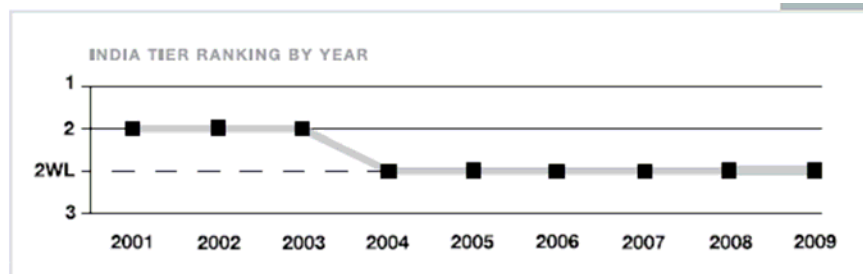


Trafficking In Person - 2009

INDIA (Tier 2 Watch List)



India is a source, destination, and transit country for men, women, and children trafficked for the purposes of forced labor and commercial sexual exploitation. Internal forced labor may constitute India's largest trafficking problem; men, women, and children in debt bondage are forced to work in industries such as brick kilns, rice mills, agriculture, and embroidery factories. Although no comprehensive study of forced and bonded labor has been carried out, some NGOs estimate this problem affects tens of millions of Indians. Those from India's most disadvantaged social economic strata are particularly vulnerable to forced or bonded labor and sex trafficking. Women and girls are trafficked within the country for the purposes of commercial sexual exploitation and forced marriage. Children are also subjected to forced labor as factory workers, domestic servants, beggars, and agricultural workers. In recent years, there has been an increase of sex trafficking to medium-sized cities and satellite towns of large cities.

India is also a destination for women and girls from Nepal and Bangladesh trafficked for the purpose of commercial sexual exploitation. There are also victims of labor trafficking among the thousands of Indians who migrate willingly every year to the Middle East, Europe, and the United States for work as domestic servants and low-skilled laborers. In some cases, such workers are the victims of fraudulent recruitment practices committed in India that lead them directly into situations of forced labor, including debt bondage; in other cases, high debts incurred to pay recruitment fees leave them vulnerable to exploitation by unscrupulous employers in the destination countries, where some are subjected to conditions of involuntary servitude, including nonpayment of wages, restrictions on movement, unlawful withholding of passports, and physical or sexual abuse. Men and women from Bangladesh and Nepal are trafficked through India for forced labor and commercial sexual exploitation in the Middle East. Over 500 Nepalese girls were jailed in the state of Bihar on charges of using false documents to transit India in the pursuit of employment in Gulf countries. Indian nationals travel to Nepal and within the country for child sex tourism.

The Government of India does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite these significant efforts, India has not demonstrated sufficient progress in its law enforcement efforts to address human trafficking, particularly bonded labor; therefore India is placed on Tier 2 Watch List. India's central government faces several challenges in demonstrating a more robust anti-trafficking effort: states under the Indian Constitution have the primary responsibility for law enforcement, and state-level authorities are limited in their abilities to effectively confront interstate and transnational trafficking crimes; complicity in trafficking by many Indian law enforcement officials and overburdened courts impede effective prosecutions; widespread poverty continues to provide a huge source of vulnerable people; and the Indian government faces other equally pressing priorities such as basic healthcare, education, and counter terrorism. During the reporting period, the central government continued to improve

coordination among a multitude of bureaucratic agencies that play a role in anti-trafficking and labor issues. Government authorities continued to rescue victims of trafficking for commercial sexual exploitation and forced child labor. Several state governments (Andhra Pradesh, Bihar, Maharashtra, Goa, and West Bengal) demonstrated significant efforts in prosecution, protection, and prevention, although largely in the area of trafficking for commercial sexual exploitation.

Recommendations for India:

Continue to expand central and state government law enforcement capacity to conduct intrastate and interstate law enforcement activities against trafficking and bonded labor; consider expanding the Central Ministry of Home Affairs “nodal cell” on trafficking to coordinate law enforcement efforts to investigate and arrest traffickers who cross state and national lines; significantly increase law enforcement efforts to decrease official complicity in trafficking, including prosecuting, convicting, and punishing complicit officials with imprisonment; continue to increase law enforcement efforts against sex traffickers, including prosecuting, convicting, and punishing traffickers with imprisonment; improve central and state government implementation of protection programs and compensation schemes to ensure that certified trafficking victims actually receive benefits, including compensation for victims of forced child labor and bonded labor, to which they are entitled under national and state law; and increase the quantity and breadth of public awareness and related programs to prevent both trafficking for labor and commercial

Prosecution

Indian government authorities made significant progress in law enforcement efforts against sex trafficking and forced child labor during the year, but made little progress in addressing bonded labor. The government prohibits some forms of trafficking for commercial sexual exploitation through the Immoral Trafficking Prevention Act (ITPA). Prescribed penalties under the ITPA, ranging from seven years’ to life imprisonment, are sufficiently stringent and commensurate with those prescribed for other grave crimes, such as rape. India also prohibits bonded and forced labor through the Bonded Labor (Abolition) Act of 1976, the Child Labor (Prohibition and Regulation) Act of 1986, and the Juvenile Justice Act of 1986. These laws were ineffectively enforced, and their prescribed penalties—a maximum of three years in prison—are not sufficiently stringent. Indian authorities also use Sections 366(A) and 372 of the Indian Penal Code, prohibiting kidnapping and selling minors into prostitution, respectively, to arrest traffickers. Penalties prescribed under these provisions are a maximum of ten years’ imprisonment and a fine. Although Section 8 of the ITPA allows the arrest of trafficked women for soliciting, the Indian cabinet debated for another year proposed amendments that would give trafficking victims greater protections.

State governments continued to demonstrate efforts to address forced child labor, but failed to punish most traffickers. During the year, the New Delhi government rescued more than 100 children from forced labor situations, such as the February 2009 rescue of 35 children found enslaved in four small factories making leather products under hazardous and forced conditions without pay. In Jharkhand (with a population of 29 million people), the state labor ministry and police, in collaboration with an NGO, conducted raids on 120 establishments during a planned operation and rescued 208 children from forced or bonded labor situations.

The central government and state governments continued to demonstrate efforts to combat sex trafficking of women and children, though convictions and punishments of sex traffickers were infrequent. The central government’s National Crime Records Bureau provided limited comprehensive data, compiled from state and union territory governments, on actions taken against sex trafficking offenses in 2007. The 2007 data indicated that 4,087 cases were registered (investigations started), which likely includes sex trafficking cases referred to courts for prosecution as

well as cases investigated and closed without such referrals. This data did not include reported prosecutions and convictions. Data for 2008 will not be available until 2010.

In Andhra Pradesh, Bihar, Maharashtra, Goa, and West Bengal (with a combined population of 360 million people), government officials registered 964 sex trafficking cases, conducted 379 rescue operations, helped rescue 1,653 victims, arrested 1,970 traffickers (including 856 customers), convicted 30 sex traffickers, helped rehabilitate 876 sex trafficking victims, and trained 13,490 police officers and prosecutors. In Mumbai, authorities prosecuted 10 sex trafficking cases but obtained no convictions in 2008. In Andhra Pradesh, courts convicted and sentenced eleven traffickers to imprisonment for 10 to 14 years. Tamil Nadu's state government reported arrests of 1,097 sex trafficking offenders in 2008, though the number of trafficking prosecutions and convictions during the reporting period was not reported. The city of Pune attained its first sex trafficking conviction in 2008.

During the reporting period, the central government made little progress to investigate, prosecute, convict, and punish labor trafficking offenders. However, it allocated \$18 million to the Ministry of Home Affairs to create 297 anti-human trafficking units across the nation to train and sensitize law enforcement officials. According to NGOs, state-level officials who received such training in the past are increasingly recognizing women in prostitution as potential victims of trafficking and therefore not arresting them for solicitation. In Tamil Nadu (with a population of 65 million people), an NGO reported a significant improvement in how police file charges in bonded labor cases. The police now also employ the Indian Penal Code's tougher provisions, which allow bonded labor cases to be processed more quickly through the judicial system. The significant problem of public officials' complicity in sex trafficking and forced labor remained largely unaddressed by central and state governments during the reporting period. Corrupt law enforcement officers reportedly continued to facilitate the movement of sex trafficking victims, protect brothels that exploit victims, and protect traffickers and brothel keepers from arrest and other threats of enforcement. India reported no prosecutions, convictions, or sentences of government officials for trafficking-related offenses during the reporting period.

Protection

India's efforts to protect victims of trafficking varied from state to state. Protection efforts often suffered from a lack of sufficient financial and technical support from government sources, and protection for victims of labor trafficking remained very weak. Under its Swadhar program – which covers a broad range of activities of which anti-sex trafficking is one – the government supports over 200 shelters with an annual budget of more than \$1 million to provide care for more than 13,000 women and girls rescued from a range of difficult circumstances, including sex trafficking. The Ministry of Women and Child Development continued to give grants under its Ujjawala program for the prevention, rescue, rehabilitation, and reintegration of sex trafficking victims.

The ministry approved funding for at least 53 state projects under this program, benefiting more than 1,700 victims. Since August 2008, the ministry provided the states of Karnataka, Maharashtra, Manipur, and Nagaland almost \$243,000 for 18 projects at 12 rehabilitation centers. Andhra Pradesh established a fund specifically for victim rehabilitation, giving victims rescued from sexual exploitation \$200 in temporary relief. Tamil Nadu began providing free legal aid and drug and alcohol addiction counseling services in state shelters to trafficking victims. The Delhi government established a helpline staffed by NGOs in February 2009 to help rescue children found begging.

Although victims of bonded labor are entitled to 20,000 rupees (\$400) from the government if they are certified as victims of bonded labor and may be housed in government shelters, disbursement of rehabilitation funds is sporadic and the quality of care in many shelters is not high. NGOs reported

that some corrupt local officials take unlawful “commissions” from the rehabilitation packages. Overall, government authorities do not proactively identify and rescue bonded laborers, so few victims receive assistance, though Tamil Nadu showed the greatest effort to identify and assist victims of bonded labor. In other states, NGOs provided the bulk of protection services to bonded labor victims. The central government’s Ministry of Overseas Indian Affairs, during the reporting period, showed resolve to address the trafficking of Indian migrant workers. For example, in September 2008, the Government ordered an inquiry after reports surfaced of girls from northeastern India being trafficked to Malaysia for sex work. The Government arrested the travel agent, promptly rescued the girls and paid for their repatriation to India. The Ministry also drafted an amendment to the Emigration Act that would increase administrative penalties for Indian labor recruitment agencies involved in fraudulent recruitment or human trafficking. Some Indian diplomatic missions in destination countries, especially those in the Middle East, provide significant services, including temporary shelters to nationals who have been trafficked. Some foreign victims trafficked to India are not subject to removal. Those who are subject to removal are not offered legal alternatives to their removal to countries where they may face hardship or retribution. NGOs reported in the past some Bangladesh victims of sex trafficking were pushed back across the border without protection services. During the reporting period, India worked closely with Bangladesh on resolving crossborder trafficking issues, including formally designating a government official to handle such issues during Home Secretary-level discussions in August 2008.

Government shelters for sex trafficking victims are found in all major cities, but the quality of care varies widely. In Maharashtra, West Bengal, Tamil Nadu, and Andhra Pradesh, state authorities operated homes for minor victims of sex trafficking. Although states have made some improvements to their shelter care, victims in these facilities do not receive comprehensive protection services, such as psychological assistance from trained counselors. Many victims decline to testify against their traffickers due to fear of retribution by traffickers and India’s sluggish and overburdened judicial system. The government does not actively encourage victims to participate in cases against their traffickers.

Prevention

India continued to conduct information and education campaigns against trafficking in persons and child labor. In late 2008 the central government completed its 18- month long consultation process with government and NGO stakeholders on a comprehensive “Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women.” Overall, the government’s anti-trafficking policies and programs remained framed by the limited perspective of human trafficking defined as the trafficking of women and children for sexual exploitation, in line with the 2002 South Asian Association for Regional Cooperation Convention on Combating Trafficking of Women and Children for Prostitution. Kerala (with a population of 33 million people and India’s largest source of laborers who migrate overseas) regularized recruitment agencies and introduced a toll free number for potential migrants. In January 2009, the central government approved a nationwide model that merges its national educational and poverty alleviation programs together to combat child labor.

While the government made modest efforts to prevent trafficking for commercial sexual exploitation, it did not report new or significant efforts to prevent the large problem of bonded labor. The Ministry of Women and Child Development remained the central government’s coordinator of anti-trafficking policies and programs, though its ability to enhance interagency coordination and accelerate anti-trafficking efforts across the bureaucracy remained weak. In August 2008, a UN report alleged several Indian peacekeepers posted in the Democratic Republic of the Congo had been

involved in paying minor Congolese girls for sex in 2007 and 2008. In March 2009, the Indian military exonerated the soldiers after conducting an investigation. According to a Government of India official, training for Indian soldiers deployed in peacekeeping missions includes awareness about trafficking.

In May 2008, the Ministry of Women and Child Development created a think tank to expand public-private partnerships to play a greater role in preventing and combating human trafficking. Following agreements reached prior to this reporting period with Middle Eastern labor destination countries, the Indian prime minister in November 2008 signed a major agreement with Oman to combat illegal recruitment and human trafficking during his visit there. The agreement stipulates that terms and conditions of employment in Oman shall be defined by an individual employment contract between the employee and the employer and authenticated by Oman's Ministry of **Manpower**.

The Ministry of Labor and Employment issued a "Protocol on Prevention, Rescue, Repatriation, and Rehabilitation of Trafficked and Migrant Child Labor" in May 2008 to guide state and district-level authorities and NGOs, and expanded the central government's list of occupations that are banned from employing children. The government undertook several measures to reduce demand for commercial sex acts during the reporting period, such as the arrests of 856 customers of prostitution in Andhra Pradesh, Maharashtra, Bihar, Goa, and West Bengal. India has not ratified the 2000 UN TIP Protocol.