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2024 Trafficking in Persons Report: Kenya

KENYA (Tier 2)

The Government of Kenya does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared with the previous reporting period on its anti-trafficking capacity; therefore Kenya remained on Tier 2. These efforts included implementing a new victim identification screening tool for Kenyan diplomatic missions to identify trafficking victims abroad, adopting the 2022-2027 NAP, increasing funding for anti-trafficking activities, more stringent vetting of labor recruitment agencies, and conducting awareness raising programs for rural and coastal communities. The government increased its efforts to protect Kenyan trafficking victims abroad, particularly migrant workers in Gulf countries. The government regularly sought input from survivors, particularly those exploited in Gulf states, on its anti-trafficking activities. However, the government did not meet the minimum standards in several key areas. Protection services for victims, particularly adults, remained limited and inconsistent in quality. The government continued to rely on civil society to provide most victim services, including all shelter services, and did not provide adequate in-kind or financial support for these efforts. Despite ongoing concerns of official complicity in trafficking crimes, which hindered both law enforcement efforts and victim identification, the government did not report any law enforcement action against allegedly complicit officials. While the government improved recruitment practices and regulations, its efforts to address fraudulent labor recruitment agencies exploiting migrant workers remained inadequate.

PRIORITIZED RECOMMENDATIONS:

Amend the anti-trafficking law to remove sentencing provisions that allow fines in lieu of imprisonment for sex trafficking offenses. * Significantly increase the availability of short-term shelter, long-term housing, and specialized services for all trafficking victims – particularly adult males, boys, Kenyan migrant workers returning from overseas, and victims identified in rural and coastal areas – including by partnering with and allocating increased funding to NGOs that provide victim care. * Increase efforts to investigate and prosecute trafficking crimes, and seek adequate penalties for convicted traffickers, including complicit officials, which should involve significant prison terms. * Increase protections for Kenyan trafficking victims exploited abroad, including by requiring pre-departure training for all migrant workers, training Kenyan embassy staff to identify and assist victims, negotiating additional bilateral labor agreements with destination countries that include strong protections for victims, and assigning additional labor attachés to Kenyan embassies to monitor migrants' working conditions abroad. * Consistently enforce strong regulations and oversight of labor recruitment agencies, including by validating training for migrant workers, enforcing regulation banning recruitment fees charged to migrant workers, holding fraudulent labor recruiters criminally accountable, and training inspectors to report potential violations to the appropriate officials. * Fully implement the NRM by encouraging law enforcement officials to formally refer trafficking victims for assistance and ensuring protection services are available for all victims, including adults, foreign nationals, and Kenyans exploited abroad. * Systematically and proactively identify trafficking victims by screening vulnerable populations – such as refugees, asylum-seekers, individuals in commercial sex, Kenyan migrant workers returning from overseas, and all foreign national workers, including those from the People's Republic of China (PRC) – for trafficking indicators and refer all trafficking victims to appropriate services. * Ensure victims are not inappropriately penalized solely for unlawful acts committed as a direct result of being trafficked. * Expand training to all levels of the government, specifically to law enforcement personnel and local authorities in rural and coastal regions, on identifying, investigating, and managing trafficking cases. * Continue to increase victim-witness assistance for victims participating in the criminal justice process to prevent re-traumatization. * Implement the 2022-2027 NAP to combat trafficking and disburse dedicated funds to anti-trafficking activities. * Develop a comprehensive and centralized database on trafficking crimes to improve interagency coordination and accurately report anti-trafficking law enforcement efforts and victim identification statistics.

PROSECUTION

The government maintained anti-trafficking law enforcement efforts. The Counter-Trafficking in Persons Act of 2010 criminalized sex trafficking and labor trafficking and prescribed penalties of 30 years to life imprisonment, a fine of not less than 30 million Kenyan shillings (Ksh) (\$191,693), or both.

These penalties were sufficiently stringent. However, by allowing for a fine in lieu of imprisonment for sex trafficking, these penalties were not commensurate with those for other grave crimes, such as rape. Sections 14 and 15 of the Sexual Offenses Act of 2006 criminalized the facilitation of “child sex tourism” and “child prostitution” and prescribed punishment of no less than 10 years’ imprisonment and a fine of 2 million Ksh (\$12,779). The government, in partnership with an international organization, continued to review an amendment to the 2010 anti-trafficking act to remove the option of a fine in lieu of imprisonment; however, the amendment was not approved by the Ministry of Labor and Social Protection (MLSP) for the third consecutive reporting period.

The government did not maintain a centralized law enforcement data collection system on trafficking crimes, hindering its ability to collect and disaggregate national human trafficking statistics and likely resulting in underreported anti-trafficking statistics. In 2023, the government enhanced its data collection efforts and reported investigating 22 cases – five for sex trafficking, five for labor trafficking, and 12 for unspecified forms of trafficking. This compared with the government investigating 111 cases in 2022, however, 2022 data may have included other crimes as the government did not provide disaggregated data. The government reported prosecuting 19 trafficking cases including an unknown number of suspects – three sex trafficking cases, five labor trafficking cases, and 11 cases of unspecified forms of trafficking – under various laws in 2023. The government previously reported prosecuting at least 48 suspects in an unknown number of cases in 2022. The government reported convicting at least three traffickers in 2023 for forced labor; two traffickers were sentenced to five years in jail, of which one was also fined 30 million Kenyan shillings (Ksh) (\$243,210); the third trafficker was acquitted. Courts did not convict any traffickers under the 2010 anti-trafficking law. This compared with nine convictions, including three under the 2010 anti-trafficking law, in 2022. Courts continued to sentence convicted traffickers to varying degrees of punishment, which often involved the option of prison time or a fine.

The government did not report any prosecutions or convictions of government employees complicit in human trafficking crimes; however, corruption and official complicity in trafficking crimes remained significant concerns, inhibiting law enforcement action. In February 2024, an interagency law enforcement team arrested four police officers allegedly complicit in a case involving 37 potential Ethiopian victims. Observers reported police officers continued to accept bribes to warn traffickers of impending operations and investigations, particularly along the coast, and officials reported perpetrators sometimes escaped conviction by bribing magistrates and court officials or intimidating or paying witnesses to make false statements. Observers alleged criminal syndicates colluded with various law enforcement and immigration departments, including those at border checkpoints and airports, to transport trafficking victims

into and within Kenya. Traffickers continued to easily obtain fraudulent identity documents used to facilitate trafficking crimes from complicit officials. An NGO research study on child sex trafficking in coastal areas previously reported 30 percent of the victims reported engaging in commercial sex acts with government officials, police officers, or local authorities.

The National Police Service's Directorate of Criminal Investigations maintained two specialized units mandated to investigate trafficking crimes. The Anti-Human Trafficking and Child Protection Unit investigated child trafficking crimes, and the Transnational Organized Crimes Unit investigated transnational trafficking crimes. In February 2024, the Office of the Director of Public Prosecutions established a specialized unit dedicated to countering trafficking in persons. Previously, trafficking prosecutions fell under the Gender-Based Violence Unit. The government, both independently and in partnership with NGOs and international organizations, provided regular trainings to police, prosecutors, judges, immigration officials, and labor officers on how to detect and respond to trafficking crimes in their respective capacities. In 2023, the government and international organizations trained law enforcement officials on several anti-trafficking topics, such as the difference between human trafficking and migrant smuggling, interviewing trafficking victims, and the NRM. Despite more trainings and new protocols, some law enforcement officers continued to lack an understanding of the anti-trafficking law and may have misclassified trafficking cases as other crimes or collected insufficient evidence for trafficking cases to proceed to prosecution. The government reported collaborating with the Governments of Tanzania, South Sudan, Canada, Germany, Ethiopia, the United States, and Uganda on cross-border trafficking investigations.

PROTECTION

The government maintained victim protection efforts. The government identified 201 trafficking victims, compared with 556 victims identified in 2022. Of the 201 victims identified, traffickers exploited 17 in labor trafficking, 55 in sex trafficking, and 129 in unspecified forms of trafficking. The government identified 20 foreign nationals among the victims, compared with 24 foreign nationals among the victims in 2022. Kenyan diplomatic missions began implementing a screening tool, provided by the Counter Trafficking in Persons Secretariat (CTiP Secretariat), to identify trafficking victims abroad. The government identified 36 Kenyan victims exploited abroad, compared with 10 in 2022. The government continued to use its SOPs for victim identification, and the CTiP Secretariat partnered with law enforcement, immigration officers, and social services to screen for trafficking indicators among individuals in commercial sex and foreign migrants involved in migrant smuggling cases. Despite these efforts, officials reported the lack of available interpretation services, particularly for Amharic, hindered

adequate implementation of victim identification SOPs and screening tools in cases involving foreign trafficking victims.

Since 2016, the government has trained officials in 13 counties on the use of its NRM that outlined guidelines for victim referral to services; however, the use of the NRM in other counties remained limited. The government reported partnering with various NGOs to offer routine assistance to all 171 identified victims, including medical care, psycho-social support, legal assistance, repatriation for foreign victims, and referrals to NGO-run shelters, compared with providing services and referrals to 556 victims in 2022. The national government did not operate any shelters for trafficking survivors and continued to rely on NGOs to provide shelter. Individuals with disabilities were less likely to be placed in a shelter due to the lack of accessible accommodations. The CTiP Secretariat continued to renovate a facility to establish a shelter for trafficking victims. The Department of Children's Services continued to operate five drop-in centers – located in Garissa, Kisumu, Machakos, Nairobi, and Thika – to provide services to children, including potential trafficking victims; the government did not report the number of trafficking victims provided services at the centers. Protection services for adult victims remained scarce, and NGOs reported the government's overall victim assistance remained limited and inconsistent in quality. Despite reliance on civil society organizations to provide victim services, the government provision of financial or in-kind support to such organizations remained minimal.

In July, the government launched the Guidelines for the National Assistance Trust Fund for Assisting Victims of Trafficking to facilitate direct assistance to victims by providing a mechanism for disbursement and utilization of the fund. During the 2023-2024 fiscal year, the National Treasury allocated 20 million Ksh (\$127,800) to the National Assistance Trust Fund, the same amount as the previous fiscal year. The government disbursed more than 7.9 million Ksh (\$50,862) from the fund to provide direct victim services, including repatriation assistance, basic needs, legal assistance and reintegration support, as well as support to NGOs; this was a slight increase compared with 7.6 million Ksh (\$49,040) disbursed from the fund in the previous reporting period. The government also used the fund to support an economic reintegration program for trafficking survivors and provided 35 survivors with funding to start small businesses.

Authorities continued to penalize potential trafficking victims who were foreign nationals, often detaining or deporting them, for immigration offenses that may have been committed as a result of being trafficked. In previous years, NGOs across Kenya reported officials sometimes charged potential sex trafficking victims with commercial sex crimes or labor violations. The government maintained its Witness-Protection Agency to offer victim-witness assistance to victims participating in investigations and prosecutions; however, the government did not report providing this

assistance to trafficking victims. The government provided victims the option to speak with CTiP Secretariat staff instead of law enforcement, and some courtrooms had facilities or equipment that allowed victims to provide testimony via video, one-way glass, or written statements. The government, in collaboration with an NGO, worked to establish the country's first child-friendly interview room with appropriate decoration and equipment to stream into courtrooms if needed. Due to the lack of shelters and long-term services available and the often protracted nature of criminal courts, victims frequently declined to participate in criminal proceedings. NGOs reported some witnesses appeared to have been intimidated, disappeared, or did not appear in court for fear of reprisal. The law allowed officials to grant foreign national victims the ability to leave the country, seek employment, move freely within the country pending trial proceedings, and remain indefinitely in Kenya if they would face hardship or retribution upon repatriation. The 2010 anti-trafficking law allowed courts to order convicted traffickers to pay restitution to victims; however, the government did not report awarding restitution. Under the Employment Act and the 2010 anti-trafficking law, trafficking victims could file civil suits against traffickers for damages; however, the government did not report any civil suits filed in 2023.

PREVENTION

The government slightly increased efforts to prevent trafficking. The CTiP Secretariat, the operational arm of the Counter Trafficking in Persons Advisory Committee, continued to spearhead government efforts to combat trafficking. The National Coordination Mechanism on Migration, chaired by the Department of Immigration, maintained responsibility for managing national coordination on migration issues and collaborated with the CTiP Secretariat on trafficking in persons matters. The government launched its 2022-2027 NAP in July 2023, allocating 10 million Ksh (\$63,897) in dedicated funds from the national budget. The government continued to implement its National Plan of Action Against Sexual Exploitation of Children 2022-2026, which included activities to prevent online child sex trafficking. Civil society and other stakeholders reported the CTiP Secretariat and CTiP Advisory Committee continued to engage them regularly on anti-trafficking activities. The government also regularly sought input from trafficking survivors, particularly of those exploited in Gulf states, on its anti-trafficking activities. In partnership with survivors and civil society organizations, the government held awareness campaigns featuring survivors of trafficking to raise awareness among vulnerable populations, particularly Kenyans seeking work abroad and individuals in coastal areas and other local communities. However, the government did not provide awareness raising materials in other languages. The government, in partnership with an NGO, continued to operate a 24-hour hotline to report child abuse and exploitation, including child trafficking. The government did not report identifying any suspected child trafficking cases through the hotline, compared with at least 10 cases identified in 2022. The MLSP's National Employment Authority (NEA)

continued to operate a 24-hour, toll-free hotline for Kenyan workers abroad to report exploitation, including trafficking.

The NEA increased efforts to regulate labor migration and other labor-related matters, including labor trafficking. During the year, the NEA introduced more stringent vetting procedures for labor recruitment agencies by re-registering them under new requirements, including in-person inspections. The government made sustained efforts to investigate recruitment agencies, reporting 26 recruitment agencies were barred from operation in March 2023 due to violating the rights of Kenyan workers. The NEA maintained and updated daily an external employment management system, which functioned as a “one stop” internet portal where Kenyans could search and apply for all pre-vetted overseas employment opportunities through licensed recruitment companies. The NEA continued to require recruitment agencies to pay into a security bond intended to cover airfare for Kenyan migrant workers, including potential trafficking victims, in need of repatriation due to exploitative situations. The NEA took steps to address previous reports migrant workers had difficulty accessing the security fund, including enhancing communication channels and sharing guidelines for migrant workers. The government required migrant workers to attend a pre-departure training course that included information on human trafficking and migrant rights; it also included specific homecare management training for domestic workers. However, NGOs reported some officials allowed recruitment agencies to bypass required procedures, including by issuing pre-departure training certificates to migrant workers who did not attend the required training to meet the high demand for jobs abroad. The Ministry of Foreign Affairs continued to employ labor attachés in Kenyan diplomatic missions in Qatar, United Arab Emirates (UAE), and Saudi Arabia. The NEA maintained a reporting tool on its website for overseas workers to report exploitation, including potential trafficking crimes, and request assistance. As in previous years, the NEA utilized an e-platform for recruitment and placement of Kenyans migrating to Saudi Arabia to promote a safe migration process. The Kenyan government previously identified a space for a shelter in Saudi Arabia for vulnerable migrant workers, including potential trafficking victims, but it was not yet operational.

Despite government regulations that prohibit recruiting agencies from charging migrant workers a recruitment fee, many migrant laborers report having paid a fee to secure employment in Gulf countries. Labor inspectors conducted routine inspections of worksites; however, the government did not report training labor inspectors on identifying trafficking crimes or reporting any potential trafficking crimes to law enforcement. The government did not provide anti-trafficking training to its diplomatic personnel. The government conducted awareness raising programs to reduce the demand for commercial sex acts.

TRAFFICKING PROFILE:

As reported over the past five years, human traffickers exploit domestic and foreign victims in Kenya, and traffickers exploit victims from Kenya abroad. Traffickers exploit women and children in sex trafficking, often facilitated by family members in informal settings and increasingly using online recruitment, throughout Kenya, including in extraterritorial sexual exploitation and abuse in Nairobi, Mombasa, and Kisumu. Authorities report cross-border trafficking rings exploit porous borders to ferry women and underage girls from the Karamoja region of Uganda to Nairobi, where traffickers exploit these individuals in domestic servitude or force them into commercial sex exploitation. In 2020, an international NGO reported there were between 35,000 and 40,000 victims of sex trafficking, including extraterritorial child sexual exploitation and abuse, in Kenya, of which approximately 19,000 were children; most perpetrators are Kenyan, and may include government officials, police officers, and local authorities, and, to a lesser extent, foreign tourists. In a 2023 research study, one NGO estimates traffickers – including family members, peers, taxi drivers, and intermediary recruiters – exploited more than 2,000 children in child sex trafficking in Kilifi and Kwale counties. Government officials and NGOs report traffickers increasingly exploit children in sex trafficking in private villas and vacation homes to avoid law enforcement detection in hotels. Workers in *khat* cultivation areas and near gold mines in western Kenya, truck drivers along major highways, and fishermen on Lake Victoria also exploit children in sex trafficking. Traffickers exploit Kenyan children in labor trafficking in domestic service, agriculture, fishing, cattle herding, street vending, and forced begging. Climate change, including drought for four consecutive years, has increased trafficking risks due to livelihood loss, leading to higher numbers of irregular migration, child marriages for monetary gain, and child labor. Reports indicate criminals and gang members may exploit children in forced criminal activity, including as drug couriers. Observers report returning Kenyan migrant workers, people experiencing homelessness, and people with mental health conditions are vulnerable to trafficking due to lack of available assistance and limited economic opportunities.

Employment agencies, both legal and fraudulent, recruit Kenyans to work in the Middle East (particularly Saudi Arabia, Lebanon, Kuwait, Qatar, UAE, Bahrain, Iran, Iraq, and Oman), Central and Southeast Asia, Europe, Northern Africa, and North America, where traffickers exploit them in massage parlors, brothels, domestic servitude, or manual labor; Kenyans who voluntarily migrate in search of employment opportunities are often vulnerable to exploitative conditions. Observers report foreign employers often hold migrant workers' salaries until the completion of their contract period to coerce them to stay longer, and in some cases, employers sell or "trade" migrant workers to another employer without a legal change in the employment contract, increasing their vulnerability to trafficking. Saudi Arabia remains a primary destination for economic migrants; government estimates indicate more than 200,000 Kenyans are currently

working in Saudi Arabia, of which more than half are domestic workers. The visa sponsorship system – common in Bahrain, Jordan, Kuwait, Lebanon, Saudi Arabia, and the UAE – binds domestic workers to one employer and prevents their freedom of movement. Reports continue to document traffickers in the Middle East, especially Saudi Arabia and Lebanon, exploit Kenyan women working in domestic servitude, often subjecting them to severe physical and emotional abuse. In one research study, an NGO estimates more than 98 percent of Kenyans returning from work in the Middle East experience conditions indicative of forced labor, including non-payment of wages, physical abuse, passport confiscation, and excessive working hours. Increasingly, traffickers in Southeast Asia use social media, smartphone applications, and fraudulent job postings with false promises of high-paying jobs in the technology, education, or hospitality sectors to recruit Kenyans for work in Thailand; however, upon arrival in Thailand, traffickers transport victims to neighboring countries, primarily Burma, Malaysia, and Laos, force them into deplorable living and working conditions, and exploit them in labor trafficking, including in online scam operations, and sex trafficking. Ugandan and Nigerian traffickers exploit Kenyan women in sex trafficking in Thailand. Criminals involved in terrorist networks lure and recruit Kenyan adults and children to join non-state armed groups, primarily al-Shabaab in Somalia, sometimes with fraudulent promises of lucrative employment.

Kenya hosts more than 770,000 refugees and asylum-seekers, primarily located in Kakuma Refugee Camp and Dadaab Refugee Complex. Refugees are generally required to live within the camps with restricted movement and limited access to education and livelihood opportunities, increasing their vulnerability to labor and sex trafficking; children and LGBTQI+ persons in refugee camps are especially vulnerable. Nairobi-based labor recruiters maintain networks in Uganda and Ethiopia that recruit Burundian, Ethiopian, Rwandan, Zambian, and Ugandan workers through fraudulent offers of employment in the Middle East and Asia. Kenya continues to serve as a transit point for migrants seeking work in South Africa, and these populations remain vulnerable to trafficking; traffickers exploit transiting Ethiopians in labor trafficking and Burundian and Rwandan women in domestic servitude. Recruiters use debt-based coercion to force South Asian women, primarily from Nepal, India, and Pakistan, to work in *mujra* dance clubs in Nairobi and Mombasa, where traffickers force them to pay off debts by engaging in commercial sex. Traffickers exploit Somali women and girls in sex trafficking in brothels in Nairobi and Mombasa. Traffickers bring children and persons with physical disabilities from Tanzania and other neighboring countries to exploit them in forced begging; traffickers often coerce foreign victims to serve as facilitators to further such trafficking schemes. In October 2023, Kenyan authorities announced they would not renew the contract of Cuban government-affiliated medical professionals. Cuban government-affiliated medical professionals who worked in Kenya may have been forced to work by the Cuban government. PRC nationals employed in

Kenya at worksites affiliated with the PRC's Belt and Road Initiative were vulnerable to forced labor, particularly in construction.

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