



2016 Trafficking in Persons Report - Kuwait

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KUWAIT: Tier 2 Watch List

Kuwait is a destination country for men and women subjected to forced labor and, to a lesser degree, forced prostitution. Men and women migrate from South and Southeast Asia, Egypt, the Middle East, and increasingly throughout Africa to work in Kuwait, mainly in the domestic service, construction, hospitality, and sanitation sectors. Reports indicate the Democratic People's Republic of Korea (DPRK) has sent over 4,000 North Korean laborers to Kuwait for forced labor on construction projects through a North Korean company operated by the Workers' Party of Korea and the North Korean military. According to these reports, employees work 14 to 16 hours a day while the company retains 80 to 90 percent of the workers' wages, and monitors and confines the workers, who are in very poor health due to lack of adequate nutrition and health care. While Filipino, Indian, and Sri Lankan women continue to represent a significant percentage of Kuwait's domestic worker population, in the last few years there has been a continued increase in migrants from Ethiopia, Uganda, Kenya, Sierra Leone, Nigeria, Tanzania, The Gambia, Liberia, and Madagascar. Limitations imposed by Asian source-country governments on the recruitment of domestic workers led Kuwaiti labor agencies to recruit more migrant workers from Africa. Though most migrants enter Kuwait voluntarily, upon arrival some sponsors subject migrants to forced labor, including through non-payment of wages, long working hours without rest, deprivation of food, threats, physical or sexual abuse, and restrictions on movement, such as confinement to the workplace and the withholding of passports. Many of the migrant workers arriving in Kuwait have paid exorbitant fees to labor recruiters in their home countries or are coerced into paying labor broker fees in Kuwait which, according to Kuwaiti law, should be paid by the employer – a practice making workers highly vulnerable to forced labor, including debt bondage. Some labor recruiting companies have been complicit in trafficking with their use of deceptive recruiting techniques to bring in migrant workers on the basis of unenforceable contracts and nonexistent positions, while promising employers workers who are well-trained but turn out to be unskilled.

Kuwait's sponsorship law – which ties a migrant worker's legal residence and valid immigration status to an employer – restricts workers' movements and penalizes them for leaving abusive workplaces; as a result, domestic workers are particularly vulnerable to forced labor inside private homes. Many workers report experiencing work conditions substantially different from those described in the contract; some workers never see the contract at all and others receive Arabic or English-language contracts they are unable to read. In addition, sources report runaway domestic workers are sometimes exploited in forced prostitution by agents or criminals, who manipulate their illegal status.

The Government of Kuwait does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government investigated six cases and prosecuted 20 traffickers during the reporting period in comparison to none the previous year. For the first time, it convicted eight traffickers under the 2013 anti-trafficking law. In 2015, the government established the anti-human trafficking department under the Ministry of the Interior (MOI) as the national coordinating body on human trafficking issues. The anti-human trafficking department functions as a law enforcement agency and conducted several raids per week during the reporting period. Additionally, it maintained a hotline for trafficking-related concerns in Arabic and English during the reporting period. In June 2015, the National Assembly passed law no.69, which improved protections for domestic workers. The government also created a centralized, government-sponsored domestic labor recruiting company to act as a single center for recruiting and managing the domestic labor force, as well as overseeing the implementation of the new domestic labor law and all recruiting companies that hire domestic workers. Nonetheless, it was not implemented, as the by-laws were not approved and the law had not been published in the official gazette by the end of the reporting period. The government continued its efforts to prevent trafficking during the reporting period by conducting investigations into illegal recruitment agencies, including those allegedly involving government officials, leading to the arrest and referral of 336 violators for prosecution out of 1,386 investigations. Nonetheless, it remained unclear how many of these cases were investigated under the 2013 anti-trafficking legislation. Existing laws do not provide adequate prosecutorial power or punishments for those operating labor recruiting firms. The government implemented formal procedures to identify or refer trafficking victims; however, it did not apply them in many cases and victims of trafficking continued to be arrested, detained, and deported. Emerging efforts to issue exit and travel documents to abused workers whose passports had been confiscated continued, but were not accompanied by any enforcement activities against the employers from whom the workers had fled.

RECOMMENDATIONS FOR KUWAIT:

Significantly increase law enforcement efforts to investigate, prosecute, and convict trafficking offenses, including those perpetrated by Kuwaiti citizens, under the 2013 anti-trafficking law; fully implement domestic labor law no.69 to ensure domestic workers receive appropriate rights and protections; prosecute and convict sponsors who subject domestic workers to involuntary servitude; enforce laws against sponsors and employers who illegally hold migrant workers' passports; establish standard operating procedures for investigations and prosecutions of trafficking crimes; coordinate with the public prosecutor's office to amend current laws to allow for the prosecution of labor recruiting firms; establish formal procedures to proactively identify and refer to protection services all victims of human trafficking; train law enforcement officials and social workers to identify trafficking victims proactively among vulnerable populations, and screen for human trafficking victims during migrant round-ups; establish linkages between emerging victim care efforts and law enforcement activities; continue to train shelter staff in providing services to potential trafficking victims; ensure the availability of shelter and services to male victims, sex trafficking victims, and forced labor victims outside of the domestic worker context; increase effective coordination between ministries through the inter-ministerial anti-trafficking committee; develop and implement an updated multi-year national anti-trafficking strategy and action plan; and increase efforts to raise awareness and prevent trafficking.

PROSECUTION

The government improved its legal structure and increased its anti-trafficking law enforcement efforts during the reporting period. Anti-trafficking legislation enacted in 2013 prohibits all forms of trafficking and prescribes penalties ranging from 15 years' to life imprisonment, which are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. The government enacted a labor law for the protection of domestic workers' rights; however, the law was not fully implemented by the end of reporting period. Law no.69 guarantees domestic workers one day off per week, 30 days of annual paid leave, a 12-hour work day and a one-time end-of-service award of one month's salary per year worked.

In 2015, the government investigated six cases involving 20 traffickers. It prosecuted all 20 traffickers during the reporting period, in comparison with none the previous year. The government convicted eight traffickers under the 2013 anti-trafficking law, in comparison with none the previous reporting period; five traffickers were acquitted and seven prosecutions remained pending at the end of the reporting period. In June 2015, the government established the anti-human trafficking department under MOI, which began investigating and referring trafficking cases. It also released a human trafficking handbook for its employees as a manual providing guidance on implementation of the anti-trafficking law. In November 2015, for the first time, MOI's anti-trafficking and public morals department investigated and referred a suspected forced labor case to the public prosecutor's office. The case involved a Syrian national who detained, coerced, and sexually abused six Filipino domestic workers. The government investigated visa fraud rings, allegedly involving complicit officials, including in MOI, the Ministry of Social Affairs and Labor (MOSAL), and the Ministry of Commerce and Industry, as well as members of the ruling Al-Sabah family; however, it did not provide any information on its efforts to prosecute and convict officials complicit in trafficking or trafficking-related offenses. The government remained reluctant to prosecute Kuwaiti citizens for trafficking offenses. Kuwaiti law enforcement treated cases of forced domestic labor as administrative infractions, and punishment was limited to assessing fines, shutting down employment firms, issuing orders for employers to return withheld passports, or requiring employers to pay back-wages. Although the withholding of workers' passports is prohibited under Kuwaiti law, this practice remained common among sponsors and employers of foreign workers; the government demonstrated no efforts to enforce this prohibition. It remained common to find domestic workers who took refuge in their home-country embassy shelters without their passports in their possession. In 2015, the anti-human trafficking unit, in partnership with an international organization, held an anti-trafficking train-the-trainer program. The judicial institute continued its mandatory human trafficking course for all newly hired judicial officials, including prosecutors and judges.

PROTECTION

The government made notable efforts to protect victims of trafficking, though serious systemic issues continued to harm victims. It provided shelter to approximately 4,000 domestic workers, including a small percentage of potential forced labor victims, in its high-capacity shelter for runaway domestic workers, which opened in December 2014. The fully operational 700-bed facility served as a one-stop facility, providing medical and psychological care, assistance with repatriation, as well as access to officials from various ministries involved in filing cases against employers. The government allocated an annual budget of KD 260,000 (\$840,000) for shelter functions and resources. Victims were not permitted to leave the facility unescorted. While article 12 of the anti-trafficking law stipulates public prosecutors may refer a trafficking victim to an appropriate care facility during an ongoing trial until the time of repatriation, it was unclear whether government

officials identified and referred any potential victims to the high-capacity shelter or other care providers. The government shelter received referrals from embassies, NGOs, international organizations, churches, private citizens, and migrant workers. The government did not conduct screenings to identify whether domestic and private sector workers were victims of trafficking. The anti-human trafficking unit published a manual to assist law enforcement officials in identifying sex trafficking, forced begging, and child trafficking crimes. Nonetheless, the government did not develop and implement formal procedures for all relevant officials to proactively identify trafficking victims among vulnerable populations, such as foreign migrants, domestic workers, and women in prostitution. During the government's migrant round-ups, the government did not have a systematic process in place to identify victims of trafficking among the thousands of foreign migrants who were arrested, detained, and deported.

There continued to be no shelter or other protective services for male trafficking victims. Domestic workers from the Philippines, Indonesia, Nepal, Sierra Leone, India, Sri Lanka, Ethiopia, and other countries continued to seek assistance at their embassies; some source-country embassies reported jointly providing shelter to more than 25 domestic workers who ran away from their employers. To assist embassies in repatriating trafficking victims, the government directly funded and coordinated with recruitment agencies to purchase airline tickets. MOI provided repatriation assistance to approximately 900 domestic workers; however, it was unclear whether authorities sought a refund of travel costs from the employers who sponsored the workers. The government did not offer foreign trafficking victims legal alternatives to removal to countries in which they may face hardship or retribution.

The 2013 anti-trafficking legislation does not stipulate providing protection from prosecution for victims who fled abusive employers. Workers who left their employer's residence without permission risked criminal penalties and arrest, detention, and deportation, even if they were fleeing from an abusive sponsor. The threat of these consequences discouraged workers from appealing to police or other government authorities for protection and from obtaining adequate legal redress for their exploitation. Embassy contacts reported that some personally motivated police officials helped to ensure trafficking victims were not subjected to unwarranted incarceration. Trafficking victims rarely filed cases against their employers, as there were few incentives to report complaints and cooperate in investigations; however, some victims who alleged non-payment of wages received a monetary settlement for wages owed from their employers. If trafficking victims absconded and filed a grievance, it was common for their sponsors to file a counter-grievance against them, which often resulted in administrative deportation or detention of the employee. The government reported public prosecutors sometimes tried cases on victims' behalf if they were unable to afford legal counsel while pursuing cases against their employer or sponsor.

PREVENTION

The government made increased efforts to prevent human trafficking. The government conducted awareness campaigns at Kuwait International Airport aimed at educating newly arriving domestic workers about the services offered at the domestic workers' shelter. In March 2015, MOI's public morals protection and anti-human trafficking department distributed brochures in English and Arabic informing workers of their rights and how to identify human trafficking to migrant workers at the airport, recruiting agencies, labor agencies, offices of the Public Authority for Manpower (PAM), and MOSAL. During the reporting period, media reports indicated that PAM referred over 3,900 files of companies that allegedly violated private sector employment law to the general

administration of residence affairs for investigation. Allegations against these companies included: recruiting workers from abroad without giving them a job (831 cases); operating as a recruiting agency illegally (745 cases); violating the labor inspection law (1,191 cases); violating occupational safety and security conditions (1,133 cases); and violating or not ensuring appropriate worker accommodation conditions (36 cases). Most of the referred offenders would only be investigated and prosecuted under the general penal code and given inadequate sentences in the form of fines; of the thousands of people referred for investigation, it remained unclear how many would be considered for investigation and prosecution for violations under the anti-trafficking law. PAM continued to lack an adequate number of labor inspectors. The government reported efforts to reduce the demand for forced labor but did not make efforts to reduce the demand for commercial sex acts. The government provided anti-trafficking training for its diplomatic personnel.