

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	435
Land:	Kina
Kilde:	US Department of State
Titel:	Trafficking in Persons Report 2016 - China
Udgivet:	30. juni 2016
Optaget på baggrundsmaterialet:	7. februar 2017



Trafficking in Persons Report 2016 - Country Narratives - China

CHINA: Tier 2 Watch List

The People's Republic of China (China or PRC) is a source, destination, and transit country for men, women, and children subjected to forced labor and sex trafficking. China's internal migrant population, estimated to exceed 294 million people, is vulnerable to trafficking with Chinese men, women, and children subjected to forced labor in coal mines and factories, some of which operate illegally and take advantage of lax government enforcement. Forced begging by adults and children occurs throughout China. There are reports of traffickers targeting children whose parents have migrated to the cities and left them with relatives and persons with developmental disabilities for forced labor and forced begging. International media and the ILO report children in some work-study programs supported by local governments and schools are forced to work in factories. African and Asian men are exploited on Chinese vessels, working under conditions indicative of forced labor.

State-sponsored forced labor continues to be an area of significant concern in China. "Re-education through labor" (RTL) was a systematic form of forced labor in China for decades. The PRC government reportedly profited from the forced labor of individuals subjected to administrative (extra-judicial) detention, often with no remuneration, for up to four years. In 2013, the PRC's National People's Congress ratified a decision to abolish RTL. The government closed most RTL facilities by October 2015; however, the government converted some RTL facilities into state-sponsored drug rehabilitation facilities or detention centers. Reports of the government's ongoing use of forced labor in government rehabilitation facilities and detention centers continued. Religious and political activists held in legal education facilities reported that at times forced labor occurred in pretrial detention and outside of penal sentences. In Aksu prefecture, the government forced ethnic Uighurs to perform farm labor as a way of keeping them from getting involved in "illegal activities." The government previously detained some women arrested for prostitution for up to two years without due process in "custody and education" centers where they were subjected to forced labor, but reported that it had changed its official policy in 2015 to limit the time women arrested for prostitution could be held in detention facilities to 15 days. However, government officials acknowledged that isolated instances of forced labor may still occur in detention facilities or prisons, even if not officially condoned by the PRC.

Chinese women and girls are subjected to sex trafficking within China; traffickers typically recruit them from rural areas and take them to urban centers. Well-organized criminal syndicates and local gangs play key roles in the trafficking of Chinese women and girls in China, recruiting victims with fraudulent employment opportunities and subsequently forcing them into prostitution.

Chinese men, women, and children are also subjected to forced labor and sex trafficking in other countries. Traffickers recruit girls and young women, often from rural areas of China, using a combination of fraudulent job offers and coercion by imposing large travel fees, confiscating passports, confining, or physically and financially threatening victims to compel their engagement in prostitution. Chinese men and women forced to labor in restaurants, shops, agriculture, and factories in overseas Chinese communities. They are promised jobs abroad and confined to private homes upon arrival overseas, held in conditions indicative of forced labor, and compelled to conduct telephone scams. Chinese men in Africa and South America experience abuse at construction sites, in coal and copper mines, and in other extractive industries where they face conditions indicative of forced labor such as withholding of passports, restrictions on movement, non-payment of wages, and physical abuse. Chinese women and girls are subjected to forced prostitution throughout the world, including in major cities, construction sites, remote mining and logging camps, and areas with high concentrations of Chinese migrant workers.

Women and children from neighboring Asian countries, Africa, and the Americas are subjected to forced labor and sex trafficking in China. North Korean women are subjected to forced prostitution, forced marriage, and forced labor in agriculture, domestic service, and factories. African and South American women are promised legitimate jobs in China and forced into prostitution upon arrival. The Chinese government's birth limitation policy and a cultural preference for sons create a skewed sex ratio of 117 boys to 100 girls in China, which observers assert increases the demand for prostitution and for foreign women as brides for Chinese men – both of which may be procured by force or coercion. Women and girls are kidnapped or recruited through marriage brokers and transported to China, where some are subjected to prostitution or forced labor.

The Government of the People's Republic of China (PRC) does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite these measures, the government did not demonstrate overall increasing anti-trafficking efforts compared to the previous reporting period; therefore, China is placed on Tier 2 Watch List for a third consecutive year. Per the Trafficking Victims Protection Act, China was granted a waiver from an otherwise required downgrade to Tier 3 because its government has devoted sufficient resources to a written plan that, if implemented, would constitute making significant efforts to meet the minimum standards. Reports continued of the government's complicity in forced labor, including through state-sponsored forced labor policies. Despite the 2013 policy announcement abolishing the RTL program, unverifiable reports continued of forced labor in government detention centers outside the penal process. Overseas human rights organizations and media report local officials in Xinjiang coerced Uighur men and women to participate in forced labor in and outside of the province. The government's criminal law does not fully criminalize all forms of trafficking such as the facilitation of prostitution involving children younger than the age of 18 and defines several things as human trafficking that are not consistent with international law. The government handled most cases with indicators of forced labor as administrative issues and initiated prosecutions of the traffickers in relatively few cases. The government reported cooperating with other countries to repatriate foreign trafficking victims and improve anti-trafficking coordination efforts. Although authorities asserted all women arrested for prostitution are now screened for indicators of trafficking, it remained unclear if this occurred in practice during the reporting period, and some may have been punished for crimes committed as a direct result of being subjected to trafficking. Providing law enforcement data, the government reported substantial law enforcement efforts, convicting at least 714 traffickers, although it is unclear how many of these victims meet the international definition of human trafficking. The government amended its criminal code to address

some of the gaps in the definition of trafficking-related crimes and approved a national victim identification system. The government took steps to implement its national action plan against trafficking in persons, which addressed efforts to amend the anti-trafficking law, improve interagency and international cooperation, boost anti-trafficking investigations, develop anti-trafficking awareness campaigns, and enhance victim protection services. The written plan directed all levels of government to allocate funding to implement the activities in the plan. In addition to local government funding of local anti-trafficking operations, the Ministry of Public Security (MPS) supplemented 50 million RMB (\$7.7 million) for a special anti-trafficking fund for local law enforcement and 5 million RMB (\$774,593) to central government anti-trafficking campaigns, some of which focuses on activities inconsistent with international legal definitions of human trafficking.

RECOMMENDATIONS FOR CHINA:

End forced labor in government facilities and by government officials outside of the penal process; vigorously investigate, prosecute, and impose prison sentences on perpetrators of trafficking crimes, including government officials who facilitate or are complicit in trafficking; update the legal framework to criminalize fully all forms of trafficking, including the facilitation of prostitution involving children younger than the age of 18; expand efforts to institute proactive, formal procedures to identify systematically trafficking victims—including labor trafficking victims, Chinese victims abroad, and victims among vulnerable groups, such as migrant workers and foreign and local women and children arrested for prostitution; improve procedures to prevent victims from being punished for acts committed as a direct result of being subjected to trafficking; cease detention, punishment, and forcible repatriation of trafficking victims; expand victim protection services, including comprehensive counseling, medical, reintegration, and other rehabilitative assistance for male and female victims of sex and labor trafficking; provide legal alternatives to foreign victims' removal to countries where they would face hardship or retribution; increase the transparency of government efforts to combat trafficking and provide disaggregated data on efforts to investigate and prosecute sex and labor trafficking of adults and children; and provide data on the number of criminal investigations and prosecutions of cases identified as involving forced labor, including recruiters and employers who facilitate forced labor and debt bondage, both within China and abroad.

PROSECUTION

The government reported substantial law enforcement efforts to address suspected trafficking crimes during the reporting period, as demonstrated through improved reporting on such efforts; however, lack of comparable data from 2014 and the inclusion of crimes outside international law's definitions of human trafficking inhibit an assessment of appreciable progress from the previous reporting period. The criminal code prohibits many forms of trafficking and prescribes harsh penalties, although it differs significantly from international law on human trafficking. Article 240 prohibits "abducting and trafficking of women or children," which is defined as a series of acts (e.g., abduction, kidnapping, purchasing, selling, sending, receiving) for the purpose of selling the women and children. That article does not apply to men; and the acts that comprise the crime are not tied to a purpose of exploitation, such as forced labor or forced prostitution, as international law defines trafficking in persons. Crimes under article 240 are punishable by no less than 10 years' imprisonment, with life imprisonment or the death penalty possible in particularly serious circumstances. Article 241 was amended during the reporting period to criminalize the purchase of

women or children, although without the purpose of exploitation as international law defines human trafficking. Article 358 prohibits organizing prostitution and forced prostitution, which is punishable by five to 10 years' imprisonment or, with aggravated circumstances, up to life imprisonment. Article 359 makes it a crime to harbor prostitution or seduce or introduce others into prostitution and is subject to a maximum of five years' sentence and payment of a fine; for the seduction of girls younger than the age of 14 into prostitution, the sentence is five years or more and a fine. It remains unclear whether Chinese law defines all children younger than age 18 who are induced to engage in prostitution as trafficking victims regardless of whether force, fraud, or coercion is involved. Article 244 makes it a crime to force a person "to work by violence, threat or restriction of personal freedom" and to recruit, transport or otherwise assist in forcing others to labor, punishable by three to 10 years' imprisonment and a fine. Prescribed penalties under all these statutes are sufficiently stringent and commensurate with those prescribed for other serious crimes, including rape.

Unlike in the previous year, the government provided some law enforcement data for this reporting period. Due to government's tendency to conflate human smuggling, child abduction, prostitution, forced marriage, and fraudulent adoptions with trafficking offenses, the exact number of human trafficking cases—as defined by international law—the government investigated, prosecuted, and convicted was unclear. MPS reported its investigation of 21 suspected cases of forced labor in 2015, but did not report the number of sex trafficking investigations. The government arrested 1,932 alleged traffickers under Chinese law in 2015, compared with 194 publicly reported in 2014. Government prosecutors reported they commenced 284 prosecutions for sex trafficking and forced labor involving 486 suspected traffickers and two prosecutions for forced begging involving three suspected traffickers. The government reported convicting 642 sex traffickers and 72 labor traffickers, compared with 35 total trafficking convictions publicly reported in 2014. The statistics the government provided include data on other crimes, including the abduction and sale of women and children, for which the nexus to human trafficking was unclear, as it remained unknown if the purpose of such acts included exploitation through sex trafficking or forced labor as defined in international law. It reported investigating 637 cases involving women and 756 cases involving children abducted and sold, 670 prosecutions involving 1,195 suspects, and the conviction of 1,362 perpetrators for the abduction and sale of women and children. The government handled most cases with indicators of forced labor as administrative issues through the Ministry of Human Resources and Social Services and seldom initiated prosecutions of such cases under anti-trafficking statutes. The government made efforts to cooperate with foreign governments to investigate allegations of trafficking and continued to cooperate with neighboring governments in sharing intelligence and collecting evidence on people involved in arranging marriages between Chinese citizens and foreign brides; foreign brides were reportedly sold by their families or abducted, and some became trafficking victims. The government did not provide detailed information on its efforts to train law enforcement officials, prosecutors, or judges on trafficking. However, when PRC authorities participated in trainings with other countries and international organizations, the PRC provided lodging, transportation and meals for some participants. The government arrested and convicted a former member of the national legislature for organizing prostitution, a crime that may have had links to trafficking. The prosecution of several policemen connected to the same case remained pending.

PROTECTION

The government did not undertake adequate efforts to protect victims and did not directly provide data on the number of victims it identified or assisted, or the services provided to victims. Media reported law enforcement and judicial officials continued to expel potential foreign trafficking victims. The government arrested significant numbers of women in prostitution during police raids; some of these women were detained in detention centers. While the government reported it mandated that all women arrested for prostitution be screened for indicators of trafficking, it was unclear if these women were screened or, if screened, whether victims were referred to shelters or other care facilities. The office to combat trafficking in persons developed and approved trafficking victim identification procedures and disseminated them to law enforcement officials throughout the country. The government acknowledged that victim identification procedures varied according to local officials' training and understanding of trafficking; this variation increased the risk that unidentified trafficking victims were detained and deported following arrest for unlawful acts committed as a direct result of being subjected to human trafficking.

The government reported at least 10 shelters specifically dedicated to care for trafficking victims, as well as more than 2,300 multi-purpose shelters nationwide that could accommodate trafficking victims. However, the government did not provide victim protection data to ascertain the extent to which trafficking victims in fact accessed these shelters. Rehabilitation services for trafficking victims, especially mental health services, were inadequate. Foreign embassies reportedly provided shelter or protective services to victims. The impact or effectiveness of the government's previously reported victim assistance—including border liaison offices, victim funds, hotlines, and government-to-government agreements to assist victims—remained unclear. The government reported trafficking victims who faced hardships in their home country could receive vocational skills training, vocational guidance, and employment services; it remained unclear if any victim benefited from this provision. Some women in forced marriages who may also have been victims of trafficking received residence permits. Chinese law provides victims the right to request criminal prosecution and claim financial compensation by filing civil lawsuits against their traffickers; it remained unclear if any victim benefited from this provision. The government does not provide any temporary or permanent residence visas to foreign trafficking victims as an incentive to cooperate in trafficking investigations or prosecutions.

The government maintained it does not forcibly repatriate any trafficking victim. Prior to this reporting period, credible reports stated that Chinese authorities forcibly repatriated some North Korean refugees by treating them as illegal economic migrants, despite reports some North Korean refugees were trafficking victims. The government detained and deported such refugees to North Korea, where they may have faced severe punishment, even death, including in North Korean forced labor camps. However, there have been no reports of the forced repatriation of North Koreans during this reporting period.

PREVENTION

The government sustained efforts to prevent trafficking. The government funded a movie, contributed to a television show, and utilized traditional and social media to increase general understanding of the issue. The MPS used its official microblog to raise awareness of trafficking and receive information from the public regarding suspected trafficking cases. During peak travel periods, the All-China Women's Federation, and MPS continued national anti-trafficking publicity campaigns at train and bus stations, and on national radio—mainly targeting migrant workers. MPS continued to coordinate the anti-trafficking interagency process and lead interagency efforts to

implement the National Action Plan on Combatting Human Trafficking. In 2015, MPS invested more than 5 million RMB (\$770,179) on handling major cases, conferences, trainings, information system construction, international law enforcement cooperation, and publicity, as well as 50 million RMB (\$7.7 million) for a special anti-trafficking fund for local law enforcement. Academics and experts noted the gender imbalance due to the previous one child policy could contribute to crimes of human trafficking in China. The government's easing of the birth limitation policy may affect future demands for prostitution and foreign women as brides for Chinese men. In response to the large number of cases of forced marriage, the government made efforts to further scrutinize visa applications of foreign women with indicators of vulnerability to trafficking. The government also highly publicized the amendment to the criminal code that criminalized the purchase of women and children and its penalties in an attempt to deter potential buyers.

Several government policies continued to facilitate human trafficking. While the law prohibits employers from withholding property from an employee as a security deposit, there were reports that such practices continued, thus making certain workers vulnerable to forced labor. The government hukou (household registration) system continued to contribute to the vulnerability of internal migrants to trafficking. During the reporting period, the government required local governments to provide and pay for limited social services to newly registered residents, which may decrease the vulnerability of some migrant workers previously unable to access these services. However, hukou requirements did not change, and the benefits of the new policy remained limited given the size of the unregistered population, estimated at 294 million. The government reported making efforts to reduce the demand for forced labor by highly publicizing convictions for labor trafficking. The government did attempt to reduce the demand for commercial sex through its crackdown on corruption and high profile arrests of men soliciting or procuring prostitution. Despite reports Chinese nationals engaged in child sex tourism, the government made no efforts to prevent its citizens from engaging in child sex tourism while abroad. The government provided anti-trafficking training to its troops prior to their deployment abroad as part of international peacekeeping missions and to its diplomatic personnel.