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INDIA: TIER 2

The Government of India 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, India remained on Tier 2. The government demonstrated increasing efforts by increasing the number of victims identified, investigations completed, and traffickers convicted, as well as its budget for shelter programs for female and child trafficking victims. The government adopted an action plan for children, which included plans to prevent child trafficking and protect child victims. However, the government did not meet the minimum standards in several key areas. Overall victim identification and protection remained inadequate and inconsistent and the government sometimes penalized victims through arrests for crimes committed as a result of being subjected to human trafficking. The government's conviction rate and the number of investigations, prosecutions, and convictions was disproportionately low relative to the scale of trafficking in India, particularly with respect to bonded and forced labor. Despite reports of officials complicit in trafficking, the government did not report investigating such allegations.

RECOMMENDATIONS FOR INDIA

Increase prosecutions and convictions for all forms of trafficking, including forced and bonded labor, and of officials allegedly complicit in trafficking, respecting due process; establish and fully resource anti-human trafficking units (AHTUs) in all districts, including by providing additional dedicated, trained staff and by clarifying the mandate of AHTUs; develop and implement standard operating procedures (SOPs) to harmonize victim identification and referral, and train officials on their use; address jurisdictional issues in the investigation of suspected traffickers and use of testimony when trafficking crimes cross state lines; cease the penalization of trafficking victims; protect victim confidentiality and privacy, including on government-issued identification documents; develop and adopt a national action plan to combat trafficking; improve central and state government implementation of protection programs and compensation schemes to ensure trafficking victims receive benefits, release certificates, and compensation funds; take steps to eliminate all recruitment fees charged to workers; promptly disburse government funding for shelters and develop monitoring mechanisms to ensure quality of care; continue to increase the transparency of government efforts to combat trafficking and provide disaggregated data on efforts to criminally investigate, prosecute, and punish sex and labor trafficking; provide funding

for states to establish fast-track courts that deal with all forms of human trafficking; and provide anti-trafficking training or guidance for diplomatic personnel to prevent their engagement in or facilitation of trafficking crimes, and to provide personnel the tools to identify and assist trafficking victims in their work.

PROSECUTION

The government increased law enforcement efforts, although investigations, prosecutions, and convictions remained low for the scale of human trafficking in India. Section 370 of the Indian Penal Code (IPC) prohibits slavery, servitude, and most forms of sex trafficking and prescribes penalties ranging from seven years to life imprisonment, which are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. Section 370 does not define the "prostitution of children" younger than age 18 as an act of human trafficking in the absence of coercive means, as required by the 2000 UN TIP Protocol, although other statutes criminalize the "prostitution of children." Section 370 criminalizes government officials' involvement in human trafficking, prescribing sentences up to life imprisonment. Bonded labor is specifically prohibited under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, which prescribes sufficiently stringent penalties of up to five years imprisonment, and the Bonded Labor System (Abolition) Act (BLSA), which prescribes penalties of up to three years imprisonment that are not sufficiently stringent. The Child Labor (Prohibition and Regulation) Act, the Juvenile Justice Act, and other provisions of the IPC prohibit many forms of forced labor; however, these provisions were unevenly enforced and their prescribed penalties are not sufficiently stringent, allowing for only fines or short prison sentences in some cases. The government frequently used the Immoral Traffic Prevention Act (ITPA) and various provisions of the IPC, which have sufficiently stringent penalties, to prosecute sex trafficking. During the reporting period, the government drafted new anti-trafficking legislation, sought public comment, and revised the draft; the bill remained under review by the Cabinet, awaiting introduction to parliament at the end of the reporting period.

During the reporting period, the national crimes record bureau (NCRB) issued the 2015 Crime in India Report, the most recent law enforcement data available. In 2015, police investigated 4,203 trafficking cases, including 3,363 cases of sex trafficking, 77 cases of bonded labor, and 763 trafficking cases under article 370 where further case details were not published to clearly categorize the cases between sex or labor trafficking. This was an increase from the investigation of 3,056 trafficking cases in 2014, including 2,604 cases of sex trafficking, 46 cases of bonded labor, and 406 cases under article 370. During 2015, the government completed the prosecutions of 2,387 traffickers, including 2,180 alleged sex traffickers, 16 alleged labor traffickers, and 191 traffickers under article 370, compared with the completion of prosecution of 2,596 alleged traffickers in 2014. In 2015, courts convicted 815 traffickers and acquitted 1,556 individuals with an additional 16 persons discharged. This was an increase from 577 traffickers convicted in 2014, 1,990 persons acquitted, and 29 persons discharged. The acquittal rate decreased from 77 percent in 2014 to 65 percent in 2015. The courts' convictions under the BLSA remained notably low at only four in 2015, although bonded labor offenders may also be convicted under the Prevention of Atrocities Act and those statistics were not reported. The government did not report sentences for convictions. Indian media commented the figures reported by the NCRB did not reflect the large scale of human trafficking crimes in India, as many cases were not registered by police or were settled at the complaint stage. Inconsistent application of the law across jurisdictions, corruption among officials, and a lack of awareness or capacity in some parts of the country resulted in incidents of inaction on trafficking crimes by police and prosecutors.

In December 2015, the Supreme Court directed the government to establish an organized crime investigative agency by December 2016 to investigate human trafficking cases and rescue and rehabilitate victims; the establishment of such an agency was pending the passage of the draft anti-

trafficking bill, although the Ministry of Home Affairs (MHA) had allocated 832 million Indian rupee (INR) (\$12.3 million) to fund the agency. AHTUs continued to serve as the primary investigative force for human trafficking crimes. At the beginning of the reporting period, of the more than 600 districts, 226 had active AHTUs; it is unknown if additional AHTUs were established during the reporting period. State and local governments partnered with NGOs and international organizations to train AHTU officers. Some NGOs reported significant cooperation with AHTUs on investigations and police referral of victims to NGOs for rehabilitation services. However, others noted some AHTUs continued to lack clear mandates, which created confusion with other district-and state-level police units and impeded their ability to proactively investigate cases. Coordination across states remained a significant challenge in cases where the alleged trafficker was located in a different state from the victim jurisdictional barriers prevented confessions from one state being used as evidence in another. NGOs noted some police offices were overburdened, underfunded, and lacked the necessary resources, such as vehicles and computers, to combat trafficking effectively. Some police used AHTU resources and personnel for non-trafficking cases. NGOs noted prosecutors and judges did not have sufficient resources to properly prosecute and adjudicate cases.

Official complicity in human trafficking occurred at varying levels of government. The government did not report comprehensive data on investigations, prosecutions, or convictions of government officials complicit in human trafficking offenses. In May 2016, a member of the Goa legislative assembly was arrested under IPC Section 370 for allegedly purchasing a girl from her mother and raping her; both the legislator and the girl's mother were released on bail, and at the end of the reporting period, the Goa police continued to investigate the case. However, media also reported allegations of a few complicit officials whom the government did not investigate and who remained in government. Some corrupt law enforcement officers reportedly protected suspected traffickers and brothel owners from law enforcement action, received bribes from sex trafficking establishments and sexual services from victims, and tipped off sex and labor traffickers on forthcoming raids. There were no reports of investigations into such cases of complicity.

PROTECTION

The government increased efforts to protect victims. The government did not provide comprehensive information on the number of trafficking victims it identified. However, the NCRB reported the government's identification of at least 8,281 victims in 2015 compared with 6,216 victims in 2014. Of the victims identified in 2015, 5,407 were subjected to sex trafficking, 426 were subjected to bonded labor, and 2,448 were victims identified in relation to a case investigation under article 370 and not further categorized into victims of sex or labor trafficking. A 2009 MHA non-binding directive advises state officials to use SOPs for proactive victim identification and referral to protection services; however, it is unclear if all 29 states employed such SOPs. In 2016, the Ministry of Women and Child Development (MWCD) published SOPs for cases of missing children, mandating the transfer of cases not resolved within four months to an AHTU. MWCD and MHA implemented TrackChild, a system to identify missing children nationally. MWCD continued to support the national Childline hotline, an emergency phone service for children in need of assistance, including child victims of forced labor and sex trafficking. State-and district-level law enforcement continued to carry out operations to rescue and rehabilitate missing and exploited children, some of whom may have been subjected to forced labor or sex trafficking. Some state-and district-level law enforcement actively partnered with NGOs to identify, rescue, and provide rehabilitation services to victims; however, other police officers undertook rescue operations without further investigating or charging suspects. In other cases, police arrested and charged alleged traffickers, but in some cases some of the alleged traffickers posted bail and while awaiting trial purportedly intimidated witnesses and subjected new victims to trafficking.

MWCD continued to fund NGO and government-run shelter and rehabilitation services for women and children through the *Ujjawala* program, specifically for female sex trafficking victims, and the *Swadhar Greh* program, for women in difficult circumstances. The central government's budget for the *Ujjawala* program increased from 180 million INR (\$2.65 million) in 2015-2016 to 240 million INR (\$3.54 million) in 2016-2017 and the *Swadhar Greh* budget increased from 500 million INR (\$7.37 million) to 900 million (\$13.3 million). NGOs continued to report the number of government shelters was insufficient and overcrowding compromised victim rehabilitation. Both government-and NGO-run shelters faced shortages of financial resources and trained personnel, particularly of counselors and medical staff. NGOs relied primarily on donor contributions to provide victim services, although some received government funds. The disbursal of government funding to NGOs was sometimes delayed for multiple years and corruption reportedly drained some resources intended for victim care. Some victims waited months for transfer from temporary "transit homes" to shelters that provide long-term care due to shortages of government funds, shelter staff, or police escorts. Child victims were placed in private shelters or in government juvenile justice homes, some of which may have housed child victims with children accused of crimes. Children largely received the same government services as adults.

In May 2016, the central government revised its program for the rehabilitation of bonded laborers to increase compensation and include female sex trafficking and child forced labor victims to receive compensation and assistance. Government-authorized compensation increased from 20,000 INR (\$295) to 100,000 INR (\$1,470) per adult male victim and 200,000 INR (\$2,950) per adult female or child victim. Authorized-compensation increased to 300,000 INR (\$4,420) for cases of bonded or forced labor involving transgender and disabled persons or sex trafficking of women and children. In contrast to the previous iteration of the program, the central government fully funded the compensation without matching funds from state governments; however, the release of compensation to victims was contingent on administrative and court processes that may take several years to conclude. At the end of the reporting period, it was unclear if information on the revised program had been disseminated to local officials for implementation and if any victims had received the increased compensation. Rescued bonded laborers are entitled to "release certificates" enabling them to receive government-funded services. Many victims received certificates at or soon after their rescue, especially in areas where there was significant coordination between the government and NGOs. Others experienced lengthy delays before obtaining the certificates. During the reporting period, the Tamil Nadu government identified 282 bonded laborers and provided them immediate compensation of 1,000 INR (\$14.75), rice, and household commodities; the government also enrolled 83 former bonded laborers in the revised central government program for compensation and provided four households with land. Other than bonded labor victims, adult male trafficking victims did not receive care or funding from the government. Victims had access to government hospitals for emergency medical services, although long waiting lists made it difficult to obtain surgery and other procedures and NGOs often had to pay for victims' emergency medical treatment.

Foreign victims received the same access to shelters and services as Indian nationals. Government policy on foreign victims dictated their return to their country of origin at the earliest possible time. Authorities detained foreign sex trafficking victims to government aftercare homes until repatriation, sometimes as long as four years, and did not permit them to work in the local economy. The repatriation of foreign victims could take years due to a number of constraints, including some victims' lack of identity documents. NGOs stated children who could not identify their home state or country were unable to be returned to their families or place of origin. The governments of India and Bangladesh reportedly continued to implement their 2015 MOU on human trafficking, which included coordination on repatriation; Bangladeshi victims were typically repatriated within 21 days. To protect both Indian and foreign national victims during trial, prosecutors may request the victim be permitted to testify by video or behind a screen, the

proceeding be closed to the media and public, and irrelevant and potentially harmful questions be barred; it is unknown if these protections were used for trafficking victims during the reporting period.

MHA guidelines to all state governments encouraged police not to charge victims for crimes committed while subjected to human trafficking, including foreign women and child victims for immigration violations. However, in certain cases, the government continued to penalize victims as a result of inconsistent identification and screening efforts, including sex trafficking victims who were prosecuted for prostitution and foreign trafficking victims charged with immigration violations. In 2014, the government began denying travel of trafficking victims and their family members, including by confiscating the passports of Indians who received a visa from a foreign government indicating the person was a trafficking victim in the foreign country or was a family member of a victim. The government revised this policy in 2015 to allow these victims and their families to renew their passports and travel if documentation of the victim's trafficking experience was provided and the Indian government determined the person to be a trafficking victim. However, some victims continued to cite lengthy delays, requests from the government for private or otherwise sensitive information, and inconsistent application of the policy when attempting to renew their passports. In 2016, the government stamped the passports of some recipients of the foreign government's visas, for both trafficking victims and their eligible family members, identifying them as trafficking victims involved in a particular investigation, civil, or criminal case. While the stamp requested authorities permit the visa holder to travel without hindrance, some NGOs familiar with this practice noted it made some victims fearful of reprisal and penalization and served as a deterrent to victims interacting with authorities.

PREVENTION

The government maintained overall efforts to prevent human trafficking. The government did not have a national action plan to combat trafficking; however, in January 2017, MWCD launched the national plan of action for children, which included plans to prevent and protect children from all forms of trafficking and to conduct research and analysis. The central advisory committee to combat trafficking of women and children for commercial sexual exploitation is the government's lead authority on trafficking issues; it is unknown if the committee met during the reporting period. Some state governments had state-level action plans, taskforces, and MOUs to combat trafficking. MWCD and Ministry of Railways increased the number of railway stations hosting NGO staff to provide immediate support to unaccompanied children, who may be missing, abandoned, or runaways and are vulnerable to exploitation, including trafficking. In December 2016, the President launched an NGO campaign to end child labor, child trafficking, and violence against children. The government continued to publicly award civil society members for their work against human trafficking. Some state governments conducted anti-trafficking awareness campaigns or made in-kind contributions to NGO-run campaigns.

The government registered foreign recruitment agencies and Indian migrant workers through the eMigrate online system. MEA provided counseling and other resources to those considering migrant work at five resource centers in Chennai, Gurgaon, Hyderabad, Kochi, and Lucknow; it also administered a welfare fund in 43 Indian missions globally and provided shelter to migrants in distress in several countries in the Middle East. In October 2016, India and Bahrain signed an agreement to increase cooperation on organized crime, including human trafficking, and in January 2017, India and the United Arab Emirates signed a MOU to enhance prevention of human trafficking and the recovery and repatriation of trafficking victims. MEA funded the repatriation of Indian victims abroad through its mandatory insurance reserves, foreign employer security deposit policies, and receipts from overseas consular fees. The government permitted licensed foreign employment recruiters to charge migrant workers up to 20,000 INR (\$295) for recruitment fees and costs; however, observers stated migrant workers were frequently charged more than the

maximum and obtained loans to pay the recruiters, thereby increasing their debt and vulnerability to labor exploitation. The government prohibited the role of unregulated and unregistered sub-agents; however, sub-agents continued to operate widely with impunity. MEA worked with the central bureau of investigation to address cases of recruitment fraud and trafficking allegations and frequently revoked recruitment licenses. Within India, some states regulated aspects of the informal labor sector, including the Jharkhand government, which passed legislation in November 2016 requiring employment placement agencies to be licensed and prohibiting recruitment fees for domestic work.

In November 2016 the government began a process of demonetization, removing 500 and 1,000 INR notes (\$7.37 and \$14.75) from circulation as legal tender. Some NGOs commented sex trafficking was temporarily reduced until other forms of payment were established some NGOs reported a resultant increase in other methods of payment including online payments. Other NGOs stated workers in the informal economy, including brick kiln workers, were at times paid in void currency notes or were not paid at all due to cash shortages both situations subsequently increased the workers' vulnerability to debt bondage and forced labor. In February 2017, the national human rights commission held a two-day seminar on the prevalence of bonded labor and challenges to its elimination. The government provided for the reimbursement of 450,000 INR (\$6,640) per district for a census of bonded labor in its May 2016 revision of the bonded laborers rehabilitation program. Despite India being a destination for child sex tourism, the government did not report measures to reduce child sex tourism. The government also did not report efforts to reduce the demand for commercial sex acts or forced labor. The Indian military conducted training on trafficking for its personnel before deployment on peacekeeping or similar missions. The government did not provide information about any anti-trafficking training provided to its diplomatic personnel.

TRAFFICKING PROFILE

As reported over the last five years, India is a source, destination, and transit country for men, women, and children subjected to forced labor and sex trafficking. Forced labor constitutes India's largest trafficking problem; men, women, and children in debt bondage sometimes inherited from previous generations are forced to work in brick kilns, rice mills, agriculture, and embroidery factories. Most of India's trafficking problem is internal, and those from the most disadvantaged social strata lowest caste *Dalits*, members of tribal communities, religious minorities, and women and girls from excluded groups are most vulnerable. Within India, some are subjected to forced labor in sectors such as construction, steel, and textile industries, wire manufacturing for underground cables, biscuit factories, pickling, floriculture, fish farms, and ship breaking. Thousands of unregulated work placement agencies reportedly lure adults and children under false promises of employment into sex trafficking or forced labor, including domestic servitude.

In addition to bonded labor, some children are subjected to forced labor as factory and agricultural workers, carpet weavers, domestic servants, and beggars. Begging ringleaders sometimes maim children to earn more money. Some NGOs and media report girls are sold and forced to conceive and deliver babies for sale. The "Provident Funds" or "*Sumangali*" scheme in Tamil Nadu, in which employers pay young women a lump sum, used for education or a dowry, at the end of multi-year labor contracts may amount to conditions of forced labor. Separatist groups, such as the Maoists in Bihar, Chhattisgarh, Jharkhand, Maharashtra, West Bengal, and Odisha, force some children, reportedly as young as 6 years old, to act as spies and couriers, plant improvised explosive devices, and fight against the government.

Experts estimate millions of women and children are victims of sex trafficking in India. Traffickers use false promises of employment or arrange sham marriages in India or Gulf States and subject women and girls to sex trafficking. In addition to traditional red light districts, women

and children increasingly endure sex trafficking in small hotels, vehicles, huts, and private residences. Traffickers increasingly use websites, mobile applications, and online money transfers to facilitate commercial sex. Children continue to be subjected to sex trafficking in religious pilgrimage centers and by foreign travelers in tourist destinations. Many women and girls, predominately from Nepal and Bangladesh, and from Europe, Central Asia, Africa, and Asia, including minority populations from Burma, are subjected to sex trafficking in India. Prime destinations for both Indian and foreign female trafficking victims include Kolkata, Mumbai, Delhi, Gujarat, Hyderabad, and along the India-Nepal border; Nepali women and girls are increasingly subjected to sex trafficking in Assam, and other cities such as Nagpur and Pune. Some corrupt law enforcement officers protect suspected traffickers and brothel owners from law enforcement efforts, take bribes from sex trafficking establishments and sexual services from victims, and tip off sex and labor traffickers to impede rescue efforts.

Some Indian migrants who willingly seek employment in construction, domestic service, and other low-skilled sectors in the Middle East and, to a lesser extent, other regions, face forced labor, often following recruitment fraud and exorbitant recruitment fees charged by labor brokers. Some Bangladeshi migrants are subjected to forced labor in India through recruitment fraud and debt bondage. Some Nepali, Bangladeshi, and Afghan women and girls are subjected to both labor and sex trafficking in major Indian cities. Following the 2015 Nepal earthquakes, Nepali women who transit through India are increasingly subjected to trafficking in the Middle East and Africa. Some boys from Bihar and Uttar Pradesh are subjected to forced labor in embroidery factories in Nepal. Burmese Rohingya, Sri Lankan Tamil, and other refugee populations continue to be vulnerable to forced labor in India.

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