

NEPAL (TIER 2)

The Government of Nepal 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, Nepal remained on Tier 2. The government demonstrated increasing efforts through a rise in both the number of trafficking investigations and victims identified, and by doubling its budget to provide victim care services to female victims of violence, including trafficking victims. The government conducted awareness activities around the country and revoked the licenses of more than 400 foreign employment agents located outside of Kathmandu, reportedly to reduce the exploitation of migrant workers. However, the government did not meet the minimum standards in several key areas. Its laws do not prohibit all forms of trafficking and it lacks standard operating procedures (SOPs) on victim identification. The government stated its notable decrease in prosecutions from 341 cases in the previous Nepali fiscal year to 218 was due in part to poor investigative technique by the police resulting in insufficient evidence. While the government revised its policies preventing female migration in several ways, observers continued to report the revised policies compelled women to use illegal methods to migrate which subsequently increased their vulnerability to human trafficking. Many government officials continued to lack understanding of trafficking crimes; officials continued to register cases of labor exploitation abroad under the Foreign Employment Act without investigation into whether the abuse constituted a trafficking crime.

RECOMMENDATIONS FOR NEPAL

Respecting due process, increase investigations, prosecutions, and convictions against all forms of trafficking, including bonded labor, transnational labor trafficking of Nepali males, sex trafficking of Nepali females within Nepal, and against officials complicit in trafficking-related crimes; institute formal procedures for proactive identification and referral of trafficking victims to protection services; amend the Human Trafficking and Transportation (Control) Act (HTTCA) to bring the definition of human trafficking in line with the 2000 UN TIP Protocol; expand access to and availability of victim care, including to male victims; penalize licensed labor recruiters who engage in fraudulent recruitment or charge excessive fees; implement victim witness protection provisions in the HTTCA; enforce the low-cost recruitment policy and continue to take steps to eliminate all recruitment fees charged to workers; ensure victims are not punished for unlawful acts committed as a direct result of being subjected to trafficking; lift current bans on female migration to discourage migration through undocumented channels; and accede to the 2000 UN TIP Protocol.

PROSECUTION

The government maintained anti-trafficking law enforcement efforts. The 2007 HTTCA and the 2008 regulation prohibit most, but not all, forms of trafficking in persons. The HTTCA criminalizes slavery and bonded labor but does not criminalize the recruitment, transportation,

harboring, or receipt of persons by force, fraud, or coercion for the purpose of forced labor. It criminalizes forced prostitution but, in a departure from the 2000 UN TIP Protocol definition, does not consider the prostitution of children as a form of trafficking absent force, fraud, or coercion. The law also criminalizes facilitating prostitution and removal of human organs. Prescribed penalties range from 10 to 20 years imprisonment, which are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. The 2002 Bonded Labor (Prohibition) Act prohibits bonded labor and the Child Labor Act prohibits forced child labor. The Foreign Employment Act (FEA) criminalizes fraudulent and deceptive labor recruitment. The National Committee for Controlling Human Trafficking (NCCHT) continued to work on draft revisions to the HTTCA to bring the definition of human trafficking closer in line with international law; however, the government did not complete the revision process by the end of the reporting period.

The Nepal Police Women's Cells conducted 212 investigations under the HTTCA during the Nepali fiscal year compared with 181 cases in the previous fiscal year. The 212 cases involved 447 alleged traffickers of whom 192 were suspected of sex trafficking and 140 of forced labor. The remaining 115 were uncategorized, and it is unknown what proportion of cases were transnational. These investigations involved crimes in which women and girls were the primary victims. Crimes involving male victims are handled by other police investigative units. The Central Investigative Bureau investigated 20 transnational and six internal trafficking cases between April and December 2016 compared with six transnational cases during the same time period in 2015. In collaboration with the Sri Lankan police, the Nepali government sent a team of police and ministry officials from labor, foreign affairs, and women, child, and social welfare (MWCSW) to Colombo to investigate allegations traffickers and smugglers were increasingly using Sri Lanka as a transit point to send Nepali women migrant workers to other destinations. The government prosecuted 218 cases during the fiscal year compared with 341 cases in the previous year. This data was not disaggregated to distinguish between sex and labor trafficking cases. The government stated the decrease in prosecutions was related to a combination of poor investigative techniques by the police, insufficient evidence for prosecution in some cases, and other cases taking priority. At the district level, courts convicted 262 traffickers during the fiscal year, compared with 260 traffickers in the previous year, and acquitted 232 accused. Department of Foreign Employment (DFE) officials continued to advise abused migrant workers returning to Nepal to register complaints under the FEA rather than notify police. Victims of transnational labor trafficking preferred to submit claims for compensation through the FEA rather than pursue lengthy criminal prosecutions under the HTTCA, often to avoid the stigma associated with being labeled a trafficking victim (assumed to insinuate sex trafficking) and because the potential to be awarded compensation was higher.

The Women and Children Services Directorate conducted a course on trafficking investigations for 190 police officers and continued to conduct psycho-social victim-centered training during

the reporting period. An NGO, in partnership with the government, provided a 30-day, crime scene training course to police officials, which included information on how to identify and protect trafficking victims. Despite this training, police officers' lack of awareness of the anti-trafficking law, challenges in evidence collection, and poor investigative techniques impeded prosecution efforts. The Attorney General's office trained public prosecutors on prosecuting traffickers and utilizing a victim-centered approach to improve victim protection during legal proceedings. In 2013 the anti-corruption commission indicted 46 officials from the DFE and Immigration for issuing fraudulent documents; criminal proceedings were ongoing at the close of the reporting period. Observers alleged some traffickers enjoy impunity due to personal connections with politicians or by bribing police. Despite continued allegations local officials facilitated the falsification of age documents for child sex trafficking victims, the government did not report initiating any new investigations, prosecutions, or convictions of government officials complicit in human trafficking offenses.

PROTECTION

The government increased modest efforts to protect victims. Authorities did not systematically track the total number of victims identified. Police identified 419 victims of sex and labor trafficking connected to the 238 investigations initiated during the Nepali fiscal year compared with 327 victims identified through investigations the previous year. Of the 419 victims, 109 were under age 18 and almost all were female—only two of the identified victims were male. It is unknown how many of the victims were exploited abroad. Officials' poor understanding of the crime, a lack of formal SOPs for identification, and victims' reluctance to be identified due to stigma hindered proper and proactive identification, especially among returning male labor migrants who reported exploitation abroad. NGOs reported government efforts to identify domestic sex trafficking victims improved during the reporting period; police increased the number of raids on Kathmandu adult entertainment businesses and more consistently worked to identify sex trafficking victims to avoid penalizing them for prostitution crimes. When properly identified, victims were not detained, fined, or jailed for crimes committed as a result of being subjected to human trafficking.

The government has national minimum standards for victim care and referring identified victims to services. Despite these standards and the government's continued drafting of victim identification and referral SOPs, referral efforts remained ad hoc and inadequate. It is unclear how many victims were referred to and able to utilize services during the year. The government increased its budget to provide services for female victims of violence, including trafficking, from 12.6 million Nepali rupees (NPR) (\$115,915) during the 2015-2016 fiscal year to 25 million NPR (\$229,991) for the 2016-2017 fiscal year. With support from MWCSW, NGOs maintained eight rehabilitation homes, 17 emergency shelters, and one long-term shelter for female victims of gender-based violence, including trafficking. MWCSW provided the NGOs funding for three staff members per shelter, some facility expenses, and victim assistance,

including legal assistance, psychological support, transportation, medical expenses, and skills training. The government continued to allocate 40,000 NPR (\$386) for the protection of adult male trafficking victims but did not fund shelter services. An NGO ran one shelter for men in Kathmandu. In July 2016, MWCSW launched an online directory to catalog service providers for victims of human trafficking and migration-related exploitation. At the close of the reporting period, the directory cataloged services in 16 districts. Victims may seek compensation from a rehabilitation fund if the government is unable to collect fines from traffickers. During the reporting period, the government paid a total of 50,000 NPR (\$368) to the victim in one case. The government established nine victim-witness protection rooms in district courts during the reporting period. Overall victim-witness protection mechanisms remained insufficient. They also were impeded by a 2015 amendment to the HTTCA that reinstated a provision allowing victims to be fined if they failed to appear in court or criminally liable for providing testimony contradicting their previous statements. The government did not have established procedures for alternatives to the deportation of foreign victims.

While Nepali embassies in Kuwait, Oman, Saudi Arabia, Qatar, Bahrain, and United Arab Emirates provided emergency shelters for vulnerable female workers, some of whom were trafficking victims, the Foreign Employment Promotion Board (FEPB) acknowledged the shelters lacked sufficient space and resources to meet the high demand for assistance. FEPB collected fees from departing registered migrant workers for a welfare fund to provide repatriation and one year of financial support to families of injured or deceased workers, which could include trafficking victims. During the fiscal year, the fund provided financial support to the families of 173 injured and 690 deceased migrant workers, and paid to repatriate 535 workers, an increase from 216 workers in the previous year. FEPB may also repatriate unregistered migrant workers by requesting funds through the finance ministry on an ad hoc basis. It is unknown if unregistered workers were repatriated during the reporting period.

PREVENTION

The government maintained efforts to prevent human trafficking. The government continued to conduct training and coordination sessions with officials from the district committees for controlling human trafficking (DCCHTs) to clarify responsibilities in the implementation of the 2012-2022 national action plan. The NCCHT allocated approximately 98,900 NPR (\$910) to each of the 75 DCCHTs to support awareness campaigns, meeting expenses, and emergency victim services. This marked a decrease from the 250,400 NPR (\$2,304) allocated last fiscal year. The government, with partial funding from a foreign government, continued to establish local committees for controlling human trafficking (LCCHTs). As of December 2016, 420 LCCHTs were in operation. Observers continued to note the need for improved coordination between the NCCHT, DCCHTs, and LCCHTs. The government conducted and participated in public awareness campaigns throughout the country, including a week-long series of street plays, programs for media, and workshops in September 2016. During the week MWCSW issued

awards to four journalists for their coverage of human trafficking. The police continued to implement post-2015 earthquake orders to maintain vigilance against human trafficking of women and children in displaced persons camps, border crossings, and transportation hubs. In nine districts, special committees continued to monitor the adult entertainment sector for abuses. Observers stated their effectiveness was limited, however, due to a lack of funding and legislation to establish the committees' formal role. MWCSW issued its fourth report on the government's anti-trafficking efforts, and the National Human Rights Commission's Office of the Special Rapporteur on Trafficking in Women and Children issued its seventh report on human trafficking.

The government's 2015 labor migration guidelines include a policy requiring foreign employers to pay for visa and transportation costs for Nepali migrant workers bound for Malaysia and the Gulf states and restrict agency-charged recruitment fees to 10,000 NPR (\$92). Both NGOs and government officials noted enforcement of this policy was difficult and reported employment agencies regularly charged migrant workers for visa and transportation costs and fees above the 10,000 NPR limit. In July 2016 DFE revoked the licenses of more than 400 agents located outside of Kathmandu, reportedly to reduce the exploitation of migrant workers. In May 2016 the government formally lifted the suspension on all exit permits for female domestic work and lowered the age limit from 30 to 24 years for domestic worker migration to the Gulf states while simultaneously instituting a migration ban for mothers with children under age two. Observers continued to argue any ban on female migration increased the likelihood such women would migrate illegally and therefore heightened their vulnerability to human trafficking. The government did not make efforts to reduce the demand for commercial sex acts or forced labor. The government provided anti-trafficking training for all Nepali peacekeeping forces before deployment and for its diplomatic personnel. Nepal is not a party to the 2000 UN TIP Protocol. During the reporting period, however, the government-funded an NGO to study the costs of acceding to the protocol.

TRAFFICKING PROFILE

As reported over the past five years, Nepal is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Nepali women and girls are subjected to sex trafficking in Nepal, India, the Middle East, Asia, and sub-Saharan Africa. Nepali men, women, and children are subjected to forced labor in Nepal, India, the Middle East, and Asia in construction, factories, mines, domestic work, and begging. Manpower agencies or individual employment brokers who engage in fraudulent recruitment practices and impose high fees may facilitate forced labor. Unregistered migrants—including the large number of Nepalis who travel through India or rely on unregistered recruiting agents—are particularly vulnerable to forced labor and sex trafficking. Some Nepali women who agree to arranged marriages through Nepali companies to men in China and South Korea may experience fraud and be vulnerable to domestic servitude in which their freedom of movement is restricted. Some migrants from

Bangladesh and possibly other countries transit Nepal en route to employment in the Middle East, using potentially falsified Nepali travel documents, and may be subjected to human trafficking. Some government officials reportedly accept bribes to include false information in Nepali identity documents or provide fraudulent documents to prospective labor migrants, a tactic used by unscrupulous recruiters to evade recruitment regulations. Within Nepal, bonded labor exists in agriculture, brick kilns, the stone-breaking industry, and domestic work. Sex trafficking of Nepali women and girls increasingly takes place in private apartments, rented rooms, guest houses, and restaurants. Nepali and Indian children are subjected to forced labor in the country, especially in domestic work, brick kilns, and the embroidered textile, or *zari*, industry. Under false promises of education and work opportunities, Nepali parents give their children to brokers who instead take them to frequently unregistered children's homes in urban locations, where they are forced to pretend to be orphans to garner donations from tourists and volunteers; some of the children are also forced to beg on the street. Many Nepalis, including children, whose home or livelihood was destroyed by the 2015 earthquakes continue to be vulnerable to trafficking. Traffickers increasingly utilize social media and mobile technologies to lure and deceive their victims.