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2021 Trafficking in Persons Report: Sri Lanka

SRI LANKA: Tier 2 Watch List

The Government of Sri Lanka does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. These efforts included increasing prosecutions and investigating allegations of sexual exploitation of children at a state-run orphanage. The government also continued to work with international organizations on anti-trafficking training and awareness raising. However, the government did not demonstrate overall increasing efforts compared to the previous reporting period, even considering the impact of the COVID-19 pandemic on its anti-trafficking capacity. The government did not report efforts to investigate some allegations of official complicity, including those from previous years. The government achieved fewer convictions and its efforts to identify Sri Lankan forced labor victims abroad remained inadequate. Moreover, the Sri Lankan Bureau of Foreign Employment (SLBFE) continued to handle some migrant labor complaints administratively, many of which may have had indicators of forced labor, instead of referring these cases to police for criminal investigation for potential trafficking crimes. Because the government has devoted sufficient resources to a written plan that, if implemented, would constitute significant efforts to meet the minimum standards, Sri Lanka was granted a waiver per the Trafficking Victims Protection Act from an otherwise required downgrade to Tier 3. Therefore Sri Lanka remain on Tier 2 Watch List for the third consecutive year.

PRIORITIZED RECOMMENDATIONS:

Improve efforts to vigorously investigate and prosecute suspected traffickers, including isolated reports of officials allegedly complicit in trafficking, with fair trials and convict and sentence traffickers to adequate penalties involving significant prison terms. • Increase efforts to proactively identify trafficking victims, including among undocumented migrant workers abroad, women in commercial sex, and Chinese nationals working on Chinese government-affiliated projects. • Ensure victims are not penalized for unlawful acts traffickers compelled them to commit, including through increased training of law enforcement and the judiciary. • Provide support to victims who participate in trials against their traffickers, including the cost of lodging and travel expenses during trials. • Use Section 360(C) of the penal code to prosecute child sex traffickers. • Improve victim services, including their quality and accessibility, and ensure shelter and specialized services are available for all identified victims, including men and victims exploited abroad. • Increase regular monitoring of licensed recruitment agencies and refer allegations of criminal violations to law enforcement. • Vigorously improve efforts to address child sex tourism, including proactive identification of victims, engagement with hotels and tourism operators, and investigation of establishments and intermediaries who allegedly facilitate the crime. • Eliminate all recruitment fees charged by labor recruiters to workers. • Expand the foreign employment bureau’s mandate to include regulation of sub-agents. • Promote safe and legal migration, ensure migration regulations do not discriminate based on gender, and increase awareness among prospective migrants of the steps necessary for safe migration and resources available abroad. • Through the anti-trafficking task force, continue to institutionalize sustained government coordination efforts.

PROSECUTION

The government maintained anti-trafficking law enforcement efforts. Section 360(C) of the penal code criminalized sex trafficking and labor trafficking and prescribed penalties of two to 20 years’ imprisonment and a fine, which were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious offenses, such as rape. The government also used other sections of the penal code to investigate and prosecute sex trafficking crimes. Section 360(B) criminalized offenses relating to the sexual exploitation of children and prescribed penalties of five to 20 years’ imprisonment and a fine. Additionally, Section 360(A) criminalized offenses relating to procurement and prescribed penalties of two to 10 years’ imprisonment, significantly lower than those available under the trafficking provision.

The Criminal Investigation Department’s (CID) anti-trafficking unit and police initiated 14 trafficking investigations (six sex trafficking and eight forced labor), compared with 10 investigations during the previous reporting period. The government initiated 27 prosecutions (16 under procurement, two under trafficking, and nine under sexual exploitation of children statutes), a decrease from 46 prosecutions (35 under the procurement statute) during the previous reporting period. The government secured the conviction of three traffickers under the procurement statute 360(A) and acquitted the defendants in three cases compared with the conviction of 10 traffickers (seven for

procurement and three for trafficking) in the previous reporting period. Courts sentenced two traffickers to two years’ imprisonment and suspended one trafficker’s sentence. By issuing lenient sentences to convicted traffickers, courts created potential safety problems for trafficking victims and weakened deterrence. The government noted investigations stalled from mid-March to May 2020 due to the pandemic-related lockdown, and COVID-19 infections of key personnel also limited the government’s law enforcement response. All new investigations remained ongoing at the close of the reporting period. Due to the pandemic, court hearings were delayed until the latter part of 2020 and, once resumed, the government indicated it encountered challenges securing the attendance of witnesses. Of the reported trafficking investigations initiated in the previous reporting period, CID referred one sex trafficking case to the attorney general’s department (AGD) for prosecution while the other three cases remained under investigation. SLBFE referred three forced labor cases from the previous reporting period to the AGD while two remained under investigation. The AGD reported 147 trafficking cases remained pending prosecution (112 under procurement, 29 under trafficking, and six under sexual exploitation of children statutes) at the close of the reporting period. Additionally, the National Child Protection Agency (NCPA) referred 82 cases of possible child sexual exploitation to police. The police dismissed 28 allegations with the remaining 54 investigations ongoing at the end of the reporting period.

Prosecutors’ reliance on victim testimony, difficulty securing evidence from victims, and judges’ issuance of suspended sentences contributed to both the government’s general reliance on procurement charges and the lenient sentences applied under Section 360(C). Prosecutors could pursue procurement cases without the cooperation of the victim. Due to the lack of financial support and requirement that victim-witnesses travel to the courts, many trafficking victims cannot afford to participate in the law enforcement process, including to provide testimony. Additionally, lengthy trials—a problem endemic throughout the criminal justice system, as well as stigma faced by victims further deters many from participating in trials. As in previous reporting periods, Sri Lankan diplomatic missions did not refer any witness and victim affidavits from abroad to CID for investigation. The government allocated 6.1 million Sri Lankan Rupees (LKR) (\$32,970) to the SLBFE’s anti-trafficking unit, a decrease from 8.6 million LKR (\$46,490) allocated to the unit in the previous year. Police continued to conduct anti-trafficking training for new recruits. NCPA in collaboration with an NGO and academic institution, developed and distributed a tri-lingual training manual for law enforcement officers and child protection officers on child trafficking. In partnership with international organizations, other government agencies continued to conduct anti-trafficking training; however, due to the pandemic, some trainings were delayed or conducted virtually.

Concerns about official complicity remained and the government did not make sufficient efforts to investigate all allegations or report any prosecutions or convictions of allegedly complicit officials. The government investigated allegations of sexual exploitation of children at orphanages, but some allegations of child sexual abuse, possibly involving child sex trafficking, persisted in state-run and private orphanage. Officials report that the police arrested the head of an orphanage, one of its staff members, and the probation commissioner with oversight of the orphanage. According to officials, no elements of sex trafficking were found during the investigation. The government did not report efforts to investigate past allegations, reported in international organization reports, that some male and female Sri Lankan trafficking victims who fled abusive employers overseas and sought refuge at Sri Lankan embassies reported certain Sri Lankan consular officers sent female trafficking victims back to their exploitative employers and “sold” other women back to their exploitative employment agencies or new employers for financial gain and that some migrant workers bribed officials to obtain fraudulent “family background reports” and pre-departure training certificates required for legal migration. The same organization noted that embassy staff are able to facilitate new contracts for workers overseas upon consent of the worker and new employer, provided there are no other restrictions, which further contributes to perceptions of complicity between employers and embassies—especially when workers are victimized or otherwise dissatisfied with the new workplace. According to a July 2019 international organization report, some migrant workers bribed officials to obtain fraudulent “family background reports” and pre-departure training certificates required for legal migration.

PROTECTION

The government maintained victim identification and protection efforts. The government identified more trafficking victims overall than the previous reporting period but did not identify any trafficking victims among Sri Lankan migrant workers exploited abroad and lacked adequate protection for Sri Lankan trafficking victims abroad. Twenty victims were identified by the government out of 56 potential trafficking victims screened during the reporting period, an increase from 13 potential trafficking victims identified during the previous reporting period. The 20 victims identified by authorities were Sri Lankan females exploited for forced labor. The government had standard operating procedures (SOPs) for the identification and referral of potential victims to services, but did not implement them uniformly; both government representatives and members of civil society stated the capacity of local officials to identify trafficking victims remained low, especially among women in commercial sex. Officials and NGOs failed on occasion to identify forced labor and sex trafficking that did not involve transnational movement, especially of children, and categorized those cases as other crimes. The government began to use physical interviews that included trafficking indicators to identify potential foreign victims among migrants intending to extend their visas. The government also reported screening eighteen female foreign nationals for indicators of trafficking after their arrests for possible visa violations, six of the foreign nationals were identified as potential trafficking victims and referred to the CID.

The State Ministry of Women and Child Development closed its trafficking-specific shelter for female victims due to lack of usage in the previous reporting period. The government set aside space for female trafficking victims in a government-funded domestic violence shelter but a magistrate’s order is required to use the shelter, which

trafficking victims who did not seek court assistance could not obtain. No government shelter could accommodate adult male victims, although the government stated it could provide shelter if male victims sought it. The government provided 21 Nepali victims shelter to facilitate their testimony at trial; the government reported none of the Sri Lankan victims requested shelter. The government partnered with international organizations to provide medical, psycho-social, legal, and some reintegration support to identified victims regardless of their decision to cooperate with law enforcement. Observers reported reintegration assistance remained inadequate to support victims. Officials and NGOs reported in 2019 that due to a lack of oversight shelter workers and older residents in some government- and privately-run homes sexually exploited child residents, possibly including trafficking victims.

Civil society noted that, at the local level, a lack of capacity and sensitization among police, immigration officials, and judges was an impediment to proper screening for trafficking victims. Additionally, lack of awareness and misunderstanding led some local authorities to believe sex trafficking victims were engaged in illegal conduct rather than consider them victims and may have resulted in officials arresting or detaining sex trafficking victims without proper screening. When properly identified, the government did not penalize trafficking victims for unlawful acts traffickers compelled them to commit. Law enforcement reported many victims were reluctant to pursue cases against their alleged traffickers due to the social stigma attached with trafficking, and many victims could not afford the travel required to assist in prosecution of their traffickers. While Sri Lankan law has established a victim and witness compensation fund to assist in these circumstances, the government did not provide any funding to trafficking victims or witnesses during the reporting period. When authorities officially identified foreign victims of trafficking, the victims had equal access to rehabilitation services. Foreign victims who cooperated in prosecutions could receive a visa extension until the end of the trial; however, Sri Lankan law did not provide foreign victims with legal alternatives to deportation to countries where they might face hardship or retribution after trial completion or for victims who did not cooperate in the prosecution of traffickers.

SLBFE operated 15 short-term shelters at Sri Lankan diplomatic missions in 14 countries for female migrant workers in distress; however, the government reduced the number of labor attachés serving in Sri Lankan embassies and at the SLBFE, due to budget shortfalls related to the pandemic response, reducing human and financial resources previously available for assistance and protection of migrant workers abroad. During the reporting period, the shelters served 892 migrant workers, compared to 11,215 in the previous reporting period. NGOs continued to identify Sri Lankan female labor trafficking victims returning from Gulf countries. According to an international organization, when carrying out screening and despite their training, some labor attachés often did not know what questions to ask migrant workers, what evidence to look for, or whom to contact in other agencies to refer potential cases. Sri Lankan diplomatic missions continued to provide funding and logistical support to international organizations that repatriated Sri Lankan migrant workers exploited abroad. Due to the pandemic, the government facilitated repatriation of more than 90,000 workers in 2020. According to the government, it did not identify any trafficking victims among those who were repatriated. Migrant workers who had gone abroad illegally or who possessed expired work permits are not always screened for indicators of trafficking raising concerns that some officials might be conflating human trafficking with migrant smuggling. Embassy shelters could only accommodate females, so it was unclear where exploited male migrant workers stayed before repatriation. Some migrant workers at the shelters reported poor conditions, including inadequate food, unsanitary living conditions, and insufficient legal assistance. Only Sri Lankan workers who had registered with SLBFE prior to departure could access legal assistance from Sri Lankan embassies, including assistance securing back wages from employers. However, due to the pandemic, SLBFE made resources from the Worker’s Welfare Fund, including legal services, medical care, accommodation, and food, available to migrant workers regardless of their registration status. Although SLBFE maintained district-level offices, it usually required repatriated migrant workers to visit the main office in Colombo to launch an investigation into recruitment and labor violations, including trafficking, which many of the indebted and daily wage workers could not afford. As a result, trafficking victims continued to withdraw complaints or not come forward. Some officials at SLBFE reported in 2019 that, contrary to the SOPs, they only referred potential trafficking victims to services after initiating a police investigation.

SLBFE continued to operate a transit shelter near the Colombo airport, primarily for returned migrant workers who suffered abuse abroad. During the reporting period, SLBFE reported assisting 33 migrants at the shelter, as compared to 2,252 workers assisted in 2019, and it did not report identifying trafficking victims among those assisted. As in previous years, the lack of government identification of trafficking victims contrasted with the complaints from workers abroad. In 2018, the most recent year for which such data was available, 3,809 Sri Lankan migrant workers in more than 19 countries reported labor-related complaints to SLBFE, including indicators of trafficking. The vast majority of complainants were females in domestic work in Saudi Arabia, Kuwait, Oman, and the United Arab Emirates; male migrant workers in Saudi Arabia also reported many labor violations.

PREVENTION

The government maintained minimal prevention efforts. The National Anti-Human Trafficking Task Force (NAHTTF) continued to meet, despite obstacles related to the pandemic lockdown, and finalized a new anti-trafficking NAP. NAHTTF drafted the 2021-2025 NAP with input from NGOs, international organizations, academics, and other relevant experts and in February 2021, the government adopted it, designating each task force member the lead on specific activities. Observers assessed that despite the efforts of Ministry of Justice, the lead of the NAHTTF, insufficient coordination among NAHTTF members, and between the NAHTTF and civil society stakeholders, remained. The government, in coordination with an international organization, developed radio and TV campaigns to raise awareness of trafficking; distributed leaflets; and held forums with local officials, NGOs, and the

public. The campaigns targeted potential victims, prospective migrant workers, and first responders, as well as the general public. In addition, SLBFE conducted awareness raising programs for prospective migrant workers within Sri Lanka and at some of its embassies abroad, particularly in the Middle East.

In January 2021, the government amended the Employment of Women, Young Persons and Children Act No. 47 of 1956 to increase the minimum age of employment from 14 to 16 years old. Additionally, the law specified that a person between the ages of 16 and 18 may be employed but subject to conditions, including a prohibition from working in jobs defined as hazardous. The Department of Labor (DOL) also launched an official YouTube channel to raise awareness of the labor law and added five short videos on the hazardous forms of child labor. Labor inspectors identified and referred for prosecution six child labor violations in 2020. Labor inspectors only had the authority to inspect private residences for violations against child domestic workers if a complaint was received. Additionally, pandemic-related movement restrictions adversely impacted the ability of DOL to conduct inspections and collect evidence regarding complaints and led to a temporary suspension of routine inspections, although child labor inspections continued. Overall, in 2020, DOL conducted 44,439 labor inspections, including a special investigation into the fisheries industry which concluded there was not widespread child labor.

SLBFE maintained its ban on migration of male and female domestic workers younger than 21, female domestic workers younger than 25 to Saudi Arabia, and female domestic workers younger than 23 to other parts of the Middle East. SLBFE also required all female migrant workers younger than 45 to submit a “family background report” to ensure the woman did not have children younger than age five and that she had obtained either her husband or a guardian’s consent to work abroad; authorities did not require spousal or guardian consent for male migrant workers. Observers reported any ban on migration increased the likelihood of migrating illegally and therefore heightened vulnerability to human trafficking. Beginning in October 2020, agencies and individual sponsors were also required to obtain a “No Objection Certificate” (NOC) from the Sri Lankan Embassy for any female domestic worker migrating to Oman; this also required the worker to register with SLBFE. According to the new procedure, the Oman Police will only issue employment visas to Sri Lankan female domestic workers who submit both the NOC and an employment contract. To mitigate the risk of increased exploitation of domestic female migrant workers, the SLBFE issued a circular on December 30, 2020, instructing all licensed foreign employment agencies to submit a semi-annual report, starting February 1, 2021, that confirms the whereabouts of female domestic migrant workers until those workers return to Sri Lanka. The government did not make efforts to eliminate the legal fees that SLBFE and recruitment agencies charged to migrant workers, which increased workers’ vulnerability to labor traffickers. SLBFE required each migrant worker to pay a registration fee equivalent to more than one month’s salary that required renewal every two years. Additionally, an international report published in 2019 noted some workers reported recruitment agencies charged an additional 8,000 and 150,000 LKR (\$43-\$811). Some officials reported SLBFE’s lack of monitoring enabled agencies to charge fees in excess of the legal amounts; some workers paid as much as 1 million LKR (\$5,410) for the entire recruitment process, including fees charged by illegal sub-agents. SLBFE’s unit at the main international airport in Colombo detected migrant workers who attempt to leave the country for employment abroad without proper registration. During the reporting period, the unit detected 12 individuals who attempted to go abroad for employment using tourist visas and 75 who did not have the proper documents for SLBFE registration. According to observers, during the pandemic, the government further limited outward migration and only permitted migration to a few countries involving a few licensed agents. For those Sri Lankan migrant workers overseas, the government negotiated with immigration authorities to waive penalties and other violations of immigration laws caused by the pandemic, facilitated free legal service, and secured general amnesty for migrant workers out of immigration status.

During the reporting period, SLBFE created an online system for registering and responding to complaints. Civil society and exploited migrant workers abroad continued to report cases of exploitative labor to SLBFE, including non-payment of wages, contract fraud, and document retention. SLBFE officers in the conciliation division do not always recognize elements of trafficking and may handle cases administratively, rather than referring the case to police. During the reporting period, SLBFE raided 30 recruitment agencies and filed cases against all 30 for illegal practices. This was a decrease from 252 raids in the previous reporting period, as SLBFE suspended three foreign recruitment agencies for illegal practices, compared to suspending 62 agencies the previous reporting period. SLBFE did not have the legal authority to regulate sub-agents, which officials recognized contributed to trafficking. The government continued to draft an amendment to the Foreign Employment Act to address the oversight of sub-agents and the investigative authority of MFE officials, including SLBFE.

The government did not report efforts to reduce the demand for commercial sex. NCPA continued awareness campaigns targeted to parents and children on child abuse, including child sex tourism in Sri Lanka’s Coastal Belt. The government did not report efforts to reduce the demand for child sex tourism. Due to the pandemic foreign tourism largely came to halt in 2020. The NCPA continued to run a hotline to report child abuse. The hotline received 61 reports of child trafficking during the reporting period; it did not identify any victims or potential trafficking cases from these allegations, as the complaints are still under investigation. The government provided anti-trafficking training to its troops prior to their deployment as peacekeepers.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Sri Lanka, and traffickers exploit victims from Sri Lanka abroad. The majority of Sri Lankan trafficking cases involve traffickers forcing Sri Lankan migrant workers into labor overseas. Traffickers exploit Sri Lankan men, women, and children in forced labor in the Middle East, Asia, Europe, and the United States in the construction, garment, and domestic

service sectors. Approximately 1.5 million Sri Lankans work in the Middle East, predominately in construction and domestic work, as well as in professional services. The majority of Sri Lankan female migrant workers seek employment in Saudi Arabia, Kuwait, Qatar, Japan, and South Korea, and authorities have identified labor trafficking victims among these workers. Over the past five years, thousands of Sri Lankan female migrant workers—especially from Nuwara Eliya, Ampara, and Batticaloa—reported employers exploited them in forced labor in domestic work in the Gulf. Before leaving Sri Lanka, many migrant workers accumulate debt to pay high recruitment fees imposed by unscrupulous labor recruitment agencies—most of them members of Sri Lanka’s association of licensed foreign employment agencies—and their unlicensed sub-agents. For labor trafficking in domestic work, some traffickers target Sri Lankan women with existing debts and use promises of a large advance to defraud them into accepting the positions. Some Sri Lankan migrant workers in the Gulf report employers retained their identity documents, including passports and work permits, which restricts freedom of movement and is a common means of coercion for labor and sex trafficking. Some recruitment agencies commit fraud by changing the agreed upon job, employer, conditions, or salary after the worker’s arrival. Some recruitment agencies lure workers with promises of work abroad but send them with fraudulent or incorrect documents—including tourist visas instead of work visas—so victims are subject to penalization, including jail time and deportation, if they seek assistance abroad. An international organization reported in 2019 that sub-agents colluded with officials to procure fake or falsified travel documents to facilitate travel of Sri Lankans abroad. According to 2018 media reporting, at least six government-licensed recruitment agencies in Sri Lanka admitted that, if prospective Middle Eastern employers request, they force female migrant workers to take contraceptives before departure to provide a “three-month guarantee” maids will not become pregnant after arrival. Per the same 2018 reporting, sources alleged this was also used to cover up sexual exploitation by recruitment agents and employers, including sex trafficking. Traffickers have forced Sri Lankan women into commercial sex in South and Southeast Asian countries, among other countries. During the reporting period, traffickers increased their use of social media to reach out to workers and vulnerable communities due to pandemic-related restrictions in mobility. Sri Lanka is a transit point for Nepali women subjected to forced labor in the Middle East. Media estimates roughly 7,500 Chinese workers are in Sri Lanka, mainly employed on projects run by Chinese state-owned enterprises and may be vulnerable to forced labor by the Chinese government; allegations of illegal migrant labor from China suggest the number may be higher.

Within Sri Lanka, traffickers exploit men, women, and children in forced labor and sex trafficking. Traffickers recruit women from rural areas with promises of urban jobs in the hospitality sector, salons, spas, and domestic work but exploit some in forced labor or commercial sex. Due to the pandemic, observers report increasingly unethical labor recruitment practices within the local labor market, especially targeting women, as illegal sub-agent recruiters shift their focus from overseas jobs. Additionally, observers stated they believe more young women and girls were engaged in commercial sex due to pandemic-related economic hardships. Traffickers reportedly exploit boys and girls in commercial sex, including in coastal areas for child sex tourism, including in hotels, on beaches, and during annual festivals, though tourism volumes fell substantially in 2020 during the pandemic. Reports allege some hotels allow clients to book “services” with children for child sex tourism, and some hotels use intermediaries to provide their guests with males and females—including children—for commercial sex. In addition to foreign tourists—including from Germany, Russia, India, and China—researchers report significant local demand for underage commercial sex. In recent years, traffickers have subjected women from other Asian countries to sex trafficking in Sri Lanka, though foreign arrivals in Sri Lanka were suspended as of March 2020 due to the pandemic. Traffickers may have exploited migrant workers brought to Sri Lanka on tourist visas and foreign women in commercial sex in Sri Lanka. Some observers have long reported that some local government and security sector officials forced women who asked for information about their missing husbands, or widows who attempted to claim government benefits from their deceased husbands’ military service, to perform commercial sex acts in exchange for information and/or government benefits. Officials and NGOs reported some workers and residents in government and private shelters that care for trafficking victims sexually abused and exploited some of the institutionalized children. Officials reported incidents of children being used for drug trafficking in previous years. Some child and women domestic workers in Colombo are subjected to physical, sexual, and mental abuse, non-payment of wages, and restrictions of movement—indicators of labor trafficking. Labor traffickers exploit children in small boutiques and informal markets. The government does not grant asylum or refugee status, nor does it allow refugees or asylum-seekers to work or attend school, although it did allow international organizations to provide some services.

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Austrian Red Cross
Austrian Centre for Country of Origin and Asylum
Research and Documentation (ACCORD)

Wiedner Hauptstraße 32, 1041 Wien
T (Telefon) +43 1 589 00 583
F (Fax) +43 1 589 00 589
info@ecoi.net

Contact
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F.A.Q.
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