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Trafficking in Persons Report 2016 - Country Narratives - Burma

BURMA: Tier 3

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 report a continued increase in the number 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 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. There were also limited reports of smuggled Rohingya individuals being abducted and sold into forced labor en route to other countries, or sold into forced marriage in Malaysia; some of these individuals may have become victims of domestic servitude or sex trafficking. Complicit officials in Burma, Thailand, and Malaysia reportedly facilitated the smuggling and exploitation of Rohingya migrants.

Within Burma, men, women, and children from ethnic areas—including the estimated 100,000 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 sex and labor trafficking in Rakhine State, including forced labor perpetrated by government authorities. Ethnic Rakhine are also 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 palm oil and rubber plantations or in jade and precious stone mines. Children are subjected to sex trafficking or to forced labor (at times through debt bondage) in teashops, the agricultural and construction sector, 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 three cases of child recruitment by the Burmese military that

occurred in 2015. 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, though 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 three children into its ranks, the military continues to use children for labor or other support roles; children in Rakhine State are particularly at risk. 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 to provide forced labor. In areas with active conflict, local populations—mostly men, but also women and children as young as 12 years old—are used for forced labor. ILO reported it 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 remains significant. Reports of forced labor occur across the country; prevalence is higher in states with significant armed conflict, while reports have declined in cease-fire states. Reporting and verification mechanisms are weak or non-existent in conflict areas, making it difficult to assess fully the ongoing scale of forced labor. Officials continue to compel civilians to perform forced labor—at times using violence or threats of violence—including portering, mandatory work on public infrastructure projects, and activities related to the military's "self-reliance" policy. The army uses children as porters, cooks within battalions, or to carry supplies or perform other support roles. Under the self-reliance policy, military battalions are responsible for procuring their own food and labor supplies from local villagers – a major contributing factor to forced labor. Some observers noted forced labor practices are changing, resulting in a reported decrease in 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 places agricultural workers at risk for forced labor, including on lands they previously occupied.

The Government of Burma does not fully meet the minimum standards for the elimination of trafficking and did not demonstrate overall increasing efforts compared to the previous reporting period. Although Burma meets the criteria for the Tier 2 Watch List, because it has been on the Tier 2 Watch List for four years, it is no longer eligible for that ranking and is therefore ranked Tier 3. The government continued to investigate and prosecute primarily cross-border sex and labor trafficking offenses and cooperate with international partners to identify and demobilize children forcibly recruited into the military's ranks. During the reporting period, the government released 146 child soldiers from its armed forces through implementation of its UN-backed action plan and launched a second national campaign to raise awareness about the recruitment and use of child soldiers. However, authorities continued to arrest and imprison deserters, including children who fled military service or were demobilized by civil society organizations. The government sent a delegation to Indonesia to advocate for victim screening and repatriation—conducted by an international organization—of more than 1,000 Burmese victims of forced labor on fishing vessels, and made efforts to provide limited reintegration assistance upon their return. Overall victim identification and protection, however, remained weak and a lack of adequate services left victims highly vulnerable to re-trafficking. Military and civilian officials continued to compel men, women, and children into forced labor, and army recruiters and civilian brokers continued to recruit children into the Burmese armed forces. Yet the government failed to make progress in holding civilian officials criminally accountable for trafficking offenses. The Ministry of Defense punished 11 officers and 14 noncommissioned personnel for child soldiering offenses, including through reprimands, fines, or a decrease in pension—but these penalties were not commensurate with the seriousness of the trafficking offenses committed. Despite several laws that prohibit underage recruitment into the military, the government has never prosecuted any military personnel or civilian brokers for child soldiering offenses in civilian courts. Furthermore, authorities have never used the 2012 Wards and Village Tracts Administration Act or other relevant laws to prosecute a forced labor offense committed by a public official.

RECOMMENDATIONS FOR BURMA:

Prosecute and convict individuals complicit in forced labor and child soldiering offenses, including military and other government officials and civilian brokers—including in civilian courts—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; increase investigations, prosecutions, and convictions of internal trafficking offenses; 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; 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; continue to strengthen age verification procedures for new military recruits; cease arresting, detaining, or otherwise punishing victims for acts committed while being subjected to trafficking or those fleeing trafficking situations, including through conducting age assessments of any potential minors before making an arrest for desertion; implement formal procedures for proactive victim identification among vulnerable groups

and their referral to service providers; provide legal status to stateless persons in Burma to decrease their vulnerability to exploitation; continue to increase coordination between specialized anti-trafficking police units, general police units, and prosecutors; through partnerships with local and international civil society organizations, continue 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; appoint a case manager to facilitate victims' involvement in criminal proceedings and maintain a victim-centered approach to investigations and prosecutions; and increase training and resources for consular officials and labor attaches in overseas diplomatic missions to provide assistance to Burmese migrant workers, including trafficking victims.

PROSECUTION

The government sustained law enforcement efforts comparable to those in previous years, but it did not make progress in holding civilian officials criminally accountable for trafficking offenses. The 2005 Anti-Trafficking in Persons Law prohibits sex and labor trafficking and prescribes criminal penalties that are sufficiently stringent and commensurate with those prescribed for rape. Forced labor, including the recruitment of children into the army, is a criminal offense under both the Wards and Village Tracts Administration Act, passed in March 2012, and penal code section 374; violations can result in imprisonment for up to one year, a fine, or both—penalties that are not sufficiently stringent. In addition, section 359 of the 2008 constitution prohibits forced labor. During the reporting period, the government continued a legal review to develop recommendations to strengthen the 2005 law.

The government reported investigating 119 cases involving 373 suspects, and prosecuting and convicting 168 traffickers in 2015, compared with 98 cases investigated and 143 traffickers prosecuted and convicted in 2014. As in previous years, most of the government's law enforcement efforts focused on sex trafficking or forced service of Burmese women through forced marriages to Chinese men. The government reported investigating 21 suspected cases of internal trafficking and 33 cases of labor trafficking—compared with 26 internal and 18 labor cases in 2014. The anti-trafficking in persons division (ATIPD) maintained dedicated anti-trafficking taskforce (ATTF) police throughout the country, but a lack of clarity between the roles and responsibilities of ATTF officers and general police investigators, as well as poor police-prosecutor cooperation in Burma, continued to hamper the success of investigations and prosecutions. Local experts reported general (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 was a major obstacle for police to undertake proactive investigations into trafficking crimes. The ATIPD provided both basic introductory and on-the-job training for police, and international organizations funded additional anti-trafficking training for Burmese officials.

Corruption and impunity remained pervasive in Burma and hindered the enforcement of human trafficking laws. Individuals with alleged ties to high-level officials reportedly pressured trafficking victims not to seek legal redress against 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 11 officers and 14 noncommissioned personnel in 2015. It further reported issuing punishments for forced labor offenses, but these cases could not be verified. Imposed punishments were significantly lesser than those prescribed by criminal laws, with most receiving reprimands, fines, or a decrease in pension. There were no other investigations, prosecutions, or convictions of officials complicit in human trafficking offenses.

PROTECTION

The government made progress in identifying and protecting victims, but overall victim protection remained inadequate and some officials reportedly continued to victimize men, women, and children in Burma. Most known victims were identified by authorities in other countries, including 1,018 men and boys an international organization repatriated after they were subjected to forced labor on Thai fishing vessels in Indonesia. Police and border officials identified an additional 118 victims at border crossings, compared with 68 such victims in 2014. An unknown number of victims were returned from Thailand and China, or were identified within Burma. In 2015, the government released 146 children from the military through implementation of its UN-backed action plan on child soldiers, compared with 322 children the previous year. The border guard forces released one child in 2015. 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. 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, and front-line officers largely lacked adequate training to identify potential victims. The government did not make efforts to screen for indicators of trafficking among other vulnerable groups such as returning migrant workers filing complaints regarding employment abroad, working children, or individuals in

prostitution. The military identified 29 suspected cases of child soldier recruitment and cooperated with the UN, which received complaints throughout the year and referred to the government 210 suspected cases of forced labor and child soldier conscription committed by members of the military or civilian administrators. The military granted within 72 hours all requests from UN monitors to access military installations to inspect for the presence of children, although it sometimes denied access to certain locations within the installations. Deteriorating security conditions in Kachin and Shan states in 2015 occasionally restricted UN monitors' access to these regions—which were most likely to see the use of children around active fighting—and access to military detention facilities was at times denied or conditional. The military continued to victimize civilians. An NGO reported seven cases of forced labor by the Burmese military in Rakhine State between December 2015 and January 2016. In one case, three men were reportedly abducted from their village, subjected to threats, deprived of food, physically restrained, and forced to carry weapons and dig graves over the course of 11 days.

Police and border officials consistently referred repatriated victims and demobilized child soldiers to the Department of Social Welfare (DSW) to receive reintegration services, but the availability of services was limited. Local experts reported some improvement in working-level cooperation between DSW and the police during the year. The government conducted 10 trainings for 75 public officials and civil society members on the provision of assistance to trafficking victims. The government continued to operate five centers for women and children, including trafficking victims, one dedicated to female trafficking victims, and two 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. The government accommodated the large influx of labor trafficking victims repatriated from Indonesia in transit centers for one or two days before reintegrating them in their home communities. Services in government facilities were 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. Trafficking victims, including former child soldiers, may have benefited from the government's first deployment of trained DSW social workers—whose mandate includes trafficking—to serve local 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 the bulk of 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 in 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 attaches in Thailand, Malaysia, and South Korea, whose responsibilities included assisting trafficking victims. In 2015, it sent a delegation to Indonesia that effectively advocated on behalf of trafficking victims on fishing vessels to facilitate their screening and repatriation by an international organization.

Authorities encouraged victims to assist in investigations and prosecutions, but the lack of adequate victim protection or compensation programs, exacerbated by a lengthy trial process and victims' mistrust of the legal system, caused many victims to decline cooperation. A cumbersome investigation process required victims to give statements multiple times to different officials, increasing the possibility of re-victimization. Further, a legal impediment to victim-prosecutor communication made court processes very opaque for victims. The government made efforts to include victims' perspectives in training sessions with police and during government meetings. Inadequate efforts to screen for indicators of trafficking in thousands of anti-prostitution interventions may have led to the treatment of sex trafficking victims as criminals. Authorities continued to arrest and imprison children who fled military service or were demobilized by civil society organizations on charges of desertion. However, in all cases where these individuals were identified as minors, authorities subsequently processed their release, although some remained in civilian detention for several months. The government did not provide legal alternatives to the removal of foreign victims to countries where they may face hardship or retribution.

PREVENTION

The government increased prevention efforts, but did not make sufficient efforts to prevent trafficking crimes perpetrated by public officials. The central body for the suppression of trafficking in persons continued to coordinate anti-trafficking programs and policies in line with the five-year national action plan. The government introduced new training courses on age assessment into curriculum for military recruitment personnel and made real progress in centralizing military recruitment to enable greater oversight. While oversight and monitoring of recruitment procedures remained insufficient to prevent child recruitment, UN observers report age verification procedures were increasingly applied and were improving the military's ability to identify and prevent some child recruitment. In April 2015 the military issued and widely disseminated a directive prohibiting the use of children by the armed forces. The government did not reform the military's "self-reliance" policy that continued to make adults and children vulnerable to forced labor. The government continued to deny citizenship to an estimated 810,000 men, women, and children in Burma—most of whom were ethnic Rohingya living in Rakhine State. The lack of legal status and access to identity documents significantly increased this population's vulnerability to trafficking in Burma or in other countries. The government continued to conduct awareness campaigns in print, television, radio, billboards, and other media and train members of community-based watch groups and

students on trafficking. ILO reported the public's awareness of laws prohibiting forced labor and the mechanism for reporting such complaints remained low. In January 2016, however, the government launched a second national campaign to raise awareness about the recruitment and use of child soldiers and encourage the public to report information about such cases through the dedicated hotlines operated by the UN. It did not make efforts to punish labor recruiters or brokers for illegal practices that increase migrants' vulnerability to exploitation abroad. The government provided anti-trafficking training for its diplomatic personnel. Anti-trafficking police continued to provide training to tourism police units to stem child sex tourism, and authorities partnered with an NGO to raise awareness among some hotel industry personnel, but no related investigations or prosecutions were reported. The government did not make efforts to reduce the demand for commercial sex acts or forced labor.

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