

## Trafficking in Persons Report 2010

### SRI LANKA (Tier 2 Watch List)

Sri Lanka is primarily a source and, to a much lesser extent, a destination for men and women subjected to trafficking in persons, specifically forced labor and forced prostitution. Sri Lankan men and women migrate consensually to Kuwait, Jordan, Saudi Arabia, Qatar, Lebanon, the United Arab Emirates (UAE), Oman, Bahrain, and Singapore to work as construction workers, domestic servants, or garment factory workers. Some of these workers, however, subsequently find themselves in conditions of forced labor through practices such as restrictions on movement, withholding of passports, threats, physical or sexual abuse, and threats of their detention and deportation for immigration violations. Many of these migrants pay high recruitment fees – usually about \$1,500 – imposed by licensed labor recruitment agencies and their unlicensed sub-agents and often assume debt linked to their future work and income in order to satisfy these costs. This indebtedness contributes to debt bondage in destination countries. The group most susceptible to human trafficking is the 1.1 million unskilled Sri Lankans abroad, most of whom are female domestic workers. An NGO released a survey in mid-2009 which found that 48 percent of returned Sri Lankan domestic workers were assaulted by a member of their employers' household, 52 percent were not paid the salary promised to them, and 84 percent were not paid for their overtime work, abuses that may indicate forced labor. There are also a number of cases in which some Sri Lankan recruitment agencies commit fraud by engaging in contract-switching, promising one type of job and conditions but then changing the job, employer, conditions or salary after arrival, risk factors for forced labor and debt bondage. There is evidence of government complicity in trafficking. Some sub-agents cooperated with Sri Lankan officials to procure forged or modified documents, or real documents with false data, to facilitate travel abroad. Some women were promised jobs as domestic workers in other countries, but after arriving were instead forced to work in brothels, mainly in Singapore. According to NGOs, trafficking offenders – possibly members of loosely affiliated crime groups – sometimes raped these women and forced them to work in brothels prior to their departure from Sri Lanka. A small number of Sri Lankan women are forced into prostitution in the Maldives.

Within the country, women and children are trafficked into brothels, especially in the Anuradhapura area, which was a major transit point for members of the Sri Lankan Armed Forces heading north. Boys are more likely than girls to be forced into prostitution – this is generally in coastal areas for domestic child sex tourism. The National Child Protection Authority (NCPA) estimated that approximately 1,000 children are subjected to commercial sexual exploitation within Sri Lanka although some NGOs believe the actual number is between 10,000 and 15,000. Children are also subjected to bonded labor in dry-zone farming areas and on plantations, where they were forced to work in fields or in homes to help pay off loans taken by their parents. Reports indicated some cases in which children below the age of 12 were kidnapped, generally by a relative, to work in the fireworks and fish-drying industries. A small number of women from Thailand, China, and countries in South Asia, Eastern Europe, and the former Soviet Union may be subjected to forced prostitution in Sri Lanka.

With the conclusion of the 26-year war with the Liberation Tigers of Tamil Eelam (LTTE), the government, in partnership with the UN, identified and demobilized during the reporting period between 400 and 500 child soldiers previously under the control of the LTTE. According to UNICEF statistics, four child soldiers remained unaccounted for by March 2010; efforts by the government and the UN to locate these children were unsuccessful. Allegations of kidnapping and re-recruitment of children have been made against some members of the pro-government Tamil Makkal Vidulthalai Pulikal (TMVP) and other armed groups in the East and North.

Sri Lanka does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During the year, the government enacted a law that facilitates the prosecution of recruitment agencies engaged in fraudulent recruitment. While the government made little progress in identifying trafficking victims, it did provide some training on identification. Despite these overall efforts, including rehabilitating child soldiers and reintegrating them into their communities and families the government has not shown evidence of progress in convicting and punishing trafficking offenders and identifying and protecting trafficking offenders. Therefore, Sri Lanka is placed on Tier 2 Watch List for the fourth consecutive year.

**Recommendations for Sri Lanka:** Vigorously investigate and prosecute suspected trafficking offenses and convict

and punish trafficking offenders, particularly those responsible for recruiting victims with fraudulent offers of employment and excessive commission fees; develop and implement formal victim referral procedures; ensure that victims of trafficking found within Sri Lanka are not detained or otherwise penalized for unlawful acts committed as a direct result of their being trafficked, such as visa violations; continue to run trafficking campaigns aimed at the public and law enforcement; continue to implement the “zero tolerance” policy regarding the recruitment and use of child soldiers; ensure that former child soldiers are reintegrated into society through comprehensive rehabilitation programs; establish a system to prevent vulnerable children from being recruited or re-recruited as soldiers; and strengthen the national anti-trafficking task force.

### **Prosecution**

The Sri Lankan government made some law-enforcement efforts in addressing human trafficking cases over the reporting period. Sri Lanka prohibits all forms of trafficking through an April 2006 amendment to its penal code, which 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 Sri Lankan Parliament passed a new act in September 2009 that expanded the powers of the Sri Lanka Bureau of Foreign Employment (SLBFE) to prosecute recruitment agents who engage in fraudulent recruitment. The new law, among other things, prescribes a maximum penalty of four years’ imprisonment and fines of \$1,000 (an average half-year’s salary for Sri Lankans), restricts the amount that employment agents can charge, requires government approval for all foreign employment advertisements, and makes the use of receipts mandatory.

Under the 2006 Anti-Trafficking Amendment, the Attorney General’s Department initiated two prosecutions during the reporting period, one under Section 360C (trafficking) and one under 360B (sexual exploitation of children). Reports indicate that these are the first two prosecutions under Sri Lanka’s 2006 Amendment, although the disposition of the 29 arrests made last year under the law are unknown. The Attorney General’s Department reported three convictions in magistrate courts under Sections 45C, 451B, and 452 of the Immigrants and Emigrants Act of 2006, which prohibit acts of human smuggling. Each convict was sentenced to one year in prison. The government reported that these cases constituted human trafficking, although this is unconfirmed. One prosecution of a low-level Sri Lankan official who was involved in document fraud was dismissed on a technicality. The Ministry of Defense provided an update on the status of 23 Sri Lankan UN peacekeepers who were convicted in late 2008 of sexually exploiting and abusing children while they were stationed in Haiti under UN auspices in 2007. Twenty peacekeepers had been discharged, demoted, formally reprimanded, or otherwise punished, and the other three were killed in military action. It is unclear whether these penalties were criminal or solely administrative. Eight hundred fifty-nine police officers participated in trafficking training modules in 2009, and 305 officers received trafficking training in workshops conducted by previously-trained Sri Lankan police officers. While the government advertised the new SLBFE law on state media, it did not provide officials any training on the implementation of this law. In recent years, the Sri Lanka government claimed that it would finalize a circular which would advise police on identifying potential trafficking victims among women detained for prostitution, as well as a ranking system that would publicly grade all employment agencies. Neither of these initiatives was completed in the reporting period.

### **Protection**

The government made limited progress in ensuring that victims of trafficking received access to necessary services during the year. The government continued to provide limited counseling and day care for children – including trafficking victims – through the operations of six resource centers. The SLBFE ran eight short-term shelters in Jordan, Kuwait, Libya, Oman, Saudi Arabia, and the UAE, as well as an overnight shelter in Sri Lanka’s international airport for returning female migrant workers who encountered abuse abroad. These shelters were funded by fees charged to workers upon migration. The Commissioner General for Rehabilitation, with the assistance of the NCPA, continued to operate two rehabilitation centers specifically for children involved in armed conflict, and with donor support also ran a vocational training center.

Government personnel did not employ formal procedures for proactively identifying victims, but various agencies on an *ad hoc* basis identified approximately 75 victims in 2009. It is unknown whether these victims were referred to shelters. At least two of these victims – Uzbek women who were forced into prostitution – remain at a transit detention facility for undocumented migrants as of March 2010. While government officials indicated that the prolonged detention of the Uzbek women was for their personal safety and that their presence and testimony was

crucial to ensure the prosecution of their traffickers, the women were not permitted to leave the detention facility. The government implemented a “zero tolerance” policy of child recruitment in the reporting period. Its efforts, in partnership with the UN, to track and demobilize the child soldiers associated with the LTTE and TMVP resulted in the release of nearly all child soldiers by the end of 2009. Furthermore, the Sri Lankan government ran two rehabilitation centers in partnership with UNICEF, which served more than 450 former child soldiers at the end of the reporting period.

The government did not encourage victims to assist in the investigation and prosecution of trafficking cases. While Sri Lankan trafficking victims could file administrative cases to seek financial restitution, this did not happen in practice due to victim embarrassment and the slow pace of the Sri Lankan legal system. The government penalized victims of trafficking through detention for unlawful acts committed as a direct result of their being trafficked. Most commonly, these acts were violations of their visa status. All detainees who were awaiting deportation for these visa violations, including trafficking victims, remained in detention facilities until they raised enough money to pay for their plane ticket home; in some cases, detainees have remained in detention centers for years. The government provided no legal alternatives for the removal of foreign victims to countries where they may face hardship or retribution. The National Counter Human Trafficking Resource Center of the Sri Lanka Department of Immigration and Emigration conducted two training sessions in partnership with the IOM since its inauguration in June 2009. The SLBFE also provided training on protection and assistance to its staff members who worked at embassies and consulates in foreign countries. Fifty immigration officers attended training sessions on the identification of trafficking victims.

### **Prevention**

The Sri Lankan government made progress in its efforts to prevent trafficking during the last year. The National Child Protective Authority conducted awareness campaigns to educate the general public about the dangers of trafficking. The SLBFE conducted public outreach events to warn people of the dangers of going abroad illegally and using unlicensed recruitment agencies to find work, and also required all workers to receive pre-departure training which included a labor rights component. In measures that could prevent transnational labor trafficking of Sri Lankans, the government conducted 184 raids of fraudulent foreign recruiting agencies and took legal action against 12 of them, resulting in fines ranging from \$200 to \$1,000. While most Sri Lankans have birth certificates and (after the age of 16) national identity cards, many of the 250,000 to 350,000 internally displaced people – a group very vulnerable to trafficking – did not have these documents. The Government of Sri Lanka forged a partnership with UNDP to conduct 16 mobile documentation clinics for conflict-affected people, reaching over 29,000 people in 2009. These clinics were not funded by the Sri Lankan government but heavily involved official personnel time. The Government of Sri Lanka did not report any efforts to reduce the demand for commercial sex acts during the reporting period.

The Ministry of Defense provided training to all Sri Lankan peacekeepers prior to their deployments for international peacekeeping missions on their obligations, duties, responsibilities, and potential disciplinary action, relating to human rights, including trafficking. Sri Lanka sent 39 delegations to 22 different labor-receiving countries for meetings, including discussions on ways to improve the rights and conditions of Sri Lankan migrant workers. As of March 2010, the Sri Lankan Counter Trafficking Task Force had not met for at least seven months and had no full-time staff due to a lack of funding for operations. While there is informal communication between the interagency members, the Task Force does not have a proper mandate to ensure a true interagency process. Sri Lanka is not a party to the 2000 UN TIP Protocol.