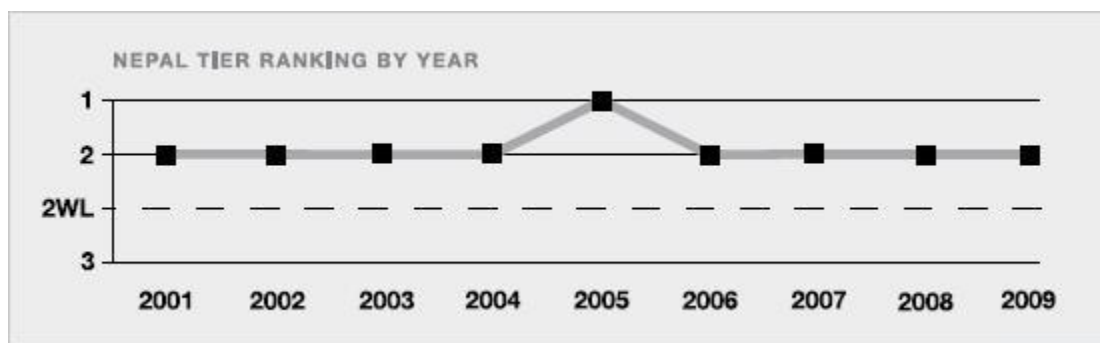


TRAFFICKING IN PERSONS REPORT 2009

NEPAL (Tier 2)

Nepal is a source country for men, women, and children trafficked for the purposes of commercial sexual exploitation and involuntary servitude. Children are trafficked within the country and to India and the Middle East for commercial sexual exploitation or forced marriage, as well as to India and within the country for involuntary servitude as domestic servants, circus entertainers, factory workers, or beggars. NGOs working on trafficking issues report an increase in both transnational and domestic trafficking during the reporting period, although a lack of reliable statistics makes the problem difficult to quantify. NGOs estimate that 10,000 to 15,000 Nepali women and girls are trafficked to India annually, while 7,500 children are trafficked domestically for commercial sexual exploitation. In many cases, relatives or acquaintances facilitated the trafficking of women and young girls into sexual exploitation. Women and girls are also trafficked to other Asian destinations, including Malaysia, Hong Kong, and South Korea for commercial sexual exploitation and forced labor.

The Nepalese Youth Opportunity Foundation estimated that, annually in Nepal, 20,000 to 25,000 girls become involuntary domestic workers. Bonded labor also remains a significant problem, affecting entire families forced into labor as land tillers or cattle herders. Over one million Nepali men and women work abroad in countries other than India, which is, by far, the most popular destination for Nepali workers; many of them migrate willingly to Malaysia, Israel, South Korea, the United States, Saudi Arabia, the UAE, Qatar, and other Gulf states with the help of labor brokers and manpower agencies to work as domestic servants, construction workers, or other low-skill laborers, and subsequently face conditions indicative of forced labor such as withholding of passports, restrictions on movement, non-payment of wages, threats, deprivation of food and sleep, and physical or sexual abuse. Many are deceived about their destination country. Many Nepali trafficking victims are subjected to debt bondage, which can in some cases be facilitated by fraud and high recruitment fees charged by unscrupulous agents in Nepal. Many traffickers provide parents of victims a “salary advance” in order to place the victims in a state of indebtedness, which may then be used to compel those victims to perform labor or a service in order to avoid threatened serious harm. In 2008, there was an increased number of reports of Nepali men who had been recruited for work in Gulf States, but were subsequently trafficked into forced labor in Iraq and Afghanistan by manpower agencies. Nepal’s role as a destination for foreign child sex tourists appears to be growing, as efforts to confront this problem in traditional Southeast Asian destinations have become more effective, according to local observers.



The Government of Nepal does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government continued modest efforts

to prosecute traffickers and raise public awareness of trafficking during the reporting period, though its efforts to adequately punish labor trafficking could be improved. Additionally, trafficking-related complicity by government officials remained a serious problem in Nepal.

Recommendations for Nepal: Significantly increase law enforcement efforts against all types of trafficking, including bonded labor, forced child labor, fraudulent labor recruitment for the purpose of forced labor, and sex trafficking; increase law enforcement efforts against government officials who are complicit in trafficking; institute a formal procedure to identify victims of trafficking and refer them to protection services to ensure that they are not punished for unlawful acts committed as a direct result of their being trafficked; improve protection services available for victims of all forms of trafficking; and put in place more effective tracking mechanisms for both sex and labor trafficking cases.

Prosecution

Nepal made limited progress in its anti-trafficking law enforcement efforts over the reporting period. Through its 2007 Trafficking in Persons and Transportation (Control) Act (TPTA), Nepali law prohibits all forms of trafficking and prescribes penalties ranging from 10 to 20 years' imprisonment, which are sufficiently stringent and commensurate with those prescribed for other grave crimes, such as rape. The 2007 Foreign Employment Act, through its Chapter 9, criminalizes the acts of an agency or individual sending workers abroad based on false promises or without the proper documentation, prescribing penalties of three to seven years' imprisonment for those convicted. Nepali law formally prohibits bonded labor, but the government does not enforce penalties for violators. According to the Office of the Attorney General (OAG), 14 individuals were convicted of trafficking offenses during the reporting period, six more than in the previous year, while 19 people were acquitted. The OAG did not provide information on the punishment imposed. In 2008, the government reported 400 cases filed under the Foreign Employment Act on behalf of workers for deceptive recruitment practices that may have led to situations of labor trafficking, including 137 cases against manpower agencies and 263 cases against individual labor recruiters, representing a significant increase from the previous reporting period. The government did not indicate, however, which of these cases involved acts of human trafficking. Of the 800 labor recruitment agencies licensed by the Department of Labor under the Act, 220 have had their licenses revoked for deceptive recruitment practices since late 2007. Trafficking-related complicity by government officials remained a serious problem in Nepal, with traffickers using ties to politicians, businesspersons, state officials, police, customs officials, and border police to facilitate trafficking. NGOs report that some police, border guards, and other officials routinely accept bribes to turn a blind eye to activities of traffickers. Many dance bars, "cabin restaurants," and massage parlors in Kathmandu that facilitate sex trafficking are reportedly co-owned by senior police and army officials. Additionally, given the large number of genuine Nepali passports containing false information that Indian officials have encountered in trafficking cases, it is clear that some Nepali officials are working with traffickers to provide them with these documents. Despite these serious concerns regarding the prominent role complicit government officials play in trafficking, the government did not prosecute any official complicit in trafficking during the reporting period. It is critical for the Government of Nepal to take serious and proactive efforts to investigate and punish this trafficking complicity.

Protection

Nepal made minimal efforts to protect victims of trafficking during the reporting period. Although the

TPTA includes provisions for assistance to Nepali citizens trafficked abroad, these provisions have not been implemented due to lack of resources. Most of the facilities that can assist trafficking victims are run by NGOs. During the reporting period, the government began providing financial support to NGO-run trafficking shelters in Kathmandu, Sindhualchowk, and Kanchanpur, and made plans to fund four additional shelters in 2009. Child victims were placed in foster care in government institutions. The government did not directly provide any medical or psychological services to trafficking victims, though the Ministry of Women, Children and Social Welfare provided limited legal counseling through the Nepal Women's Commission. The government did not report the number of trafficking victims identified or assisted during the reporting period. The government encourages sex trafficking victims to participate in investigations against their traffickers, but lacks sufficient resources to ensure their personal safety. Additionally, victims who are material witnesses in court cases are not permitted to obtain employment or leave Nepal until the case has concluded; as such, many victims are reluctant to testify. NGOs complained that police and other authorities were not rigorous in their efforts to identify trafficking victims. Law enforcement officers do not employ formal procedures to identify victims of trafficking from among vulnerable groups, such as women arrested for prostitution, and did not ensure that victims of trafficking were not penalized for unlawful acts committed as a direct result of their being trafficked. As a result, some victims were arrested and fined for acts committed as a result of being trafficked. In September 2008, the police cracked down on entertainment establishments in Kathmandu, many of which were fronts for prostitution; hundreds of women and underage girls were arrested, though none were screened by police and identified as victims of trafficking, or given protection, and no manager, owner, or client of these establishments was arrested. It is of particular concern that Nepali police do not attempt to identify as trafficking victims children in prostitution in such establishments or adult women who are in prostitution involuntarily. The government does not provide victim protection services for men and women trafficked abroad for involuntary servitude, and there were a number of incidents in 2008 in which Nepali workers who may have been victims of labor trafficking were stranded overseas.

Prevention

Nepal sustained its efforts to prevent trafficking in persons throughout the reporting period. The Ministry of Women, Children, and Social Welfare increased its financial assistance to task forces in 26 high-risk districts to raise awareness and mobilize communities against trafficking, however it remains insufficient. In order to increase awareness of trafficking in the country, the government ran a public information campaign on the country's National Anti-Trafficking Day. There were no measures taken by the government to reduce the demand for commercial sex acts or raise awareness about child sex tourism. To date, the government has done little to prevent the exploitation of minors in the growing domestic sex industry, or to conduct an awareness campaign to reduce the demand for commercial sex acts. Nepal has not ratified the 2000 UN TIP Protocol.