> *Ibid.*, 118-9.

<sup>28</sup> *Ibid.*, 120.

<sup>29</sup> Efrat, “Global Efforts against Human Trafficking,” 1–22.

<sup>30</sup> *Ibid.*, 10-11.

<sup>31</sup> *Ibid.*, 9.

<sup>32</sup> For example, in San Diego, employment in the construction and janitor sectors increases rates of trafficking violations. Sheldon X. Zhang et al., “Estimating Labor Trafficking among Unauthorized Migrant Workers in San Diego,” *The ANNALS of the American Academy of Political and Social Science* 653, no. 1 (May 1, 2014): 65–86.

the norm, and more clearly and overtly coerce and harm individuals.<sup>33</sup> Because labor trafficking is a multifaceted legal and practical problem, recognizing the difference between labor rights violations and forced labor is difficult, thereby complicating efforts for governments to stop this form of labor.<sup>34</sup>

## Research Design

Labor trafficking, forced labor, and compulsory labor are interchangeable terms used to describe “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”<sup>35</sup> Forced labor falls under the larger umbrella definition of human trafficking. I am focusing specifically on forced labor in order to understand the nature of labor trafficking in these countries, and how labor trafficking is not an isolated “bad” instance, but embedded in labor practices.

The independent variables that best explain the dependent variable of forced labor are: enforcement of labor laws, type of industry, and race and ethnicity. Effectively implemented labor laws are operationalized by an examination of the labor inspectorate (i.e. the number of labor inspectors and the number of inspections they perform), funding and additional resources (i.e. training, vehicles). The type of industry is situated in the broader context of the country’s economy: the breakdown of the employment sector, the commodities produced and the exports. This macro focus is then contrasted with the forced labor sectors and the commodities it produces. Industry is then analyzed by where and how forced labor is employed. Race and ethnicity is not operationalized by the sheer numbers of minorities, immigrants or indigenous peoples residing within a country, but is instead a closer examination of the discrimination these groups face and how discrimination translates into the employment sector as forced labor.

I initially selected the cases of Bolivia, Chile and Peru based on my earlier assumption that the number of labor laws would affect the outcome of labor trafficking. The number of laws in NATLEX, which is the ILO’s database of labor,

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<sup>33</sup> *Ibid.*,10.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Forced Labour Convention, CO29*, no. 29, 1930. The framework presented by the ILO emphasizes the subjective experience of the victim. Concepts of consent and “menace of penalty” should briefly be clarified. Penalty does not necessarily mean a penal sanction, but could instead deal with a loss of rights through physical or psychological coercion, deception or any other means used to compel someone to work. Once someone’s labor is exploited, the consent they initially gave to work for that employer becomes legally irrelevant. The employer becomes the trafficker and the employee becomes a trafficked person.

social security and human rights legislation, was the basis for case selection.<sup>36</sup> I chose these three cases because they offer the most diversity.<sup>37</sup> I organize the universe of cases into three categories to separate the extremes of high and low, and I also include a medium group. The most diverse case selection allows for the most variability across cases, thus ensuring a representative sample. For that reason, I chose Bolivia (low), Chile (medium), Peru (high).

Table 1 Number of Laws pertaining to Labor – High (black), Medium (gray), Low (white)<sup>38</sup>

Category	Country	Number of NATLEX laws
Low N = 13	Belize	154
	Paraguay	191
	Guyana	195
	Bolivia	222
	Guatemala	243
	Honduras	259
	Venezuela	301
	Panama	305
	El Salvador	316
	Nicaragua	351
	Ecuador	376
	Costa Rica	482
	Uruguay	514
Medium N = 3	Colombia	630
	Mexico	713
	Chile	746
High N = 3	Brazil	1242
	Argentina	1346
	Peru	1435

The data used are an amalgam of quantitative, qualitative, primary and secondary sources. Many primary sources are reports from the United Nations, the International Labour Organization, and reports done by NGOs and private firms,

<sup>36</sup> “NATLEX,” *International Labour Organization*, 2014, [http://www.ilo.org/dyn/natlex/natlex4.home?p\\_lang=en](http://www.ilo.org/dyn/natlex/natlex4.home?p_lang=en).

<sup>37</sup> John Gerring, “Techniques for Choosing Cases,” in *Case Study Research* (Cambridge: Cambridge University Press, 2006), 97-101; Jason Seawright and John Gerring, “Case Selection Techniques in Case Study Research: A Menu of Qualitative and Quantitative Options,” *Political Research Quarterly* 61, no. 2 (June 1, 2008): 297, 300-1. “This method has not received much attention on the part of qualitative methodologists, hence the absence of a generally recognized name... [It is] a mixture of most similar and most different analysis.”

<sup>38</sup> Categorized by the standard deviation of 402 and mean of 527.

like Verité. Many U.S. government sources, like the Department of State and Department of Labor's Bureau of International Labor Affairs, are used. The U.S. government also funded primary sources, like the Verité reports.

## **Labor Law Enforcement**

Simply because a country adheres to international conventions and writes these laws into their national code does not mean that forced labor will be eradicated. How laws are implemented plays a vital role in how many forced laborers there will be in a country. If labor law enforcement is effective, there will be less people at the worst end of the labor continuum.<sup>39</sup>

Chile is a country that employs enough labor inspectors and performs enough inspections to be considered effective at labor law enforcement.<sup>40</sup> The Ministry of Labor and Social Prevision supplied its 720<sup>41</sup> inspectors with resources to perform their jobs, including 112 vehicles to travel to job sites. The inspectors performed a total of 115,272 inspection visits.<sup>42</sup> Although Chile is effective, enforcement of labor could be improved. For example, the Ministry of Labor commented that they have a need for more inspectors and that the financial penalties in place did not deter companies from violating their workers' labor rights.<sup>43</sup> The Chilean government partnered with NGOs to institute specialized training on human trafficking to around 400 government officials, which included labor inspectors.<sup>44</sup> However, some NGOs stated that more training was needed for labor inspectors.<sup>45</sup>

Peru and Bolivia have less effective enforcement of labor laws (see Table 1). However, Peru is trying to become more effective by centralizing their Labor Inspectorate. Many countries choose to decentralize this function of the government, but for Peru, centralizing is seen as an effective means to bypass

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<sup>39</sup> International Labour Organization, "International Labour Standards on Labour Inspection," *Labour Standards*, accessed December 11, 2015, <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/labour-inspection/lang--en/index.htm>.

<sup>40</sup> U.S. Department Of State, "2014 Human Rights Reports: Bolivia," *2014 Country Reports on Human Rights Practices*, June 25, 2015, <http://www.state.gov/j/drl/rls/hrrpt/2014/wha/236668.htm>.

<sup>41</sup> This number is different in two sources: 720 is from the "Human Rights Reports: Chile," and 530 is the number given by "Chile: 2014 Findings on the Worst Forms of Child Labor."

<sup>42</sup> ILAB, "2014 Worst Forms of Child Labor," 195.

<sup>43</sup> Department Of State, "2014 Human Rights Reports: Chile."

<sup>44</sup> Department Of State, "Trafficking in Persons Report," 2015, 119.

<sup>45</sup> Department Of State, "2014 Human Rights Reports: Chile."

corruption.<sup>46</sup> In 2014 Peru employed 295 labor inspectors, but 112 (thirty-eight percent) are located in Lima.<sup>47</sup> This is problematic, for as we will see in the following section, most forced labor occurs in remote areas of Peru, not in the capital city. These inspectors conducted only 692 inspections and did not inspect the informal economy.<sup>48</sup> The government of Peru acknowledges that its inspectors lack human resources, financial resources and the means to travel into certain areas of Peru.<sup>49</sup>

Table 1 Labor law enforcement in Chile, Bolivia and Peru<sup>50</sup>

	<b>Inspectors</b>	<b>Inspections</b>	<b>Resources</b>
Chile	720	115,272	Labor inspectors trained on human trafficking 112 vehicles
Bolivia	95 9 solely dedicated to forced labor	The 9 inspectors performed 250 Unrecorded number of general inspections	UNICEF child labor training for labor inspectors Small budget; cannot increase staff
Peru	295 112 in Lima	692	Centralized Labor Inspectorate Lack of financial and training resources

Bolivia has the lowest number of labor inspectors compared to the other two countries. There were ninety-five labor inspectors in 2014, with nine solely dedicated to forced labor. The nine forced labor inspectors conducted 250 inspections and the number of inspections by the other eighty-four were not recorded. However, reports of unsafe conditions, leading to the deaths of some workers in the mining sector, were recorded. The employees in the cooperative-operated mines are not granted legal protections and therefore a lack of law enforcement exists.<sup>51</sup> The Bolivian Ministry of Labor reported its budget to be around \$10,000, which is an insufficient amount of money to increase permanent

<sup>46</sup> Verité, “Risk Analysis of Indicators of Forced Labor and Human Trafficking in Illegal Gold Mining In Peru” (Amherst, MA: Verité, January 2013), 30. Mine owners have political and economic influence over local politics.

<sup>47</sup> ILAB, “2014 Worst Forms of Child Labor,” 692-3.

<sup>48</sup> Ibid.

<sup>49</sup> Department Of State, “2014 Human Rights Reports: Peru.”

<sup>50</sup> U.S. Department of Labor’s Bureau of International Labor Affairs, “2014 Findings on the Worst Forms of Child Labor,” (Washington, D.C, 2015), 102-3, 195, 692-3; U.S. Department of State, *2014 Country Reports on Human Rights Practices* (Washington, DC, 2015) Bolivia, Chile, Peru

<sup>51</sup> Department Of State, “2014 Human Rights Reports: Bolivia.”

staff members. In terms of additional resources, UNICEF provided forced child-labor training to labor inspectors.<sup>52</sup> A lack of statistics by the Bolivian government also shows its inability to implement its labor laws effectively.<sup>53</sup> Like the Peruvian government, the Bolivian government acknowledges that the number of inspectors is inadequate to inspect forced labor throughout the country.

## Industry

Industries removed from the state’s presence in both the physical sense and the legal sense makes certain industries more conducive to the employment of forced labor. Before I describe the types of industries that employ forced labor, it is important to briefly understand where these industries are situated in the broader economy of each country. In all three countries, the agricultural sector contributes the least to the GDP

Table 2 Overview of Chile, Bolivia and Peru’s industry and commodities (forced labor commodities in bold)<sup>54</sup>

	GDP composition by sector	Labor force by occupation	Agriculture products	Industries	Export commodities
Chile	Agriculture: 3% Industry: 35% Services: 62% (2014 est.)	Agriculture: 13% Industry: 23% Services: 64% (2005 est.)	<b>Fruit</b> , onions, wheat, corn, beans; beef, poultry, fish; timber	<b>Copper</b> , minerals, fish processing, iron and steel, wood, textile	<b>Copper</b> , <b>fruit</b> , fish products, paper, chemicals, wine
Bolivia	Agriculture: 13% Industry: 39% Services: 49% (2014 est.)	Agriculture: 32% Industry: 20% Services: 48% (2009 est.)	Soybeans, quinoa, <b>Brazil nuts</b> , <b>sugarcane</b> , coffee, <b>corn</b> , rice, coca, potatoes	<b>Mining</b> , petroleum, food and beverages, tobacco, clothing, jewelry	Natural gas, <b>mineral ores</b> , <b>gold</b> , soybeans and soy products, tin

<sup>52</sup> ILAB, “2014 Worst Forms of Child Labor,” 102-3.

<sup>53</sup> *Ibid.*

<sup>54</sup> Central Intelligence Agency, “Chile,” “Bolivia,” “Peru,” *The World Factbook*, accessed December 8, 2015, <https://www.cia.gov/library/publications/the-world-factbook/geos/ci.html>.

Peru	Agriculture: 7% Industry: 35.5% Services: 57.5% (2014 est.)	Agriculture: 26% Industry: 17% Services: 57% (2011 est.)	Vegetables, fruit, grains, sugarcane, palm oil, poultry, beef, pork, dairy, fish	<b>Mining,</b> petroleum, fishing and processing, textiles, clothing, food processing, machinery, furniture	<b>Copper, gold,</b> lead, zinc, tin, iron ore, silver; petroleum; natural gas; coffee, vegetables, fruit, apparel, textiles, fish
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and the amount of labor force employed, showing an interesting pattern. The percent that the agricultural sector contributes to the GDP is less than the labor force employed (see Table 2).<sup>55</sup> In general, this fact might imply that these jobs are not as lucrative as the other sectors, but they have a lot of employees, which in turn, is favorable to cheap and exploited labor.

There is also a pattern that the commodities produced by forced labor industries are main exports. For Chile, industries that employ forced labor are mining (copper) and agriculture (fruit).<sup>56</sup> Exports account for one-third of the country's GDP and commodities are 75% of the total exports. Copper alone provides 19% of government income; fruit is the second largest export commodity.<sup>57</sup> In Peru, Brazil nuts, mining (especially gold), and timber are sources of forced labor.<sup>58</sup> Peru is the world's second largest producer of silver and third largest producer of copper; gold has now become the country's largest illegal export, surpassing cocaine, but instead of remaining illicit it becomes a legitimate consumer product.<sup>59</sup> In Bolivia, forced labor occurs in several industries: Brazil nuts, peanuts, corn, sugarcane and cattle.<sup>60</sup> Estimates in 2007 show that Bolivia produced seventy-one percent of the world market of the Brazil-nut.<sup>61</sup> Complicating the pattern is that the other commodities using forced labor, like

<sup>55</sup> Central Intelligence Agency, "Chile," *The World Factbook*, accessed December 8, 2015, <https://www.cia.gov/library/publications/the-world-factbook/geos/ci.html>. In Chile, agriculture accounts for 3% of the GDP composition, by sector, yet the labor force employed by this sector is 13%. For Bolivia, 13% GDP and 32% employed. For Peru, 7% GDP and 26% employed.

<sup>56</sup> Department Of State, "Trafficking in Persons," 119; Department of State, *Human Rights Practices: Peru*.

<sup>57</sup> CIA, "Chile."

<sup>58</sup> Department Of State, "Trafficking in Persons," 278; U.S. ILAB, "List of Goods Produced by Child Labor or Forced Labor," accessed December 8, 2015.

<sup>59</sup> CIA, "Peru;" Verité, "Forced Labor in Illegal Gold Mining In Peru."

<sup>60</sup> Department Of State, "Trafficking in Persons," 93; Verité, "Research on Indicators of Forced Labor in the Supply Chains of Brazil-Nuts, Cattle, Corn, and Peanuts in Bolivia" (Amherst, MA: Verité, 2011); ILAB, "List of Goods."

<sup>61</sup> Verité, "Supply Chains in Bolivia," 16.

cattle and corn, are produced for domestic, not international markets.<sup>62</sup> There are two unifying factors between these commodities. Firstly, the ones that employ forced labor are “dirty, dangerous and demanding,” therefore hazardous to the worker. Secondly, the commodities are at lowest level of production: the artisanal and small scale mining of gold, the picking, shelling and boxing of nuts, the harvesting of fruit.<sup>63</sup>

These sectors also have a complex relationship with the enforcement of the law. They can be in remote locations, which makes it difficult for law enforcement to reach, or they can be entwined with the local law. In Peru, the (illegal) logging of timber takes place in the remote areas of the Amazon, where the government cannot reach due to the lack of vehicles to inspect this land and because it does not inspect the informal economy. The illegality of many gold mines in Peru also makes law enforcement difficult, as heavily armed groups protect their illegal business.<sup>64</sup> In Chile, copper mining as well as agricultural jobs take place in remote areas of the country.<sup>65</sup> Bolivia cattle ranching shows how the role of nepotism can benefit the landowners, who tend to be small in number but wealthy and politically connected in the Chaco region.<sup>66</sup>

Bolivia’s harvesting sites for Brazil nuts are far removed from the main cities, located in vast Amazon region. There are two types of workers in this industry: the local indigenous population, or the approximately 33,000 Amazonian urban migrants (most of whom are also indigenous).<sup>67</sup> The majority of these workers live in temporary forced labor conditions during the harvest season. For most, this is a temporary position; however, between 5,000 and 6,000 workers are in forced labor conditions on a permanent basis.<sup>68</sup> Both self-employed and salaried workers receive their jobs through a Brazil-nut broker. The broker provides the workers with pay in the form of tools and supplies as well as food throughout the three to four month harvest seasons. These goods are provided at higher than market value and the workers pay back their debt of these items with the Brazil

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<sup>62</sup> *Ibid.*, 7.

<sup>63</sup> ILAB, “Labor Rights Report - Chile,” Labor Rights Report (Washington, D.C., July 8, 2003): 20.

<sup>64</sup> Verité, “Forced Labor in Illegal Gold Mining In Peru,” 32.

<sup>65</sup> The Economist, “Copper Solution,” *The Economist*, April 27, 2013, <http://www.economist.com/news/business/21576714-mining-industry-has-enriched-chile-its-future-precarious-copper-solution>.

<sup>66</sup> Bhavna Sharma, “Contemporary Forms of Slavery in Bolivia,” Latin America Reports (London: Anti-Slavery International, 2006), 10.

<sup>67</sup> Verité, “Supply Chains in Bolivia,” 12-3.

<sup>68</sup> Sharma, “Contemporary Forms of Slavery in Bolivia,” 5.

nuts, which are set at lower than market value. If the debt is not paid back by the end of the harvest season, it will be added onto the next season.<sup>69</sup>

The Brazil nut industry in Bolivia exemplifies three trends of most industries that employ forced labor. The first tendency is that there tends to be a middleman, who is either the recruiter, employer, or both. Secondly, it shows how internal migration, from urban to rural, or rural to other rural locations, is an inherent part of these industries. Lastly, the forced laborers are most likely indigenous peoples. In the timber industry of Peru, middlemen go to indigenous areas to recruit, offering money or the necessary tools and materials to perform logging activities.<sup>70</sup> A study done by the ILO and Peruvian government in 2004 estimated there were 33,000 labor trafficking victims in illegal logging and the majority of these victims were indigenous.<sup>71</sup> In the alluvial gold mining industry of Peru, indigenous workers are recruited from their communities. They are given advances by the recruiters and told that they must be repaid in ninety days.<sup>72</sup> The National Copper Corporation of Chile, CODELCO, is Chilean state owned and largest copper producer. These workers are paid well and directly contracted with this company. The problem of exploitation arises in subcontracted work as many subcontracted workers are only paid minimum wage.<sup>73</sup> The inequality is stark between the two types of workers; consequently, subcontracted workers often riot, protest and strike.<sup>74</sup> In the agricultural sector in Chile, according to a study by Chile's National Women's Service, some 400,000 to 500,000 Chileans harvest fruit during the seven month season. Just as the previously mentioned employment sectors, these seasonal workers are hired by middlemen; in fact, seventy percent of women work without a contract.<sup>75</sup> A study using data from the National Socioeconomic

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<sup>69</sup> Verité, "Supply Chains in Bolivia," 41-4.

<sup>70</sup> Bhavna. "Contemporary Forms of Slavery in Peru," 3.

<sup>71</sup> Aurélie Hauchère, "Forced Labour, Discrimination and Poverty Reduction among Indigenous Peoples in Bolivia, Peru and Paraguay," Project, *International Labour Organization*, (March 2006), [http://www.ilo.org/global/topics/forced-labour/WCMS\\_082040/lang--en/index.htm](http://www.ilo.org/global/topics/forced-labour/WCMS_082040/lang--en/index.htm).

<sup>72</sup> Verité, "Forced Labor in Illegal Gold Mining In Peru," 40.

<sup>73</sup> Fernando Durán-Palma and Diego López, "Contract Labour Mobilisation in Chile's Copper Mining and Forestry Sectors," *Employee Relations* 31, no. 3 (2009): 252.

<sup>74</sup> Fabian Cambero and Gram Slattery, "UPDATE 2-Chile Copper Union Vows to Intensify Strike after Miner Shot Dead," *Reuters*, July 24, 2015, <http://www.reuters.com/article/chile-mine-protests-idUSL1N10417Q20150724>; Rafael Azul, "Strike Hits World's Largest Copper Mine in Chile," *World Socialist Web Site*, August 1, 2011, <http://www.wsws.org/en/articles/2011/08/chil-a01.html>.

<sup>75</sup> ILAB, "Labor Rights Report - Chile," Labor Rights Report (Washington, D.C, July 8, 2003): 19; Marianela Jarroud, "Seasonal Agricultural Workers Left Out of Chilean Boom," *Inter Press Service News Agency*, May 23, 2014, <http://www.ipsnews.net/2014/05/seasonal-agricultural-workers-left-chilean-boom/>.

Characterization Survey from Chile found that indigenous groups were most likely to receive labor violations and in the agricultural sector, sixty-three percent of workers are subject to some form of labor violation.<sup>76</sup>

## **Race and Ethnicity**

Racial and ethnic minorities are employed most often in labor trafficking. It is hard to discuss the employment of forced labor in Latin America without discussing the discrimination of racial and ethnic groups, particularly indigenous groups. There is widespread discrimination against indigenous peoples across the three cases, even though there are laws in place to protect them. Labor market discrimination can also partly explain why poverty is disproportionately higher in indigenous groups compared to the general population.<sup>77</sup> In general, the indigenous peoples in Bolivia, Chile and Peru frequently engage in irregular, informal and low paying jobs. The cycle of poverty and discrimination thus perpetuates and continues. Forced labor is the embodiment of the worst form of discrimination against these groups in the labor market.

Understanding the land inequality of indigenous peoples is important in understanding trafficked labor and why indigenous peoples are most commonly trafficked. The indigenous land issue is a form of contentious politics between the government and indigenous communities. The Peruvian Amazon, where the illegal logging occurs, is mainly in the Departments of Ucayali and Madre de Dios, which is indigenous land. Because it is legally protected land, the timber and mining done in these areas are inherently illegal.<sup>78</sup> The indigenous peoples in Peru have the legal right to own land communally, but groups often lack the legal ability to demarcate their land.<sup>79</sup> The Bolivian Amazon and Chaco, where the forced labor occurs, are also indigenous lands. Historically, Bolivian indigenous lands are communally owned, but the transition to private property left some land not fully demarcated. This flux of land rights is a political issue and often causes clashes between the government and indigenous groups.<sup>80</sup> In Chile, indigenous lands are demarcated, but it is also a politicized issue because some indigenous communities require restitution of their traditional lands.<sup>81</sup> A small number of Mapuches, for

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<sup>76</sup> Ravi Kanbur, Lucas Ronconi, and Leigh Wedenoja, "Labour Law Violations in Chile," *International Labour Review* 152, no. 3–4 (December 1, 2013): 440.

<sup>77</sup> Hauchère, "Forced Labour among Indigenous Peoples in Bolivia, Peru and Paraguay."

<sup>78</sup> Ibid.

<sup>79</sup> Department Of State, "2014 Human Rights Reports: Peru."

<sup>80</sup> Department Of State, "2014 Human Rights Reports: Bolivia."

<sup>81</sup> Department Of State, "2014 Human Rights Reports: Chile."

example, are militant nationalists and believe, and act on their belief, that the land is theirs for the taking.<sup>82</sup>

## Conclusion

The purpose of this paper was to answer the question: how do labor laws affect human trafficking? Rather than the number of labor laws, I find that the enforcement of labor laws plays a vital role in understanding the nature of human trafficking. It is interesting that although Peru had the highest number of labor rights protections in its legal framework, it did not enforce its labor laws as effectively as Chile. This fact shows how complicated it is for governments to effectively enforce labor and how it is possible for forced labor to exist within a country's labor market. As a policy concern, understanding human trafficking as a forced labor issue, not only as sex trafficking, will help governments to prioritize labor protection and enforcement. Better training and the enhancement of resources for labor inspectors could help mitigate the effects of forced labor, especially with the inclusion of civil society groups.<sup>83</sup> The enforcement of labor laws is only one aspect that can explain forced labor—there are two other prominent and interconnected explanations. Industries that are far removed from labor laws, either physically on rural and hard to reach lands, which use subcontractors and internal migration, partially explain forced labor, too. Finally, employment sectors that use forced labor employ members of vulnerable racial and ethnic groups, in the case of Bolivia, Chile and Peru, mainly indigenous groups.

One problem in drawing conclusions is that clear estimates of the number of labor trafficked persons in each country do not exist. The ILO estimates that there are 1.8 million total forced laborers in Latin America, but understanding how this number varies across countries is not provided. Part of the difficulty lies in a country's ability to keep reliable statistics and how recording these statistics differ across countries. For example, a country might record someone working under forced labor conditions as an instance of a labor violation rather than a human trafficking violation. Studies, like those from Verité, that survey workers in

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<sup>82</sup> Nick Miroff, "Land-Reclamation Campaign by Indigenous Mapuches Scorches Southern Chile," *The Washington Post*, June 8, 2014, [https://www.washingtonpost.com/world/the\\_americas/land-reclamation-campaign-by-indigenous-mapuches-scorches-southern-chile/2014/06/08/264f17dc-ccdb-4ec0-a815-a80360b6f02a\\_story.html](https://www.washingtonpost.com/world/the_americas/land-reclamation-campaign-by-indigenous-mapuches-scorches-southern-chile/2014/06/08/264f17dc-ccdb-4ec0-a815-a80360b6f02a_story.html).

<sup>83</sup> Vidyamali Samarasinghe and Barbara Burton, "Strategising Prevention: A Critical Review of Local Initiatives to Prevent Female Sex Trafficking," *Development in Practice* 17, no. 1 (February 2007): 58.

specific industries proved to be invaluable resources in understanding forced labor in Bolivia and Peru. However, case studies and reports specifically on Chile are hard to find. This fact might imply that there is bias towards researching and collecting data on countries that have clear problems with forced labor.

Despite these shortcomings, examining a country's labor enforcement capabilities, its industries and the discrimination faced by racial and ethnic groups is the best manner in which to understand human trafficking. It is vital to understand regional factors that influence human trafficking, and I believe that these three variables can be used as a framework for analysis in other regions of the world. For example, in the industry of gold production, do racial groups and the enforcement of labor laws play as an important role in determining forced labor in North Korea and Nigeria as it does in Peru? By not focusing only on sex trafficking, we can better understand the nature of forced labor in a country. Demand for sex simply does not fit into the context of these industries, even where women are most often employed, like the Chilean seasonal agricultural workers. An interesting area of further study would be to better understand when the discrimination of labor is mainly an ethnic issue or a gender issue, how these identities might overlap and when the salience of the discrimination moves past labor exploitation into forced labor conditions.

A critique of this research may be that I failed to accurately depict labor trafficking since I did not explicitly focus on and describe international migration flows. I agree that the examination of migrant flows could be expanded, but in the industries of forced labor in Chile, Peru and Bolivia, most migration was internal, not external. However, these three variables should be applicable to international labor trafficking: migrants are of different ethnic or racial groups; they have filled a gap in the enforcement of labor laws if they are in the country illegally; and they worked through a middleman to receive the job. How this process manifests itself will be different in each country, but as a broad framework, the variables of labor law enforcement, industry type and racial and ethnic groups remain the best explanatory variables to analyze labor trafficking.

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