

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	570
Land:	Myanmar
Kilde:	US Department of State
Titel:	2023 Trafficking in Persons Report: Burma
Udgivet:	15. juni 2023
Optaget på baggrundsmaterialet:	26. juni 2023

2023 Trafficking in Persons Report: Burma

BURMA (Tier 3)

Burma does not fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so, even considering the impact of the COVID-19 pandemic on its anti-trafficking capacity; therefore Burma remained on Tier 3. During the reporting period, the military continued a policy or pattern of use of children and adults for forced labor. Despite the lack of significant efforts, the regime reported investigating and convicting more traffickers; sentencing traffickers to imprisonment; and conducting an awareness-raising event. The regime also enacted the 2022 anti-trafficking law, which removed the requirement of force, fraud, or coercion for a child sex trafficking crime, thereby criminalizing all forms of labor and sex trafficking. The February 2021 military coup that deposed the democratically elected government exacerbated conflict between the military and both pro-democracy People's Defense Force groups and ethnic armed organizations (EAOs) throughout the country, displacing more than one million people – mostly from ethnic minority communities – and political dissidents, many of whom were at risk of trafficking as a result of their displacement. Efforts to combat trafficking continued to decline dramatically after the coup as the military regime shifted its focus away from justice-sector priorities and toward persecution of the pro-democracy opposition. The regime did not report any law enforcement action against military or deposed civilian government officials for complicity in trafficking, despite continued, regular reports of such complicity. The regime did not identify any trafficking victims or adequately screen for trafficking among at-risk populations, and, as a result, it inappropriately penalized victims for unlawful acts committed as a direct result of being trafficked. The regime prevented civil society organizations from providing essential services to trafficking victims. The regime also enforced policies that discriminated against its political opposition, Rohingya communities, and other religious and ethnic minorities, which further increased their vulnerability to trafficking.

PRIORITIZED RECOMMENDATIONS:

- Cease official involvement in compelling civilians to perform any type of forced labor, including for the military, by enforcing existing prohibitions on forced labor and fully implementing associated military command orders against all forms of forced labor, and by prosecuting, convicting, and imprisoning any officials involved in the practice.
- Cease all unlawful recruitment and use of children by armed forces, including in non-combatant roles.
- Provide legal status to, and facilitate high-security official identity documents for, stateless persons and other vulnerable populations, including children.
- Eliminate restrictions on freedom of movement for all populations in Burma, including IDPs, ethnic minority groups, and political dissidents.
- Restore cooperation with the UN to facilitate ending the unlawful recruitment or use of children by the military and relevant EAOs.
- Investigate, prosecute, and convict traffickers, including civilian brokers, military, and other officials complicit in the unlawful recruitment or use of child soldiers, and seek adequate penalties for convicted traffickers, which should involve significant prison terms.
- Proactively identify and protect all trafficking victims, especially IDPs, returning migrant workers, internal migrants working in the fishing and agricultural sectors, and foreign migrant workers in the Special Economic Zones (SEZs).

- Ensure victims are not inappropriately penalized solely for unlawful acts committed as a direct result of being trafficked.
- Train police and immigration, judicial, and social service personnel on anti-trafficking laws and victim identification, referral, and assistance best practices.
- In accordance with the 2022 anti-trafficking law, review and revise the SOPs for trafficking victim identification and referral to care, and utilize, widely distribute, and train relevant authorities at the national and local levels on the SOPs.
- Prioritize and increase resources for victim protection, including victim shelters, provision of services for male victims, and reintegration support for former child soldiers.
- Finalize implementing regulations for the 2019 Child Rights law, particularly those related to accountability for crimes involving the recruitment and use of child soldiers.
- Reform law enforcement to respect human rights principles, including prioritizing the protection of civilians and crime prevention.

PROSECUTION

The regime improved the anti-trafficking legislative framework but maintained minimal law enforcement efforts, including an ongoing lack of accountability for complicity in human trafficking. The regime used the police to undermine the pro-democracy movement, to enforce numerous policies that discriminated against the pro-democracy opposition and Rohingya, and to actively enforce laws in discriminatory ways; as a result, the public largely feared interaction with the police and deeply distrusted regime law enforcement entities. Furthermore, under the regime, the Ministry of Legal Affairs, formerly the Union Attorney General's Office, and the Myanmar Police Force Anti-Trafficking in Persons Division (ATIPD) did not continue their respective anti-trafficking law enforcement and prosecutorial efforts or their coordination efforts as they had under the civilian government. Escalating conflict across the country decreased the effectiveness and reach of regime law enforcement. Due to the continued conflict stemming from the February 2021 coup, the regime could only attempt to enforce laws, including on trafficking, in approximately 50 percent of the country.

The 2005 Anti-Trafficking in Persons Law, as amended, criminalized sex trafficking and labor trafficking and prescribed penalties of five to 10 years' imprisonment and a fine for trafficking crimes involving male victims and penalties of 10 years' to life imprisonment for trafficking crimes involving female or child victims. These punishments were sufficiently stringent and, with regard to sex trafficking, commensurate with those prescribed for other serious crimes, such as rape. In June 2022, the regime amended the 2005 law to remove the requirement of a demonstration of force, fraud, or coercion to constitute a child sex trafficking crime, thereby criminalizing all forms of trafficking and bringing its definition of trafficking in line with international law. The Child Rights Law, enacted in 2019, also criminalized child sex trafficking and labor trafficking and prescribed penalties of one to 10 years' imprisonment and a fine of 1 million to 2 million kyat (\$480-\$950). For the second year, the regime made no progress in drafting the necessary implementing regulations for the 2019 law. Forced labor and the unlawful recruitment and use of children in military non-combatant roles were criminal offenses under the 2005 Anti-Trafficking in Persons Law, the 2012 Wards and Village Tracts Administration Act, Section 374 of the Penal Code, and the Child Rights Law. The military cited provisions in military law to punish individuals who used or recruited children for forced labor in non-combat roles; punishments included demotions, pension reductions, and geographic reassignments, which were disproportionately low compared to the seriousness of the crime.

The regime did not report comprehensive law enforcement data. In 2022, the ATIPD reported initiating 17 investigations (six cases for sex trafficking, 10 for labor trafficking, and one for unspecified forms of trafficking). Regime courts reported convicting 170 traffickers under the trafficking law, sentencing them to between three years' and life imprisonment, and acquitting 15

individuals. Regime courts additionally convicted 125 traffickers in absentia. This is a slight increase from 2021 when the ATIPD reported investigating 12 cases involving 39 alleged traffickers (three for sex trafficking, two for labor trafficking, and the others for both or an unspecified form of trafficking), and regime courts convicted 158 individuals with sentences ranging from three to 20 years' imprisonment, including cases initiated in prior years. As in the previous reporting period, the ATIPD did not report data on prosecutions under the anti-trafficking law. For the second year, the regime did not report if it prosecuted brokers for crimes involving illegal recruitment practices under the Overseas Employment Act. The regime did not formally report cooperating with foreign governments on anti-trafficking cases but continued limited cooperation with the PRC and Thai law enforcement agencies.

Prominent international organizations (IOs) documented human rights abuses committed by the regime and its affiliated border guard forces throughout the reporting period, including regime-condoned forced labor of adults and the recruitment and use of child soldiers. The media and other local sources reported cases of the military forcibly recruiting and using adults and children – including via abduction and threats of death – in roles such as portering, cooking, farming, construction, camp maintenance, and human shields. In addition, the military continued to use children in combat roles. Cases of child soldier recruitment were referred to the Ministry of Home Affairs and the Ministry of Defense for investigation and enforcement; regime authorities did not make the disposition of such cases public. As in previous reporting periods, the military did not adequately enforce its own command orders related to forced labor of civilians or child soldiers, and the regime did not report any investigations, prosecutions, convictions, or other punitive measures of any regime or civilian officials, including for the forced labor of adults or the recruitment and use of child soldiers. There were other reports of official complicity in trafficking, but the regime did not report any investigations, prosecutions, or convictions of involved officials. There were regular reports of military, police, local official, and EAO corruption and complicity in the large-scale forced labor of migrant workers in SEZ scam centers, often run by PRC nationals. Reports also alleged that EAOs used physical and sexual violence to compel the migrants into forced labor. The regime reportedly encouraged child labor at mining sites and to support regime troops, which may have included child labor trafficking victims.

PROTECTION

The regime made negligible victim identification and protection efforts. The regime did not report identifying any trafficking victims or referring any to protection services – a decrease from identifying 20 trafficking victims in the previous reporting period. The regime did not implement or utilize the existing SOPs on trafficking victim identification and protection that the civilian government had adopted. The regime's 2022 anti-trafficking law required review and modification of the SOPs; the regime did not report any efforts to do so, although the Ministry of Social Welfare, Relief, and Resettlement (MSWRR) trained officials on the existing SOPs. The 2022 anti-trafficking law created community-based victim identification teams comprising local officials and NGOs but excluding police officers. Although some civil society organizations perceived the exclusion of police as positive and the anti-trafficking task force – which coordinated interagency anti-trafficking efforts – reportedly trained approximately 300 individuals on screening potential trafficking victims, only one team was operative with adequate resources, and other teams likely lacked sufficient training and authority to implement this mandate. The ATIPD continued to operate nine anti-trafficking hotlines, which received 117 calls from April to November 2022. None of the calls led to a criminal investigation, victim identification, or referral to care. An IO had a hotline that received eight cases of suspected child forced labor as child soldiers; the organization referred the individuals to the established verification process. The regime, which precipitated a conflict that has created more than 1.4 million IDPs since February 2021, did not screen for trafficking among individuals in IDP camps.

The regime did not provide essential services to domestic or foreign trafficking victims, nor did it support civil society organizations that provided such services. For the second year, the MSWRR did not report providing direct assistance to any trafficking victims or disbursing any funding for victim care. Shelters operated by the MSWRR experienced staffing gaps, including lack of case managers and trained social workers, which negatively affected the care trafficking victims could receive at the shelters; some shelters opened under the civilian government remained closed because of the expanding conflict and the pandemic. The regime destroyed some religious buildings that traditionally served as temporary shelters, including for trafficking victims, during its attack against pro-democracy actors. The regime persecuted many international NGOs and civil society organizations; these organizations could not partner with the regime, causing many programs – including provision of care for trafficking victims – to cease or experience severe resource shortages. Furthermore, the regime passed new legislation imposing restrictions on NGOs and IOs with penalties of five years' imprisonment for noncompliance; the regime also threatened legal aid networks and detained lawyers who provided pro bono assistance to human rights defenders and other clients, including potential trafficking victims; these actions severely hampered organizations' ability to assist trafficking victims and forced some to shut down. The regime did not assist, and denied humanitarian organizations access to assist, individuals in new conflict areas, which increased their vulnerability to trafficking. The regime did not report efforts to support victim participation in the investigation or prosecution of alleged traffickers. The regime did not report if it continued to implement a court program initiated in 2019 that allowed trafficking victims to provide video testimony. The regime did not report whether regime courts ordered restitution in any trafficking cases. The regime maintained labor attachés in Malaysia, the Republic of Korea, and Thailand whose responsibilities included assisting trafficking victims abroad, but they did not report identifying or providing services to any trafficking victims. The regime did not provide legal alternatives to the removal of foreign victims to countries where they may face hardship or retribution, nor did it provide temporary legal status to any foreign victims. The regime placed three foreign trafficking victims in prison while they awaited repatriation by an IO.

In collaboration with an IO, the regime released 28 children from armed conflict and reunited them with their families. The regime did not report providing any other support to former child soldiers, nor did it institute measures to protect all children from being used by the military in combat roles or to protect children and adults from being recruited or used for forced labor by military and civilian brokers and recruiters. Due to practices of arbitrarily arresting and detaining groups vulnerable to trafficking without screening for trafficking, regime authorities likely continued to inappropriately arrest and detain unidentified trafficking victims, including children in armed conflict, returning Burmese migrant workers, foreign migrant workers in regime-controlled SEZs, and Rohingya. As in the previous reporting period, the regime continued to charge Rohingya with immigration violations without screening for trafficking victimization; the regime arrested and charged at least 172 Rohingya with immigration-related violations and sentenced them to two years' imprisonment with hard labor.

PREVENTION

The regime decreased efforts to prevent trafficking. The Central Body for the Suppression of Trafficking in Persons (CBTIP) – the anti-trafficking interagency coordinating body – largely did not function. It met once during the reporting period, a decrease from the previous reporting period. The CBTIP did not report efforts to develop or implement an annual work plan or a new five-year NAP; the prior NAP expired in 2021. IOs and NGOs reported the CBTIP attempted to take credit for their anti-trafficking work. Aside from hosting the 10th annual Anti-Trafficking in Persons Day, the CBTIP did not conduct any awareness-raising efforts, a decrease from the previous reporting period when it organized several awareness activities.

According to the 2014 census, approximately one-quarter of Burma's residents lacked access to citizenship or identity documents, significantly increasing their vulnerability to traffickers in

Burma and abroad. The regime refused to provide identity documents or accelerate citizenship verification processes for undocumented Rohingya. Regime policies limiting freedom of movement in some jurisdictions continued to hinder access to employment and education for some communities, especially in IDP camps housing Rohingya and other ethnic minority groups; aggravate economic conditions; drive irregular migration; and increase the communities' vulnerability to trafficking. For the second year, the national forced labor complaints mechanism did not function, and the regime did not publish data on complaints received through its public website. The regime outlawed most major labor unions, persecuted labor activists, and took steps to undermine the tripartite labor mechanism. The regime had MOUs with Japan and Thailand on formal labor recruitment, including in the fishing industry. Nevertheless, most vessel owners continued to staff their crews through unregulated and unlicensed Thai and Burmese intermediaries, charging high recruitment fees that continued to place Burmese fishermen at risk of debt-based coercion into forced labor. The regime did not prohibit worker-paid recruitment fees, which increased migrant workers' vulnerability to trafficking. Moreover, the regime's process of issuing work certificates to Thai migrant workers resulted in workers paying exorbitant fees to brokers and regime representatives to renew their certificates; corruption was reportedly rampant within the program. The regime did not take steps to reduce the demand for commercial sex acts or child sex tourism. It did not provide anti-trafficking training for diplomats or labor attachés.

The regime did not make efforts to prohibit or prevent the forcible use of children and adults in non-combat roles; such as portering, cooking, camp maintenance, and farming, nor did it enforce a 2014 directive prohibiting the use of children by the military. The regime had one meeting with the UN, in which it made limited progress implementing the UN joint action plan on the recruitment and use of children. Although the deposed civilian government granted formal permission to the UN to enter into child soldier demobilization agreements with EAOs, there was little progress on implementation of a joint action plan between the UN and one EAO, the Democratic Karen Benevolent Army.

TRAFFICKING PROFILE:

As reported over the past five years, human traffickers exploit domestic and foreign victims in Burma, and traffickers exploit victims from Burma abroad. Multiple national or global events have greatly increased vulnerabilities to trafficking for Burmese men, women, and children. Since 2020, the pandemic has caused thousands of economic migrants to return to Burma from abroad in search of work, while traditional cross-border migration to Thailand and the PRC decreased because of travel restrictions and border closures. In addition, the February 2021 coup caused economic devastation and sharply deteriorating political stability, which created new patterns of economic migration in the country, displaced more than 1.4 million people, and increased financial hardship for a wide swath of the country, all of which increased vulnerabilities to trafficking. Regime offensives and airstrikes in Chin, Kayah, and Karen States caused civilians to flee to Thailand and India where they are at risk for trafficking. Burmese economic migrants, including Rohingya, continue to migrate to Thailand and other parts of Southeast Asia via irregular routes; these migrants are vulnerable to trafficking because of their irregular or illegal immigration status. Finally, years of violence and ethnic conflict in Rakhine State continues to drive the out-migration of Rohingya, many of whom are at high risk of sex and labor trafficking, especially when traveling to other countries for economic migration. Children in Kachin and northern Shan States are particularly vulnerable to sex traffickers operating near the PRC border. In Kachin, displaced women and girls are also vulnerable to sex and labor trafficking, including forced concubinage, leading to forced childbearing, via forced or fraudulent marriages to PRC national men arranged by deceptive or coercive brokers who use fraudulent offers of employment or promises of a better life. Traffickers recruit victims through in-person connections, digital platforms, and, increasingly due to the pandemic, social media. An academic study from 2019 found that 2,800 out of 5,000 Kachin and Shan women returning to Burma after experiencing forced marriage in the PRC had been subjected to forced childbearing. Migrant smuggling and human trafficking networks

reportedly target girls living in Rakhine IDP camps and subject them to forced labor and sex trafficking in Malaysia. Men and women from the more than 30 IDP camps in Lashio, a city on the Burma-PRC border, were vulnerable to labor and sex trafficking in small towns along the border.

Military personnel, civilian brokers, informal civilian intermediaries, military-backed militias, border guard forces, and EAOs continue to unlawfully recruit or use child soldiers, particularly children from ethnic minority groups. International observers reported continued military use of children in support roles in 2022, although there may have been fewer than in previous years. The military abducted some children younger than 18 years old and threatened others with death to compel their service. Civilian recruiters, in some cases, coerce or offer incentives to children or their families through false promises about working conditions, salary, and promotion opportunities. EAOs force men and boys to serve through intimidation, coercion, threats, arbitrary taxation, and violence. Some EAOs abduct or recruit children, including from IDP camps, to fight against the military. The military has employed the same tactics in the past, although most children identified in military service initially enter under the auspices of civilian brokers or enlist at the behest of their own families. The military, informal civilian brokers, and some EAOs also use deception and various forms of coercion, including threats of financial and physical harm, to compel adult victims into short-term forced labor. Under the auspices of the legacy counter-insurgency strategy of “self-reliance,” some military authorities in areas with active conflict subject members of local populations – mostly men, but also women and children – to forced labor in portering, construction, camp maintenance, farming, cleaning, cooking, and public infrastructure projects. Since the February 2021 coup, similar tactics have been used across the country, including in majority Bamar regions. IOs reported increased recruitment of children by local defense groups.

Traffickers subject members of Burma’s vulnerable populations to sex trafficking and forced labor in seasonal strawberry and longan harvesting, year-round orange farming, manufacturing in registered and unregistered factories, and construction of roads and city government facilities across the border in northwestern Thailand. Traffickers use deceptive recruitment tactics and immigration status–based coercion to subject migrant workers from Shan State to forced labor on sugarcane plantations in the PRC’s Yunnan Province. Illegal logging operations near the PRC border may subject local communities to forced labor. Local traffickers use deceptive tactics to recruit men and boys into forced labor on palm oil and rubber plantations; in bamboo, teak, and rice harvesting; and in riparian fishing. As a result of the 2021 coup and the regime’s non-enforcement of labor laws, many factories openly flouted labor laws and fired or demoted permanent employees to daily workers that are paid lower wages. Employees who had lost their jobs or had wages reduced took on part-time jobs, including commercial sex, to earn a living wage, increasing their vulnerability to labor and sex traffickers. IDPs from the Sagaing, Bago, Irrawaddy, Mandalay, and Tanintharyi regions, as well as from Shan and Rakhine States, experience contract discrepancies, wage garnishing and withholding, forced and arbitrary cost-sharing of pesticides, penalty fees, coerced overtime, identity document retention, and restricted freedom of movement on banana plantations in Kachin State. Communities displaced by environmental degradation resulting from the establishment and operation of these plantations, which are often PRC-owned, are also vulnerable to trafficking, including on lands they previously occupied and through internal economic migration to other parts of the country. In Kachin State, adults and children are also at risk of forced labor in jade prospecting throughout refuse areas created by larger mining operations, as well as in road and dam construction. A majority of these prospectors are reportedly addicted to opiates or methamphetamines, which some traffickers – including members of EAOs and regime-affiliated militias – may intentionally facilitate and exploit to retain their labor. Crime syndicates subject women and girls to sex trafficking in massage parlors located in close proximity to these refuse mining areas, often in partnership with local government and law enforcement officials. Forced eviction from new mining sites and the resulting economic hardships make some communities in Kachin, Shan, and Karen States more vulnerable to trafficking. The regime operates as many as 47 prisons and 48 labor camps called “agriculture and livestock breeding career training centers” and “manufacturing centers,” respectively. The labor camps house thousands of inmates across the country, including some political prisoners. According to previous limited reporting, authorities at times may subject these incarcerated populations to unlawful prison labor or conditions with indicators of forced labor for private gain. Of these camps, 18 feature

government-managed mining operations. The regime reportedly encouraged child labor at mining sites and to support regime troops.

Traffickers subject children to sex trafficking or forced labor, at times through debt-based coercion, in teashops, small businesses, the agricultural and construction sectors, in domestic work, and in begging. A small number of foreign child sex tourists exploit Burmese children. Discriminatory enforcement of laws places some LGBTQI+ individuals at higher risk of extortion and psychological coercion by law enforcement. Discriminatory hiring practices complicate access to formal sector employment for LGBTQI+ individuals and persons diagnosed with HIV/AIDS, forcing some to seek opportunities in unregulated sectors known for trafficking vulnerabilities, particularly among transgender persons in commercial sex. Absent oversight and enforcement measures in non-regime-controlled areas, including areas along the Burma-PRC border, women and girls from these border regions and elsewhere in Southeast Asia are vulnerable to sex trafficking in SEZ casinos owned or operated by EAOs and PRC and Thai companies. In these same regions, labor traffickers on both sides of the border fraudulently recruit Burmese men and women for work, confiscate their passports, and force them to work. Criminals in EAO-controlled areas reportedly force children, especially boys, to serve as drug mules in Shan, Kachin, and Karen States. In 2021, civil society partners reported an estimated 500 Vietnamese women in commercial sex in Wa state Special Administrative Region brothels and casinos, an area with minimal regime control. In 2022, civil society reported removing dozens of Vietnamese women and women from other countries, including Thailand, from exploitative commercial sex in Wa and Shan state brothels and casinos; some women reported being fraudulently recruited for work in hotels, forced to take drugs, and killed when attempting escape. Similar media reports involving Thai and Malaysian women continue to surface related to the Shwe Ko Ko casino on the border with Thailand. During the reporting period, reports emerged of Kenyan women fraudulently recruited for work in Thailand but smuggled into Burma, where they are forced or coerced to work in factories by armed guards. During the reporting period, there were increased reports of foreign traffickers, including PRC nationals, fraudulently recruiting men and women, often from South and Southeast Asia but also from Brazil, Kenya, Nigeria, Uganda, and Uzbekistan, to Burma for forced labor in cyber scam operations. Traffickers often operate scam centers out of casinos or other buildings along the border with Thailand, including Karen State, in areas where the regime lacks control. Traffickers use social media to promise prospective victims, often moderately to highly educated, legitimate work in the technology sector, but, upon arrival, traffickers confiscate their passports and force them to commit cyber scams using debt-based coercion, threats, physical force, torture – including with tasers, rods, and electrocution – and false imprisonment. Reports alleged that corruption and complicity of police, local officials, and EAOs facilitated forced labor in cyber scam centers, at times, through physical and sexual violence.

Traffickers subject Burmese males transiting Thailand en route to Indonesia and Malaysia to forced labor, primarily in fishing and other labor-intensive industries. Recruitment agencies in Burma and other Southeast Asian countries lure fishermen with promises of high wages, and then charge fees, and curtailment deposits to assign them fake identities and labor permit documents while sending them to fish long hours in remote waters on vessels operating under complex multinational flagging and ownership arrangements. Senior crew aboard vessels in the Thai and Taiwanese fishing fleets subject some Burmese men to forced labor through debt-based coercion, passport confiscation, contract switching, wage garnishing and withholding, threats of physical or financial harm, or fraudulent recruitment; they also subject some to physical abuse and force them to remain aboard vessels in international waters for years at a time without coming ashore. Informal brokers also lure Burmese men onto offshore fishing and shrimping rafts in Burmese waters, where traffickers confine and physically abuse them to retain their labor for months at a time. There are some reports of boys subjected to forced labor in Burma's fishing industry. Companies operating under the auspices of the Japanese government's "Technical Intern Training Program" have exploited Burmese nationals in forced labor in food processing, manufacturing, construction, and fishing. Burmese women are subjected to forced labor in domestic work, including in the UAE.