

[Home](#) > ... > Bhutan

2023 Trafficking in Persons Report: Bhutan

OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS

IN THIS SECTION /
BHUTAN (TIER 2)

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The Government of Bhutan does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared with the previous reporting period, considering the impact of the COVID-19 pandemic, if any, on its anti-trafficking capacity; therefore Bhutan was upgraded to Tier 2. These efforts included significantly increasing prosecutions against suspected traffickers, including cases involving Bhutanese migrant workers abroad. The government developed specialized victim identification procedures to identify vulnerable populations, and promulgated guidelines for child protection, including child trafficking. The government continued to provide services to trafficking victims and opened a legal aid center to provide assistance to victims in civil and criminal cases. The government also acceded to the UN TIP Protocol. The government conducted anti-trafficking awareness programs to inform and educate the public, including migrant workers and students. The government also implemented revisions to regulations governing the oversight of foreign worker programs to ensure fair recruitment processes and protections for Bhutanese migrant workers. However, the government did not meet the minimum standards in several key areas. The government did not identify any trafficking victims, including Bhutanese exploited abroad, nor initiate any trafficking investigations or achieve convictions of traffickers. Police and judicial officials

continued to lack an understanding of human trafficking. In addition, Bhutan's trafficking laws did not criminalize all forms of child sex trafficking.

PRIORITIZED RECOMMENDATIONS:

- Vigorously investigate, prosecute, and convict traffickers, and seek adequate penalties for convicted traffickers, which should include significant prison terms.
 - Systematically and proactively identify trafficking victims by screening for trafficking indicators among vulnerable populations, including among foreign migrant workers.
 - Train officials on the implementation of anti-trafficking laws, SOPs for victim identification and referral, and guidelines for child protection.
 - Train labor inspectors to screen cases of labor violations for indicators of forced labor such as nonpayment of wages, particularly among foreign migrant workers, and refer potential cases to police for criminal investigation.
 - Amend anti-trafficking laws to ensure that a demonstration of force, fraud, or coercion is not required to constitute a child sex trafficking offense, consistent with international law.
 - Consistently enforce strong regulations and oversight of labor recruitment companies, including by eliminating recruitment fees charged to workers, investigating claims of nonpayment of wages and contract switching, and holding fraudulent recruiters criminally accountable.
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PROSECUTION

The government slightly increased anti-trafficking law enforcement efforts. The law criminalized all forms of labor trafficking and some forms of sex trafficking. Section 154 criminalized all forms of adult sex trafficking, adult labor trafficking, and child labor trafficking. However, the law defined trafficking to require a demonstration of force, fraud, or coercion, which is inconsistent with international law for child sex trafficking, thereby failing to criminalize all forms of child sex trafficking. Similarly, Section 224 of The Child Care and Protection Act (CCPA) criminalized child trafficking but, inconsistent with international law, also required a demonstration of force, fraud, or coercion to constitute a child sex trafficking

offense and therefore did not criminalize all forms of child sex trafficking. Section 379 of the penal code defined “trafficking a person for prostitution” as selling, buying, or transporting a person into or outside of Bhutan for the purposes of prostitution. Section 154 of the Penal Code prescribed punishment ranging from three to five years’ imprisonment, Section 379 prescribed from five years to life imprisonment, and Section 224 of the CCPA prescribed from five to nine years’ imprisonment. These punishments were sufficiently stringent and, with respect to sex trafficking, commensurate with penalties prescribed for other serious crimes, such as abduction.

The government reported it did not initiate any new trafficking investigations, but continued to investigate 31 suspects in nine trafficking cases from previous reporting periods; this compared with one preliminary investigation initiated in 2021. The government reported initiating prosecution against 18 alleged traffickers – 16 suspects for labor trafficking and two suspects for sex trafficking charged under rape and promotion of prostitution provisions – and continuing prosecution against 14 suspects from previous reporting periods; this compared with no prosecutions initiated in 2021. The government did not report convicting any traffickers compared with convicting three traffickers in 2021. Although the government previously investigated and prosecuted cases involving Bhutanese trafficking victims in the Middle East, Bhutan did not report any collaboration with foreign governments on trafficking cases.

Police and judicial officials continued to lack an understanding of human trafficking, including both internal trafficking and transnational trafficking. In some cases, successful anti-trafficking law enforcement efforts relied on persistent individual officers. In partnership with an international organization, the Department of Law and Order (DLO) continued to conduct anti-trafficking trainings for law enforcement and prosecutors. Royal Bhutan Police (RBP) continued to train personnel on the amended Penal Code Section 154 and the implementation of anti-trafficking laws. RBP maintained 15 women and child protection units at police stations and the RBP headquarters in Thimphu. All officers and personnel in these units and offices were trained on a victim-centered approach during investigations of trafficking cases, including child-friendly interviewing techniques. RBP reportedly screened for trafficking in enforcement operations, including at worksites, businesses, and border areas, but did not identify any trafficking victims.

The government did not report any investigations, prosecutions, or convictions of government employees complicit in human trafficking crimes; however, corruption and official complicity in trafficking crimes remained concerns. A court convicted the former director-general of the

Ministry of Labor and Human Resources (MOLHR) – renamed the Ministry of Industry, Commerce, and Employment (MoICE) following the Civil Service Reform Act in December 2022 – for recommending a license to an employment agency despite inadequate registration; the court acquitted the director general on three other charges. The employment agency had involvement with a government-approved Japanese work-study program associated with some indicators of forced labor in 2018.

PROTECTION

The government maintained protection efforts. The government did not report identifying any trafficking victims, compared with 22 labor trafficking victims identified abroad in 2021. However, the government continued to provide services to at least 174 victims identified in previous reporting periods and screened some migrants for trafficking risks. The government did not report repatriating any trafficking survivors during the reporting period. The government had SOPs on trafficking victim identification and referral to care. DLO developed and finalized reporting guidelines, planned for release in 2023, and victim identification procedures to complement the SOPs to further assist local government, police, and service providers in identifying vulnerable populations. National Commission for Women and Children (NCWC) promulgated new guidelines for child protection and case management, including child trafficking, and for GBV; NCWC also revised its guidelines on children at risk. The NCWC maintained a child protection framework to establish best practices and interagency responsibilities for addressing child protection issues, including trafficking. The NCWC also had procedures to guide labor inspectors, immigration officials, and teachers in the identification of child victims and at-risk youth and refer them to services. The government conducted training on the victim identification and referral to care SOPs for government officials and held “train the trainer” sessions. Observers reported further training was required to help police officials identify potential victims among vulnerable populations, particularly children.

The government and civil society partners provided services such as counseling, legal aid, medical care, psychosocial care, reintegration support, shelter, and vocational training for women and children. The government continued to provide some services, including case management, counseling, and legal aid to 160 victims identified in previous reporting periods. The NCWC and NGOs could provide counseling and psychological support services virtually, as well as in-person. The NCWC could also provide case management assistance and legal aid. In June 2022, the government established the Pema Center to provide mental health care and

counseling services to a variety of patients, including human trafficking survivors; the government did not report assisting any trafficking victims during the year. In October 2022, the government opened a legal aid center to provide free legal advice, legal assistance, and legal representation in civil and criminal cases, including human trafficking, and provided legal counseling support to 174 previously identified trafficking survivors. The government also provided skills training for trafficking survivors, including 19 participants in a floriculture program and 14 participants in a home and hospitality training. The government continued to provide skills training and employment programs for former *drayang* employees – entertainment venues potentially linked to exploitative working conditions – following permanent closure of such venues in January 2022, although some women did not find these opportunities appealing. The NCWC maintained a budget to assist vulnerable women and children, including trafficking victims. The government reported services were available to all trafficking survivors; however, it did not report providing services to foreign victims during the year.

RBP and other agencies could refer trafficking victims to the NCWC or NGOs for shelter accommodations. Two NGO-run facilities provided counseling, medical services, children's education, vocational training, and long-term shelter to men, women, and child victims of crime, including trafficking. The government provided 600,000 Nu (\$7,260) to two civil society organizations to operate a vocational center and supply basic amenities at a shelter home.

The government offered some victim-witness assistance to support trafficking victims participating in investigations and prosecutions, including legal assistance. Trafficking victims could provide testimony via video or written statement, and the electronic litigation system was available in all courts. In addition, the penal code allowed human trafficking victims to file civil suits against traffickers and courts to order traffickers to pay appropriate damages and restitution for loss or injury caused to the victim. The immigration department mandated authorities report suspected women and child trafficking victims identified within Bhutan to the NCWC for screening and protection services before initiating deportation for immigration violations. Bhutanese law did not provide legal alternatives to the removal of trafficking victims to countries in which victims would face retribution or hardship. The government continued to pursue a bilateral agreement, initiated in March 2021, with the Government of the United Arab Emirates to enhance collaboration, including protection of victims during repatriations. However, the lack of formal diplomatic relationships or mutual law enforcement agreements with migrant worker destination countries hindered Bhutanese efforts.

PREVENTION

The government increased efforts to prevent human trafficking. The DLO served as Bhutan's lead anti-trafficking agency and led the government's anti-trafficking task force, composed of government and civil society members. The government continued to implement its national prevention strategy, published in July 2021. The anti-trafficking task force also continued to implement its NAP, launched in January 2022, as part of the government's broader prevention strategy. The government allocated approximately 579,000 Nu (\$7,000) to implement training and engagement programs. Additionally, DLO allocated approximately 500,000 Nu (\$6,050) for anti-trafficking awareness programs. The government and civil society partners conducted awareness campaigns for students and the general public. The government continued to fund a hotline staffed by counselors to support victims of gender-based violence, including trafficking survivors, and maintained district-level helplines operated by local officials and civil society organizations; the government did not report identifying any potential trafficking victims through the hotlines. In February 2023, the government officially acceded to the UN TIP Protocol.

The MOLHR registered foreign migrant workers in Bhutan, monitored working conditions, and produced and disseminated pamphlets advising workers of their rights. The Department of Labor (DOL), within the MOLHR, reported screening for child labor and forced labor during inspections, although officials did not identify any potential cases. DOL lacked sufficient funding to hold specific child labor inspections. The government reported training nearly all labor inspectors and immigration officials on human trafficking. The government did not report the number of labor inspections conducted, but reportedly focused inspections on industries with a history of labor disputes. As in previous reporting periods, the government did not report the disposition of labor complaints, including whether it levied civil or criminal penalties. The DOL generally mediated claims of nonpayment of wages, and did not refer violators to police for criminal investigation of potential forced labor offenses or penalize employers if they paid the outstanding wages. The MOLHR did not have the ability to inspect private homes for labor violations under the national labor law, rendering domestic workers vulnerable to exploitation.

Government regulations on overseas employment allowed most agents to charge Bhutanese migrant workers a recruitment fee of one month's salary along with a limited number of recruitment expenses, except for costs associated with a visa or work permit. Recruitment fees were not charged to Bhutanese workers who travelled overseas through direct

placement programs or by Bhutanese companies who bring foreign workers to Bhutan. The government maintained its policy requiring Bhutanese migrant workers to receive approval from the MOLHR prior to traveling overseas. In December 2022, the Department of Employment and Entrepreneurship (DoEE) launched a national strategy on overseas employment with provisions to increase trafficking awareness among Bhutanese migrant workers. The MOLHR required any Bhutanese traveling overseas for employment to participate in a predeparture orientation on human trafficking and the risks of overseas employment. The MOLHR posted online announcements to warn potential migrant workers of false advertisements and to encourage applicants to verify job advertisements. The Ministry of Foreign Affairs and External Trade had a trafficking-prevention brochure for migrants planning to travel for employment. DOL implemented its foreign workers management strategy with a budget of 2.3 million Nu (\$27,850) for the oversight of foreign workers in Bhutan.

The MOLHR continued to monitor recruitment agencies that assisted Bhutanese citizens older than age 21 seeking work overseas. The MOLHR could take action against agents conducting recruitment or placements without a license. The MOLHR monitored Bhutan's five licensed agencies while continuing to suspend registration of new labor recruitment agencies and agents. The MOLHR reported that four registered Bhutanese Overseas Employment Agents (BOEAs) remained operational; the registration of new BOEAs remained on hold. Labor regulations held BOEAs responsible for supporting migrants and fulfilling their contractual obligations even when agency registrations were suspended or terminated. The DoEE monitored the registered BOEAs through site visits and written reports; the government did not identify any violations. In August 2022, revisions to the regulations governing the oversight of foreign worker programs went into effect to align the regulations with Section 234 of the Labor and Employment Act of Bhutan 2007 to ensure fair recruitment processes, working conditions, and repatriation for Bhutanese migrant workers. The Department of Adult and Higher Education (DAHE) warned job seekers and students to avoid unregistered labor and educational consultants. In December 2022, DoEE launched a national strategy to provide career counseling to young job seekers transitioning from school to work, which included information on human trafficking. In addition, the government created a new regulatory agency, the Bhutan Qualification and Professional Certification Authority, to supervise education consultancies and placement firms for Bhutanese students studying abroad. The government also maintained a program for unemployed Bhutanese citizens designed to provide work and skills training, thereby reducing economic vulnerability to trafficking.

The government conducted awareness events for local government and security officials. The government did not make efforts to reduce the demand for commercial sex acts. The government reported that diplomatic personnel received anti-trafficking training prior to transferring to foreign assignments. The government reported it 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 Bhutan, and traffickers exploit victims from Bhutan abroad. Government quotas limit the number of Bhutanese seeking employment opportunities abroad in specific industries; many Bhutanese opt to travel via informal channels with increased risks of exploitation, including labor trafficking, to circumvent the limited number of available positions each year. Many young Bhutanese, including recent graduates, lack economic opportunities and seek education or employment abroad, particularly in Australia and the Middle East, increasing vulnerability of exploitation by recruiters. Unregistered and unscrupulous foreign employment recruitment agencies and sub-agents increasingly operate through social media to target unemployed or economically disadvantaged individuals. Some traffickers posing as recruiters offer ostensibly well-paying jobs overseas but exploit Bhutanese in forced labor. Although pandemic-related restrictions temporarily reduced the number of migrant workers, a growing number of Bhutanese citizens have resumed seeking employment abroad, particularly in the Gulf states. In recent years, traffickers sent Bhutanese women to Iraq and Oman for forced labor in domestic work. Bhutanese citizens continued to work abroad in the hospitality, retail, and service sectors through global training and placement academies. Some participants reported indicators of trafficking, including illegal recruitment fees and wage deductions, restricted movement, passport retention, and nonpayment of wages. Some agencies have subjected Bhutanese students in work-study programs in Japan and Malaysia with indicators of forced labor, including fraudulent contracts, nonpayment of wages, and passport retention.

Traffickers exploit Bhutanese women and girls in sex and labor trafficking, including in forced domestic labor and caregiving, through debt bondage and threats of physical abuse. Bhutanese women and girls working as entertainers in drayangs were vulnerable to labor and sex traffickers prior to the closure of the businesses nationwide in early 2022; drayang workers primarily came from lower socioeconomic groups and likely remain vulnerable to trafficking. Media outlets and NGOs report commercial sex by Bhutanese and Indian women

in the Bhutan-India border's growing hospitality and entertainment districts – including hotels, massage parlors, and nightclubs – some of which might be forced.

Media outlets have reported instances of child labor within Bhutan's restaurant and automobile workshop industries, some of which had indicators of forced labor. Relatives transport rural Bhutanese to urban areas for employment in domestic work, which at times may involve forced labor. Bhutanese children with criminal records are particularly vulnerable to trafficking.

Tens of thousands of foreign workers support the Bhutanese economy in government-approved job categories, particularly construction. These low-skilled foreign workers, consisting mostly of men from India, are hired to work on public construction projects, including hydropower, and home building. Migrant workers are usually recruited by foreign contractors and often receive advances before beginning work in Bhutan. Some workers subsequently report unauthorized deductions and nonpayment of wages, or recruiters absconding with workers' wages. Foreign workers perform domestic work alongside Bhutanese nationals from rural areas despite the government's prohibition on foreign nationals in domestic worker positions. Some domestic workers are unpaid by employers, experience abuse and physical mistreatment, and cannot leave their employers or return home. Traffickers have exploited Indian children as domestic workers in Bhutan. Although the government issues permits to foreign workers, Bhutan's more than 400-mile border with India remains highly porous despite the government's efforts to monitor migration, leading to concerns about potential exploitation of unregistered migrant workers.

TAGS

Bhutan

Bureau of South and Central Asian Affairs

Human Trafficking

Office to Monitor and Combat Trafficking in Persons

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