

OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS

2016 Trafficking in Persons 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 subjected to forced labor. Before leaving 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 receive a monetary advance 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 elsewhere.

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. Some child domestic workers in Colombo, generally from the Tamil tea estate sector, are subjected to physical, sexual, and mental abuse, non-payment 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 exploit trafficking victims. 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 meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During the reporting period, the government ratified the 2000 UN TIP Protocol and the Cabinet approved the government’s national action plan to combat human trafficking. 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 the fourth consecutive year. Per the Trafficking Victims Protection Act, Sri Lanka was granted a waiver from an otherwise required downgrade to Tier 3 because its government has devoted sufficient resources to a written plan that, if implemented, would constitute significant efforts to meet the minimum standards. Authorities slightly increased investigations and prosecutions of trafficking cases; however, convictions stagnated at one trafficker convicted—the same number as in 2014—and the sentence of two years’ imprisonment was not sufficiently stringent to deter future trafficking crimes. Provisions for victim protection were inadequate, as the government arrested sex trafficking victims and charged them with crimes committed as a direct result of being subjected to trafficking, provided no specialized services to male victims, and mixed child victims with criminals in

state institutions.

RECOMMENDATIONS FOR SRI LANKA:

While respecting due process, improve efforts to investigate and prosecute suspected traffickers under article 360(c) and convict and punish offenders, including allegedly complicit officials; continue to train officials on victim identification and referral procedures, especially to ensure victims 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; improve protection services to ensure identified victims, including men and children, receive specialized care services; take steps to eliminate all recruitment fees charged to workers by licensed labor recruiters and instead ensure they are paid by employers; expand the Bureau of Foreign Employment's mandate to include the regulation of sub-agents; and promote safe and legal migration rather than imposing discriminatory policies.

PROSECUTION

The government demonstrated limited progress in law enforcement efforts to address human trafficking. Article 360(c) of the penal code prohibits all forms of trafficking, although the law also covers non-trafficking offenses, such as selling children. The law prescribes punishments of up to 20 years' imprisonment, which are sufficiently stringent and commensurate with those prescribed for other serious offenses, such as rape. The government initiated investigations of six trafficking cases in 2015, compared with 20 cases investigated in 2014. The government reported 12 prosecutions in 2015, five under article 360(c) and seven under the procurement statute, compared with a total of 10 prosecutions in 2014. The procurement statute criminalizes obtaining a person to become a prostitute and carries lesser penalties than article 360(c); procurement cases, unlike trafficking cases, are not considered grave offenses and are brought before a magistrate judge generally without a prosecutor from the attorney general's office. As in 2014, courts did not convict any traffickers under article 360(c). Authorities convicted one trafficker under the procurement statute, the same number as in 2014, and sentenced the offender to two years' imprisonment and a fine of 5,000 Sri Lankan rupees (\$35). 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. Most complaints migrant workers filed with police officers in the Bureau of Foreign Employment (SLBFE) were automatically categorized as an "employment or contract dispute" and were not screened for labor trafficking; instead, if a crime was alleged the case was prosecuted under the Foreign Employment Act before a magistrate judge who could only issue penalties up to two years' imprisonment.

Official complicity in trafficking offenses remained a serious problem. Allegations continued that police and other officials accepted bribes to permit brothels to operate; some of the brothels exploited trafficking victims. Some sub-agents reportedly worked with officials to procure forged or modified documents, or genuine documents with falsified data, to facilitate travel abroad. The government did not report any investigations, prosecutions, or convictions of government officials complicit in human trafficking offences; however, during the reporting period the government charged a supreme court

judge with sexual abuse and assault—potential indicators of trafficking—following his alleged mistreatment of a domestic worker employed in his home.

PROTECTION

The government maintained inadequate protection services for female trafficking victims and provided no specialized care for male trafficking victims. The police and the National Child Protection Authority reported identifying 30 trafficking victims, compared with 29 victims in 2014. The Ministry of Women and Child Affairs continued to operate a shelter for female trafficking victims; during the reporting period the shelter accommodated one victim, although all other identified female victims were offered shelter. The government allocated 1.5 million Sri Lankan rupees (\$10,400) for the operation of the shelter. SLBFE continued to operate short-term shelters in Sri Lankan embassies overseas and a transit shelter near the international airport for returning female migrant workers who encountered abuse abroad. The transit shelter provided medical, counseling, and protection services to 645 women returning from abroad, some of whom may have been trafficking victims. The government did not have other specialized care available to female trafficking victims and did not have any care services for male victims. Until they could be placed in a state-run or state-approved home, authorities held child victims in facilities housing juvenile criminals.

The government had standard operating procedures (SOPs) for the identification of victims and their subsequent referral to protection services. An international organization held several trainings on the SOPs for government officials, including 44 SLBFE officers; the government provided the venues and materials for the trainings. However, officials' ability to implement these procedures and ensure victims were not jailed or penalized for crimes committed as a direct result of being subjected to human trafficking remained impaired. Observers continued to report Sri Lankan authorities jailed and charged some sex trafficking victims for prostitution or immigration offenses. The Victims and Witnesses Protection Act and 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 SOPs provide foreign victims who cooperate in prosecutions a visa extension until the end of the trial; however, the government 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 with prosecution.

PREVENTION

The government demonstrated increased efforts to prevent trafficking. In June 2015, the government ratified the 2000 UN TIP Protocol, and in February 2016 the Cabinet approved the government's national action plan to combat human trafficking. The inter-ministerial anti-trafficking taskforce and some government agencies continued to conduct awareness campaigns and disseminate information on the consequences of human trafficking. However, SLBFE maintained its ban on migration of domestic workers younger than age 23 to the Middle East and, as of August 2015, required all female migrant workers to submit a "family background report" to ensure the woman did not have children younger than age 5; observers reported these policies increased the likelihood such women would migrate

illegally and therefore heightened risks of human trafficking. During the reporting period, SLBFE's legal division filed a total of 189 cases against illegal recruiters and recruitment agencies for fraudulent practices, compared with 172 cases in 2014. The government did not have the ability to regulate sub-agents under 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 and for its diplomatic personnel.