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Trafficking in Persons Report 2017 - Country Narratives - Peru

PERU: Tier 2

The Government of Peru does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated increasing efforts compared to the previous reporting period; therefore, Peru remained on Tier 2. The government demonstrated increasing efforts by investigating and convicting more traffickers, providing assistance to more victims, and increasing funding for victim protection. However, the government did not meet the minimum standards in several key areas. The government did not report comprehensive data on its anti-trafficking law enforcement efforts. Government officials reported the lack of adequate victim protection services impeded their ability to successfully prosecute traffickers and address victims' needs. Complicity of some government officials undermined efforts to combat trafficking, but the government did not investigate, prosecute, or convict any complicit officials in 2016.

RECOMMENDATIONS FOR PERU

Increase funding for, and access to, specialized, comprehensive services for all victims, including for adults and those exploited outside the capital; investigate and prosecute trafficking-related complicity, and convict and punish complicit officials for these crimes; increase efforts to prosecute trafficking offenses and convict and punish traffickers, especially for forced labor; consistently implement protocols for interagency coordination and victim-centered investigations and prosecutions; establish systematic training for government officials to improve victim identification; ensure police and prosecutors conduct intelligence-based raids and employ effective victim screening and referrals; cease holding victims in police stations; train police, prosecutors, and judges to apply anti-trafficking laws effectively and issue stringent dissuasive sentences for convicted traffickers, including in cases involving psychological coercion; harmonize anti-trafficking laws, including through amending laws to remove the legal basis for inadequate sentencing; improve efforts to collect and report comprehensive, disaggregated data on anti-trafficking law enforcement and victim protection efforts; dedicate adequate funding in ministry and regional government budgets to carry out anti-trafficking responsibilities; and enforce laws against crimes that facilitate trafficking, such as fraudulent job recruitment.

PROSECUTION

The government slightly increased prosecution efforts, although the lack of comprehensive law enforcement data made it difficult to assess progress. Article 153 of the penal code prohibits all forms of trafficking in persons, prescribing penalties of eight to 15 years imprisonment, which are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. The law defines exploitation more broadly than the international definition by including all forms of labor exploitation. In January 2017, the government issued an executive decree that amended the penal code and prescribed a six year minimum sentence for forced labor. Under the decree, a victim's age is an aggravating factor, with a minimum sentence of 12 years if the victim is aged 14-18 years old and a 15-year minimum sentence if the victim is younger than 14. Other laws criminalize elements of sex trafficking: i) profiting from sex trafficking carries penalties of three to 10 years imprisonment (or a minimum of 20 years imprisonment if the victim is a child younger than 14, 15 years if the victim is aged 14-17, or 20 years if the victim is the spouse or child of the perpetrator); and (ii) pimping carries penalties of two to five years imprisonment (increased to four to five years imprisonment if the victim is younger than 18, the offender uses violence, is a relative of the victim, or forcibly displaces the victim from home). These penalties are sufficiently stringent but the penalties for crimes committed against adult victims are not commensurate with those prescribed for other serious crimes, such as rape. Peruvian law also criminalizes child sex tourism and prescribes penalties ranging from four to eight years imprisonment or eight to 10 years imprisonment under aggravating circumstances. Peru's overlapping legal framework on human trafficking and related crimes causes law enforcement and prosecutors to charge lesser, more readily provable offenses such as pimping and enabling prostitution that do not carry penalties commensurate to the seriousness of the crime, and increases the challenge of collecting data on cases that would be defined as human trafficking under international law.

The government lacked standard data collection systems for anti-trafficking law enforcement efforts, making it difficult for authorities to assess efforts and identify trends. Although the Ministry of Interior and the public ministry conducted a pilot program to integrate their data collection systems for trafficking cases during the year, the government did not report any data on prosecutions and reported only isolated statistics on convictions. Police reported conducting 764 “anti-trafficking operations” for all units in 2016 (85 reported for specialized anti-trafficking units only in 2015) and arresting 427 suspected traffickers (206 in 2015). The government did not provide specific details about the nature of these operations or the number of victims who were formally identified and received protective services as a result. Raids on commercial sex establishments were often conducted with limited intelligence-gathering and ineffective victim identification procedures. The public ministry reported receiving 1,144 trafficking-related complaints in 2016, but did not specify how many cases remained under investigation. The government did not report the total number of prosecutions initiated for trafficking offenses or provide updates on the 259 cases opened by the attorney general's office in 2015. However, the judiciary reported it issued decisions in 80 trafficking cases in 2016. Forty-two of these cases resulted in convictions, 27 were

suspended for insufficient evidence with the possibility of future prosecution, and 11 were dismissed. The judiciary also reported 254 cases remained ongoing at the end of the year. The government did not report the type of trafficking, age of victims, or sentences imposed in these cases. Peruvian authorities worked with United States law enforcement to investigate a case of suspected child sex tourism. In a separate case—in which Peruvian authorities had previously cooperated—a court in the United States sentenced an American citizen to 14 years imprisonment for child sex tourism crimes in Peru. An additional offender in this case was awaiting sentencing. One U.S. citizen, arrested for suspected sex tourism in the previous year, remained in custody awaiting trial in Peru, along with five Peruvian individuals charged with trafficking crimes.

Peruvian officials reported that judges often reduced trafficking charges to lesser charges related to promoting prostitution and frequently failed to sentence traffickers for aggravated trafficking in cases involving child victims, as required by law. The government opened an investigation into a judge’s decision to absolve a bar owner of sex trafficking charges in a case involving a 14-year-old girl, following a public outcry that the judge had not applied the law appropriately. Prosecutors reported challenges obtaining convictions in cases involving psychological coercion, rather than physical force or confinement, to compel victims into sex or labor exploitation.

The government operated eight specialized anti-trafficking regional prosecutor offices, in Callao, Cusco, Lima, Loreto, Puno, Tacna, and Tumbes. It expanded the number of specialized anti-trafficking police from 110 officers in 2015 to 143 in 2016, although the Ministry of Interior’s anti-trafficking budget decreased overall. Poor communication and coordination between police and prosecutors sometimes compromised efforts to identify and assist victims and investigate cases. Inadequate budgets for personnel and logistical support hindered law enforcement efforts; this was particularly acute in regions where trafficking occurred in remote locales with limited government presence. In partnership with NGOs and an international organization, officials trained police, prosecutors, and other officials on trafficking, including how to differentiate between sex trafficking and other prostitution-related crimes. Authorities coordinated with foreign governments on trafficking investigations; in one example, police and prosecutors conducted a joint operation with the Governments of Colombia and Brazil that led to the arrest of 12 suspected traffickers.

NGOs and government officials reported that widespread corruption in Peruvian law enforcement and judicial systems severely hampered anti-trafficking law enforcement efforts. Government officials, NGOs, and victims reported police were engaged in extortion and made money by threatening nightclub and brothel owners with sex trafficking charges; they also falsely charged victims trying to escape bars or brothels with crimes such as theft or trafficking and accepted money to close investigations, drop charges, or exonerate traffickers, including by compelling victims to sign declarations absolving their traffickers. Some officials’ involvement in the mining industry posed a conflict of interest that impeded law enforcement action against trafficking in mining areas. A former member of congress remained under investigation

for allegedly operating a hotel where child sex trafficking occurred. The government did not report any new investigations, or any prosecutions or convictions of government officials complicit in human trafficking.

PROTECTION

The government maintained weak victim protection efforts, but reported providing services to more victims than in the previous year. Most victims continued to lack access to specialized services. The anti-trafficking law (law 28950) required the government to assist and protect victims by providing temporary lodging, transportation, medical and psychological care, legal assistance, and re-integration assistance, although the government did not fulfill this mandate. Police reported identifying 1,134 suspected victims in 2016, compared with 699 identified in 2015, though this number could not be verified. The Ministry of Women and Vulnerable Populations (MIMP) reported identifying 216 child victims, including 106 subjected to labor trafficking, 96 subjected to sex trafficking, and 14 subjected to both forms of exploitation. The government did not provide additional data on victims’ ages, genders, or type of trafficking experienced. Most victims did not receive sufficient protective services, leaving them at high risk of re-trafficking. Officials cited the lack of adequate protective services as a key impediment to their ability to effectively combat human trafficking in the country as victims’ needs and safety concerns were not addressed sufficiently.

Peru’s anti-trafficking law assigned responsibility to several ministries for identifying suspected victims among the high-risk populations they served and referring them to appropriate authorities, but the government did not report whether any such victims were referred to the police or protective services during the year. Protocols for identifying adult sex trafficking victim among individuals in prostitution were inadequate, as authorities often made such determinations based on whether an individual had access to identity documents and a required public health certificate. The government had both inter- and intra-ministerial protocols for providing protection to trafficking victims, but implemented them unevenly due to insufficient resources and poor interagency coordination.

MIMP was responsible for coordinating and providing services to victims in partnership with regional governments; in 2016 it provided psychological, legal, and social work services to 557 victims (505 victims in 2015) in coordination with prosecutors. MIMP dedicated 3,803,270 soles (\$1,132,940) to serving trafficking victims in 2016, an increase from 2,764,900 soles (\$823,620) in 2015. The prosecutorial program for victims and witnesses spent 3,123,600 soles (\$930,470) to assist 437 trafficking victims, 27 witnesses, and 12 family members during the first half of 2016, compared with 505 trafficking victims assisted in 2015. The government operated two shelters, in Lima and Mazuko, exclusively for trafficking victims, with a total capacity of 28 beds. These facilities assisted 28 victims during the reporting period, compared with 119 victims assisted during the previous period. While the government operated 48 residential centers for children and adolescents, which provided some services to 122 child trafficking victims, staff in these shelters lacked the expertise and resources to provide

adequate protection services to trafficking victims. Many civil society organizations operated shelters that assisted an unknown number of victims during the year without government support, although few offered trafficking-specific services. There were no facilities that could accommodate adult male victims and no specialized services for LGBTI victims. Authorities reported government shelters were often full and services for victims were often unavailable immediately following law enforcement operations. At times, the government placed child victims in police stations among children apprehended for crimes, where they sometimes remained for extended periods. Shelter and specialized psychological, employment, and other services remained unavailable in most areas and for most adults and labor trafficking victims.

The law requires the government to provide a public defender for trafficking victims to safeguard victims’ legal rights and to use a single-interview process, utilizing specialized equipment where available. The Ministry of Justice reported it provided legal assistance to 293 trafficking victims in 2016. Some anti-trafficking operations were conducted without adequate resources, such as safe places to screen potential victims and provide them immediate care. Peruvian law grants victims the ability to receive restitution, but the government did not report any victims receiving restitution in 2016.

According to an international organization, the government treats foreign national trafficking victims as refugees, referring them first to the UN which then assists them in filing a complaint and seeking government services. It was not clear whether all foreign victims went through this process or how many foreign victims were identified during the reporting period. Foreign victims were eligible for temporary and permanent residency status under Peruvian refugee law, but the government did not report if any victims received this status in 2016. The government did not report whether it assisted in the repatriation of any Peruvian victims exploited abroad.

Due to inadequate victim identification procedures, some sex trafficking victims may have remained unidentified and been arrested, detained, or otherwise punished for unlawful acts committed as a direct result of being subjected to human trafficking. Child victims who were housed in police stations faced conditions similar to detention, though they were not charged with crimes.

PREVENTION

The government maintained prevention efforts. The interagency commission, which also included NGOs and international organizations, met regularly. The commission continued to implement the 2011-2016 national anti-trafficking action plan and drafted a new five-year plan that had not been finalized by the close of the reporting period. Twenty-four regional governments maintained anti-trafficking working groups, which varied in effectiveness. The national government provided technical support and training to some of these groups. The government did not allocate adequate funding for ministries to implement their duties as outlined in the national anti-trafficking action plan. The government had a separate commission, inter-ministerial protocol, and plan for combating forced labor and child labor. Among other things, this plan established

policies allowing for greater oversight of employment agencies and strengthened response mechanisms to suspected forced or child labor. The government did not report whether these efforts led to the identification of any individuals at risk of trafficking or resulted in any agencies being punished for illegal practices that contribute to trafficking. Various ministries conducted awareness-raising efforts, often in partnership with international organizations and NGOs and with foreign donor funding. Some of these efforts focused on preventing child sex tourism and providing information for reporting suspected abuses. The transportation authority reported inspecting more than one million vehicles for indicators of trafficking among passengers, but these efforts were not effective in identifying any victims. The government made efforts to reduce the demand for commercial sex acts involving children by investigating and assisting in prosecutions of child sex tourists, but did not report efforts to reduce the demand for forced labor. The government signed a MOU with the United States to reduce illegal gold mining and associated crimes, including human trafficking, in February 2017; however, it did not make significant efforts to end impunity for the illegal mining and logging that fuels the demand for trafficking. The government provided anti-trafficking training for its diplomatic personnel and for Peruvian peacekeepers prior to their deployment abroad on international peacekeeping missions.

TRAFFICKING PROFILE

As reported over the past five years, Peru is a source, destination, and transit country for men, women, and children subjected to forced labor and sex trafficking. Indigenous Peruvians are particularly vulnerable to trafficking. Peruvian women and girls, and to a lesser extent boys, are exploited in sex trafficking within the country, often recruited through false employment offers. Women and girls exploited in sex trafficking near mining communities are often indebted due to the cost of transportation and unable to leave due to the remoteness of camps. Peruvian women and children are exploited in sex trafficking in other countries, particularly within South America, and women and girls from neighboring countries are subjected to sex trafficking in Peru. LGBTI Peruvians, especially transgender women, are vulnerable to sex trafficking. Tourists from the United States and Europe purchase sex from child trafficking victims in areas such as Cuzco, Lima, and the Peruvian Amazon. In the Loreto region, criminal groups facilitate transportation of foreign tourists by boat to remote locations where women and children are exploited in sex trafficking in venues on the Amazon River.

Peruvian men, women, and children are exploited in forced labor in the country, principally in illegal and legal gold mining and related services, logging, agriculture, brick-making, unregistered factories, organized street begging, and domestic service. Peruvians working in artisanal gold mines and nearby makeshift camps that provide services to miners are subjected to forced labor, including through deceptive recruitment, debt bondage, restricted freedom of movement, withholding of or non-payment of wages, and threats and use of physical violence. Forced child labor occurs in begging, street vending, cocaine production and transportation, and other criminal activities. The terrorist group Shining Path recruits children using force and coercion to serve as combatants or guards, and uses force and coercion to subject children and

adults to forced labor in agriculture, cultivating or transporting illicit narcotics, and domestic servitude. Peruvian men, women, and children are subjected to forced labor in other South American countries, the United States, and other countries. Migrants from South America, China, and Senegal transiting Peru to Brazil were reportedly vulnerable to sex and labor trafficking.

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