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AFGHANISTAN: Tier 2

The Government of Afghanistan does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated increasing efforts compared to the previous reporting period; therefore, Afghanistan was upgraded to Tier 2. The government demonstrated increasing efforts by enacting a new law on human trafficking in January 2017 that attempts to reduce conflation of smuggling and trafficking, and criminalizes *bacha baazi*, a practice in which men exploit boys for social and sexual entertainment. The government investigated, prosecuted, and convicted traffickers, including through the arrest and punishment of complicit officials for *bacha baazi*. With funding and staff from an international organization, the government reopened a short-term shelter in Kabul for trafficking victims. The government also opened 15 child protection units that prevented the recruitment of more than 300 children into the security forces in 2016. However, the government did not meet the minimum standards in several key areas. Official complicity remained a serious problem, especially in the sexual exploitation and recruitment of children by Afghan security forces. Victim protection efforts remained inadequate; all but one government-run shelter for trafficking victims remained closed during the reporting period. The government did not develop or employ standard operating procedures for victim identification or for referral of victims to rehabilitation services, which at times resulted in the government's arrest and prosecution of trafficking victims as criminals.

RECOMMENDATIONS FOR AFGHANISTAN

Cease the recruitment and use of children by Afghan security forces, and ensure adequate protection and reintegration support for demobilized children; use the 2017 trafficking law to investigate and prosecute alleged traffickers, including law enforcement and members of the military suspected of being complicit in trafficking, and convict and appropriately sentence the perpetrators, while respecting due process; cease the penalization of victims for offenses committed as a direct result of being subjected to trafficking, including stopping prosecutions for moral crimes and the placement of child trafficking victims in juvenile rehabilitation centers; develop standard operating procedures for victim identification and referral to rehabilitation services and train officials on their use; strengthen the capacity of the Ministry of Interior (MOI)'s anti-trafficking/smuggling units, including increasing the number of staff in each region and ensuring their ability to differentiate between smuggling and trafficking; continue to increase the capacity of the High Commission for Combating Crimes of Abduction and Human Trafficking/Smuggling (high commission) to coordinate and report on the government's anti-trafficking efforts, and oversee implementation of the anti-trafficking national action plan; as the security situation and access to rural areas allow, continue to educate officials at national, provincial, and local levels on the definition of human

trafficking, as well as identification, protection, and law enforcement strategies; improve efforts to collect, analyze, and accurately report counter-trafficking data; dedicate resources to support long-term victim rehabilitation programs; continue to educate government officials and the public on the criminal nature of *bacha baazi* and debt bondage of children; and proactively inform government officials, especially at the MOI and Ministry of Defense (MOD), of the law prohibiting the recruitment and enlistment of minors, and enforce these provisions with criminal prosecutions.

PROSECUTION

The government increased its law enforcement efforts. In January 2017, the government enacted the Law to Combat Crimes of Trafficking in Persons and Smuggling of Migrants, which prohibits all forms of human trafficking. The law criminalizes the use of threat or force or other types of coercion or deceit for the purpose of exploitation. It includes forms of exploitation that go beyond those in the 2000 UN TIP Protocol, such as medical experiments and forcing a person to commit “other illegal activities,” and includes armed fighting and *bacha baazi*, a practice, in which men exploit boys for social and sexual entertainment—effectively criminalizing this practice for the first time. The law prescribes maximum penalties of eight years imprisonment; aggravating factors increase the maximum sentence to between 10 and 15 years and the imposition of the death penalty if exploitation for armed fighting resulted in the victim’s death. Such penalties are sufficiently stringent and commensurate with those for other serious crimes. The government used the 2008 Law Countering Abduction and Human Trafficking/Smuggling, article 516 of the penal code, and the 2009 Law on the Elimination of Violence Against Women, which together prohibited many, but not all, forms of human trafficking to prosecute and convict traffickers until the enactment of the 2017 law repealed the 2008 law. These penalties were sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape.

The government reported the investigation of 103 alleged traffickers and the prosecution of 63 during the reporting period, compared with the investigation of 108 alleged traffickers and the prosecution of 56 in the previous reporting period. The government reported primary courts convicted 33 traffickers during the reporting period, compared with 39 traffickers convicted in the previous reporting period. Of the 33 convictions, sentences ranged from three months to 10 years imprisonment; 30 required imprisonment of one year or more. Three sentences resulted in inadequate penalties of three months imprisonment. The government’s law enforcement response to forced and bonded labor in particular is unknown as case details or types were not provided. Law enforcement and judicial officials continued to have a limited understanding of trafficking. Dari, the language spoken most widely in Afghanistan, historically used the same word for both human trafficking and human smuggling, compounding the confusion. Authorities attempted to address this issue by including separate terms and definitions for trafficking and smuggling in the new law; however, international observers expressed concern the government would not effectively train provincial police and prosecutors on the new terminology. MOI had a central anti-trafficking/smuggling unit staffed with 16 officers, with an additional two officers in each of the 34 provinces; however, officers were not solely dedicated to anti-trafficking, and officials noted two officers per province was insufficient. The Attorney General’s Office reported it trained officials from the National Directorate of Security intelligence agency on combating trafficking during the reporting period. International organizations and NGOs continued to provide most training opportunities to government officials.

Official complicity in trafficking remained a serious and pervasive problem. Some government and security officials reportedly engaged in the practice of *bacha baazi*. In July 2016, the President ordered an investigation into institutionalized sexual abuse of children by police officials and stated perpetrators would be prosecuted. The Afghanistan Independent Human Rights Commission's (AIHRC) 2014 report assessed that most who engage in *bacha baazi* paid bribes to, or had relationships with, law enforcement, prosecutors, or judges that effectively exempted them from prosecution. In October 2016, five Afghan National Army (ANA) soldiers were accused of sexually abusing a boy, possibly in *bacha baazi*. All five were arrested and transferred to an ANA court, where one soldier was convicted of unlawful use of lethal force and sentenced to two years imprisonment; another soldier was convicted of battery and sentenced to one year imprisonment. Three of the soldiers were released due to lack of evidence against them. In February 2017, a district chief of police and six members of the security forces were arrested for allegedly participating in a *bacha baazi* gathering; the district chief of police was fired from his position. However, observers reported the police also arrested the four victims involved in the case. In 2016, the government established the Department of Gender and Human Rights Research on Child Abuse within the MOI to protect women and children from abuses of law enforcement officials and police. The UN verified the continued use of children in combat and non-combat roles by the government in 2016, including five cases of recruitment by the Afghan National Police, two by the Afghan Local Police, and one by the ANA. The UN also verified in 2016 one case of child recruitment and use by the People's Uprising Group of Baghlan, a government-supported armed group. Observers reported some officials accepted bribes to produce identity documents for boys stating their age was above 18 years old.

PROTECTION

The government maintained inadequate efforts to protect victims. The government did not compile comprehensive victim identification and assistance statistics; however, the Ministry of Labor and Social Affairs, Martyrs, and the Disabled (MOLSAMD) reported identifying 23 victims. Separately, an NGO reported identifying and assisting 93 victims, including 55 boys and 38 girls. The government did not develop or employ systematic procedures for the identification of victims and their subsequent referral to protective services; however, NGOs and international organizations noted the government, including multiple ministries and the police, actively referred victims to protective services. In 2016, government referrals accounted for 96 percent of two NGO-run trafficking shelter's caseloads. MOLSAMD reported it created a referral system for forced labor cases for the border police; it was unknown if the system was disseminated and used during the reporting period. Police lacked formal guidelines and funding to provide basic care (including water and food) to victims during investigations. In some instances, police officers paid out-of-pocket for basic victim care. MOLSAMD, with funding and staff from an international organization, reopened a government-owned short-term shelter in Kabul for trafficking victims that had closed several years ago. MOLSAMD provided registration, referral, and social services for trafficking victims, including receiving victims repatriated to Afghanistan from other countries. NGOs operated 29 women's protection shelters in 21 provinces that provided protection, legal, and social services to female victims of violence, which were available to trafficking victims. The Ministry of Women's Affairs monitored and regulated all women's protective shelters through site visits to ensure compliance with women's centers regulations and guidelines and hosted national and provincial coordination committees to discuss the findings of visits and to address challenges. Family guidance centers provided non-residential legal and social services for victims of all crimes in 17 provinces, and provided shelter for victims in 14 provinces. The Child Protection Action Network, a

conglomerate of NGOs, civil society, and government entities overseen by MOLSAMD, provided shelter to some child victims. NGOs operated two shelters for victims of labor and sex trafficking in Kabul, including one specifically dedicated to serving boys under age 18. At times, the government placed child victims in orphanages, although some children in orphanages were subjected to trafficking. There continued to be no shelters for adult male victims.

Authorities sometimes treated male and female victims as criminals simply for being unchaperoned or for having committed moral crimes; officials continued to arrest, imprison, or otherwise punish victims for prostitution or adultery, without regard to whether they had been subjected to forced prostitution, or for escaping from husbands who forced them into prostitution. Authorities sometimes prosecuted victims for possessing forged identity documents. Article 20 of the 2017 Law to Combat Crimes of Trafficking in Persons and Smuggling of Migrants provides that a trafficking victim shall not be prosecuted for crimes committed while being subjected to trafficking or for the possession or use of fraudulent travel documents. Officials sometimes placed in prisons male and female victims who could not be accommodated in shelters. NGOs reported placement of child trafficking victims in juvenile detention centers, sometimes for several years. Male child sex trafficking victims, including those subjected to *bacha baazi*, were in some cases referred to juvenile rehabilitation centers on criminal charges. The government did not demobilize child soldiers associated with governmental or nongovernmental armed groups or provide or refer such children for protection services or for reintegration support.

The government did not encourage victims to participate in investigations; it did not provide adequate support, security, or protective services for victims to safely do so without supplemental trauma. NGOs reported child trafficking victims are at times forced to testify in front of their alleged traffickers. Afghan law allows foreign victims to remain temporarily in Afghanistan for at least six months. There was no information the government forcibly deported any foreign trafficking victims in 2016.

PREVENTION

The government increased its trafficking prevention efforts. The government continued to coordinate its anti-trafficking activities through its high commission, which met three times during the reporting period and separately held nine working level meetings. Provincial anti-trafficking commissions in 33 provinces coordinated activities to implement policy established by the high commission. The high commission did not receive money from the government for its operating or program expenses; the international community fully funded its activities. The government continued to implement its 2015-2017 national action plan to combat human trafficking. The high commission developed an action plan for public awareness of human trafficking and conducted 22 training programs in 10 provinces. The government continued to raise trafficking awareness through radio, television, and print media, and encouraged mullahs to raise awareness through their weekly sermons. The AIHRC conducted 60 educational training programs on preventing and combating human trafficking for MOD officials, university lecturers, mullahs, and civil society activists; the programs reached 2,091 individuals.

During the reporting period, the government opened 15 child protection units (CPUs) to prevent the recruitment of children into the security forces. According to an international organization, the CPUs prevented the recruitment of 315 boys and three girls from January through November 2016. Separately, MOI reported it prevented the recruitment of 63 children into the police forces in 2016.

The government continued to develop plans for its long-delayed electronic national identification card. During the reporting period, the government finalized a policy and drafted an action plan for the reintegration of Afghan returnees and internally displaced persons in partnership with the UN; however, government ability to assist vulnerable persons, including over one million documented and undocumented returnees from Pakistan and Iran in 2016, remained limited, and it continued to rely on the international community for assistance. The government did not take steps to reduce the demand for commercial sex acts or forced labor. The government did not provide anti-trafficking training for its diplomatic personnel.

TRAFFICKING PROFILE

As reported over the past five years, Afghanistan is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Internal trafficking is more prevalent than transnational trafficking. Men, women, and children are exploited in bonded labor in Afghanistan, where an initial debt assumed by a worker as part of the terms of employment is exploited, ultimately entrapping other family members, sometimes for multiple generations. Some entire Afghan families are trapped in debt bondage in the brick-making industry in eastern Afghanistan. Most Afghan trafficking victims are children exploited in carpet making and brick factories, domestic servitude, commercial sex, begging, poppy cultivation, transnational drug smuggling, and assistant truck driving within Afghanistan. Some Afghan families knowingly sell their children into sex trafficking, including for *bacha baazi*—where men, including some government officials and security forces, use boys for social and sexual entertainment. There are reports that some law enforcement officials, prosecutors, and judges accept bribes from or use their relationships with perpetrators of *bacha baazi* to allow them to escape punishment. Opium-farming families sometimes sell their children to settle debts with opium traffickers. Children in orphanages overseen by the government, but run by NGOs, were sometimes subjected to trafficking. Members of the Shia Hazara minority group were victims of forced labor. Afghan returnees from Pakistan and Iran and internally displaced Afghans are vulnerable to forced and bonded labor.

Men, women, and children in Afghanistan often pay intermediaries to assist them in finding employment, primarily in Iran, Pakistan, India, Europe, or North America; some of these intermediaries force Afghans into labor or prostitution. Afghan women and girls are subjected to sex trafficking and domestic servitude primarily in Pakistan, Iran, and India. The majority of Afghan victims in Pakistan are women and girls subjected to trafficking for the purpose of commercial sexual exploitation, including through forced marriages. Afghan boys and men are subjected to forced labor and debt bondage in agriculture and construction, primarily in Iran, Pakistan, Greece, Turkey, and the Gulf states. Boys, especially those traveling unaccompanied, are particularly vulnerable to trafficking. Some Afghan boys are subjected to sex trafficking in Greece after paying high fees to be smuggled into the country. Reportedly, the Iranian government and the Islamic Revolutionary Guards Corps (IRGC) coerce male Afghan migrants and registered refugees, including boys as young as 12, to fight in Syria in IRGC-organized and commanded militias, by threatening them with arrest and deportation to Afghanistan.

The government and armed non-state groups in Afghanistan recruit and use children in combat and non-combat roles. Armed non-state groups, mostly the Taliban, but also including other non-state groups like the Islamic State in Khorasan Province, account for most child recruitment and use. Insurgent groups forcibly recruit and use children as suicide bombers. The Taliban indoctrinate children using religious and military education and teach children to use small arms and deploy

improvised explosive devices. Some families receive cash payments or protection in exchange for sending their children to the Taliban-run schools. Children from impoverished and rural areas, particularly those under Taliban control, are especially vulnerable to recruitment. The Afghan Local and National Police use children in combat and non-combat roles, including as personal servants, support staff, and body guards. The ANA also recruits children, although to a lesser extent. There were reports that some members of the Afghan security forces, including members of the ANA, and other groups of non-state actors sexually abuse and exploit young girls and boys.

There were reports of women and girls from the Philippines, Pakistan, Iran, Tajikistan, Sri Lanka, and China subjected to sex trafficking in Afghanistan. Under the pretense of high-paying employment opportunities, some labor recruiting agencies lure foreign workers to Afghanistan, including from Sri Lanka, Nepal, India, Iran, Pakistan, and Tajikistan; the recruiters subject these migrants to forced labor after arrival.