

suspicious behavior which might indicate trafficking activity. Overall, the government encouraged victims' participation in the investigation and prosecution of trafficking crimes and did not inappropriately incarcerate, fine, or otherwise penalize victims for unlawful acts committed as a direct result of being trafficked.

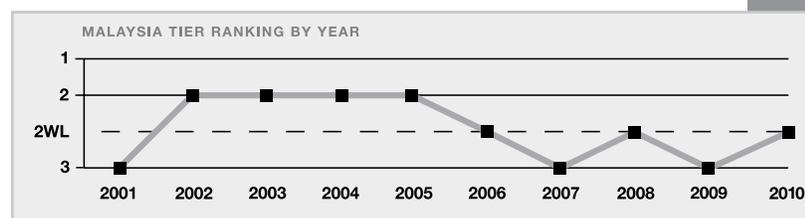
Prevention

The government sustained its efforts to prevent human trafficking and raise public awareness of the crime in 2009. An inter-ministerial task force on human trafficking, led by the Ministry of Gender, Child Development and Community Development, forged a partnership with international organizations and NGOs and began drafting a national plan of action which is not yet complete. Addressing child trafficking is also the responsibility of both the National Steering Committee on Orphans and Vulnerable Children and the National Steering Committee on Child Labor. Uneven levels of expertise and inadequate inter-agency coordination at national and district levels interfered with the effectiveness of these committees in preventing child trafficking. Through the National Aids Commission's Action Framework on HIV/AIDS Prevention, the government sensitized communities to the dangers of commercial sexual exploitation and attempted to reduce the demand for commercial sex acts. The Malawi Defense Force provided training on human rights, child protection, and the elimination of sexual exploitation to its nationals deployed abroad as part of peacekeeping missions.

MALAYSIA (Tier 2 Watch List)

Malaysia is a destination, and to a lesser extent, a source and transit country for women and children subjected to trafficking in persons, specifically conditions of forced prostitution and for men, women, and children who are in conditions of forced labor. The majority of trafficking victims are foreign workers who migrate willingly to Malaysia from Indonesia, Nepal, India, Thailand, China, the Philippines, Burma, Cambodia, Bangladesh, Pakistan, and Vietnam in search of greater economic opportunities, some of whom subsequently encounter forced labor or debt bondage at the hands of their employers, employment agents, or informal labor recruiters. While many of Malaysia's trafficking offenders are individual business people, large organized crime syndicates are also behind some of the trafficking of foreigners in Malaysia. A significant number of young women are recruited for work in Malaysian restaurants and hotels, some of whom migrate through the use of "Guest Relations Officer" visas, but subsequently are coerced into Malaysia's commercial sex trade. Many Malaysian labor outsourcing companies apparently recruited excess workers, who were then often subject to conditions of forced labor. Some Malaysian citizens are trafficked internally and abroad to Singapore, Hong Kong, France, and the United

Kingdom for commercial sexual exploitation. There were approximately two million documented migrant workers in Malaysia in 2009, and an additional estimated 1.9 million who were undocumented. Many migrant workers in plantations, construction sites, textile factories, and employed as domestic workers throughout Malaysia experienced restrictions on movement, deceit and fraud in wages, passport confiscation, or debt bondage, which are practices indicative of trafficking. Some Malaysian employers reportedly did not pay their foreign domestic workers three to six months' wages in order to recoup recruitment agency charges, making them vulnerable to trafficking. Refugees were particularly vulnerable to trafficking, and Malaysians from rural communities and indigenous groups were also vulnerable. The People's Volunteer Corps (RELA) continued to conduct raids targeting illegal migrant communities and detained refugees, asylum seekers, and trafficking victims along with allegedly illegal migrants. Some trafficking victims were locked up in warehouses or brothels. The Indonesian and Malaysian governments have not amended or replaced a 2006 Memorandum of Understanding (MOU) covering the employment of Indonesian domestic workers in Malaysia, which authorizes Malaysian employers to confiscate and hold the passports of domestic employees.



The Government of Malaysia does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Because the assessment that the government had made significant efforts is based in part on its commitments to undertake actions over the coming year – notably greater implementation of Malaysia's anti-trafficking law against labor trafficking – Malaysia is placed on Tier 2 Watch List. The Malaysian government has shown a greater commitment to address human trafficking that is expected to lead to: increased investigations and prosecutions of labor trafficking offenses and identification of labor trafficking victims; increasing efforts to prosecute trafficking-related corruption by government officials; and greater collaboration with NGOs and international organizations to improve victim services in government shelters. During the reporting period, senior government officials, including the Prime Minister, publicly acknowledged Malaysia's human trafficking problem, the government increased its investigations of trafficking cases and filed an increased number of criminal charges against traffickers, significantly expanded training of officials on the 2007 anti-trafficking law, conducted a public awareness

campaign on human trafficking, opened three more shelters for trafficking victims, and launched a five-year national action plan on trafficking. Nevertheless, these early efforts will require continued attention, as there are many serious concerns remaining regarding trafficking in Malaysia, including the detention of trafficking victims in government facilities.

Recommendations for Malaysia: Build on initial law enforcement actions under the Trafficking in Persons Act, particularly relating to cases of labor trafficking; apply stringent criminal penalties to those involved in fraudulent labor recruitment or exploitation of forced labor; increase efforts to prosecute and convict public officials who profit from or are involved in trafficking, or who exploit victims; develop and implement procedures to identify labor trafficking victims among vulnerable groups such as migrant workers and refer them to available protection services; ensure that victims of trafficking are not threatened or otherwise punished for crimes committed as a result of being trafficked; re-negotiate MOUs with source countries to incorporate victim protection and revoke passport or travel document confiscation; increase cooperation with NGOs to improve victim protection efforts, including in shelters for trafficking victims; continue to expand the training of officials on the effective handling of sex and labor trafficking cases, with a particular emphasis on victim protection; and continue and expand a comprehensive and visible anti-trafficking awareness campaign to encompass both labor and sex trafficking.

Prosecution

The Government of Malaysia made some progress in law enforcement efforts against sex trafficking during the reporting period, and limited progress in prosecuting and convicting offenders of labor trafficking. Malaysian law prohibits all forms of human trafficking through its 2007 anti-trafficking law, which prescribes penalties that are commensurate with those of other serious offenses, such as rape. During the reporting period, the government convicted three sex trafficking offenders and reported initiating 180 trafficking-related investigations and filing 123 charges against 69 individuals, though it is unclear how many of these cases were for actual trafficking. In January 2010, authorities identified their first labor trafficking case in the fisheries industry when the Malaysian Maritime Enforcement Agency intercepted Thai fishing boats off the coast of Sarawak and arrested five Thai traffickers; the case remains pending. While NGOs reported several potential labor trafficking cases to the government, authorities did not report any related arrests or investigations. Authorities initiated a review of the licenses of the 277 companies that are authorized to act as labor recruiters in Malaysia. The government did not report any criminal prosecutions of employers who subjected workers to conditions of forced labor or labor recruiters who used deceptive practices and debt bondage to compel migrant workers into involuntary servitude. Despite a public statement by a senior official

highlighting the right of workers to hold their own passports, the government continued to allow for the confiscation of passports by employers of migrant workers, and did not prosecute any employers who confiscated passports or travel documents of migrant workers or confined them to the workplace. In September 2009, the Home Minister announced that a new MOU being negotiated between Malaysia and Indonesia would not allow confiscation of passports of migrant workers, but the 2006 MOU authorizing such confiscation has not yet been amended or replaced. Authorities did not take criminal action against Peoples Volunteer Corps (RELA) volunteers who physically threatened and abused migrant workers and extorted money from them, despite continued reports of these abuses. In response to credible reports of government officials' direct involvement in a human trafficking network along the Malaysia-Thailand border outlined in a Senate Foreign Relations Committee Report, five immigration officials were arrested for alleged involvement in a trafficking ring that took Burmese migrants to Thailand for sale to trafficking syndicates. However, officials have only lodged criminal charges under the Anti-Trafficking Act against one of the officers and the case against him is still pending. Some observers report that corruption plays a role in the trafficking of foreign migrant workers, particularly with regard to officials' authorizing excess recruitment by Malaysian outsourcing companies, despite assurances from officials that practice had been reduced by regulations implemented in July 2009 that require outsourcing companies to demonstrate their need for each worker recruited. Reports also indicate that collusion between police and trafficking offenders sometimes leads to offenders escaping arrest and punishment. Nevertheless, there were no officials convicted of trafficking-related complicity during the reporting period.

Protection

The government made minimal progress in protecting victims of trafficking during the reporting period. Efforts to identify and protect both sex and labor trafficking victims remained inadequate overall. The government did not report the identification of any Malaysian victims of trafficking. In January, officials rescued and identified 16 male forced labor victims from four deep-sea trawlers off the coast of Sarawak – the first trafficking victims in the fisheries industry identified by the government. The Ministry for Women, Family, and Community Development continued to run two trafficking “shelters” for women and children and opened a third in July 2009, which detained suspected and confirmed foreign sex trafficking victims involuntarily for 90 days until they were deported to their home countries, per Malaysian law. During the reporting period, the government also opened its first two shelters designed to house male victims of trafficking, although these shelters also detained victims involuntarily until they were deported. The government's policy of detaining trafficking victims against their will provided a disincentive for victims and their advocates from bringing cases to the government's attention.

During the reporting period, 139 women and children were certified as victims and detained in the shelters. An additional 232 individuals were given initial protective orders, but were ultimately determined by the government to not be victims of trafficking and were deported, though officials acknowledge that some of these may have been trafficking victims who were reluctant to cooperate with law enforcement proceedings. During the year, the government reportedly made some improvements in its screening to identify individuals possessing UNHCR cards or possessing traits of trafficking victims in order to separate them from the illegal migrant populations. The government continued to use RELA volunteers in indiscriminate raids to identify illegal migrants, some of whom were reportedly trafficking victims. Several foreign embassies reported that they were sometimes not informed by Malaysian authorities of the presence of their nationals in trafficking shelters, and at times, authorities would deny these diplomatic missions access to their citizens once their presence was known. Government shelters resembled immigration detention centers, by denying victims basic freedoms, and these facilities did not employ medical officers, trained psychologists, or trained victim counselors. Some victims were locked in rooms within the shelters.

While NGO trafficking shelters provide resources that government shelters do not, the government does not provide any financial assistance to NGOs, and requires all identified victims to reside in its own shelters. The anti-trafficking law provides immunity to trafficking victims for immigration offenses such as illegal entry, unlawful presence, and possession of false travel documents, but victims continue to be detained and deported, as they would be if they were arrested for illegal immigration. Malaysian law does not provide immunity for criminal acts committed as a result of being trafficked. In January 2010, a 14-year-old Indonesian girl working as a domestic worker in Malaysia was identified by authorities as a trafficking victim. Authorities prosecuted the girl for theft from her employer, and did not prosecute the girl's employer for violating child labor laws. The government issued guidelines and provided training on the identification and processing of suspected trafficking victims, but did not develop or implement formal procedures to proactively identify victims of labor trafficking. The government treated victims of trafficking as illegal aliens and turned them over to immigration authorities for deportation after they provided evidence to prosecutors. Victims are required by law to assist in the prosecution of trafficking offenders, but the lack of victim protection or any incentives for victim assistance in investigations and prosecutions remained a significant impediment to successful prosecutions. Aside from a standard 90-day stay in one of its shelters, the government did not provide other legal alternatives to the removal of victims to countries where they may face hardship or retribution. Although victims may file a civil suit against exploiters, their lack of any option to legally work during

the consideration of their suit discouraged such attempts. Some foreign governments expressed concern about the lack of legal protections in place for foreign workers in Malaysia, particularly those subjected to involuntary servitude. Some unidentified victims, including children, were routinely processed as illegal migrants and held in prisons or immigration detention centers prior to deportation.

Prevention

Malaysia made some efforts to prevent trafficking in persons over the last year. The government conducted numerous anti-trafficking training events for Malaysian police, immigration, prosecutors, labor department officials, and Women's ministry officials, and began to partner with NGOs, international organizations, and foreign governments on such trainings. In November 2009, the government launched an anti-trafficking public awareness campaign that included advertisements in print media, on the radio, and on television, including television appearances by senior government officials to discuss human trafficking. In March 2010, the government launched a five-year action plan to combat trafficking. The government began to use its "999" emergency number as a trafficking hotline where calls are routed to the Malaysian Police, though calls can only be taken in Malay and English. The Women's Ministry produced pamphlets to potential trafficking victims in nine languages, which the Immigration Department began to distribute. The Indonesian and Malaysian governments have yet to amend or replace a 2006 Memorandum of Understanding (MOU) covering the employment of Indonesian domestic workers in Malaysia, which authorizes Malaysian employers to confiscate and hold the passports of domestic employees, though negotiations to do so continued through the reporting period.

The government forged partnerships with airlines during the year, which began announcing a statement regarding the country's trafficking laws and punishments on some arriving flights. The government did not take measures to reduce the demand for forced labor or commercial sex acts. The government provided anti-trafficking training to troops preparing to deploy to international peacekeeping missions. On February 26, 2009, Malaysia became a party to the 2000 UN TIP Protocol with reservations.

MALDIVES (Tier 2 Watch List)

The Maldives is primarily a destination country for migrant workers from Bangladesh, and, to a lesser extent, India, some of whom are subjected to trafficking in persons, specifically forced labor. Some women are also subjected to forced prostitution. An unknown number of the 110,000 foreign workers currently working in the Maldives – primarily in the construction and service sectors – face fraudulent recruitment practices, confiscation of identity and travel documents,