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Trafficking in Persons Report 2010 - China

CHINA (Tier 2 Watch List)

China is a source, transit, and destination country for men, women, and children who are subjected to trafficking in persons, specifically forced labor and forced prostitution. Women and children from neighboring countries including Burma, Vietnam, Laos, Mongolia, Russia and North Korea, and from locations as far as Romania and Zimbabwe are trafficked to China for commercial sexual exploitation and forced labor. Well-organized international criminal syndicates and local gangs play key roles in both internal and cross-border trafficking. During the year, there was a significant increase in the reported number of Vietnamese and Burmese citizens trafficked in China. Some trafficking victims are kept locked up, and many of them are subjected to debt bondage. Many North Koreans who enter into China are subjected to forced prostitution or forced labor in forced marriages or in Internet sex businesses.

While the majority of trafficking occurs within China's borders, there are reports that Chinese men, women, and children are subjected to forced prostitution and forced labor in numerous countries and territories worldwide, including the United Kingdom, United States, Germany, Malaysia, Taiwan, Angola, Uganda, Ghana, Zambia, Trinidad and Tobago, Mozambique, Tanzania, South Africa, Chile, Poland, Italy, France, the Czech Republic, Finland, Belgium, the Netherlands, Spain, the Ukraine, Azerbaijan, Bahrain, Israel, the United Arab Emirates, Afghanistan, the Maldives, Oman, and Qatar. There were reports of Chinese nationals taking on significant amounts of debt, sometimes amounting to as much as \$70,000 to migrate to foreign countries for work, making them extremely vulnerable to debt bondage and situations of trafficking. Concurrent with the increase of Chinese economic activity in Africa, there were some reports of Chinese workers trafficked to Africa by importers and construction firms. Chinese women and girls are also trafficked to Africa for forced prostitution. Experts and NGOs report that China's population planning policies, coupled with a cultural preference for sons, creates a skewed sex ratio in China, which may contribute to the trafficking of women and children from within China, Mongolia, North Korea, Russia, Burma, Laos and Vietnam for forced marriage, leaving them vulnerable to involuntary domestic servitude or forced commercial sexual exploitation by their spouses.

Internal trafficking is most pronounced among China's migrant population, which is estimated to exceed 150 million people. Forced labor remains a serious problem, including in brick kilns, coal mines, factories, and on construction sites throughout China. There were numerous confirmed reports of involuntary servitude of children, adults, and migrant workers during the reporting period. As an example, in May 2009, media reports exposed a forced labor case at brick kilns in Anhui province, where mentally handicapped workers were subjected to slave-like conditions. Workers participating in a government-sponsored program to transfer rural labor to jobs in the interior of China, including children, were allegedly coerced into the program through

threats or fines for noncompliance, but others participating in the same program said they had not been forced. Authorities in Xinjiang reportedly imposed forced labor on some farmers in predominantly ethnic minority regions. Forced labor was a problem in some drug detention centers, according to NGO reporting. Some detainees were reportedly forced to work up to 18 hours a day without pay for private companies working in partnership with Chinese authorities. Many prisoners and detainees in reeducation through labor facilities were required to work, often with no remuneration. Authorities held individuals in these institutions as a result of administrative decisions. Forced labor also remained a problem in penal institutions.

There continue to be reports that some Chinese children are forced into prostitution, and various forms of forced labor, including begging, stealing, selling flowers, and work in brick kilns and factories; the children of migrants are particularly vulnerable to trafficking. For example, there were reports child laborers were found working in brick kilns, low-skill service sectors and in small workshops and factories. These reports found that the underage laborers are in their teens, typically ranging from 13 to 15 years old, but some are as young as 10 years old. In November 2009, an explosion killed 13 primary school children working in a Guangxi workshop producing fireworks, all of whom were children of migrant workers working in factories in a neighboring province. Work-study programs in various parts of China, often with local government involvement, reportedly engaged child labor, whereby schools supply factories and farms with forced child labor under the pretext of vocational training. In Xinjiang, children were forced to pick cotton for army-based production brigades under the guise of a "work-study" program, according to foreign media reports. There are reports of some students having no say in the terms or conditions of their employment, and little protection from abusive work practices and dangerous conditions. The overall extent of forced labor and child labor in China is unclear in part because the government releases only limited information on the subject.

The Government of the People's Republic of China does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Although the government ratified the 2000 UN TIP Protocol during the year, committing itself to bringing its domestic laws into conformity with international standards on trafficking, it did not revise anti-trafficking laws and the National Plan of Action to criminalize and address all forms of labor and sex trafficking. The government reported an increase in the number of "trafficking" offenders prosecuted and victims assisted, however these efforts were based on China's limited definition of "trafficking," and the government continues to conflate human smuggling and child abduction for adoption with trafficking offenses. Authorities took steps to strengthen victim protection services and increased cooperation with local NGOs to provide victims access to services in some areas of the country and to provide anti-trafficking training to border guards. Despite these efforts, the government failed to sufficiently address China's trafficking problem. It did not make significant efforts to investigate and prosecute labor trafficking offenses and convict offenders of labor trafficking, and it did not sufficiently address corruption in trafficking by government officials. The government lacked a formal, nationwide procedure to systematically identify victims of trafficking. It also failed to provide comprehensive victim protection services to both internal and foreign victims of trafficking throughout the country. Victims are sometimes punished for unlawful acts that were a direct result of their being trafficked – for instance, violations of prostitution or immigration and emigration controls. Chinese authorities continue to forcibly repatriate North Korean trafficking victims, who face punishment upon their return for unlawful acts that were sometimes a direct result of being trafficked. The government's inadequate data collection system and limited transparency continued to impede progress in recording and quantifying anti-trafficking efforts. For these reasons, China is placed on Tier 2 Watch List for the sixth consecutive year.

Recommendations for China: Revise the National Action Plan and national laws to criminalize all forms of labor trafficking and bring laws into conformity with international obligations; expand proactive, formal procedures to systematically identify victims of trafficking, including labor trafficking victims and Chinese trafficked abroad, and among vulnerable groups such as migrant workers and foreign women and children

arrested for prostitution; continue to train law enforcement and immigration officials regarding the identification and treatment of trafficking victims using approaches focusing on the needs of the victim; cease the practice of forcibly repatriating North Korean trafficking victims; devote significantly more resources to victim protection efforts, including funding for shelters equipped to assist victims of trafficking; increase training for shelter workers; increase counseling, medical, reintegration, and other rehabilitative assistance; increase protection services available to male and female, and sex and labor trafficking victims; make efforts to provide access to services for Chinese trafficking victims abroad; increase resources to address labor trafficking, including to improve inspection of workplaces and training for officials working in sectors in which trafficking victims are likely to be found; support legal assistance programs that assist both foreign and Chinese trafficking victims; increase the number of criminal investigations and prosecutions of cases involving trafficking for forced labor, including recruiters and employers who facilitate forced labor and debt bondage; make greater efforts to actively investigate, prosecute, and convict government officials complicit in trafficking crimes; expand upon existing campaigns to reduce the demand for forced labor and commercial sex acts; improve law enforcement data collection efforts for trafficking cases, consistent with the government's capacity to do so and disaggregated to reflect cases that fall within the definition of trafficking; and undertake systematic research on all forms of human trafficking in China and involving Chinese nationals.

Prosecution

The Government of the People's Republic of China made uneven progress in its efforts to combat trafficking in persons during the reporting period, based on China's limited definition of "trafficking." The legal definition of trafficking under Chinese law remained discordant with international standards during the year. China's definition of trafficking does include the use of non-physical forms of coercion, fraud, debt bondage, involuntary servitude, forced labor, or offenses committed against men, although many aspects of these crimes are addressed in other articles of China's criminal law. China's legal definition of trafficking does not automatically regard children over the age of 14 who are subjected to the commercial sex trade as trafficking victims. It is unclear whether Chinese laws recognize forms of coercion other than abduction, such as threats of physical harm or nonphysical harm, as constituting a means of trafficking. Article 244 of the Chinese Criminal Law criminalizes forced labor, but prescribes punishments of a fine or no more than three years' imprisonment, and only if the circumstances are found to be "serious" - penalties which are not sufficiently stringent. Additionally, the current law applies only to legally recognized employers and does not apply to informal employers or illegal workplaces. China's legal definition of trafficking does not recognize male victims of trafficking or adult victims of labor trafficking. The government did not take steps to enact legislation to prohibit all forms of trafficking during the year, though it ratified the 2000 UN TIP Protocol in December 2009, which obligates China to prohibit all forms of trafficking and bring its domestic laws into conformity with international standards within 24 months. Based on the government's limited definition of "trafficking" and the government's continued conflation of human smuggling and child abduction for adoption with trafficking offenses, the Ministry of Public Security (MPS) in 2009 reported convicting 2,413 defendants in trafficking cases, an increase from the previous year, and resolving more than 7,000 trafficking cases involving more than 7,300 women and 3,400 children. The government reported the arrest of 19 of the country's 20 most wanted traffickers and pursuit of criminal networks and organized crime syndicates involved in trafficking. Police conducted "population surveys" to look for trafficking victims and open files on suspected traffickers; however, the impact of these efforts was unclear. In 2009, Chinese government officials noted that current statistical methods used to monitor trafficking were not consistent with international standards and sought to revise them. In April 2009, Chinese officials collaborated with Costa Rican authorities to arrest members of an international ring that trafficked Chinese children to Costa Rica for forced labor. However, as China's expatriate population continues to expand, it has not sufficiently developed the capacity to institutionalize its international law enforcement cooperation on trafficking. In May 2009, authorities reported arresting 10 men for buying, enslaving, and abusing 32 mentally handicapped individuals and forcing them to work in brick kilns in Anhui Province. Local authorities in Hangzhou offered cash rewards for information leading to the arrest of gang leaders that force children and

handicapped people to beg. Jiangxi provincial authorities in April launched a campaign to crack down on criminal organizations involved forced child labor. Guizhou provincial authorities in May launched a campaign to crack down on the forced prostitution of underage girls and the forced labor of children.

There were continued indications of local officials' complicity in trafficking. Local corruption remains an obstacle to prosecution; however, China in 2009 evaluated government officials' performance against regulations prohibiting complicity in trafficking crimes. During the year, there were reports that local officials in Xinjiang used coercion and threats to get adults and children to participate in government-sponsored labor transfer programs, and used fraudulent methods to make children appear to meet the legal working age of factories. There were reports that some Chinese border guards worked in collusion with traffickers and North Korean border guards to procure young North Korean women for forced prostitution in Chinese brothels. During the year, there were three reported instances of Chinese nationals arrested for selling North Korean women, with one national sentenced to prison for over five years. The Chinese government did not sufficiently report efforts to investigate, prosecute, and punish government officials for complicity in human trafficking offenses.

Protection

The Chinese government made efforts to improve protection during the reporting period; however, efforts to identify and protect victims of trafficking remained inadequate. Authorities continued to focus protection efforts on women and children. The government's efforts to proactively identify male trafficking victims and victims of labor trafficking were inadequate. In July, Fujian officials strengthened efforts, including working with village committees, to identify trafficking victims and at-risk populations. Chinese trafficking victims abroad had little access to resources or protection by Chinese authorities. Chinese authorities worked with IOM to expand their capacity to provide support to Chinese trafficking victims in foreign countries, although the programs are at the nascent stage. The Ministry of Foreign Affairs has begun to explore options for dealing with Chinese victims overseas, but has not fully expanded its capabilities. While reports state there are an estimated 1,400 shelters in the country that can offer some assistance to victims, there are only five nationwide dedicated to trafficking victims, one of which was operated by the government. While authorities reported shelters across the country assisted 12,000 women and children trafficking victims, the government's statistics were based on the country's definition of trafficking, which is inconsistent with international norms. Most shelters are not specifically staffed and trained to assist trafficking victims, though the government is working with international organizations to address shortcomings. NGOs along the southern border reported some improvements in 2009 in Chinese official rescue and rehabilitation support to trafficking victims. All these efforts, however, need to be strengthened significantly.

Due to an inadequate number of dedicated shelters to assist trafficking victims, trafficking victims generally return to their homes without access to counseling or psychological care. Victims nationwide did not have access to long-term care. Provincial governments in the southern border provinces, lacking resources, often relied upon NGOs to help provide services to victims. In Yunnan province, the All-China Women's Federation, with the assistance of NGOs, provided some victims with medical care, counseling, and vocational training. During the year, authorities worked with foreign governments, NGOs, and international organizations to train law enforcement, immigration, and social services personnel on victim identification. All of the government's victim protection efforts, however, need to be strengthened and standardized nationwide. The government partnered with NGOs to conduct training workshops for border liaison offices with Burma to increase police force capacity to identify and protect trafficking victims. The Ministry of Civil Affairs began training managers of China's shelters on victim identification, protection, and reintegration. Over the course of the year, local Chinese public security officials increased cooperation with the Mongolian consulate in Erlian and NGO representatives to identify and rescue Mongolian sex trafficking victims in China. Ministry of Foreign Affairs consular affairs staff received training to spot trafficking victims abroad.

Foreign victims were generally repatriated, sometimes involuntarily. They were provided little access to rehabilitative, financial, or legal assistance. The government did not provide foreign victims with legal alternatives to removal to their native countries, even if they might face hardship or retribution. Some foreign women and children identified as trafficking victims and repatriated to foreign countries were not in fact trafficking victims, but were deported under mechanisms meant for trafficking victims due to their status as illegal migrants.

While government regulations stipulate that repatriated Chinese and foreign victims of trafficking no longer face fines or other punishments upon return, authorities acknowledged that some victims continued to be assigned criminal penalties or fined because of provisions allowing for the imposition of fines on persons traveling without documentation. Additionally, the lack of effective victim identification measures and police corruption in China in some cases cause victims to be punished for crimes committed as a direct result of being trafficked. In localities where officials have received training on human trafficking, there were reports victims were not punished or fined.

Chinese authorities continued efforts begun ahead of the 2008 Beijing Olympic Games to forcibly repatriate North Korean refugees in China, including trafficking victims, in violation of their commitments to the 1951 UN Convention related to the Status of Refugees and the victim protection principles of the 2000 UN TIP Protocol. China continued to treat North Korean trafficking victims solely as illegal economic migrants, deporting them to North Korea, where they may face severe punishment. The Chinese government refused to provide North Korean trafficking victims with legal alternatives to repatriation. Chinese authorities prosecute citizens who assist North Korean refugees and trafficking victims. The government continued to bar UNHCR from access to North Korean populations in Northeast China. The lack of access to UNHCR assistance and constant fear of forced repatriation by Chinese authorities leaves North Korean refugees more vulnerable to human traffickers.

Prevention

The Chinese government expanded efforts in some areas to prevent trafficking in persons with assistance from international organizations and NGOs. Authorities, including those at the ministerial level, worked to increase public awareness among groups most at risk. In April 2009, MPS launched a nine-month anti-trafficking campaign targeting the trafficking of women and children. The All-China Women's Federation worked in partnership with the ILO to continue anti-trafficking prevention campaigns reaching almost three million people. The government reported organizing and taking part in anti-trafficking training provided by partner international organizations for officials in Beijing, Anhui, Hunan, Yunnan, Guizhou, and Shaanxi provinces. MPS carried out programs to educate and monitor populations at-risk for trafficking; a pilot project was launched in Guangzhou and Yunnan Province to offer free classes to migrant workers on protecting children from trafficking. The central government reported it changed local security officials' promotion criteria to include counter-trafficking work. The government reported it launched an initiative to crack down on illegal activities by employment agencies, some of which may have been involved in human trafficking. The central government issued a document clarifying government agency responsibilities in combating child labor and imposed obligations on government officials as part of an enlarged effort to combat child trafficking.

The government did not provide information on monitoring immigration and emigration patterns for evidence of trafficking. The central government did not address the birth limitation policy, which contributes to a gender imbalance that some believe has led to trafficking of women into involuntary servitude through forced marriage in the Chinese population. During the reporting period, the Chinese government undertook reforms of the *hukou* household registration system; however, it may remain a factor contributing to the vulnerability of internal migrants to forced labor. Authorities did not take adequate measures to prevent internal trafficking for sexual exploitation or forced labor, despite the prevalence of such trafficking across the country. The government did not take sufficient measures during the year to reduce the demand for forced labor,

commercial sex acts, or child sex tourism. In 2009, authorities signed a Memorandum of Understanding with Burma to cooperate on anti-trafficking efforts, and together with Laos established an anti-trafficking liaison office in Yunnan Province, similar to offices operating at border crossings with Burma and Vietnam. Chinese forces participating in peacekeeping initiatives abroad did not receive training on trafficking in persons prior to deployment. However, there have been no allegations of trafficking acts committed by Chinese peacekeepers.
