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2019 Trafficking in Persons Report: Sri Lanka

SRI LANKA: Tier 2 Watch List

The Government of Sri Lanka does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. These efforts included convicting more traffickers than previous years, including the first conviction under the trafficking statute in five years; identifying more potential trafficking victims; and continuing to conduct numerous anti-trafficking trainings and awareness-raising events for government officials and civil society. However, the government did not demonstrate overall increasing efforts compared to the previous reporting period. While it convicted more traffickers, it issued suspended sentences to some of those convicted and initiated significantly fewer prosecutions. Despite numerous trainings, officials did not make adequate efforts to screen individuals arrested or charged for prostitution, vagrancy, or immigration offenses for indicators of human trafficking; the government detained child sex trafficking victims and did not provide appropriate care. Complicity remained a serious problem and the government did not initiate any new investigations into allegedly complicit officials, despite multiple reports of official complicity in trafficking. Therefore Sri Lanka was downgraded to Tier 2 Watch List.

PRIORITIZED RECOMMENDATIONS

Respecting due process, improve efforts to vigorously investigate and prosecute suspected traffickers, and convict and sentence convicted traffickers to adequate penalties involving significant prison terms. • Hold government officials criminally accountable for complicity in trafficking or trafficking-related offenses—including fraudulent recruitment, sex trafficking, and accepting bribes to ignore sex trafficking. • Increase efforts to proactively identify trafficking victims, including screening among vulnerable populations, and conduct targeted training for officials to ensure victims are not penalized for unlawful acts traffickers compelled them to commit. • Improve victim services, including their quality and accessibility, to ensure all identified victims, including men and victims exploited abroad, receive shelter and specialized services. • Increase regular monitoring of licensed recruitment agencies and, as necessary, assess penalties and refer allegations of criminal violations to law enforcement. • Vigorously improve efforts to address child sex tourism, including proactive identification of victims, engagement with hotels and tourism operators to prevent the crime, and investigation of hotels, tourism companies, and intermediaries who allegedly facilitate the crime. • Take steps to eliminate all recruitment fees charged by labor recruiters to workers. • Expand the foreign employment bureau’s mandate to include the regulation

of sub-agents. • Promote safe and legal migration, ensure migration regulations do not discriminate based on gender, and increase awareness among prospective migrant workers of the steps necessary for safe migration and resources available while abroad. • Improve protection measures for victims who participate in trials against their traffickers, including the cost of lodging and travel expenses during trials. • Through the anti-trafficking task force, continue to institutionalize sustained government coordination efforts.

PROSECUTION

The government maintained mixed law enforcement efforts to address human trafficking—while it convicted more traffickers, it issued suspended sentences to some of those convicted, initiated significantly fewer prosecutions, and did not take sufficient action to investigate allegations of official complicity in trafficking. Section 360(C) of the penal code criminalized sex trafficking and labor trafficking and prescribed penalties of two to 20 years’ imprisonment and a fine, which were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious offenses, such as rape. The government also frequently used Section 360(A), a procurement statute that criminalized obtaining a person to become a prostitute, with or without the consent of the person, to prosecute sex trafficking cases. Procurement crimes carried lesser penalties of two to 10 years’ imprisonment and fines, and prosecutors often brought these cases before magistrate judges who generally only had the authority to issue sentences of up to two years’ imprisonment.

During the reporting period, the Criminal Investigation Department’s (CID) anti-trafficking unit and police initiated 14 trafficking investigations—three for sex trafficking and 11 for forced labor—similar to 15 investigations in the previous reporting period. All investigations remained ongoing at the close of the reporting period. The government initiated 10 prosecutions, including seven under the procurement statute, Section 360 (A), and three under the trafficking statute, Section 360(C). This is a decrease from 28 prosecutions initiated in the previous reporting period and 35 initiated in 2016. Fifteen cases under Section 360(C) initiated in previous reporting periods remained pending in the high courts; an additional 38 cases under Sections 360(A) and 360 (C) initiated in previous reporting periods remained pending trial. For the first time in five years, the government secured a conviction under Section 360(C). However, the judge suspended the sentences of imprisonment for all three convicted traffickers. He also ordered the defendants to pay 50,000 Sri Lankan Rupees (LKR) (\$274) in compensation to the victim and ordered one of the defendants to pay a 10,000 LKR (\$55) fine. Courts convicted five persons under the procurement statute, compared with three persons convicted under the procurement statute in the previous reporting period. The court sentenced three persons to three years’ imprisonment and a fine of 10,000 LKR (\$55) each, and sentenced the other two persons to 10 years’ imprisonment and a fine of LKR 20,000 (\$110) each. In addition, the court ordered 500,000 LKR (\$2,740) in compensation to the victim. This was a positive change from the previous reporting period, when courts suspended two of the three sentences of imprisonment for persons convicted under Section 360(A). Lack of thorough human trafficking investigations for elements of force, fraud, or coercion, difficulty securing evidence from victims, and judges’ lack of

understanding of the severity of the crime contributed to both the government's general reliance on procurement charges and the lenient sentences applied under Section 360(C). Prosecutors could pursue procurement cases without the cooperation of the victim.

In November 2017, the government amended the Assistance to and Protection of Victims of Crime and Witnesses Act to authorize Sri Lankan diplomatic missions to record evidence and take statements from a victim or witness outside Sri Lanka. Of the 14 trafficking investigations initiated during the reporting period, the anti-trafficking unit of the Sri Lanka Bureau of Foreign Employment (SLBFE) referred seven of the cases and MFA referred one—all transnational forced labor cases—to CID's anti-trafficking unit, a decrease from 12 referrals from SLBFE and 19 referrals from MFA in the previous reporting period. Civil society organizations reported referring cases of suspected trafficking to SLBFE, including cases of nonpayment of wages and contract fraud; SLBFE reportedly mediated some of these cases in lieu of criminal investigation. Sri Lankan diplomatic missions did not refer any witness and victim affidavits from abroad to CID for investigation, compared to referring 29 affidavits in the previous reporting period. The government allocated 5.7 million LKR (\$31,220) to the SLBFE's anti-trafficking unit; it had not previously reported the unit's budget. With donor funding and technical assistance, many government entities continued to conduct anti-trafficking training. For example, police trained more than 260 officers on the identification and interviewing of trafficking victims, and the police college provided the same training to 90 newly recruited immigration and emigration officers. The Department of Probation and Child Care Services further trained 126 police officers from the women and children's units on trafficking trends, applicable legal provisions, and the role of police in trafficking cases. With an international organization, the Attorney General's Office finalized a handbook on prosecution of trafficking cases and began training state prosecutors.

The government did not report any new investigations, prosecutions, or convictions of government officials complicit in human trafficking offenses; however, corruption and alleged official complicity in trafficking remained significant concerns, inhibiting law enforcement action during the year. Some local government and security sector officials forced women who asked for information about their missing husbands, or widows who attempted to claim government benefits from their deceased husbands' military service, to perform commercial sex acts in exchange for information and/or government benefits. The government did not report efforts to investigate these allegations. The former head of the government's National Child Protection Agency (NCPA) uncovered allegations that one state-run orphanage, in collaboration with tuk-tuk drivers, used children from the orphanage in a child sex trafficking ring. NCPA opened an investigation, but local police and prosecutors closed the investigation without explanation, and the government did not extend the tenure of the NCPA director who made the allegations. The government did not report any efforts to further investigate the allegations, the orphanage staff, or close the orphanage. Media reported some “massage parlors” that function as brothels used children in sex trafficking and bribed police officers to avoid raids. Some sub-agents reportedly worked with officials to procure forged or modified documents, or genuine documents with falsified data, to facilitate travel abroad. In 2016, the Ministry of Foreign Employment (MFE) referred to the police six cases of officials allegedly creating fraudulent documents. One case ended

in conviction the previous reporting period, and both criminal and administrative investigations were ongoing in the remaining five cases at the close of the reporting period.

PROTECTION

The government maintained mixed efforts to identify and protect trafficking victims; while authorities identified more potential trafficking victims, they did not provide adequate services to victims. The government identified 66 potential trafficking victims in 14 cases, an increase from 46 potential victims identified the previous reporting period and 23 in 2016. Among the 66 potential trafficking victims, authorities reported 56 males and 10 females, including three girls. Officials identified 11 cases of forced labor and three cases of sex trafficking but did not report the total number of victims exploited in each type of trafficking; all identified victims were Sri Lankan nationals, and all identified forced labor victims were male. The government had standard operating procedures (SOPs) for the identification and referral of potential victims to services, but they did not implement them uniformly; both the government and members of civil society stated the capacity of local officials to identify trafficking victims remained low, especially among women in prostitution. Aside from SLBFE, the government did not issue circulars or directives to other relevant agencies to guide staff to follow the SOPs. Some front-line officials within the Ministry of Women and Child Affairs Women’s Bureau and the Department of Immigration and Emigration, who routinely worked with vulnerable groups such as female victims of violence and migrant workers, reported their offices did not screen for trafficking.

The Ministry of Women and Child Affairs continued to fund and operate a shelter for female victims of violence, including trafficking victims, although the shelter did not serve any trafficking victims during the reporting period. The government shelter could not accommodate male victims, including the 56 male victims identified. The government reported all seven potential adult female trafficking victims opted to live independently in lieu of the women’s shelter. Under the supervision of the National Anti-Human Trafficking Task Force (NAHTTF), various government ministries could provide legal, medical, and psycho-social support to trafficking victims; the government reported none of the 66 victims sought these services during the reporting period. Media and NGOs reported Sri Lankan authorities jailed and charged individuals, possibly including children, for prostitution, vagrancy, or immigration offenses without adequate efforts to screen for trafficking. An NGO reported that some children who were not identified as victims and arrested for prostitution crimes were held in government detention centers; the government acknowledged the possible arrest and detention of potential child sex trafficking victims. When properly identified, the government did not penalize trafficking victims for unlawful acts traffickers compelled them to commit. Law enforcement reported many victims were reluctant to pursue cases against their alleged traffickers due to the social stigma attached with being a trafficking victim and the inadequate support during the law enforcement process, including a lack of financial assistance to travel to courts to participate.

When authorities officially identified foreign victims of trafficking, they had access to the same rehabilitation services as domestic victims. Foreign victims who cooperated in prosecutions could receive a visa extension until the end of the trial; however, Sri Lankan law did not provide foreign victims with legal alternatives to deportation to countries where they might face hardship or retribution after trial completion or for victims who did not cooperate in the prosecution of traffickers. The government did not identify any foreign victims in Sri Lanka during the reporting period.

SLBFE continued to operate 11 short-term shelters at Sri Lankan diplomatic missions in nine countries for female migrant workers in distress. The shelters served 1,806 workers during the reporting period, a large decrease from serving 2,392 migrant workers in the previous reporting period. NGOs continued to identify large numbers of Sri Lankan female labor trafficking victims in Gulf countries, so while SLBFE reported screening this population for trafficking, the efficacy of such screening was unclear. SLBFE reported 1,140 migrant workers from its 11 shelters returned to Sri Lanka in 2018; it did not report if the government assisted with repatriation. SLBFE trained staff at four of its embassies on guidelines to identify and protect trafficking victims, including non-penalization of victims and data collection. In addition, it issued official circulars on implementation of the guidelines. Despite these circulars, some officials at SLBFE reported that, contrary to the SOPs, SBLFE officials only referred trafficking victims to services after initiating a police investigation. With technical assistance, the Ministry of Foreign Affairs launched an electronic training course on trafficking victim identification, protection, and referral for officials assigned to overseas diplomatic missions and began training officials to use the database. SLBFE continued to operate a transit shelter near the Colombo airport for returned migrant workers who suffered abuse abroad. SLBFE reportedly did not identify any trafficking victims among the migrant workers assisted at this shelter during the reporting period; however, as NGOs continued to identify large numbers of Sri Lankan labor trafficking victims among returned migrant workers, the efficacy of such screening was unclear. In 2017, SLBFE had assisted 3,238 migrant workers at the transit center, some of whom might have been trafficking victims. Sri Lankan diplomatic missions provided logistical support to an international organization that repatriated 16 Sri Lankans from situations of trafficking abroad. The government did not report if it assisted with the repatriation of any of the 20 Sri Lankan labor trafficking victims in Taiwan that returned home. In UAE, the Sri Lankan embassy provided documentation to two forced labor victims to allow them to return home, but volunteers funded the workers' travel expenses.

PREVENTION

The government maintained efforts to prevent trafficking. NAHTTF met 14 times during the reporting period, compared to seven meetings of both NAHTTF and its steering sub-committee on prevention activities the previous reporting period. The Minister of Foreign Affairs and Minister of Justice chaired NAHTTF meetings. The government continued to implement the 2016-2021 anti-trafficking national action plan. In partnership with an international organization, it maintained a public awareness campaign on television that featured a hotline run by an international organization; the organization referred 14 cases of Sri Lankans exploited abroad to law enforcement for

investigation. The government continued additional campaigns on trafficking in persons, including, distributing leaflets, posters, and brochures to local officials, NGOs, and the public.

SLBFE maintained its ban on migration of male and female domestic workers younger than 21, female domestic workers younger than 25 to Saudi Arabia, and female domestic workers younger than 23 to other parts of the Middle East. SLBFE also required all female migrant workers younger than 45 to submit a “family background report” to ensure the woman did not have children younger than age five and that she had obtained either her husband or a guardian’s consent to work abroad; authorities did not require spousal or guardian consent for male migrant workers. Observers reported any ban on migration increased the likelihood of migrating illegally and therefore heightened vulnerability to human trafficking. The Department of Immigration and Emigration issued directives to all ports of entry to screen for trafficking among vulnerable populations upon arrival and to screen Sri Lankans departing to Middle Eastern countries on visit visas who they suspected might be traveling for work without proper documentation. In January 2019, the Sri Lankan diplomatic mission in Singapore held an event for migrant workers to, among other objectives, familiarize workers with the mission’s labor welfare and consular services, provide information on skills training for domestic workers available through partner organizations, and register any unregistered migrant workers. With an international organization, SLBFE trained 380 licensed foreign employment agents to increase their capacity to adhere to ethical recruitment practices and be compliant with the government’s labor recruitment code of conduct, including preventing forced labor and fraudulent recruitment. In March 2018, SLBFE issued a circular to inspectors that they could use reports or complaints of human trafficking to deny an agency annual renewal of its operating license. SLBFE did not report if it used this method to deny any license renewals during the reporting period. During the reporting period, SLBFE suspended 59 foreign recruitment agencies and four local employment agencies for illegal practices. It did not report if it initiated criminal investigations into these agencies. SLBFE raided 159 illegal recruitment agencies during the reporting period and subsequently filed 109 cases against licensed and unlicensed recruiters for illegal practices, compared to 157 cases filed in 2017 and 315 in 2016. Authorities reported all 109 cases from this reporting period resulted in convictions under the SLBFE Act, including some for practices that increased workers’ vulnerability to trafficking. SLBFE did not have the legal authority to regulate sub-agents, which officials recognized contributed to trafficking. The government continued to draft an amendment to the Foreign Employment Act to address the oversight of sub-agents and the investigative authority of MFE officials, including SBLFE. The government made efforts to reduce the demand for commercial sex. NCPA continued awareness campaigns on child abuse, including child sex tourism in Sri Lanka’s Coastal Belt. In addition, NCPA ran a trilingual hotline to report child abuse, including child sex tourism; the hotline did not receive any reports of child sex tourism during the reporting period. The government provided anti-trafficking training to its troops prior to their deployment as peacekeepers.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Sri Lanka, and traffickers exploit victims from Sri Lanka abroad. Sources estimate there are approximately 1.5 million Sri Lankans working in the Middle East, predominately in construction and domestic work. In 2018, the majority of Sri Lankan female migrant workers sought employment in Saudi Arabia, Kuwait, Qatar, Japan, and South Korea. Some Sri Lankan men, women, and children who migrate to the Middle East, Asia—including Southeast Asia and Afghanistan—Europe, and the United States to work in the construction, garment, and domestic service sectors are victims of forced labor. Before leaving Sri Lanka, many migrant workers accumulate debt to pay high recruitment fees imposed by unscrupulous labor recruitment agencies—most of them members of Sri Lanka’s association of licensed foreign employment agencies—and their unlicensed sub-agents. An international organization interviewed 51 Sri Lankan migrant workers after returning from employment abroad, and 49 reported that traffickers had retained their identity documents, including passports and work permits, which restricts freedom of movement and is a common means of coercion for labor and sex trafficking. Some recruitment agencies commit fraud by changing the agreed upon job, employer, conditions, or salary after the worker’s arrival. Some recruitment agencies lure workers with promises of work abroad but send them with fraudulent or incorrect documents—including tourist visas instead of work visas—so victims are subject to penalization, including jail time and deportation, if they seek assistance abroad. Sub-agents collude with officials to procure fake or falsified travel documents to facilitate travel of Sri Lankans abroad. According to media, at least six government-licensed recruitment agencies in Sri Lanka admitted that, if prospective Middle Eastern employers request, they force female migrant workers to take contraceptives before departure to provide a “three-month guarantee” maids will not become pregnant after arrival. Sources allege this is also used to cover up sexual exploitation by recruitment agents and employers, including sex trafficking. Traffickers force Sri Lankan women to engage in commercial sex acts in Cyprus, Malaysia, Maldives, Singapore, Thailand, and elsewhere. Sri Lanka is a transit point for Nepali women subjected to forced labor in the Middle East.

Within the country, traffickers exploit women and children in sex trafficking. Traffickers exploit boys and girls in commercial sex in coastal areas for child sex tourism, including in hotels, on beaches, and during annual festivals. Reports allege some hotels allow clients to book “services” with children for child sex tourism, and some hotels use intermediaries to provide their guests with males and females—including those younger than 18—for commercial sex. In addition to foreign tourists—including from Germany, Russia, India, and China—researchers report significant local demand for child sex tourism. In recent years, traffickers have subjected women from other Asian countries to sex trafficking in Sri Lanka. Some police reportedly accept bribes to permit brothels to operate, some of which exploit adults and children in sex trafficking. Government officials acknowledged reports that local government and security sector officials forced women who asked for information about their missing husbands, or widows who attempted to claim government benefits from their deceased husbands’ military service, to perform commercial sex acts in exchange for information and/or government benefits. NCPA alleged a state-run orphanage, in collaboration with tuk-tuk drivers, exploited children from the orphanage in child sex trafficking. Traffickers force children, individuals with physical deformities, and those from socially vulnerable

groups to beg or engage in criminal activity in Sri Lanka's largest cities. Some child domestic workers in Colombo, generally Tamils from the tea estate region, are subjected to physical, sexual, and mental abuse, non-payment of wages, and restrictions of movement—indicators of labor trafficking. Traffickers subject children to forced labor in small boutiques and informal markets. During the reporting period, an international charity organization found that wage slips from 17 workers at nine “fair trade” tea estates showed deductions often exceeding 75 percent of daily earnings for fees and repayment of debts. The government does not grant asylum or refugee status, nor does it allow refugees or asylum-seekers to work or attend school. This renders such persons, including Rohingya, vulnerable to trafficking.

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