

OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS

2015 Trafficking in Persons Report

Report

SRI LANKA: TIER 2 WATCH LIST

Sri Lanka is primarily a source and, to a lesser extent, a destination country for men, women, and children subjected to forced labor and sex trafficking. Some of the Sri Lankan men, women, and children who migrate to the Middle East, Southeast Asia, and Afghanistan to work in the construction, garment, and domestic service sectors are subsequently subjected to forced labor. Before emigrating from Sri Lanka, many migrant workers go into 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. Migrant laborers are advanced money as an incentive to move abroad, only to be trapped in debt bondage upon arrival at their destination. Some recruitment agencies commit fraud by changing the agreed upon job, employer, conditions, or salary after the migrant’s arrival. Some Sri Lankan women are subjected to forced prostitution in Jordan, Maldives, Malaysia, Singapore, and other countries.

Within the country, women and children are subjected to sex trafficking in brothels. Boys are more likely than girls to be forced into prostitution in coastal areas for child sex tourism. Children, individuals with physical deformities, and those from socially vulnerable groups are forced to beg or engage in criminal activity in Sri Lanka’s largest cities. Children are also reportedly subjected to bonded labor and forced labor in dry-zone farming areas on plantations, and in the fireworks and fish-drying industries. Some child domestic workers in Colombo, generally from the Tamil tea estate sector, are subjected to physical, sexual, and mental abuse, nonpayment of wages, and restrictions of movement—indicators of labor trafficking. A small number of women from Asia, Central Asia, Europe, and the Middle East have been subjected to forced prostitution in Sri Lanka in recent years. Police accept bribes to permit brothels to operate, some of which exploited trafficking victims, and sub-agents collude with officials to procure fake or falsified travel documents to facilitate travel of Sri Lankans abroad.

The Government of Sri Lanka does not fully comply with 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 Sri Lanka is placed on Tier 2 Watch List for a third consecutive year. Sri Lanka was granted a waiver from an otherwise required downgrade to Tier 3 because its government has a written plan that, if implemented, would constitute making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, and it has committed to devoting sufficient resources to implement that plan. The government approved guidelines for the identification and referral of victims to protective services and organized trafficking awareness campaigns. However, for the fourth consecutive year, authorities failed to convict any traffickers under Sri Lanka’s trafficking statute—indicative of a continued lack of understanding of trafficking and inability to adequately investigate these crimes. Rather, the government convicted one trafficker under a procurement statute—a decrease compared with 12 in 2013—which allowed for lower penalties than the trafficking statute. Also, provisions for victim protection were inadequate, as the government provided no specialized services to male victims, incarcerated sex trafficking victims, and mixed child victims with criminals in state institutions.

RECOMMENDATIONS FOR SRI LANKA:

Improve efforts to investigate and prosecute suspected trafficking offenses, respecting due process, and convict and punish offenders; ensure identified victims, including men and children, receive specialized care services; train officials on identification and referral procedures; investigate and prosecute officials suspected of complicity in human trafficking; ensure victims within Sri Lanka are not detained or otherwise penalized for unlawful acts committed as a direct result of having been subjected to human trafficking, such as migration violations or prostitution; train officials on the definition of human trafficking in reference to the provisions of penal code article 360(c) and the differences between trafficking and non-trafficking crimes such as smuggling and prostitution; promote safe and legal migration rather than imposing discriminatory policies; expand the Bureau of Foreign Employment's mandate to include the regulation of sub-agents; and accede to the 2000 UN TIP Protocol.

PROSECUTION

The government decreased its law enforcement efforts to address human trafficking. Sri Lanka prohibits all forms of trafficking through Article 360(c) of its penal code, although the law also covers non-trafficking offenses, such as selling children. The law prescribes punishments of up to 20 years' imprisonment. These penalties are sufficiently stringent and commensurate with those prescribed for other serious offenses, such as rape. The government initiated investigations of 20 trafficking cases in 2014, the same number investigated in 2013. The government reported 10 prosecutions in 2014 under Article 360(c) and the procurement statute, which criminalizes procuring a person to become a prostitute and carries lesser penalties than Article 360(c). As the government did not disaggregate this number, it is not possible to discern whether there has been an increase in prosecutions as compared with 2013, in which there was one prosecution under Article 360(c) and 10 under the procurement statute. Sri Lankan courts did not convict any traffickers under Article 360(c) in 2014. Authorities convicted one trafficker under the procurement statute, compared with 12 in 2013. The offender was sentenced to two years' imprisonment and ordered to pay a fine of 15,000 Sri Lankan rupee (\$114). The government's reliance on procurement charges and the absence of prosecutions under the trafficking statute resulted from police not thoroughly investigating potential human trafficking cases for elements of force, fraud, or coercion.

Official complicity in trafficking offenses remained a problem. There were allegations police and other officials accepted bribes to permit brothels to operate; some of the brothels exploited trafficking victims. Many recruitment agencies were alleged to be politically connected. Some sub-agents worked with officials to procure forged or modified documents, or genuine documents with falsified data, to facilitate travel abroad. Despite these reports, the government did not report any investigations, prosecutions, or convictions of government officials complicit in human trafficking offenses.

PROTECTION

The government made limited progress in protecting victims of trafficking. The police and the National Child Protection Authority (NCPA) reported identifying 29 trafficking victims, a decrease from 50 in 2013. A government-run shelter, dedicated in 2012 for female trafficking victims, became operational in April 2014. The Bureau of Foreign Employment (SLBFE) continued to operate short-term shelters in Sri Lankan embassies and a transit shelter in Sri Lanka's international airport for returning female migrant workers who encountered abuse abroad. The transit shelter provided medical, counseling, and protection services. The government did not have other specialized care available to female trafficking victims and did not have any specialized care services at all for male victims. Authorities held child victims in facilities housing juvenile criminals until they could be placed in a state-run or state-approved home.

In October 2014, the cabinet approved standard operating procedures (SOPs) for the identification of victims and their subsequent referral to protective services. The government trained officials on these procedures during the reporting period, and the NCPA trained 140 of its officers based in divisional secretariats specifically on measures to identify potential child trafficking victims. However, officials' ability to ensure victims were not jailed or penalized for crimes committed as a direct result of being subjected to human trafficking remained impaired. For example, observers reported Sri Lankan authorities jailed and charged some sex trafficking victims for prostitution or immigration offenses. Some recruitment agencies reportedly threatened victims with retribution if they went to the police. The SOPs call for the consideration of protection mechanisms when victims testify in court; however, it is unclear if these provisions were used during the year. The government did not provide foreign victims with legal alternatives to deportation to countries where they might face hardship or retribution.

PREVENTION

The government made minimal progress in its efforts to prevent trafficking. The inter-ministerial anti-trafficking taskforce continued to meet monthly and updated its national action plan for 2014. The government organized trafficking awareness campaigns targeting employees of estates, factories, and schools, government officials, and the general public. The SLBFE maintained its ban on migration of females under age 23 for domestic work, increasing the likelihood such women would migrate illegally and face heightened risks to human trafficking. During the reporting period, SLBFE's legal division filed a total of 172 cases against illegal recruiters and recruitment agencies for fraudulent practices. The government did not have the ability to regulate sub-agents under the SLBFE, which officials recognized as a problem contributing to trafficking. The government did not report any efforts to reduce the demand for commercial sex acts or forced labor during the reporting period. The government provided anti-trafficking training to military personnel prior to their deployments abroad on international peacekeeping missions. The government provided anti-trafficking training or guidance for its diplomatic personnel. Sri Lanka is not a party to the 2000 UN TIP Protocol.