

Palau - United States Department of State

PALAU: Tier 2

The Government of Palau does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared to the previous reporting period; therefore Palau remained on Tier 2. These efforts included acceding to the 2000 UN TIP Protocol, conducting more campaigns to raise awareness of human trafficking, and providing victims with temporary employment placements. The government approved rules and regulations to increase protections for foreign migrant workers, which allowed nonresident workers in Palau without legal status to be placed under legal employment. However, the government did not meet the minimum standards in several key areas. The government remained without standard operating procedures (SOPs) for victim identification and referral to services, leading to insufficient identification and protection services. The government did not convict any traffickers and, upon appeal, acquitted one previously convicted trafficker. The government also did not investigate indicators of trafficking in labor recruitment and contract violations experienced by many foreign workers. Official complicity reportedly continued to play a role in facilitating trafficking and hindered law enforcement efforts.

PRIORITIZED RECOMMENDATIONS:

Increase efforts to investigate, prosecute, and convict traffickers, including complicit officials, under trafficking laws and sentence traffickers to adequate penalties, which should involve significant prison terms. • Develop, disseminate, and train officials on SOPs for the proactive identification of trafficking victims and their referral to protection services. • Enforce the anti-trafficking laws punishing recruiters, employment agents, and labor officials for illegal practices that facilitate trafficking. • Increase resources for and develop victim protection and rehabilitation services, including long-term shelter options, interpretation services, and medical and psychological care. • Amend anti-trafficking laws to remove sentencing provisions that allow fines in lieu of imprisonment for sex trafficking offenses and do not prosecute or penalize victims for unlawful acts traffickers compelled the victim to commit. • Create and implement a system to proactively offer foreign trafficking victims job placements and work visa extensions. • Establish and implement witness confidentiality procedures. • Increase anti-trafficking awareness among vulnerable populations, including foreign migrant worker communities. • Establish a mechanism for the systematic monitoring of government anti-trafficking efforts.

PROSECUTION

The government maintained law enforcement efforts. Sections 2106-2108 of the criminal code criminalized sex trafficking and labor trafficking and prescribed penalties of up to 25 years' imprisonment, a fine of up to \$250,000, or both if the victim was an adult and up to 50 years' imprisonment, a fine of up to \$500,000, or both if the victim was under age 18. These penalties were sufficiently stringent, but

by allowing for a fine in lieu of imprisonment for sex trafficking crimes these penalties were not commensurate with penalties prescribed for other serious crimes, such as rape. The Ministry of Justice's anti-human trafficking office (AHTO) investigated five trafficking cases, which included three potential cases of labor trafficking and exploiting a trafficked person and two potential cases of sex trafficking, compared with 11 potential trafficking case investigations in 2018 and 14 in 2017. These investigations resulted in the arrests of two alleged traffickers; all other investigations remained ongoing at the end of the reporting period. The government also reported that four forced labor investigations and one sex trafficking investigation remained ongoing from the previous reporting period. The attorney general's office (AGO) initiated the prosecution of two alleged traffickers during the reporting period, compared with one prosecution in 2018 and three in 2017. The government did not convict any traffickers in 2019, compared with one conviction in 2018 and three convictions in 2017. In one case, the court dismissed all trafficking charges as part of a plea agreement; in the other case, the court found the alleged offender not guilty of labor trafficking, "people trafficking," or exploiting a trafficked person. In 2018, the courts convicted one Bangladeshi national of labor trafficking and sentenced him to 25 years' imprisonment; however, upon appeal, courts acquitted the alleged trafficker of all charges in June 2019.

Observers noted official complicity continued to play a significant role in facilitating trafficking, hindering law enforcement efforts to combat trafficking. As reported last year, the AGO continued to investigate allegations of official complicity but did not report the details of the allegations or the number of officials involved. The AGO did not initiate prosecutions or secure convictions of complicit officials during the year. The government provided in-kind support for 10 law enforcement trainings hosted by a foreign government to approximately 200 officials during the reporting period; while these trainings were not specific to trafficking, they included anti-trafficking components related to investigation and victim identification. Despite these trainings, observers stated officials generally continued to lack an understanding of trafficking.

PROTECTION

The government maintained weak efforts to protect victims. The AHTO continued developing a victim identification tool but had not completed or approved the tool; consequently, the government remained without SOPs for victim identification and referral to services. The government reported identifying four adult, foreign national victims of labor trafficking, compared with seven victims identified in 2018 (five potential victims of labor trafficking and two potential sex trafficking). In past years, an international organization explained the small number of identified victims by stating only the most egregious cases of trafficking were likely to come to the attention of authorities because of the lack of proactive identification procedures and foreign migrant workers' reluctance to complain to authorities out of fear that such complaints would result in job termination and deportation. The AHTO provided protective services to six victims involved in investigations and prosecutions. Similar to last year, the AHTO offered temporary shelter for trafficking victims; however, all identified victims requested to stay with friends or relatives. Investigators continued to employ local interpreters as needed in Bengali, Mandarin, and Tagalog. The government did not fund or provide any other emergency protective services to adult trafficking victims, such as medical or psychological care. As in previous years, the lack of support services reportedly led

some victims to leave the country rather than pursue legal recourse.

The government did not report funding an NGO to assist trafficking victims with legal counseling and representation before labor and immigration hearings in 2019, compared with contributing approximately \$15,000 to an NGO for these purposes in both 2017 and 2018. Similar to previous years, the AGO did not request restitution for trafficking victims, reportedly due to an inability to submit admissible evidence. The government offered ad hoc short-term legal alternatives to the removal of foreign victims to countries where they might face hardship or retribution; the attorney general could designate victims as “vulnerable,” making them eligible for alternate employment and accommodation assistance. The Division of Labor reported providing victims with temporary employment placements. The judicial system did not keep victim identities confidential and in the recent past, defendants in trafficking cases threatened witnesses. While the 2005 Anti-Smuggling and Trafficking Act granted victims immunity from prosecution for the “act of people trafficking,” the vague language permitted prosecution for unlawful acts the trafficker compelled the victim to commit, such as commercial sex or petty crime. There were no reports the government penalized victims for unlawful acts traffickers compelled them to commit; however, due to a lack of formal identification procedures, authorities may have detained some unidentified victims.

PREVENTION

The government increased efforts to prevent trafficking. In May 2019, Palau acceded to the 2000 UN TIP Protocol. The AHTO continued to lead the coordination of all national efforts to combat human trafficking. The AHTO was exclusively responsible for the implementation of the NAP and received funding from the National Congress. The AHTO also continued to oversee the Human Trafficking Task Force, which included members from civil society organizations, who assist victims of trafficking and recommend anti-trafficking programs and policies. The NAP expired in December 2019; at the end of the reporting period, the government reported it was updating the NAP to include a five-year plan to address all forms of trafficking. The Division of Labor conducted general public awareness on government policies regarding the employment of foreign workers, and the Office of the Special Prosecutor continued public awareness campaigns on government corruption and human trafficking. The AHTO, in partnership with an international organization, distributed pamphlets, posters, and information sheets to all states to raise public awareness. It did not conduct educational or public awareness campaigns for employers or labor recruiters. The AHTO continued to staff a mobile phone number for trafficking tips with on-call AHTO investigators who spoke Palauan and English and received an average of three calls per week, resulting in four investigations during the reporting period.

In 2019, the government approved the rules and regulations of the labor division to increase protections for foreign migrant workers. The updated regulations included an amnesty period from November to December 2019 for nonresident workers in Palau without legal status to be placed under legal employment and new mechanisms to ensure employers had sufficient funds to cover wages and return tickets of migrant workers to prevent unauthorized deduction of wages. The government did not report cases of the law’s implementation during the reporting period. The regulations also mandated that employers engaged in illegal recruitment of migrant workers could not hire new workers. At the end of the

reporting period, the government reported the data collected from the foreign migrant workers who had applied for amnesty would be used to improve investigation of fraudulent recruiters and increase screening for trafficking among migrant workers. The government provided anti-trafficking training to its diplomatic personnel. The government did not make efforts to reduce the demand for commercial sex acts.

TRAFFICKING PROFILE

As reported over the past five years, human trafficking of foreign victims occurs in Palau. Palau's foreign population, about one-third of the country's population of 21,400, is especially at risk for trafficking. Filipino, Bangladeshi, Nepali, Chinese, Thai, and Korean men and women pay thousands of dollars in recruitment fees and willingly migrate to Palau for jobs in domestic service, agriculture, restaurants, or construction; upon arrival, traffickers exploit some in conditions substantially different from what had been presented in contracts or recruitment offers, and some become trafficking victims. Women from the Philippines and China are recruited to work in Palau as waitresses or clerks, but traffickers exploit some in sex trafficking in karaoke bars or massage parlors. Foreign workers on fishing boats in Palauan waters also experience conditions indicative of human trafficking. Official complicity plays a role in facilitating trafficking. Authorities have investigated government officials—including labor, immigration, law enforcement, and elected officials—for complicity in trafficking crimes.