



2016 Trafficking in Persons Report - Kenya

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KENYA: Tier 2

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. Girls and boys are also exploited in prostitution throughout Kenya, including in sex tourism on the coast; at times, their exploitation is facilitated by women in prostitution, "beach boys," or family members. Children are also exploited in sex trafficking by people working in *khat* (a mild narcotic) cultivation areas, near Nyanza's gold mines, along the coast by truck drivers transporting stones from quarries, and by fishermen on Lake Victoria. Kenyans voluntarily migrate to other East African nations, South Sudan, Angola, Europe, the United States, and the Middle East – particularly Saudi Arabia, Lebanon, Kuwait, Qatar, United Arab Emirates (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 internally displaced persons, particularly those who live close to a major highway or local trading center, are most vulnerable to trafficking. 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 that recruit Rwandan 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.

Children from East Africa and South Sudan are subjected to forced labor and sex trafficking in Kenya; Kenyan children may endure similar exploitation in these countries. Kenya's largest refugee camp complex, Dadaab, hosts hundreds of thousands of refugees and asylum-seekers, and the security situation limits some humanitarian access, assistance, and protective services. A 2012 survey by a local NGO found fear of recruitment into terrorist organization al-Shabaab, especially of children, was a concern of a small percentage of respondents. Some children in Kenya-based refugee camps may endure sex trafficking, while others are taken from the camps and forced to work on tobacco farms. Trucks transporting goods from Kenya to Somalia returned to Kenya with girls and women subsequently placed into brothels in Nairobi or Mombasa. Indian women recruited to work in mujra dance clubs in Nairobi face debt bondage, which they are forced to pay off by dancing and performing sex acts.

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 Counter-Trafficking in Persons Advisory Committee (advisory committee) met regularly and began developing a data collection mechanism to improve tracking of anti-trafficking efforts across Kenya's 47 counties. The advisory committee established and implemented its annual work plan; its accomplishments in 2015 included developing standard operating procedures for prosecutors and training approximately 50 trainers from key anti-trafficking officials. The government reported substantially increased trafficking prosecutions and convictions. In 2015, the government identified 153 child trafficking victims in only three of Kenya's 47 counties. The government allocated seven million Kenyan shillings (approximately \$70,000) to the victim assistance fund for the first time during the reporting period. The government developed national referral mechanism (NRM) guidelines to assist stakeholders in referring potential victims of trafficking to services. The Ministry of Labor (MOL) developed new policies

for Kenyans seeking employment opportunities abroad to ensure their work contracts comply with specific standards set within the ministry; however, the policies were not implemented by the end of the reporting period. The government did not provide adequate protective services to adult victims subjected to trafficking within the country or identified in situations of forced labor or prostitution overseas. In September 2015, an MOL taskforce provided a report to the cabinet secretary concluding that unskilled workers were the most vulnerable to exploitation and made recommendations for ways to address this issue as well as ways to regulate recruitment agencies, especially unregistered ones. Government funding and resource limitations remained a concern.

RECOMMENDATIONS FOR KENYA:

Increase protective services available to adult trafficking victims, particularly those identified in and returned from the Middle East; implement a formal process for law enforcement officials to refer trafficking victims for assistance, including adult trafficking victims and repatriated Kenyans; ensure data collection is obtained from all 47 counties for anti-trafficking efforts, including victim assistance; vigorously investigate and prosecute trafficking offenses and convict and punish trafficking offenders, including government officials suspected of complicity in human trafficking; provide additional training to all levels of the government, particularly front-line responders, on identifying and handling trafficking crimes; allocate adequate resources to police, labor, and social services staff to ensure implementation of the prosecution and protection mandates within the Counter-Trafficking in Persons Act of 2010; allocate sufficient resources for anti-trafficking efforts throughout the country; increase oversight of and accountability for overseas recruitment agencies; establish the board of trustees to oversee the National Assistance Trust Fund for Victims of Trafficking; utilize 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 increased law enforcement efforts. Section 1 of the Counter-Trafficking in Persons Act of 2010, which came into force in September 2012, prohibits all forms of trafficking and section 3(5) prescribes a sufficiently stringent minimum punishment of 15 years' imprisonment, which is commensurate with that of other serious crimes, such as rape. Sections 14, 15, and 17 of the Sexual Offenses Act of 2006 prohibit the facilitation of child sex tourism, child prostitution, and forced prostitution, and prescribe penalties of six to 20 years' imprisonment – penalties that are sufficiently stringent and commensurate with those prescribed for other serious offenses. Prosecutors, however, rarely pursued cases under these provisions of the act.

The government reported prosecution of 762 suspected traffickers and 456 convictions during the reporting period, in comparison to 65 prosecutions and 33 convictions the previous reporting period. Eighty-one cases ended in an acquittal. For the first time, the government received law enforcement data from all 47 counties, partially contributing to the significant increase in reported prosecutions and convictions. The government did not report any investigations, prosecutions, or convictions of government employees complicit in human trafficking; however, a federal district court in California issued a default judgment awarding damages to a domestic worker who sued her former employer, a Kenyan consular officer, for exploitation. Corruption at all levels of the government remained a serious concern. During the reporting period, the government cooperated with foreign governments in the investigation of potential trafficking crimes. In September 2015, the advisory committee provided anti-trafficking training to 30 senior Directorate of Criminal Investigation officials. The advisory committee developed standard operating procedures, including on responding to and prosecuting trafficking cases, and mandatory training requirements. During the reporting period, the government trained an unspecified number of officials on anti-trafficking. Nonetheless, training provided by the government during the reporting period remained insufficient in light of Kenya's considerable human trafficking problem.

PROTECTION

The government made inconsistent efforts to protect child trafficking victims, and efforts to identify and assist adult victims remained weak. Authorities identified 153 internal child trafficking victims (44 for forced labor, 11 for sex trafficking, the remainder unidentified) and did not report how many adult victims it identified. While the number of children identified decreased compared to 658 the previous reporting period, it was unclear whether this reflected the government's reporting of data from only three of 47 counties.

Immigration officials continued to arrest, without screening, potential trafficking victims for traveling with forged documents. Authorities sometimes identified victims at subsequent court hearings, when the detainees provided additional information about their status. Immigration officials often conflated smuggling with trafficking; authorities recognized the need to train officials on identification of trafficking victims.

The government and advisory committee developed and implemented NRM guidelines to assist all relevant stakeholders, including law enforcement and social service officials, in referring potential victims of trafficking to appropriate services. Department of Child Services (DCS) children's officers continued to participate in police investigations, identify child trafficking victims, and provide them with counseling and *ad hoc* 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, and abuse; the hotline's main call center was located in a government-owned building in Nairobi. During the reporting period, the hotline received 1,195 reports of child trafficking; however, the government did not report disaggregating the statistics between labor exploitation and sex trafficking. DCS continued to operate eight drop-in referral centers in Eldoret, Garissa, Malindi, Siaya, Kakamega, Nairobi, Nakuru, and Mombasa that provided counseling, guidance, and referrals to other centers for an unknown number of victimized children, including trafficking victims, who could not return to their homes. DCS also funded and operated four rescue centers in Garissa, Malindi, Thika, and Machakos where child victims of violence, including trafficking victims, could stay for three months before returning home or being referred to NGO facilities. The government reported its centers provided assistance to all child victims identified during the reporting period.

The government made efforts to implement the 2014 Victim Protection Act, which aimed to improve support provided to all trafficking victims, including accommodation, food, medical treatment, psycho-social care, police protection, and the establishment of a fund to assist victims. During the reporting period, the government allocated seven million Kenyan shillings (\$70,000) to the victim assistance fund for the first time. The government provided minimal services to adult trafficking victims identified within the country or abroad. Kenya's diplomatic missions made limited efforts to assist Kenyan trafficking victims, primarily by facilitating contact between victims and their families. While the MOL initiated efforts to send labor attaches to Kenyan missions abroad, especially in the Middle East, it did not complete this process by the end of the reporting period due to resource limitations. The Ministry of Foreign Affairs (MFA) began developing a system to assist Kenyan trafficking victims abroad; however, it was not finalized by the end of the reporting period. The government continued to provide *ad hoc* access to medical aid, shelter, counseling, or financial assistance to repatriated adult trafficking victims. The MFA maintained the assignment of one additional immigration officer to its embassies in the UAE and Saudi Arabia to expand provision of consular services to assist trafficking victims.

The government reported it 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. There were no reports the government detained, fined, or jailed victims for unlawful acts committed as a direct result of being subjected to trafficking. The Department of Immigration implemented the Kenyan Immigration Border Procedure Manual (KIBPM), which included guidelines and procedures for immigration officials to identify traffickers and victims, mandatory actions for officials once a suspected case of trafficking is identified, and a procedure for conducting interviews with victims to gather evidence on recruitment and exploitation of the victim. The government did not report whether the KIBPM was provided to all officials, including police officers. 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 increased efforts to prevent human trafficking. The advisory committee, the governing body for anti-trafficking efforts, met regularly during the reporting period and implemented Kenya's national action plan for 2015-2020. Additionally, the advisory committee is working with partners to develop a database to share relevant ministry information across all 47 counties; in the interim, information is shared through DCS. The advisory committee through the represented offices and DCS disseminated awareness materials and case studies in efforts to educate local communities on potential indicators of trafficking.

The MOL developed new policies for Kenyans seeking employment opportunities abroad to ensure their work contracts comply with specific standards set within the ministry; however, the policies were not implemented by the end of the reporting period due to a lack of capacity within the ministry. In September 2015, MOL's taskforce to review the existing framework for the management and regulation of recruitment agencies produced a report on labor migration issues. MOL continued requiring agencies sourcing jobs abroad in the hospitality and service sectors to obtain MOL approval of all contracts prior to prospective migrants signing the contracts and departing for employment. The contracts, if a labor ministry officer deems the contract credible, are required to be signed before a labor ministry officer and applicants must register with the Kenyan embassy in the host country.

The government made efforts to reduce the demand for commercial sex acts, but did not report efforts to reduce demand for forced labor. The MFA provided anti-trafficking training for its diplomatic personnel and vetted employment contracts between Kenyan foreign service officers posted abroad and their domestic workers to ensure that they were legally sufficient and provided for the interests of the domestic worker. The government's training for troops deployed overseas on international peacekeeping missions included a module on human rights, addressing human trafficking.

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