

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	191
Land:	Myanmar
Kilde:	US Department of State
Titel:	Trafficking in Persons Report 2017 - Country Narratives - Burma
Udgivet:	27. juni 2017
Optaget på baggrundsmaterialet:	6. september 2017



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BURMA: Tier 2 Watch List

The Government of Burma does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government made key achievements during the reporting period; therefore, Burma was upgraded to Tier 2 Watch List. These achievements included continued progress to eliminate the recruitment and use of child soldiers, an increased number of personnel dedicated to anti-trafficking law enforcement units, and the first trafficking prosecutions of government officials since the enactment of the 2005 Anti-Trafficking in Persons Law. The government strengthened efforts to identify victims in vulnerable border areas, reached its goal of appointing trafficking case workers to all social welfare offices throughout the country, and continued cooperation with international partners to identify and demobilize children recruited into the military's ranks, culminating in the release of 112 individuals recruited as children. Despite these achievements, the government continued to require troops to source their own labor and supplies from local communities, thereby increasing the prevalence of forced labor; failed to sufficiently penalize military officials who engaged in child soldier recruitment; and prevented the UN from playing a constructive role in bringing to an end the recruitment and use of children by ethnic armed groups. Throughout the reporting period, victim identification and protection measures remained insufficient as a result of limited resources and a general lack of coordination and awareness among key government agencies and law enforcement entities; authorities continued to arrest trafficking victims for acts they were forced to commit as a result of being subjected to human trafficking.

RECOMMENDATIONS FOR BURMA

Strengthen efforts to prosecute and convict individuals complicit in forced labor and child soldiering offenses, including military and other government officials and civilian brokers, and apply stringent penalties, including jail time; make efforts to end the recruitment and use of children or forced labor by members of ethnic armed groups and prioritize these issues during peace negotiations; cease all recruitment of children into the armed forces and actively identify and demobilize all individuals recruited as children currently serving in the military's ranks; increase investigations, prosecutions, and convictions of internal trafficking offenses; cease official involvement in compelling civilians to perform any type of forced labor, including civilian portering; reform military policies—including the "self-reliance" policy—that drive the demand for forced labor and child soldier conscription, and support the UN's efforts to sign action plans with ethnic armed groups to end their recruitment and use of children; amend the law so that all penalties prescribed for forced labor are sufficiently stringent to deter the crime; implement formal procedures for proactive victim identification among vulnerable groups and their referral to service

providers; continue to strengthen age verification procedures for new military recruits; cease arresting, detaining, or otherwise punishing victims for acts committed while subjected to trafficking or those fleeing trafficking situations, including through conducting age assessments of any potential minors before making an arrest for desertion; provide legal status to stateless persons in Burma to decrease their vulnerability to exploitation; increase funding for specialized anti-trafficking police units and enhance their coordination with general police units and prosecutors; strengthen efforts to prioritize and significantly increase funding for victim protection efforts, including victim shelters, provision of services for male victims, and reintegration support for former child soldiers; and appoint a case manager to facilitate victims' involvement in criminal proceedings and maintain a victim-centered approach to investigations and prosecutions, including through establishment of robust witness protection protocols and provision of language interpreters.

PROSECUTION

The government increased some law enforcement efforts, particularly in taking steps to hold complicit officials criminally accountable. The 2005 Anti-Trafficking in Persons Law criminalizes all forms of sex and labor trafficking using definitions that are generally consistent with international law; however, it does not appear to contain provisions establishing that, when children are the victims of a trafficking offense, the use of force, fraud and coercion is not a required element of the offense. The law provides for penalties ranging from a minimum of five years to a maximum of imprisonment for life, depending on the identity of the victim and other factors. These punishments are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. Forced labor, including the recruitment of children into the military, is a criminal offense under the 2005 Anti-Trafficking Law, the 2012 Wards and Village Tracts Administration Act, and penal code section 374, for which the maximum sentence is one year or fine or both—an insufficiently stringent penalty. The military reportedly pursues its own punitive measures for child recruitment cases through unknown provisions in military law, although the penalties it applies are disproportionately low compared to the seriousness of the crime. During the reporting period, the government continued a legal review to redraft and strengthen the 2005 law.

In 2016, the government reported investigating 95 cases, leading to the prosecution and conviction of 145 traffickers, compared with 119 cases investigated and 168 traffickers prosecuted and convicted in 2015, and 98 investigations and 143 prosecutions and convictions in 2014. As in previous years, most of the government's law enforcement efforts focused on sex trafficking or the involuntary domestic servitude of Burmese women through forced marriages to Chinese men. However, of the 95 cases investigated, 46 were cases of forced labor, including 23 cases of domestic servitude and 26 cases involving labor trafficking in the fishing, manufacturing, and other such industries, compared with 54 labor cases in 2015 and 54 labor cases in 2014. The government identified seven instances of forced labor in Burma's fishing industry in 2016, triggering an ongoing interagency process led by the Central Body for Suppression of Trafficking in Persons (CBTIP) to institute new preventative protocols in the fishing sector. Courts convicted 26 individuals under the 2005 anti-trafficking law for subjecting Bangladeshi and Rohingya migrants to trafficking, although it was unclear if these constituted instances of smuggling; the lead offender, a Thai national, received a 27-year prison sentence.

The Anti-Trafficking in Persons Division (ATIPD) maintained dedicated anti-trafficking taskforce (ATTF) police throughout the country, the roster of which increased to 471 during the reporting period, compared to 371 in 2015. However, a lack of clarity between the roles and responsibilities

of ATTF officers and general police investigators, coupled with poor police-prosecutor cooperation, continued to hamper the success of investigations and prosecutions. Local experts reported non-ATTF police perceived they did not have the authority to pursue investigations proactively, and primarily opened investigations only in response to complaints. An acute lack of basic policing equipment and resources remained a major obstacle for police to proactively undertake investigations into trafficking crimes. During the year, the government changed its policies to facilitate greater efficiency in trafficking cases by granting decentralized authority for sentencing traffickers, eliminating the previous requirement for such sentencing decisions to be made in the capital city. The ATIPD provided both basic introductory and on-the-job training for police, and international organizations funded additional anti-trafficking training for Burmese officials. During the reporting period, the Myanmar Police Force hosted the Thai Department of Special Investigators and the Thai Royal Police for discussions on enhancing bilateral anti-trafficking efforts, culminating in increased access by Burmese law enforcement and social welfare personnel to victims in Thai custody.

Some military and civilian officials reportedly facilitated the smuggling and exploitation of Rohingya migrants and subjected civilians, particularly members of ethnic minority groups, to forced labor within Burma. There are reports that corruption and impunity continued to hinder the enforcement of trafficking laws; individuals claiming to have ties to high-level officials may have pressured victims not to seek legal redress against their traffickers. The power and influence of the Burmese military limited the ability of civilian police and courts to address cases of forced labor and the recruitment of child soldiers by the armed forces; there is no evidence any soldiers accused of trafficking crimes have ever been prosecuted in civilian courts, nor has the government ever prosecuted a civilian for child soldier recruitment. The Ministry of Defense undertook independent efforts to investigate and punish military personnel for child soldier recruitment; it reported punishing 13 officers and 23 noncommissioned personnel in 2016, compared to 11 officers and 14 noncommissioned personnel in 2015. It did not report punitive measures for military personnel guilty of subjecting children or adults to forced labor. Imposed punishments were significantly less than those prescribed by criminal laws, with most receiving reprimands, fines, or a decrease in pension, and NGOs assessed these penalties to be insufficient. For the first time, the government investigated and initiated prosecutions against government officials suspected of complicity in trafficking crimes; in one case, authorities charged a police constable with transporting a 16-year-old girl from Rangoon to Muse for the purpose of subjecting her to forced marriage in China, where she would have been at a high risk of other forms of exploitation. The second case involved a police lance corporal suspected of complicity in subjecting six men to debt bondage in Mon State. Both prosecutions were initiated in November and were ongoing at the end of the reporting period.

In one high-profile forced labor case, three children were physically abused and forced to work in a tailor shop in Rangoon over the course of five years with little to no pay. Two police commanders dismissed initial reports of the abuse, prompting a local journalist to file a complaint with the National Human Rights Commission (NHRC). The NHRC brokered a financial settlement with perpetrators rather than referring the case to prosecution under the anti-trafficking laws. Following public outcry over the NHRC's inadequate response to the case, four commissioners stepped down, the police chiefs who had ignored the initial reports were investigated, and demoted to auxiliary positions, and the ATTF police initiated the prosecution of six tailor shop perpetrators. Their trial date was pending at the close of the reporting period.

PROTECTION

The government maintained inadequate victim protection efforts, and some officials reportedly continued to subject men, women, and children to trafficking in Burma. More victims were identified by authorities in other countries than within Burma. Police and border officials identified 163 victims at Thai and Chinese border crossings (118 in 2015 and 68 in 2014). The government did not report how many additional victims it identified within Burma. In 2016, the government released 112 individuals originally recruited as children from the military through implementation of its UN-backed action plan on child soldiers (146 the previous year and 322 in 2014). Local observers reported once individuals were identified as possible child soldiers, the military made progress in providing immediate protections, including removal from combat, before formal verification procedures concluded. The government expanded the deployment of three full-time case managers to each of 42 Department of Social Welfare (DSW) offices—up from 27 offices in 2015—to provide healthcare, reintegration, psycho-social, and legal services to trafficking victims, including child soldiers. Despite this improvement, DSW continued to lack the resources necessary to adequately provide intended services to trafficking victims, and relied on civil society organizations to provide most services to victims. The government worked with Thailand to finalize and begin implementing bilateral standard operating procedures on repatriation, reintegration, and rehabilitation in March 2017. While law enforcement officials continued to proactively identify suspected victims en route to China for forced marriages likely to result in sex or labor exploitation, or to Thailand for potential sex trafficking, authorities did not follow standardized, nationwide procedures for the proactive identification of trafficking victims. Despite some progress, front-line officers largely lacked adequate training to identify potential victims.

The military continued to subject civilians to forced labor. In one case, the military forcibly removed 12 elderly men from their mosque during prayer and beat them, forced them to carry any personal belongings deemed useful in a conflict setting—including heavy car batteries—to another village, and then confiscated these belongings. Ethnic minority groups in Burma—particularly internally displaced Rohingya, Rakhine, Shan, and Kachin communities—continued to be at elevated risk of forced labor as a result of ongoing military incursions, and the government remained largely inactive on this long-standing issue. For the second year, the military granted within 72 hours all requests from UN monitors to access military installations to inspect for the presence of children, although the UN reported the military may have carefully controlled these visits and possibly cleared problematic indicators in advance. An uptick in violence in Rakhine and Shan states may have constrained monitoring efforts.

The government continued to operate five centers for women and children who were victims of violent crime; all five could shelter trafficking victims, and one was dedicated to female trafficking victims. In addition, the government operated three facilities funded by a foreign donor that could serve both men and women. It did not report the total number of victims receiving services in these facilities, or whether shelters housed any men. In previous years, repatriated victims of trafficking abroad could stay in transit centers prior to their reintegration, but it was unclear how many victims benefitted from this provision in 2016. Services in government facilities remained rudimentary, but the government increased its funding allocation to trafficking victim protection, and some victims received psycho-social counseling, travel allowances, support for obtaining official documents, and assistance in returning to home communities. Overall government support to demobilized children remained minimal, with most services provided by civil society partners. NGOs and foreign donors funded and facilitated delivery of most services available to trafficking victims. Longer-term support was limited to vocational training for some former child soldiers and women in major city centers and border areas; the lack of adequate protective measures for victims—particularly

males—left them vulnerable to re-trafficking. The government did not have adequate procedures for assisting victims identified abroad, and diplomatic missions overseas largely lacked adequate funding or capacity to provide basic assistance or repatriate victims. However, the government maintained labor attachés in Thailand, Malaysia, and South Korea, whose responsibilities included assisting trafficking victims. It provided anti-trafficking training for its diplomatic personnel and worked with an international organization to establish victim identification reference materials for consular officers, although the latter process was ongoing at the end of the reporting period. In 2016, the ATIPD sent a delegation of law enforcement officials to South Korea for a workshop on victim identification, support, and sustainable protection.

Victims frequently declined to cooperate with authorities due to the lack of adequate victim protection or compensation programs, language barriers, a lengthy and opaque trial process, fear of repercussions from their traffickers, and general mistrust of the legal system. A cumbersome investigative process required victims to give statements multiple times to different officials, increasing the likelihood of re-traumatization. Further, restrictions on contact between victims and prosecutors impeded case-relevant communication and further obfuscated the court process for some victims. The government did not provide legal alternatives to the removal of foreign victims to countries where they may face hardship or retribution. The government made efforts to include victims' perspectives in training sessions with police and during government meetings. Authorities reportedly arrested sex trafficking victims for prostitution due to inadequate efforts to screen for indicators of trafficking in thousands of anti-prostitution interventions. Authorities continued to arrest and imprison children who fled military service or were demobilized by civil society organizations on charges of desertion. In most cases where these individuals were identified as minors, authorities subsequently processed their release, although some remained in civilian detention for several months; one detention of a minor on charges of desertion remained under review at the end of the reporting period.

PREVENTION

The government maintained prevention efforts. During the reporting period, Parliament approved ratification of the ASEAN Convention Against Trafficking in Persons, Especially Women and Children. CBTIP continued to coordinate anti-trafficking programs and policies; it worked with the ATIPD and an international organization to draft a new five-year comprehensive trafficking prevention strategy, which was pending presidential review at the end of the reporting period. A 2014 directive prohibiting the use of children by the military remained in place. The government interfered with progress on a significant trafficking problem in the country by not allowing the UN to sign action plans with ethnic armed groups to end their recruitment and use of children. Although oversight and monitoring of recruitment procedures remained insufficient to prevent child recruitment in the military, international observers reported age verification procedures continued to improve the military's ability to identify and prevent most child recruitment, and the military continued to provide enlisted personnel, training centers, and recruitment officials with age assessment and child soldier prevention trainings. The government did not reform the military's "self-reliance" policy, which continued to make adults and children—particularly members of stateless ethnic minority groups—vulnerable to forced labor.

The government has to date been unsuccessful in providing citizenship and identity documents for an estimated 810,000 men, women, and children in Burma—most of whom self-identify as Rohingya and live in Rakhine State. The lack of legal status and identity documents significantly

increased the vulnerability of this population to trafficking in Burma and in other countries. The government began distribution of national verification cards (NVCs) to undocumented individuals, but low participation prevented significant progress. Government policies limiting freedom of movement in some jurisdictions—including a new ban on Rohingya individuals' use of fishing vessels if they do not have NVC's, which many Rohingya do not accept—have hindered access to employment for some communities, further aggravating economic conditions that may have contributed to more Rohingya men pursuing informal employment channels known to engender severe forms of abuse, including forced labor. The government continued to conduct awareness campaigns in print, television, radio, billboards, and other media—particularly in high-vulnerability states—and to train members of community-based watch groups and students on trafficking. However, it did not launch its second national campaign, initially scheduled for January 2016, to raise awareness about the recruitment and use of child soldiers and educate the public on reporting such cases. Authorities continued to release information on the prosecution of traffickers via government-supported and private media throughout the country. The ATIPD maintained a hotline and social media account with information on trafficking, including updated law enforcement statistics, but did not report the extent to which the public employed either of these mechanisms.

The government did not make efforts to punish labor recruiters or brokers for illegal practices that increase migrants' vulnerability to exploitation abroad. The government maintained a tourism police unit, which it reported to have played a central role in combating child sex tourism. There were no reports of child sex tourism during the reporting period. Authorities partnered with an NGO to raise awareness about child sex tourism among some hotel industry personnel, but no related investigations or prosecutions were reported. The government did not take steps to reduce the demand for commercial sex acts or forced labor, nor did it finalize curricula necessary to conduct anti-trafficking training for its diplomats prior to their deployment overseas.

TRAFFICKING PROFILE

As reported over the past five years, Burma is a source country for men, women, and children subjected to forced labor and for women and children subjected to sex trafficking, both in Burma and abroad. Some Burmese men, women, and children who migrate for work abroad—particularly to Thailand and China, as well as other countries in Asia, the Middle East, and the United States—are subjected to forced labor or sex trafficking. Men are subjected to forced labor in fishing, manufacturing, forestry, agriculture, and construction abroad, while women and girls are primarily subjected to sex trafficking, domestic servitude, or forced labor in garment manufacturing. NGOs continued to report instances of Burmese males transiting Thailand en route to Indonesia and Malaysia, where they are subjected to forced labor, primarily in fishing and other labor intensive industries. Some Burmese men in the Thai fishing industry are subjected to debt bondage, passport confiscation, threats of physical or financial harm, or fraudulent recruitment; some are also subjected to physical abuse and forced to remain aboard vessels in international waters for years. Burmese women are increasingly transported to China and subjected to sex trafficking and domestic servitude through forced marriages to Chinese men; there have been reports that Burmese government officials are occasionally complicit in this form of trafficking, as well as in the facilitation of the smuggling and exploitation of Rohingya migrants. There were limited reports of Rohingya individuals attempting to be smuggled out of the country later being abducted in transit and sold into forced marriage in Malaysia; some of these individuals may have become victims of domestic servitude or sex trafficking.

Within Burma, men, women, and children from predominantly ethnic minority areas—including the estimated 103,000 persons displaced by conflict in Kachin and northern Shan states and the estimated 120,000 displaced persons in Rakhine state—are at increased risk of trafficking. Rohingya individuals are particularly vulnerable to labor trafficking in Rakhine state, including forced labor perpetrated by government authorities. Many among the estimated 70,000 Rohingya who have crossed out of Rakhine into neighboring Bangladesh in 2016 and early 2017 are at elevated risk of being subjected to trafficking. Ethnic Rakhine are reported to be victims of forced labor on the margins of conflict between the military and ethnic armed groups in Rakhine State. Local traffickers use deceptive tactics to recruit men into forced labor on oil palm and rubber plantations, in jade and precious stone mines, and in fishing. Children are subjected to sex trafficking or to forced labor (at times through debt bondage) in teashops, small businesses, the agricultural and construction sectors, and in begging. Children and adults are subjected to domestic servitude. A small number of foreign child sex tourists exploit Burmese children.

Some military personnel, civilian brokers, border guard officials, and ethnic armed groups continue to recruit or use child soldiers, particularly in conflict-prone ethnic areas, although monitoring groups report the incidence of forced conscription into government armed forces continued to decrease significantly. As of the close of the reporting period, international monitors had verified two cases of child recruitment by the Burmese military in 2016. In some cases, recruiters use deception, offering incentives or coercing children or their families through false promises about working conditions, salary, and promotion opportunities. Men and boys are forced to serve in ethnic armed groups through intimidation, coercion, threats, and violence; in the past, the Burmese army has employed similar tactics, although no such cases were verified during the reporting period. Some child soldiers are deployed to the front-line as combatants. In addition to formally recruiting at least two children into its ranks in 2016, the military may have continued to use children for labor or other support roles. Some ethnic armed groups abduct or recruit children—including from internally displaced persons' camps—for use as soldiers in fighting against the Burmese army.

The Burmese military, civilian officials, and some ethnic armed groups use various forms of coercion, including threats of financial and physical harm, to compel victims into forced labor. In areas with active conflict, members of local populations—mostly men, but also women and children as young as 12 years old—are subject to forced labor. The ILO continued to receive reports indicating the actual use of forced labor is decreasing overall, but the number of complaints of forced labor through the ILO complaints mechanism remained significant. Reports of forced labor occurred across the country; prevalence was higher in states with significant armed conflict, while reports declined in cease-fire states. Reporting and verification mechanisms were weak or non-existent in conflict areas, making it difficult to fully assess the ongoing scale of forced labor. Officials continued to use violence or threats thereof to compel civilians into forced labor, including portering, work on public infrastructure projects, and activities related to the military's "self-reliance" policy—under which military battalions are responsible for procuring their own food and labor supplies from local villagers, who in turn are at a significantly elevated risk of forced labor through the arrangement. The army uses children as porters, cooks within battalions, or to carry supplies or perform other support roles. Some observers noted forced labor practices were changing, resulting in a reported decrease in the use of forced labor by the military and an increase in reports of forced labor in the private sector and by civilian officials. At the same time, international organizations reported forced labor remains common in areas affected by conflicts—particularly in Rakhine State. There were continued reports of widespread abuses by government soldiers, including forced labor of members of ethnic groups in Shan, Karen, and Kachin states.

Land confiscation by military, local government, and private businesses placed agricultural workers at risk for forced labor, including on lands they previously occupied.