

Trafficking in Persons Report 2020

Sri Lanka (Tier 2 Watch List)

The Government of Sri Lanka does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included continuing to convict traffickers under its trafficking statute, identifying some trafficking victims among Sri Lankan migrant workers, and continuing to work with international organizations on anti-trafficking trainings and awareness raising. However, the government did not demonstrate overall increasing efforts compared to the previous reporting period. There were isolated reports of officials allegedly complicit in trafficking and reports of inadequate investigations. The government's decrease in the number of trafficking victims identified and continued inadequate efforts to identify Sri Lankan forced labor victims abroad left many potential trafficking victims without social and legal assistance. Some victims received shelter and/or rehabilitation services, including at embassy shelters for trafficking victims abroad, but conditions and services remained inadequate and inconsistent. Moreover, the Sri Lankan Bureau of Foreign Employment (SLBFE) continued to handle nearly all migrant labor complaints administratively, many of which had indicators of forced labor, and did not refer all of these potential trafficking cases to police for criminal investigation for trafficking offenses. Officials and NGOs expressed concerns that police continued to arrest some unidentified trafficking victims for prostitution, vagrancy, and immigration offenses, and observers reported concerns child sex trafficking victims from previous reporting periods remained in government detention centers. Therefore Sri Lanka remained on Tier 2 Watch List for the second consecutive year.

PRIORITIZED RECOMMENDATIONS:

Draft and finalize a national action plan to combat trafficking. • Improve efforts to vigorously investigate and prosecute suspected traffickers, including isolated reports of officials allegedly complicit in trafficking, with fair trials, and convict and sentence traffickers to adequate penalties involving significant prison terms. • Increase efforts to proactively identify trafficking victims, including among undocumented migrant workers abroad and women in commercial sex, and ensure victims are not penalized for unlawful acts traffickers compelled them to commit. • Provide support to victims who participate in trials against their traffickers,

including the cost of lodging and travel expenses during trials. • Use Section 360(C) of the penal code to prosecute child sex traffickers. • Improve victim services, including their quality and accessibility, and ensure shelter and specialized services are available for all identified victims, including men and victims exploited abroad. • Increase regular monitoring of licensed recruitment agencies, and refer allegations of criminal violations to law enforcement. • Vigorously improve efforts to address child sex tourism, including proactive identification of victims, engagement with hotels and tourism operators, and investigation of establishments and intermediaries who allegedly facilitate the crime. • Eliminate all recruitment fees charged by labor recruiters to workers. • Expand the foreign employment bureau's mandate to include regulation of sub-agents. • Promote safe and legal migration, ensure migration regulations do not discriminate based on gender, and increase awareness among prospective migrants of the steps necessary for safe migration and resources available abroad. • Through the anti-trafficking task force, continue to institutionalize sustained government coordination efforts.

PROSECUTION

The government maintained anti-trafficking law enforcement efforts but did not investigate isolated reports of officials allegedly complicit in trafficking. Section 360(C) of the penal code criminalized sex trafficking and labor trafficking and prescribed penalties of two to 20 years' imprisonment and a fine, which were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious offenses, such as rape. The government used Section 360(A), a procurement statute that criminalized obtaining a person to become a prostitute, with or without the consent of the person. Procurement crimes carried lesser penalties of two to 10 years' imprisonment and fines, and prosecutors often brought these cases before magistrate judges who generally only had the authority to issue sentences of up to two years' imprisonment.

The Criminal Investigation Department's (CID) anti-trafficking unit and police initiated 10 trafficking investigations (four sex trafficking and six forced labor) and 46 prosecutions (35 under the procurement statute), and the government secured seven case convictions of 10 traffickers, compared with 14 investigations, 10 prosecutions (seven under the procurement statute), and eight convictions in the previous reporting period. All new investigations remained ongoing at the close of the reporting period. Of the reported trafficking investigations initiated in the

previous reporting period, CID referred two forced labor cases to the magistrate's court, submitted four forced labor cases to the attorney general's office (AGO) for prosecution, and dismissed one case for lack of evidence of trafficking; other cases remained pending investigation. The AGO reported 100 trafficking cases remained pending prosecution under Sections 360(C) and 360(A) at the close of the reporting period. The government convicted one trafficker under Section 360(C) and nine traffickers in six cases under Section 360(A). Under Section 360(C), it sentenced one trafficker to seven years' imprisonment. Under Section 360(A), judges sentenced one trafficker to 13 years' imprisonment and issued suspended sentences to the other eight traffickers. In the previous reporting period, the judiciary suspended the sentences of all three traffickers convicted under Section 360(C) and sentenced the five convicted under Section 360(A) to between three and 10 years' imprisonment. Additionally, in calendar year 2018, police identified 50 cases of child sexual exploitation.

Prosecutors' reliance on victim testimony, difficulty securing evidence from victims, and judges' issuance of suspended sentences contributed to both the government's general reliance on procurement charges and the lenient sentences applied under Section 360(C). Prosecutors could pursue procurement cases without the cooperation of the victim. Due to the lack of financial support and requirement that victim-witnesses visit Colombo, many trafficking victims from outside the capital could not afford to participate in the law enforcement process, including to provide testimony. During the reporting period, the judiciary issued a directive to all high courts to expedite disposal of human trafficking cases. Labor inspectors investigated allegations of forced labor through debt-based coercion in the tea sector, including instances in which employers "sold" workers' debts to another estate, and found no evidence of the claims. Law enforcement did not conduct any criminal investigations, and three international organizations reported the forced labor continued on at least nine estates. As in the previous reporting period, Sri Lankan diplomatic missions did not refer any witness and victim affidavits from abroad to CID for investigation. The government allocated 8.6 million Sri Lankan Rupees (LKR) (\$47,440) to the SLBFE's anti-trafficking unit, an increase from 5.7 million LKR (\$31,440) allocated to the unit in the previous reporting period. Police continued to conduct anti-trafficking training for new recruits. However, officials reported the training only discussed the definition of trafficking and not how to identify or investigate cases. In partnership with international organizations, other government agencies continued to conduct anti-trafficking training.

The government did not make sufficient efforts to investigate isolated reports of officials allegedly complicit in trafficking. The government did not investigate allegations by a former government official, originally uncovered by the National Child Protection Agency (NCPA), that a state-run orphanage exploited its children in commercial sex. According to a December 2019 international organization report, multiple male and female Sri Lankan trafficking victims who fled abusive employers overseas and sought refuge at Sri Lankan embassies reported certain Sri Lankan consular officers sent female trafficking victims back to their exploitative employers and “sold” other women back to their exploitative employment agency or new employers for financial gain. The government did not report efforts to investigate these allegations. Media reported some “massage parlors” that function as brothels used children in sex trafficking and bribed police officers to avoid raids. According to a July 2019 international organization report, some migrant workers bribed officials to obtain fraudulent “family background reports” and pre-departure training certificates required for legal migration. Some observers reported government officials consistently referred migrant workers to predatory loaners, which increased migrants’ vulnerability to debt-based coercion. The government did not report if it continued five investigations into Ministry of Foreign Employment (MFE) officials for creation of fraudulent documents that had been ongoing in March 2019. In December 2019, the government launched a Presidential Commission of Inquiry to investigate allegations of corruption within SLBFE between 2015 and 2018, specifically allegations that officials accepted bribes to allow illegal recruitment agencies to use legal recruitment agencies’ licenses to send workers abroad. However, reportedly due to time constraints, officials dropped the investigation into SLBFE officials and only investigated the illegal recruitment agencies.

PROTECTION

The government decreased victim identification and protection efforts. The government identified fewer victims than the previous reporting period, failed to identify trafficking victims among Sri Lankan migrant workers exploited abroad, and lacked adequate protection for Sri Lankan trafficking victims abroad. The government identified 13 trafficking victims during the reporting period, a significant decrease from 66 potential trafficking victims identified the previous reporting period. This was relatively low in contrast with the 11,215 migrant workers at its embassies overseas in the same period, many of whom were

suspected female labor trafficking victims who had fled abusive employers. Among the 13 victims, authorities identified five female sex trafficking victims exploited within the country (including three children) and eight forced labor victims (four male and four female) exploited in various countries abroad; all 13 victims were Sri Lankan nationals. NGOs identified at least 18 Sri Lankan female victims of forced labor in domestic work in the Gulf during the reporting period. Moreover, between January 2019 and February 2020, NGOs and the government repatriated an additional 1,107 female migrant workers, primarily from Kuwait, who reported abuses indicative of trafficking, including non-payment of wages. The government had standard operating procedures (SOPs) for the identification and referral of potential victims to services but did not implement them uniformly; both government representatives and members of civil society stated the capacity of local officials to identify trafficking victims remained low, especially among women in commercial sex. Officials and NGOs often failed to identify forced labor and sex trafficking that did not involve transnational movement, especially of children, and categorized those cases as other crimes.

During the reporting period, the Ministry of Women and Child Affairs closed its trafficking-specific shelter for female victims due to lack of usage but made space available for trafficking victims within a shelter for female victims of domestic violence. Use of the government-funded shelter required a magistrate's order; therefore, trafficking victims who did not seek court assistance could not obtain shelter. No government shelter could accommodate male victims, although the government stated it could provide shelter if male victims sought it. No identified victims requested shelter during the reporting period. The government partnered with international organizations to provide medical, psycho-social, legal, and some reintegration support to identified victims regardless of their decision to cooperate with law enforcement. Observers reported reintegration assistance remained inadequate to support victims.

Sri Lankan authorities continued to penalize individuals, including children, for prostitution, vagrancy, or immigration offenses with inconsistent efforts to screen for trafficking. One NGO reported that some child trafficking victims arrested for prostitution crimes in previous reporting periods remained in government and privately operated childcare institutions. Officials and NGOs reported that due to a lack of oversight, shelter workers and older residents in some government- and privately run homes sexually exploited child residents, possibly including

trafficking victims. Police continued to raid spas and massage parlors to identify individuals in commercial sex and did not identify any children during the reporting period. When properly identified, the government did not penalize trafficking victims for unlawful acts traffickers compelled them to commit. Law enforcement reported many victims were reluctant to pursue cases against their alleged traffickers due to the social stigma attached with trafficking, and many victims outside of Colombo could not afford the travel required to assist in prosecution of their traffickers. While Sri Lankan law had established a victim and witness compensation fund to assist in these circumstances, the government did not provide any funding to trafficking victims or witnesses during the reporting period. It did, however, order traffickers to pay victims restitution in three cases.

When authorities officially identified foreign victims of trafficking, the victims had equal access to rehabilitation services. Foreign victims who cooperated in prosecutions could receive a visa extension until the end of the trial; however, Sri Lankan law 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 in the prosecution of traffickers. The government did not identify any foreign victims in Sri Lanka during the reporting period.

SLBFE operated 15 short-term shelters at Sri Lankan diplomatic missions in 14 countries for female migrant workers in distress. Reporting more comprehensive statistics than in previous years, the shelters served 11,215 migrant workers from April through November 2019, compared with 1,806 in the previous reporting period. NGOs continued to identify large numbers of Sri Lankan female labor trafficking victims in Gulf countries, so while SLBFE reported screening this population for trafficking, the efficacy of the screening was unclear. Officials continued to report that migrant workers who had gone abroad illegally or who possessed expired work permits could not also be trafficking victims, which conflated human trafficking with migrant smuggling. Embassy shelters could only accommodate females, so it was unclear where exploited male migrant workers stayed before repatriation. Some migrant workers at the shelters reported poor conditions, including inadequate food, unsanitary living conditions, insufficient legal assistance, and in some cases verbal abuse from embassy officials. Only Sri Lankan workers who had registered with SLBFE prior to departure could access legal assistance from Sri Lankan embassies, including assistance securing back wages from employers. Moreover, although SLBFE maintained district-level

offices, it usually required repatriated migrant workers to visit the main office in Colombo to launch an investigation into recruitment and labor violations, including trafficking, which many of the indebted and daily wage workers could not afford. As a result, trafficking victims continued to withdraw complaints or not come forward. Some officials at SLBFE reported that, contrary to the SOPs, SBLFE officials only referred trafficking victims to services after initiating a police investigation.

SLBFE continued to operate a transit shelter near the Colombo airport, primarily for returned migrant workers who suffered abuse abroad. From April to November 2019, SLBFE assisted 2,252 migrants at the shelter, compared with 3,238 workers assisted in 2017 (the government did not report 2018 assistance numbers), and it did not identify trafficking victims among those assisted. As in previous years, the lack of government identification of trafficking victims contrasted with the complaints from workers abroad. In 2017, the most recent year for which such data was available, 4,326 Sri Lankan migrant workers in 22 countries reported labor-related complaints to SLBFE, including indicators of trafficking. The vast majority of complainants were females in domestic work in Saudi Arabia, Kuwait, Oman, and UAE; men in both skilled and unskilled labor in Saudi Arabia also reported many labor violations. The SLBFE shelter, which provided short-term care, did not routinely inform suspected trafficking victims of the longer-term services available through Ministry of Women and Child Affairs. In some cases, Sri Lankan diplomatic missions continued to provide funding and logistical support to international organizations that repatriated Sri Lankan migrant workers exploited abroad. In collaboration with NGOs, the government facilitated repatriation of approximately 248 workers in 2019, compared with approximately 204 in 2018. Based on the number of trafficking victims the government reported identifying during the reporting period, it did not identify the majority of these repatriated workers as trafficking victims.

PREVENTION

The government maintained minimal prevention efforts. The National Anti-Human Trafficking Task Force (NAHTTF) continued to meet regularly during the reporting period. The government's 2015-2019 anti-trafficking national action plan expired; it began to draft a new 2020-2024 action plan but had not finalized or adopted it by the close of the reporting period. The government assisted an international organization with radio and TV campaigns to raise awareness of

trafficking, distribute leaflets, and hold forums with local officials, NGOs, and the public. In addition, SLBFE conducted awareness raising programs for prospective migrant workers within Sri Lanka and at some of its embassies abroad. Labor inspectors reported 10 child labor violations during 2019, in which inspectors removed one child and referred eight cases to magistrate courts for prosecution. In seven of the cases, magistrate courts assessed fines ranging from 2,000 to 10,000 LKR (\$11-\$55). Labor inspectors did not have the authority to inspect private residences for violations against domestic workers. Police raided 20 illegal massage parlors during the reporting period and filed cases against 13 under the Brothels Ordinance of Sri Lanka Act. Ten cases remained pending at the close of the reporting period.

SLBFE maintained its ban on migration of male and female domestic workers younger than 21, female domestic workers younger than 25 to Saudi Arabia, and female domestic workers younger than 23 to other parts of the Middle East. SLBFE also required all female migrant workers younger than 45 to submit a “family background report” to ensure the woman did not have children younger than age five and that she had obtained either her husband or a guardian’s consent to work abroad; authorities did not require spousal or guardian consent for male migrant workers. Observers reported any ban on migration increased the likelihood of migrating illegally and therefore heightened vulnerability to human trafficking. SLBFE and the Omani Embassy in Dubai pledged to increase communication to combat illicit recruiters who applied for Sri Lankan work visas in Dubai to circumvent SLBFE screening. The government did not make efforts to eliminate the legal fees that SLBFE and recruitment agencies charged to migrant workers, which increased workers’ vulnerability to labor traffickers. SLBFE required each migrant worker to pay a registration fee equivalent to more than one month’s salary that required renewal every two years. Additionally, workers reported recruitment agencies charged an additional 8,000 to 150,000 LKR (\$44-\$830). Some officials reported SLBFE’s lack of monitoring enabled agencies to charge fees in excess of the legal amounts; some workers paid as much as one million LKR (\$5,520)—or more than eight years of salary at the Sri Lankan minimum wage—for the entire recruitment process, including fees charged by illegal sub-agents.

Civil society and exploited migrant workers continued to report cases of exploitative labor to SLBFE, including non-payment of wages, contract fraud, and

document retention. SLBFE handled most of these cases administratively, including through mediation, and did not refer cases to police if agencies performed the mediated solution. During the reporting period, SLBFE raided 252 recruitment agencies and filed 113 cases against licensed recruiters and unlicensed sub-agents for illegal practices. Thirty-nine cases remained under investigation, and 74 cases resulted in convictions under the SLBFE Act, including some for practices that increased workers' vulnerability to traffickers. The government sentenced all those convicted with fines. This was an increase from 159 raids in the previous reporting period but a continued decrease in cases filed, from 109 in 2018, 157 in 2017, and 315 in 2016. Additionally, while NGOs reported to the government 18 additional cases of forced labor of Sri Lankans abroad and the government and NGOs repatriated 1,107 female migrant workers with indicators of trafficking, SLBFE only filed complaints of labor violations in four of the cases, and it did not report referring any to CID for criminal investigation of trafficking. In 2017, the most recent year for which the data was available, civil society organizations and migrant workers reported to police and SLBFE 4,326 cases of Sri Lankan migrant workers exploited overseas, including 3,074 complaints from females in domestic work. Civil society and authorities categorized most cases as labor migration complaints, and authorities pursued mediation and did not investigate the cases as potential labor trafficking. SLBFE suspended 62 foreign recruitment agencies for illegal practices, compared with suspending 63 agencies the previous reporting period. SLBFE conducted an unknown number of surprise inspections of recruitment agencies, a change from previous reporting periods when inspectors notified agencies in advance. SLBFE did not have the legal authority to regulate sub-agents, which officials recognized contributed to trafficking. The government continued to draft an amendment to the Foreign Employment Act to address the oversight of sub-agents and the investigative authority of MFE officials, including SLBFE.

The government did not make efforts to reduce the demand for commercial sex. NCPA continued awareness campaigns targeted to parents and children on child abuse, including child sex tourism in Sri Lanka's Coastal Belt. The government did not make efforts to reduce the demand for child sex tourism. While NCPA continued to run a hotline to report child abuse, it did not always staff it. The hotline received 119 reports of child trafficking during the reporting period; it did not identify any victims or potential trafficking cases from these allegations. The

government provided anti-trafficking training to its troops prior to their deployment as peacekeepers.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Sri Lanka, and traffickers exploit victims from Sri Lanka abroad. The majority of Sri Lankan trafficking cases involve traffickers forcing Sri Lankan migrant workers into labor overseas. Traffickers exploit Sri Lankan men, women, and children in forced labor in the Middle East, Asia, Europe, and the United States in the construction, garment, and domestic service sectors. Approximately 1.5 million Sri Lankans work in the Middle East, predominately in construction and domestic work. The majority of Sri Lankan female migrant workers seek employment in Saudi Arabia, Kuwait, Qatar, Japan, and South Korea, and authorities have identified labor trafficking victims among these workers. Over the past five years, thousands of Sri Lankan female migrant workers—especially from Nuwara Eliya, Ampara, and Batticaloa—reported employers exploited them in forced labor in domestic work in the Gulf. Before leaving Sri Lanka, many migrant workers accumulate 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. For labor trafficking in domestic work, some traffickers target Sri Lankan women with existing debts and use promises of a large advance to defraud them into accepting the positions. Some Sri Lankan migrant workers in the Gulf report employers retained their identity documents, including passports and work permits, which restricts freedom of movement and is a common means of coercion for labor and sex trafficking. Some recruitment agencies commit fraud by changing the agreed upon job, employer, conditions, or salary after the worker’s arrival. Some recruitment agencies lure workers with promises of work abroad but send them with fraudulent or incorrect documents—including tourist visas instead of work visas—so victims are subject to penalization, including jail time and deportation, if they seek assistance abroad. Sub-agents collude with officials to procure fake or falsified travel documents to facilitate travel of Sri Lankans abroad. According to media, at least six government-licensed recruitment agencies in Sri Lanka admitted that, if prospective Middle Eastern employers request, they force female migrant workers to take contraceptives before departure to provide a “three-month guarantee” maids will not become pregnant after arrival. Sources allege this is also

used to cover up sexual exploitation by recruitment agents and employers, including sex trafficking. Traffickers have forced Sri Lankan women into commercial sex in South and Southeast Asian countries, among other countries. Sri Lanka is a transit point for Nepali women subjected to forced labor in the Middle East.

Within Sri Lanka, traffickers exploit men, women, and children in forced labor and sex trafficking. Traffickers recruit women from rural areas with promises of urban jobs in the hospitality sector, salons, spas, and domestic work but exploit some in forced labor or commercial sex. Traffickers exploit boys and girls in commercial sex, including in coastal areas for child sex tourism, including in hotels, on beaches, and during annual festivals. Reports allege some hotels allow clients to book “services” with children for child sex tourism, and some hotels use intermediaries to provide their guests with males and females—including children—for commercial sex. In addition to foreign tourists—including from Germany, Russia, India, and China—researchers report significant local demand for underage commercial sex. In recent years, traffickers have subjected women from other Asian countries to sex trafficking in Sri Lanka. Traffickers may have exploited migrant workers brought to Sri Lanka on tourist visas and foreign women in commercial sex in Sri Lanka. Some police reportedly accept bribes to permit brothels to operate, some of which exploit adults and children in sex trafficking. Some observers have long reported that some local government and security sector officials forced women who asked for information about their missing husbands, or widows who attempted to claim government benefits from their deceased husbands’ military service, to perform commercial sex acts in exchange for information and/or government benefits. A former government official alleged a state-run orphanage exploited children from the orphanage in child sex trafficking. Officials and NGOs reported some workers and residents in government and private shelters that care for trafficking victims sexually abused and exploited some of the institutionalized children. Traffickers force children, individuals with physical deformities, and those from socially vulnerable groups to beg or engage in criminal activity in Sri Lanka’s largest cities, including drug trafficking. 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. Labor traffickers exploit children in small boutiques and informal markets. Tea estate owners exploit men and women in bonded labor. During the reporting period,

several organizations documented cases in which employers “sold” workers’ debts to another estate and forced the workers to move. Multiple tea estates have illegally deducted more than 75 percent of workers’ daily earnings for miscellaneous fees and repayment of debts, including charging workers for the pay slip itself. The government does not grant asylum or refugee status, nor does it allow refugees or asylum-seekers to work or attend school, although it did allow international organizations to provide some services. This renders such persons, including Rohingya, vulnerable to trafficking.