



Trafficking in Persons Report 2017 - Country Narratives - Kenya

KENYA: Tier 2

The Government of Kenya does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated increasing efforts compared to the previous reporting period; therefore, Kenya remained on Tier 2. The government demonstrated increasing efforts by launching a national referral mechanism, issuing new registration requirements and a code of conduct for private labor recruitment agencies, and including human trafficking and the anti-trafficking law in its basic police training curricula. The Ministry of Labor (MOL) assigned labor attachés to Kenyan missions in Qatar, the United Arab Emirates (UAE), and Saudi Arabia to protect citizens employed in those countries. However, the government did not meet the minimum standards in several key areas. It did not allocate any new funding to the victim assistance fund, compared to seven million Kenyan shillings (\$68,326) it allotted during the previous reporting period. Kenyan authorities continued to treat some victims as criminals, and the availability of protective services for adult victims remained negligible. Corruption in sectors of the government perpetuated traffickers' ability to obtain fraudulent identity documents from complicit officials. The government did not conduct nationwide anti-trafficking awareness campaigns.

RECOMMENDATIONS FOR KENYA

Increase protective services available to adult trafficking victims, particularly those identified and repatriated from overseas; implement the formal process for law enforcement officials to refer trafficking victims for assistance, including adult trafficking victims and repatriated Kenyans; allocate sufficient resources toward the victim assistance fund; vigorously investigate and prosecute trafficking offenses and convict and punish traffickers, including government officials suspected of complicity in human trafficking; expand training to all levels of the government, particularly front-line responders, on identifying and handling trafficking crimes; increase oversight of overseas recruitment agencies; use formal procedures to encourage victims' cooperation in the investigation and prosecution of trafficking crimes; and conduct awareness campaigns throughout the country, including rural areas.

PROSECUTION

The government continued law enforcement efforts, but incomplete data from the government and conflation of trafficking and smuggling crimes made it difficult to assess those efforts. Section 1 of the Counter-Trafficking in Persons Act of 2010 criminalizes all forms of trafficking and section 3(5) prescribes a sufficiently stringent punishment of no less than 30 years imprisonment or a fine

of not less than 30 million shillings (\$292,826). When allowing for a fine in lieu of imprisonment, the prescribed punishment is not commensurate with those for other serious crimes, such as rape. Sections 14 and 15 of the Sexual Offenses Act of 2006 criminalize the facilitation of child sex tourism and “child prostitution,” and prescribe punishment of no less than 10 years imprisonment penalties that are also sufficiently stringent and commensurate with those prescribed for other serious crimes. The government did not report the specific laws under which it prosecuted specific trafficking cases during the reporting period, although it more commonly utilized the 2006 Sexual Offenses Act.

In 2016, around half of Kenya’s 47 counties reported anti-trafficking law enforcement data, whereas all counties reported such data in 2015; however, conflation of smuggling and other crimes with trafficking also contributed to the significant increase in law enforcement data that was difficult to disaggregate. The government reported 530 investigations of potential trafficking cases in 2016, of which 59 were for forced labor and 28 for sex trafficking; the government did not report types of trafficking for the remainder. Investigation data was not reported in 2015. The government reported initiating 281 prosecutions during the reporting year, compared with 762 in 2015 and 65 in 2014. The government reported convicting 105 traffickers, compared to 456 in 2015 and 33 in 2014; however, some convictions may have been for smuggling crimes rather than trafficking. Corruption remained endemic at all levels of government, and traffickers were able to fraudulently obtain identity documents from complicit officials. The government did not report any investigations, prosecutions, or convictions of government employees complicit in human trafficking. As reported in 2016, a federal district court in California issued a default judgment against a Kenyan consular officer awarding more than \$288,000 in damages and attorney fees to that officer’s former domestic worker who had sued for exploitation. The parties subsequently agreed to a confidential settlement. The national police service, in partnership with an international organization, included content on human trafficking and the anti-trafficking law in its basic training curricula. In January 2017, the government supported training for the anti-trafficking advisory committee members on how to execute the committee’s mandate. In conjunction with an international organization, it trained 34 front-line law enforcement officers and investigators on combating trafficking. In addition, the government-funded and conducted a train-the-trainers program for 50 stakeholders from the judiciary, departments of immigration and social protection, and law enforcement agencies; this program focused primarily on national laws and mechanisms for victim identification and referral.

PROTECTION

The government made modest efforts to protect children, while protection services for adult victims remained negligible. Authorities reported identifying and referring to care 530 trafficking victims in 2016, some of whom were likely involved in smuggling; during the previous year, it reported identifying 153 victims, all of which were internal child trafficking victims. The government placed some child victims in child-specific rescue centers, supported the familial reunification of others, and assisted with the repatriation of non-Kenyan nationals. During the reporting period, the government did not allocate funding for the victim assistance fund; in 2015, the government provided funds for the first time, allocating 7 million Kenyan shillings (\$68,326). NGOs and international organizations played a significant role in victim identification and referral to the Department of Children’s Services (DCS). DCS officers participated in police investigations, identification of child trafficking victims, counseling provisions, and referrals to service providers. DCS and a local NGO continued to jointly operate a national 24-hour toll-free hotline for reporting

cases of child trafficking, labor exploitation, and domestic abuse; the hotline's main call center was located in a government-owned building in Nairobi. The government reported the hotline received 1,195 reports of child trafficking in 2016, the same number it reported in the previous reporting period. In December 2016, the government issued guidelines, developed the previous year, for implementing the national referral mechanism; however, it did not employ them during the reporting period or train stakeholders on their implementation.

The government's services for adult trafficking victims identified within the country remained negligible. Some NGOs noted the government-maintained list of assistance providers was not comprehensive and contact information for some organizations was not made publicly available, precluding victims from effectively reaching them. DCS continued to operate eight drop-in referral centers in Eldoret, Garissa, Malindi, Siaya, Kakamega, Nairobi, Nakuru, and Mombasa, and four rescue centers in Garissa, Malindi, Thika, and Machakos, where child victims of violence, including trafficking victims, could stay for up to three months before returning home or being referred to NGO facilities. The government and NGOs provided medical help, psycho-social support, rehabilitation and reintegration services, food and clothing, and referrals to other centers for an unknown number of children, which may have included trafficking victims. NGOs provided protective provisions at times without government support.

To address the exploitation of Kenyan nationals abroad, the MOL assigned labor attachés to Kenyan missions in Qatar, the UAE, and Saudi Arabia to assist citizens employed in those countries. The government also signed a bilateral labor agreement with Qatar to coordinate efforts to reduce cases of exploitative labor and other abuses against Kenyans abroad, to include trafficking. It provided ad hoc repatriation assistance, including housing placement, medical care, psycho-social support, and reintegration services, for its citizens subjected to trafficking outside Kenya; in some cases NGOs and destination-country governments coordinated and funded the repatriation of Kenyan nationals without government support. The government's diplomatic missions worked to improve consular services to victims abroad, although serious gaps remained. Immigration officials continued to conflate smuggling with trafficking and arrested, without screening, potential trafficking victims for traveling with forged documents. Reports alleged authorities treated some victims as criminals, sometimes charging them with labor violations. The government had formal procedures to encourage victims' cooperation in the investigation and prosecution of trafficking crimes; however, there were no reports such procedures were used during the reporting period. Under the anti-trafficking act, officials may grant permission for foreign trafficking victims to remain indefinitely in Kenya if it is believed they would face hardship or retribution upon repatriation; the government did not report using this provision during the reporting period.

PREVENTION

The government maintained uneven efforts to prevent trafficking. Authorities partially implemented the 2013-2017 national action plan, through limited capacity building for officials and the launch of the referral mechanism. The advisory committee—the governing body for anti-trafficking efforts—convened five times during the reporting period and submitted to the MOL cabinet secretary for review its second annual national action plan to cover years 2017-2022. The government-funded the committee with seven million Kenyan shillings (\$68,326) for anti-trafficking activities. Progress on the advisory committee's database to share relevant ministry information across all 47 counties stalled during the reporting period. The advisory committee reported publishing trafficking posters

for DCS offices. The government's anti-trafficking awareness efforts were largely limited due to resource constraints. During the year, it promoted the national 24-hour toll-free hotline for reporting cases of child trafficking, labor exploitation, and domestic abuse.

Following the MOL's revocation of accreditation certificates for hundreds of private employment agencies to conduct robust vetting in the previous reporting period, in June 2016 the government put into force new rules outlining registration requirements and a code of conduct for such agencies. These requirements included informing Kenyan employees seeking work abroad about their prospective wages, visa fees, airfare, and medical examinations, and specifying that any administrative costs imposed on the employee should not exceed one month's salary. Since the new rules were gazetted, the MOL certified 25 private employment agencies, although the list of certified companies was not publicly available at the close of the reporting period. The MOL continued to require employment agencies sourcing jobs abroad in the hospitality and service sectors to obtain MOL approval of all employment contracts. The MOL required contracts deemed credible to be signed in the presence of a labor ministry officer, and required applicants to register with the Kenyan embassy in the host country. The government did not report efforts to reduce the demand for commercial sex acts. The Ministry of Foreign Affairs provided anti-trafficking training for its diplomatic personnel and vetted employment contracts between Kenyan diplomats posted abroad and their domestic workers to ensure their legality. The government's training for troops deployed overseas on international peacekeeping missions included a module that addressed human trafficking.

TRAFFICKING PROFILE

As reported over the past five years, Kenya is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Within the country, children are subjected to forced labor in domestic service, agriculture, fishing, cattle herding, street vending, and begging. Boys were increasingly subjected to trafficking. Girls and boys are exploited in commercial sex throughout Kenya, including in sex tourism in Nairobi, Kisumu, and on the coast, particularly in informal settlements; at times, their exploitation is facilitated by family members. Children are also exploited in sex trafficking by people working in *khat* (a mild narcotic) cultivation areas, near gold mines in western Kenya, by truck drivers along major highways, and by fishermen on Lake Victoria. Kenyans are recruited by legal or illegal employment agencies or voluntarily migrate to Europe, the United States, Southeast Asia, and the Middle East—particularly Saudi Arabia, Lebanon, Kuwait, Qatar, the UAE, and Oman—in search of employment, where at times they are exploited in domestic servitude, massage parlors and brothels, or forced manual labor. NGOs reported that IDPs who live close to a major highway or local trading center are more vulnerable to trafficking than persons in settled communities. Previous reports allege gay and bisexual Kenyan men are deceptively recruited from universities with promises of overseas jobs, but are forced into prostitution in Qatar and UAE. Nairobi-based labor recruiters maintain networks in Uganda and Ethiopia that recruit Rwandan, Ethiopian, and Ugandan workers through fraudulent offers of employment in the Middle East and Asia. Kenyan women are subjected to forced prostitution in Thailand by Ugandan and Nigerian traffickers. Men and boys are lured to Somalia to join criminal and terrorist networks, sometimes with fraudulent promises of lucrative employment elsewhere.

Kenya's largest refugee camp complex, Dadaab, hosts approximately 250,000 refugees and asylum-seekers, and the security situation inhibits some humanitarian access, assistance, and protective

services. Some children in Dadaab and Kakuma refugee camps may be subjected to sex trafficking, while others are taken from the camps and forced to work on tobacco farms. Children from East Africa and South Sudan are subjected to forced labor and sex trafficking in Kenya. Reports assert domestic workers from Uganda, herders from Ethiopia, and others from Somalia, South Sudan, and Burundi are subjected to forced labor in Kenya. Trucks transporting goods from Kenya to Somalia returned to Kenya with girls and women subsequently exploited in brothels in Nairobi or Mombasa. Nepalese and Indian women recruited to work in *mujra* dance clubs in Nairobi and Mombasa face debt bondage, which they are forced to pay off by dancing and forced prostitution.