

Bhutan - United States Department of State

BHUTAN: Tier 2 Watch List

The Government of Bhutan does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government made key achievements during the reporting period; therefore Bhutan was upgraded to Tier 2 Watch List. These achievements included convicting one individual under the human trafficking statute, appealing the dismissal of trafficking charges in a second trafficking case, finalizing and disseminating standard operating procedures (SOPs) for victim identification and referral, and initiating an investigation into reports of labor exploitation, including forced labor, among Bhutanese workers abroad. In addition, the government continued to work with an international organization on anti-trafficking trainings and public awareness events. Despite these achievements, due to Bhutanese law's inconsistencies with international law, courts continued to dismiss trafficking charges in cases that met the international definition of trafficking, including one case in which a court convicted an alleged trafficker with a fine in lieu of imprisonment. Officials did not identify any trafficking victims during the reporting period. The government did not provide protective services to Bhutanese labor trafficking victims identified abroad, and the government continued to rely on civil society leadership for some anti-trafficking efforts.

PRIORITIZED RECOMMENDATIONS:

Amend Penal Code Sections 154 and 227 and Section 224 of the Child Care and Protection Act to bring the definition of human trafficking in line with the 2000 UN TIP Protocol. • Vigorously investigate, prosecute, and convict traffickers with significant terms of imprisonment. • Increase proactive trafficking victim identification, including by training officials on, and implementing, the SOPs. • Train officials on the international definition of trafficking, including transnational trafficking, and implementation of anti-trafficking laws. • Train and instruct labor inspectors to screen cases of labor violations for indicators of forced labor, including non-payment of wages, and refer to police for criminal investigation. • Finalize and implement guidelines to oversee *drayang*s (karaoke bars), including ensuring workers have access to contracts. • Take steps to eliminate all recruitment fees charged to workers by recruitment agents and investigate claims of non-payment of wages, contract switching, and illegal fees charged by agents. • Undertake and publish a comprehensive assessment of all forms of human trafficking in Bhutan. • Increase funding to NGOs that provide shelter and services to trafficking victims. • Increase awareness of human trafficking, including forced labor of Bhutanese students abroad. • Accede to the 2000 UN TIP Protocol.

PROSECUTION

The government increased anti-trafficking law enforcement efforts. The law criminalized some forms of sex trafficking and labor trafficking. Section 154 of the penal code criminalized "trafficking in persons," which was defined as a person who

“recruits, transports, sells or buys, harbors or receives a person through the use of threat or force or deception within, into, or outside of Bhutan for any illegal purpose.” Inconsistent with international law, this definition required the purpose of the human trafficking crime to be “illegal” rather than specifically for an exploitative purpose. Section 227 of the penal code defined “trafficking of a child” to include buying, selling, or transporting a child for any illegal purpose. Section 379 of the penal code defined “trafficking a person for prostitution” as selling, buying, or transporting a person into or outside of Bhutan for the purposes of prostitution. Section 224 of The Child Care and Protection Act (CCPA) criminalized child trafficking but, inconsistent with international law, required a demonstration of force, fraud, or coercion to constitute a child sex trafficking offense, and therefore did not criminalize all forms of child sex trafficking. Section 154 of the Penal Code prescribed punishment ranging from three to five years’ imprisonment; Section 227 from five to nine years’ imprisonment; Section 379 from five years’ to life imprisonment; and Section 224 of the CCPA from five to nine years’ imprisonment. These punishments were sufficiently stringent and, with respect to sex trafficking, commensurate with penalties prescribed for other serious crimes, such as rape. The Labor and Employment Act criminalized forced labor with sufficiently stringent penalties ranging from three to five years’ imprisonment. The judiciary continued to dismiss and refile on lesser charges suspected human trafficking cases due to inconsistencies between Bhutanese law and the international definition of trafficking. During the reporting period, Parliament reviewed and held initial votes on a penal code amendment that would more closely align the penal code’s definition of human trafficking with international standards.

Law enforcement investigated four potential trafficking cases, prosecuted three, and convicted two individuals in two cases, compared to three investigations and one prosecution the previous reporting period. Of the four investigations, the government continued three from previous reporting periods (one sex trafficking and two labor trafficking). In one investigation initiated in 2017, the judiciary sentenced one trafficker to two years’ imprisonment under Section 154 for attempting to send two Bhutanese women abroad for sex trafficking. In another case from 2018, the Office of the Attorney General (OAG) charged a woman with child trafficking for forced labor of an 8-year-old girl in domestic work. Despite indicators of trafficking, including severe physical abuse that required hospitalization and amputations, the court dropped the trafficking charges, convicted the employer for illegal transportation of a child, and penalized her with a 9,900 Bhutanese ngultrum (Nu) (\$139) fine and 180,000 Nu (\$2,540) in victim compensation. The OAG appealed the dismissal of the trafficking charges.

In mid-2018, several hundred Bhutanese participants in a government-approved work-study program in Japan reported indicators of forced labor. The government dismissed the allegations for nearly one year, but after a lawyer representing a group of students filed a criminal complaint against the recruitment agency, the government investigated the case. The lawyer alleged forgery, deceptive practices, harassment, abandonment of a person in danger, and human trafficking. The OAG reportedly could not bring trafficking charges due to lack of evidence of human trafficking as defined in Bhutanese law but charged the agency with 2,887 counts of forgery and 730 counts of larceny by deception. The government also charged the Director-General of Ministry of Labor and Human Resources with four criminal offenses, including illegal issuance of a certificate of registration to an employment agency without required documentation. The prosecution was ongoing at the close of the reporting period.

Many officials continued to lack an understanding of human trafficking, especially internal and transnational forced labor. Additionally, limited police resources hindered thorough investigations, and a lack of training for law enforcement on victim-centered questioning impeded formation of strong cases. Persistent individual officers largely accounted for successful anti-trafficking law enforcement efforts. In partnership with an international organization, the Department of Law and Order (DLO) continued to support anti-trafficking trainings for law enforcement and prosecutors. The lack of diplomatic relationships or mutual law enforcement agreements with destination countries hindered Royal Bhutan Police (RBP) efforts to investigate some potential trafficking cases. Nevertheless, the government continued to coordinate with Indian authorities to extradite a suspected Bhutanese trafficker and assisted French authorities with investigation of an alleged trafficker who had forced a Bhutanese woman into commercial sex in France.

PROTECTION

The government maintained minimal victim identification and protection efforts. The government did not identify any trafficking victims during the reporting period, compared to one victim identified in the previous reporting period. With support from an international organization, the government finalized, published, and disseminated SOPs on trafficking victim identification and referral. In partnership with an international organization, the government conducted a two-day training on the SOPs for government officials. RBP maintained Women and Child Protection Units located at three police stations, which consisted of a female police officer assigned to crimes against women and children. Ten Women and Child Desks at other police stations had a police officer assigned to these crimes. RBP reportedly screened for trafficking among women in commercial sex, including in *drayang*s and border areas, and did not identify any trafficking victims.

When the government identified trafficking victims, RBP and other agencies could refer them to the National Commission for Women and Children (NCWC) or an NGO for care. NCWC and NGOs could refer female and child victims to an NGO-run facility that provided counseling, medical services, and long-term shelter to women and child victims of crime. The government funded a full-time nurse, security guards, and some operating costs. No shelter could accommodate male trafficking victims. During the reporting period, the shelter continued to care for one trafficking victim identified in 2018. There were no shelters for victims of crime outside of the capital area. The shelter had the ability to assign counselors to visit victims of crime outside the capital on an ad hoc basis. Ministries did not have dedicated budgets they could use to support trafficking victims, which created gaps in services in some reported cases. NCWC maintained a budget to assist women in difficult circumstances, which it could use for female and child trafficking victims. NCWC could also provide case management assistance and legal aid.

In December 2019, an international organization identified approximately 140 Bhutanese women in forced labor in domestic work in Iraq, and the Ministry of Foreign Affairs began assisting the organization and the Iraqi government in screening the women for trafficking and facilitation repatriation. Some Bhutanese students who went to Japan through a placement program currently under investigation for labor exploitation contracted serious illnesses due to the squalid living conditions, and several died. At the close of the reporting period, many participants in the program, including some suspected trafficking victims, remained in Japan due to debt incurred in the fraudulent recruitment process. The

government established additional communication with the students who remained in Japan but did not report efforts to assist or repatriate victims. The immigration department mandated authorities report suspected foreign trafficking victims identified within Bhutan to NCWC before initiating deportation for immigration violations. It is unclear if similar policies existed for potential foreign male trafficking victims in Bhutan. Bhutanese law did not provide legal alternatives to removal of trafficking victims to countries in which victims would face retribution or hardship.

PREVENTION

The government maintained efforts to prevent human trafficking. DLO, the interagency lead on anti-trafficking efforts, continued to convene regular meetings of an anti-trafficking taskforce, composed of government and civil society. Senior officials increasingly attended task force meetings. With an international organization, DLO began developing an anti-trafficking national action plan. The government assisted an international organization in conducting an assessment of trafficking in Bhutan, and the government funded a separate parliamentary study on national trafficking trends to inform current and future anti-trafficking legislation. A lack of training on trafficking and a dedicated anti-trafficking budget hampered DLO's implementation of its anti-trafficking mandate. In partnership with an international organization, DLO continued to support public awareness events on human trafficking for groups including students, airport officials, taxi drivers, local government officials, and *drayang* employees. The government and media reported cases of girls younger than 18 working in *drayangs*, a violation of the minimum age requirement of 18. The Ministry of Economic Affairs began drafting new guidelines to review and oversee *drayangs*, including mandating investigations into potentially exploitative working conditions. During the reporting period, the Ministry of Labor and Human Resources (MoLHR) inspected all 23 *drayangs* in Thimphu and reported some did not comply with labor regulations. The government issued closure warnings for failure to comply with labor regulations but did not report levying any civil or criminal penalties against the establishments. During the reporting period, OAG charged one *drayang* owner with employing a minor.

MoLHR registered foreign migrant workers in Bhutan, monitored working conditions, and produced and disseminated pamphlets advising workers of their rights. The Department of Labor (DOL), within MoLHR, hired 11 new labor inspectors, bringing its total to 35. Inspectors lacked adequate training. The July 2018 – June 2019 DOL annual report documented 147 complaints of non-payment of wages, compared to 211 in the previous reporting period, and eight violations of overseas recruitment procedures. As in the previous reporting period, the government did not report the disposition of these cases, including whether it levied civil or criminal penalties. DOL generally mediated claims of non-payment of wages, and it did not report violators to police for criminal investigation of potential forced labor offenses or penalize employers if they paid the outstanding wages. MoLHR did not have the ability to inspect private homes for labor violations and relied on potential victims to self-identify.

Government regulations on overseas employment allowed most agents to charge Bhutanese migrant workers a recruitment fee of one month's salary and recruitment expenses, except for costs associated with a visa or work permit. Individual police officers continued to educate migrant workers about trafficking when they applied

for the mandatory police clearance. MoLHR continued to monitor recruitment agencies that assisted Bhutanese citizens older than age 21 seeking work overseas. During the reporting period, it suspended one recruitment agency, fined one agency for operating without a license, and continued to monitor five licensed agencies, compared to terminating one licensed agency in the previous reporting period. The government did not report whether it levied civil or criminal penalties against a recruitment agency it had terminated in the previous reporting period for fraudulent recruitment of Bhutanese to Malaysia through a work-study program. During the reporting period, the government suspended registration of all new labor recruitment agencies and agents. MoLHR posted online announcements to warn potential migrant workers of false advertising and to encourage applicants to verify overseas job advertisements with the ministry. The government did not make efforts to reduce the demand for commercial sex acts. The government did not provide anti-trafficking training for its diplomatic personnel. Bhutan is not a party to the 2000 UN TIP Protocol.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic victims in Bhutan, Bhutanese abroad, and foreigners in Bhutan. Unregistered and unscrupulous foreign employment recruitment agencies and sub-agents increasingly operate through social media. Some traffickers posing as recruiters offer ostensibly well-paying jobs overseas but exploit Bhutanese in forced labor. Some agencies have subjected Bhutanese students in work-study programs in Japan and Malaysia to indicators of forced labor, including fraudulent contracts, non-payment of wages, and passport retention. Bhutanese citizens continued to work in the hospitality, retail, and service sectors in the Gulf, including in Bahrain, Kuwait, Qatar, and UAE, and in India, Thailand, and the United Kingdom through global training and placement academies. Some participants reported indicators of trafficking, including illegal recruitment fees and wage deductions, restricted movement, passport retention, and non-payment of wages. Media outlets reported traffickers have exploited Bhutanese women in sex trafficking in India. In recent years, including 2019, traffickers sent approximately 140 Bhutanese women to Iraq for forced labor in domestic work.

Traffickers have exploited Bhutanese women and girls working in domestic labor, caregiving, and in sex and labor trafficking, including through debt bondage and threats of physical abuse. Bhutanese women and girls who work as entertainers in *drayang*s are vulnerable to labor and sex traffickers. *Drayang* workers often come from rural areas and sign contracts they later cannot access, that can give more than half of their income to the *drayang* owners. Additionally, some female *drayang* entertainers reportedly work in commercial sex after the *drayang*s close, some of which traffickers might facilitate. Relatives transport rural Bhutanese to urban areas for employment in domestic work, which at times may involve forced labor. Media outlets have reported instances of child labor within Bhutan's restaurant and automobile workshop industries, some of which had indicators of forced labor. Traffickers may target LGBTI individuals. An expanding construction sector continues to increase the demand for low-skilled foreign labor. Male Indian migrant workers—including in the construction and hydropower sectors—often receive advances before beginning work in Bhutan. Some workers subsequently report unauthorized deductions and non-payment of wages. Traffickers have exploited Indian child domestic workers in Bhutan. Media outlets and NGOs report an

increase in commercial sex by Bhutanese and Indian women in the Bhutanese-Indian border's growing hospitality and entertainment districts—including hotels, massage parlors, and nightclubs—some of which might be forced. Bhutan's small stateless persons population's lack of access to documentation necessary to attend school renders stateless children vulnerable to traffickers.