

## OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS

### 2017 Trafficking in Persons Report

#### SRI LANKA: Tier 2

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. The government demonstrated increasing efforts compared to the previous reporting period; therefore, Sri Lanka was upgraded to Tier 2. The government demonstrated increasing efforts by establishing new anti-trafficking units and creating a special police division for the protection of witnesses and victims of all crimes. While official complicity in human trafficking persisted, the government investigated 18 officials for allegedly creating fraudulent documents to provide workers employment abroad, and it prosecuted and convicted more traffickers than in the previous reporting period. However, the government did not meet the minimum standards in several key areas. At times, the government's inconsistent identification of victims resulted in the penalization of victims for prostitution and for immigration violations committed as a result of the victim's subjection to trafficking. The government provided no specialized services to male victims and sometimes housed child victims in government detention centers. The government maintained specific requirements for migration of female migrant workers including those migrating for domestic work, which observers stated increased the likelihood women would migrate illegally and therefore heightened their vulnerability to human trafficking.

#### RECOMMENDATIONS FOR SRI LANKA

While respecting due process, improve efforts to investigate and prosecute suspected traffickers, including complicit officials, and convict and punish offenders with sentences commensurate with other serious crimes; increase efforts to proactively identify trafficking victims and train officials on victim identification and referral procedures, especially to ensure victims are not detained or otherwise penalized for unlawful acts, such as immigration violations or prostitution, committed as a direct result of having been subjected to human trafficking; 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 labor recruiters and instead ensure they are paid by employers; expand the bureau of foreign employment's (SLBFE) mandate to include the regulation of sub-agents; promote safe and legal migration and ensure migration regulations do not discriminate on the basis of gender; and increase efforts of the task force to meet regularly with all members to enhance government coordination efforts.

#### PROSECUTION

The government increased its law enforcement efforts to address human trafficking. Article 360(C) of the penal code prohibits all forms of trafficking, although the law also covers some 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 also frequently used article 360(A), the procurement statute that criminalizes obtaining a person to become a prostitute, to prosecute sex trafficking cases. Procurement crimes, unlike trafficking, carry lesser penalties of up to 10 years imprisonment, although these cases are often brought before magistrate judges that are generally only authorized to issue sentences of up to two years imprisonment.

During the reporting period, the criminal investigation department (CID) initiated seven trafficking investigations, compared with six investigations in 2015. Of the seven investigations, five were categorized as forced labor cases and two as sex trafficking cases; six cases involved the alleged

exploitation of Sri Lankan citizens overseas and one case involved a foreign national allegedly subjected to sex trafficking in Sri Lanka. The government initiated 35 prosecutions during the reporting period, 10 under article 360(C), which included three forced labor and seven sex trafficking cases, and 25 under the procurement statute. This was a significant increase compared to the previous reporting period, which had 12 prosecutions, five under 360(C) and seven under the procurement statute. The courts did not convict any traffickers under article 360(C). Courts did, however, convict seven persons under the procurement statute during the reporting period, an increase from one person convicted for procurement in 2015. One case involved the conviction of a person who procured a 16-year old male victim for a foreign tourist who sexually exploited the child. Sentences for the seven convictions ranged from one year to seven years imprisonment, and four of the sentences also included fines ranging from 1,500 Sri Lanka rupees (LKR) to 500,000 LKR (\$10 to \$3,340). Courts also ordered two of the convicts to pay restitution to two victims of 100,000 LKR (\$670) and 500,000 LKR (\$3,340). The government's reliance on procurement charges resulted from police not thoroughly investigating potential human trafficking cases for elements of force, fraud, or coercion and difficulty securing evidence from victims—prosecutors could pursue procurement cases without the cooperation of the victim.

During the reporting period, the government created two new trafficking investigative units. In October 2016, it created an anti-trafficking unit in the CID, and in April 2016, the SLBFE created a special unit to investigate trafficking-related complaints. Previously, SLBFE police officers automatically categorized most complaints migrant workers filed as an “employment or contract dispute” and did not screen for labor trafficking. During the reporting period, the SLBFE anti-trafficking unit received 62 complaints and referred 14 of the complaints to CID for further investigation of possible trafficking.

Official complicity in trafficking offenses remained a serious problem. Some sub-agents reportedly worked with officials to procure forged or modified documents, or genuine documents with falsified data, to facilitate travel abroad. The Ministry of Foreign Employment (MFE) reported it investigated 18 officials for allegedly creating fraudulent documents to provide workers employment abroad and referred six of the cases to the police for further investigation. There were ongoing allegations police and other officials accepted bribes to permit brothels to operate; some of the brothels exploited trafficking victims. There were no reports of investigations into such cases of bribery.

## PROTECTION

The government made modest improvements in protection efforts. The government continued to implement the 2015 Assistance to and Protection of Victims of Crime and Witnesses Act by creating a special police division in November 2016 and drafting national guidelines for treatment, reparation, restitution, and rehabilitation of all crime victims. The government reported identifying 23 trafficking victims, compared with 30 victims identified in 2015. The Ministry of Women and Child Affairs (MWCA) continued to operate a shelter for female trafficking victims. The government did not have specialized rehabilitation services available for male trafficking victims. Child victims were referred to child-specific rehabilitation centers; however, an NGO reported some children arrested for exploitation in commercial sex were held in government detention centers. The government acknowledged the possible arrest and detention of children who may be sex trafficking victims and commenced a survey to identify and refer such victims to rehabilitation services. SLBFE continued to operate 12 short-term shelters for female migrant workers in distress at Sri Lankan diplomatic missions in ten countries. During the reporting period, the shelters served 3,552 migrant workers; authorities did not report how many were trafficking victims. SLBFE also continued to operate a transit shelter near the Colombo international airport for returning male and female migrant workers who encountered abuse abroad. In 2016, the transit shelter provided medical, counseling, transportation, food, and accommodation, as needed, to 3,310 female and 3,049 male migrant workers, some of whom may have been trafficking victims.

The government had standard operating procedures (SOPs) for the identification and referral of victims to protection services; however, an international organization stated the government needed to issue circulars and directives to each relevant agency to guide staff to follow the SOPs. The government conducted multiple trainings for SLBFE, MWCA, probation, and police officials on victim identification and referral. However, the government's implementation of these procedures and efforts to ensure victims were not jailed or penalized for crimes committed as a direct result of being subjected to human trafficking remained inconsistent. Observers reported Sri Lankan authorities jailed and charged individuals, possibly including children, for prostitution, vagrancy, or immigration offenses without adequate efforts to evaluate whether they were victims of trafficking. Authorities' treatment of potential foreign victims was inconsistent. The government reported airport immigration officials identified nine Nepali citizens as potential trafficking victims and, after recording their statements, voluntarily repatriated them; however, media reported immigration officials detained and deported some Nepali women who were held by an alleged trafficker in Sri Lanka until they could be sent to the Middle East as domestic workers. The victim identification SOPs allow foreign victims who cooperate in prosecutions to receive 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 maintained efforts to prevent trafficking. The inter-ministerial anti-trafficking task force continued to implement the national action plan to combat human trafficking; however, observers reported overall government coordination on anti-trafficking was weak and that all members of the taskforce were not meeting regularly. Several government agencies conducted awareness events on human trafficking, including for civil society, school children, and the general public. The police collaborated with the Nepali government to investigate allegations traffickers and smugglers were increasingly using Sri Lanka as a transit point to send female Nepali migrant workers to other destinations. In October 2016, NCPA re-established a position to monitor online safety of children, reportedly to target and reduce child sex tourism. SLBFE maintained its ban on migration of domestic workers younger than age 23 to the Middle East and younger than age 25 to Saudi Arabia, and required all female migrant workers below age 45 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 their vulnerability to human trafficking. During the reporting period, SLBFE's legal division filed 214 cases against licensed and 101 cases against unlicensed recruiters for fraudulent practices, compared with a total of 189 cases in 2015. The MFE did not have the legal authority to regulate foreign employment recruitment sub-agents under SLBFE, which officials recognized as a problem contributing to trafficking. MFE drafted a memo to the Cabinet recommending the law be amended to regularize sub-agents and began a national survey on the use of sub-agents. The government did not report 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 to some of its diplomats.

## TRAFFICKING PROFILE

As reported over the last five years, Sri Lanka is primarily a source and a destination, and to a lesser extent, a transit 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, especially women, 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 Maldives, Malaysia, Singapore, and elsewhere. Sri Lanka is a transit point for Nepali women subjected to forced labor in the Middle East.

Within the country, women and children are subjected to sex trafficking in brothels. Boys are more likely than girls to be exploited in commercial sex 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 Tamils from the tea estate region, are subjected to physical, sexual, and mental abuse, non-payment of wages, and restrictions of movement—indicators of labor trafficking. In recent years, a small number of women from other Asian and Central Asian countries have been subjected to forced prostitution in Sri Lanka. Police reportedly 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.