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2022 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 investigated only limited numbers of potential trafficking cases and identified only a limited number of victims. However, the regime did not report prosecution of any military or deposed civilian government officials involved in the use of adults and children for forced labor, and it prevented civil society organizations from providing essential services to trafficking victims. The February 2021 military coup that deposed the democratically elected government exacerbated conflict between the military and both pro-democracy People's Defense Force (PDF) groups and ethnic armed organizations (EAOs) throughout the country, dislocating hundreds of thousands of people—most of them 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 declined dramatically after the coup as the military regime shifted its focus away from other justice sector priorities and toward persecution of the pro-democracy opposition. 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. The regime likely penalized victims for unlawful acts traffickers compelled them to commit.

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, to decrease their vulnerability to trafficking.
- Eliminate restrictions on freedom of movement for all populations in Burma, including IDPs, ethnic minority groups, and political dissidents.
- Restore cooperation with the United Nations (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 impose significant prison terms.
- Proactively identify and protect all trafficking victims, especially those among communities displaced by conflict and internal migrants working in the fishing and agricultural sectors.

- Train police and immigration, judicial, social service personnel on anti-trafficking laws and victim identification, referral, and assistance best practices.
- Utilize, widely distribute, and train relevant authorities at the national and local levels on standard operating procedures (SOPs) on the Return, Reintegration, and Rehabilitation of Victims of Trafficking in Persons.
- Prioritize and increase resources for victim protection, including victim shelters, provision of services for male victims, and reintegration support for former child soldiers.
- Amend the anti-trafficking law to explicitly state that a demonstration of force, fraud, or coercion is not required to constitute a child sex trafficking crime.
- Finalize implementing regulations for the Child Rights Law, and in particular those related to accountability for crimes involving the recruitment and use of child soldiers.
- Reform law enforcement based on human rights principles, including prioritizing the protection of civilians and crime prevention, and human trafficking crimes.

PROSECUTION

The regime decreased law enforcement efforts in comparison to the deposed civilian government, as it did not adequately enforce anti- trafficking laws and focused its judicial efforts on suppressing the population. The regime used the police to undermine the pro-democracy movement and arrested approximately 13,000 people, including some children, of which 9,000 remained in detention as of March 2022. As a result, the public largely feared interaction with the police and lost faith in regime law enforcement entities. Furthermore, under the regime, the Ministry of Legal Affairs (MOLA—formerly the Union Attorney General’s Office) and the Myanmar Police Force (MPF) Anti-Trafficking in Persons Division (ATIPD) did not continue their respective anti-trafficking law enforcement and prosecutorial efforts or their coordination efforts as they did under the civilian government during the previous reporting period. Additionally, from June to August 2021, police and judicial offices largely closed due to the ongoing pandemic, causing delays in investigations and trials and impacting the regime law enforcement’s ability to effectively enforce laws. Escalating conflict across the country from October 2021 to March 2022—due to the military coup—decreased effectiveness of regime law enforcement throughout the country.

The 2005 Anti-Trafficking in Persons Law criminalized all forms of labor trafficking and some forms of sex 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. Inconsistent with international law, the 2005 Anti-Trafficking in Persons Law required a demonstration of force, fraud, or coercion to constitute a child sex trafficking crime and therefore did not criminalize all forms of child sex trafficking. The Child Rights Law, enacted in 2019, criminalized all forms of child sex trafficking, thereby addressing this gap. The law prescribed penalties of one to 10 years’ imprisonment and a fine of 1 million to 2 million kyat (\$570-\$1,130), which were also sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. The regime made no progress in drafting the necessary implementing regulations for the Child Rights Law. Forced labor and the unlawful recruitment and use of children in military non-combatant roles are 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 deposed civilian government drafted legislation in 2019 to replace the

2005 anti-trafficking law to criminalize all forms of trafficking in accordance with international law and expand law enforcement mandates for certain interagency stakeholders; however, the regime made no attempt to finalize the draft legislation during the reporting period. 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 military did not adequately enforce its own command orders related to forced labor of civilians or child soldiers.

The regime did not report comprehensive law enforcement data. In 2021, ATIPD investigated 12 cases involving 39 alleged traffickers: Three cases involved forced marriage with indicators of sex or labor trafficking; two cases involved labor trafficking; three cases involved sex trafficking; and one case involved other forms of exploitation. The MOLA did not report or verify the prosecution status of cases investigated in 2021. The regime reported it convicted 158 individuals with sentences ranging from three to 20 years' imprisonment, but the regime did not disaggregate this data, and it included cases initiated in prior reporting periods. In comparison, in 2020, the civilian government initiated 93 trafficking investigations, 96 prosecutions involving 297 suspects, obtained 201 convictions, and acquitted 22 perpetrators. Unlike in 2020 under the civilian government, the regime did not report if it prosecuted brokers for crimes involving illegal recruitment practices under the Overseas Employment Act. The regime reportedly cooperated—in limited ways—with the People's Republic of China (PRC) and Thai government law enforcement agencies along their shared borders with Burma. The regime did not report conducting anti-trafficking trainings for its overseas representatives.

Prominent human rights organizations, the UN, and the pro-democracy National Unity Government (NUG) documented human rights abuses committed by the regime throughout the reporting period, including regime-condoned forced labor. Throughout the reporting period, media and other local sources reported cases of the military forcibly using adults and children in roles such as portering, cooking, farming, construction, and human shields. Additionally, international observers reported the military continued to use children in combat roles in some instances. In April and May 2021, regime-controlled media published photos showing regime security forces forcing adults and children at gunpoint to clear barricades, sandbags, and other debris from urban streets. Local media also reported in December 2021 that the military forced children of military members—some as young as 12 years old—to participate in mandatory military training, including weapons training. As in the previous reporting period under the civilian government, the regime also did not report punitive measures for military personnel who subjected adults to forced labor nor did it prosecute civilians involved in the recruitment of child soldiers. Although there were several credible allegations of sex and labor trafficking committed by complicit officials within the civilian government during the previous reporting period, the regime did not report if it continued to address these allegations.

PROTECTION

The regime decreased victim identification and protection efforts in comparison to the deposed civilian government. Regime law enforcement authorities did not report if they screened for trafficking among vulnerable populations, including Rohingya, persons in commercial sex, and internally displaced persons (IDPs) despite the displacement of more than 525,000 as of March

2022. Furthermore, regime efforts to screen for trafficking among returning migrant workers was inconsistent and insufficient. The regime did not implement or utilize the National SOPs on the Return, Reintegration, and Rehabilitation of Victims of Trafficking, which were formally adopted during the previous reporting period under the civilian government. Nevertheless, the regime reportedly identified 15 sex trafficking victims, four labor trafficking victims, and one victim of other forms of exploitation. The regime, however, did not report referring or providing protection services to any of the identified victims. In comparison, during the previous reporting period, the police under the civilian government identified 118 trafficking victims.

Regime authorities likely arrested and detained trafficking victims for unlawful acts traffickers compelled them to commit. The regime arbitrarily arrested and detained more than 1,000 children, some of whom may have been trafficking victims or child soldiers; most of these children did not have access to a lawyer, and some experienced mistreatment or abuse in detention. The regime reversed the deposed civilian government's policy not to charge Rohingya with immigration violations; the regime also issued a directive for authorities to resume detention and legal actions against the Rohingya, including imprisonment of up to two years with hard labor, on immigration-related charges. Under this directive, the regime charged hundreds of Rohingya with such charges during the reporting period.

Unlike the deposed civilian government in the previous reporting period, the regime did not provide essential services to domestic or foreign trafficking victims nor support civil society organizations that provided such services. Many international NGOs and civil society organizations were persecuted by the regime or could not partner with the regime, causing many programs—including provision of care for trafficking victims—to cease or experience severe resource shortages. Furthermore, after the coup, the regime threatened legal aid networks and detained lawyers who provided *Pro bono* assistance to human rights defenders and other clients—including potential trafficking victims—which forced some networks to shut down. Services for trafficking victims remained limited, including shelters and specialized services such as psychosocial counseling. Shelters operated by the Ministry of Social Welfare, Relief, and Resettlement (MSWRR) experienced staffing gaps, including lack of case managers and experienced social workers, which negatively impacted the care trafficking victims received at the shelters; some shelters closed because of expanding conflict and the pandemic. The MSWRR did not report providing direct assistance to trafficking victims, whereas during the previous reporting period it provided assistance to 331 victims. The government-maintained labor attachés in Malaysia, Republic of Korea, and Thailand whose responsibilities included assisting trafficking victims abroad. The regime did not institute measures to protect children from being used by the military in combat roles nor did it protect children and adults from being recruited and used for forced labor by military and civilian brokers and recruiters. The Central Body for Suppression of Trafficking in Persons (CBTIP)—the anti-trafficking interagency coordinating body—continued to be in charge of the Central Fund for Trafficking Victim Support to coordinate disbursement of funds for victim assistance, but it did not report how much it disbursed. The CBTIP reportedly provided approximately \$5,620 to 10 trafficking victims in fiscal year 2021 (October 1, 2020-September 30, 2021), but it did not provide the details of the assistance provided. The regime did not report if the justice sector supported victim participation in the investigation and prosecution of alleged traffickers. The regime did not report if it continued to implement a court program, which was initiated in 2019, that allowed video testimony for victims. The regime—like the civilian government in the previous reporting period—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.

PREVENTION

The regime decreased efforts to prevent trafficking in comparison to the civilian government. The CBTIP was largely ineffective in its anti-trafficking efforts; it did not report the number of times it met during the reporting period. The regime did not report if it implemented or provided funding for the 2017-2021 national plan of action to combat human trafficking; the plan ended in December 2021, and the regime did not report efforts to develop a new action plan. Overall awareness raising decreased under the regime compared to the previous reporting period. CBTIP reportedly posted 31 anti-trafficking billboards across 17 townships and published articles and other anti-trafficking messages in regime-controlled media. In comparison, the civilian government organized 417 awareness raising campaigns during the previous reporting period. The regime hosted the ninth annual Anti-Trafficking in Persons Day in September 2021, during which the minister for home affairs delivered public remarks. The ATIPD continued to operate nine anti-trafficking hotlines, but it did not report if calls to the hotline resulted in the identification of any victims or criminal investigations; civil society organizations reported in December 2021 that the hotlines did not function in practice. In comparison, during the previous reporting period under the civilian government, ATIPD received 1,326 calls through its hotlines, which led to one trafficking investigation. The national forced labor complaints mechanism, which went into effect in February 2020, did not function during the reporting period, and the regime stopped publishing data about complaints received through its public website. 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 and labor attaches.

The regime did not take 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 ceased all cooperation and coordination with the UN to implement the UN joint action plan on the recruitment and use of children. The regime did not report on any substantive efforts to implement the deposed civilian government's National Action Plan for 2020-2021 on the prevention of death, injury, and sexual harassment of children in armed conflict. 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 the EAO, the Democratic Karen Benevolent Army, in 2021.

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 in other countries. The regime, however, did not provide identity documents or accelerate citizenship verification processes for undocumented Rohingya—as the civilian government did during the previous reporting period—thus exacerbating their vulnerabilities to trafficking. 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, further aggravating economic conditions that may have contributed to individuals pursuing irregular migration and employment channels known to engender forced labor and sex trafficking. Unlike in the previous reporting period, the regime did not investigate cases involving brokers or labor recruiters suspected of illegal recruitment practices under the Overseas Employment Act. The regime outlawed most major labor unions, persecuted labor activists, and took steps to undermine the tripartite labor mechanism. The regime maintained a memorandum of

understanding (MOU) with Thailand to facilitate labor recruitment into the Thai fishing sector through a formalized, government-to-government hiring process. However, official overseas recruitment agencies suspended operations due to the pandemic. 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 created vulnerabilities to trafficking among migrant workers. Moreover, the regime's process to issue work certificates to Thai migrant workers required workers to pay exorbitant fees to brokers and regime representatives to renew their certificates; corruption was reportedly rampant within the program.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers subject adults and children to forced labor and women and children to sex trafficking, both in Burma and abroad. Since 2020, the pandemic continues to cause thousands of economic migrants to return to Burma from abroad, while traditional cross-border migration to Thailand and the PRC decreased because of travel restrictions and border closures, which limited irregular migration. Additionally, the economic devastation and sharply deteriorating political stability caused by the coup created new patterns of economic migration in the country, displaced hundreds of thousands of people, and increased financial hardship for a wide swatch of the country, which created increasing vulnerabilities to trafficking. As of June 2021, more than 114,000 internal migrant workers left Yangon because of the conflict and loss of livelihood and returned to Rakhine State and the Ayeyarwady region. Conflict in Chin, Kayah, and Karen States led civilians to flee to Thailand and India, where they risk exploitation. Burmese economic migrants, including Rohingya, continue to migrate to Thailand and other parts of southeast Asia via irregular channels; these migrants are vulnerable to trafficking because of their irregular or illegal immigration status. Civil society partners reported in 2021 an estimated 500 Vietnamese women in commercial sex in Wa State Special Administrative Region, an area with minimal regime control; some of these women reported indicators of sex trafficking. Similar media reports involving Thai and Malaysian women continue to surface related to the Shwe Ko Ko casino on the Burmese border with Thailand.

Years of violence and ethnic conflict in Rakhine State continues to drive out migration of Rohingya, many of whom are at high risk of sex and labor trafficking—especially via transport 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. Absent oversight and enforcement measures in non-government-controlled areas, often in border zones, women and girls from these border regions and elsewhere in Southeast Asia may be vulnerable to sex trafficking in casinos and Special Economic Zones owned or operated by EAOs

and PRC and Thai companies. Criminals in EAO-controlled areas reportedly force children, especially boys, to serve as drug mules in Shan, Kachin, and Karen States.

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 in 2021 that the military continues to use children in support roles; the formal recruitment and use of children for combat roles remains low. 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, cleaning, cooking, and public infrastructure projects. Since the February 2021 coup, similar tactics have been used across the country, including in majority Bamar regions.

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 identity 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 as well. 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.

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 oil palm and rubber plantations; in bamboo, teak, and rice harvesting; and in riparian fishing. 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 government-supported 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 resulting economic hardships make some communities in Kachin, Shan, and Karen States more vulnerable to trafficking. The government 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, likely including some political prisoners. Eighteen of these camps feature government-managed mining operations. 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.

Traffickers subject children to sex trafficking or to 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.