

victim support units to respond to gender-based violence, including trafficking crimes; these units continued to provide limited counseling and, in some places, temporary shelter to victims. Government-run hospitals provided trafficking victims with limited access to medical and psychological services. The government, at the district level, also referred victims to various NGO-run shelters, which catered largely to vulnerable children and youth, with some providing specialized care for women, though not for men. These shelters offer rehabilitation and skills training. The government supported NGOs by assigning labor inspectors, child protection officers, district social welfare officers, and police to assist in their anti-trafficking projects; national and district budgets allocated resources for these government officials, though they were not itemized for anti-trafficking efforts specifically. There were no aggregate data available for the number of victims identified, referred, or assisted by the government and NGOs during the reporting period; from the two districts that reported protection data, 253 male trafficking victims and 52 female victims were identified. In Kasungu District, police and labor officers referred 38 child labor trafficking victims to care facilities before they were reunited with their families. In Mchinji District, an NGO transit center cared for 266 child trafficking victims; the District Social Welfare Office partnered with the center to assist in the reintegration of 254 victims into schools. The government continued to provide child trafficking victims with school supplies and funding to assist in their reintegration, and provided training to trafficking victims' families on income-generating activities to reduce the likelihood of victims' re-trafficking. The government did not provide foreign victims with temporary residency or legal alternatives to their removal to countries where they would face hardship or retribution; in some cases the Immigration Department suspended deportation for short periods. The government provided limited assistance to repatriated Malawian trafficking victims; during the reporting period four Malawian nationals were repatriated from Zambia and the Social Welfare Office provided transportation to Zambia. Overall, the government encouraged victims' participation in the investigation and prosecution of trafficking crimes and did not penalize identified victims for unlawful acts committed as a direct result of being trafficked; however, trafficking victims may have been detained for a short period during the initial investigation of their cases.

Prevention

The government made minimal efforts to prevent human trafficking and did not coordinate anti-trafficking public awareness campaigns during the reporting period. It did not complete a national plan of action, the drafting of which started during the previous reporting period. Three inter-agency groups have responsibility – and possible overlapping jurisdiction – for trafficking issues: the Inter-Ministerial Task Force on Human Trafficking, led by the Ministry of Gender, Child Development and Community Development; the National Steering Committee on Orphans and Vulnerable Children; and the National Steering Committee on Child Labor. These committees did not organize any awareness campaigns or training activities, though they reportedly met during the year. In November 2010, in partnership with IOM and INTERPOL,

the government hosted an anti-trafficking training session for senior police officers from other African nations, with a focus on building communication strategies between law enforcement entities in each country. The government did not make efforts to reduce the demand for commercial sex acts during the year. Military officers and enlisted soldiers received training on human rights, child protection, and sexual exploitation from a foreign donor before their deployment abroad as part of peacekeeping missions.

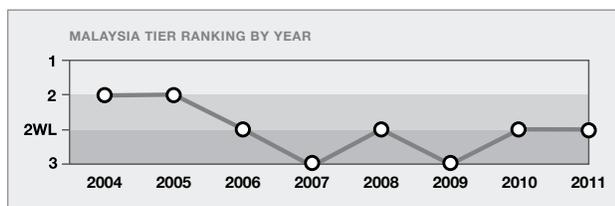
MALAYSIA (Tier 2 Watch List)

Malaysia is a destination, and to a lesser extent, a source and transit country for men, women, and children who are subjected to conditions of forced labor, and women and children subjected to sex trafficking. The overwhelming majority of trafficking victims are among the two million documented and 1.9 million undocumented foreign workers in Malaysia. They migrate willingly to Malaysia from countries including Indonesia, Nepal, India, Thailand, China, the Philippines, Burma, Cambodia, Bangladesh, Pakistan, and Vietnam in search of greater economic opportunities. Some of them 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 trafficking. A significant number of young foreign 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 recruit excess workers from Bangladesh, Vietnam, and other countries, who are then often held in warehouses or other locations and handed over to unscrupulous employers, who subject them to conditions of forced labor. Many migrant workers in plantations, construction sites, textile factories, and employed as domestic workers throughout Malaysia are subject to practices indicative of trafficking such as restrictions on movement, deceit and fraud in wages, passport confiscation, or debt bondage at the hands of agents or employers. Passport confiscation is widespread, and there were reports that employers also opened joint bank accounts as a form of control on workers. Some employees reported that their employers exercised control over them by threatening to take the workers' passports to immigration authorities where the employer would allege that the worker had breached the terms of their labor contract, which could result in the revocation of the worker's visa and their subsequent deportation. Some Malaysian employers reportedly did not pay their foreign domestic workers three to six months' wages in order to recoup recruitment agency fees and other debt-bonds charged to employers. In some cases, employers illegally withheld employee wages in escrow until completion of the contract, resulting in workers continuing to work for fear of not receiving financial compensation if they did not continue to do so.

Refugees, particularly from Burma, were especially 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, though this practice has reportedly decreased compared to previous years. Although they did sign an Letter of Intent (LOI) to amend their Memorandum of Understanding (MOU), the Indonesian and Malaysian governments have not amended or replaced a 2006 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 reports that there are approximately 300,000 female domestic servants employed in the country, many of which may be trafficking victims. According to NGOs, the number of domestic servants legally employed in Malaysia has fallen from 300,000 to 230,000 during the past year. These NGOs estimate that for every domestic servant legally employed in Malaysia there is one working in the country illegally. Ninety percent of these domestic servants are from Indonesia. A small number of Malaysian citizens were reportedly trafficked internally and abroad to Singapore, China, and Japan for commercial sexual exploitation.

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, far more effective and even implementation of Malaysia's anti-trafficking law and improved victim protection efforts – Malaysia is placed on Tier 2 Watch List for a second consecutive year. While the government increased the number of convictions obtained under the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act during the year and continued public awareness efforts on trafficking, it did not effectively investigate and prosecute labor trafficking cases, and failed to address problems of government complicity in trafficking and lack of effective victim care and counseling by authorities. There remain many serious concerns regarding trafficking in Malaysia, including the detention of trafficking victims in government facilities.



Recommendations for Malaysia: Increase law enforcement actions under the anti-trafficking law, particularly labor trafficking cases; apply stringent criminal penalties to those involved in fraudulent labor recruitment or 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; improve victim protection in government facilities by providing victims

legal assistance, and providing effective counseling and care to the victims of trafficking; develop and implement mechanisms to allow adult foreign trafficking victims to travel, work, and reside outside of government shelters; provide legal alternatives to the removal of trafficking victims to countries in which they would face retribution or hardship; ensure that victims of trafficking are not threatened or punished for crimes committed as a result of being trafficked; make greater efforts to educate migrant workers on their rights, legal recourses available, and how to seek remedies against traffickers or employers who fail to meet their legal obligations; re-negotiate MOUs with source countries to incorporate victim protection and remove authorizations for employers to confiscate passports or travel documents; continue to train officials on the effective handling of sex and labor trafficking cases, with a particular emphasis on victim protection and the identification of labor trafficking victims; make efforts to reduce the demand for both sex and labor trafficking; and expand the 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, but did not make significant efforts to prosecute and convict labor trafficking offenders. Malaysian law prohibits all forms of human trafficking through its 2010 Anti-Trafficking in Persons Act (Amended), which prescribes penalties that are commensurate with those of other serious offenses, such as rape. In November 2010, the government enacted new amendments to this that broadened the definition of trafficking to include all actions involved in acquiring or maintaining the labour or services of a person through coercion. The application and public presentation of the amendments to the trafficking law, however, threatens to further conflate human trafficking and human smuggling. During the reporting period, the government convicted 11 sex trafficking offenders and three individuals involved in labor trafficking, sentencing them to three to eight years' imprisonment; this was compared to seven trafficking offenders convicted during the previous reporting period. Two of the three individuals convicted of labor trafficking offenses were drivers who were involved in the transporting of Burmese refugees from a government immigration detention center to the border with Thailand where they were handed over to trafficking syndicates. While the network involved in the trafficking of Burmese to Thailand was believed to be substantial, the government has yet to conclude the prosecution of the only other individual arrested in July 2009 – a Malaysian immigration official – for the trafficking of Burmese refugees to Thailand, cited in the previous reported period as a pending case. The case still remains pending. Authorities report initiating 174 charges against 51 individuals under the anti-trafficking law, though a small number of these cases were for non-trafficking-related crimes such as illegal baby adoptions. The government reports that 141 trafficking cases remained pending in Malaysian courts. Poor government treatment of identified trafficking victims and the lack of victim protection or incentives for victim assistance in investigations and prosecutions remained a significant

impediment to successful prosecutions. The acquittal rate of alleged trafficking offenders was 68 percent during the year, a rate attributed by observers to the lack of adequate victim-witness protection and poor judicial training on human trafficking. During the year, NGOs referred several cases of alleged labor trafficking to the government, but authorities did not report any related arrests or investigations. NGOs reported that the police often failed or refused to investigate complaints of confiscation of passports and travel documents or withholding of wages – especially with regards to domestic workers – as possible trafficking offenses. 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. The January 2010 case of forced labor identified on Thai fishing boats off the coast of Sarawak, in which the government arrested five Thai alleged trafficking offenders, resulted in the acquittal of one alleged trafficker; the government has filed an appeal in this case.

Observers reported that corruption continued to play a role in the trafficking of foreign migrant workers, particularly with regard to officials' authorizing excess recruitment by Malaysian "outsourcing" companies, which recruit laborers abroad. Reports also indicated that collusion between police and trafficking offenders sometimes led to offenders escaping arrest and punishment. Nevertheless, there were no officials convicted of trafficking-related complicity during the reporting period. Authorities did not take criminal action against RELA volunteers who used the threat of immigration detention to extort money from migrant workers despite continued but decreased reports of this practice.

Protection

The government made only limited progress in protecting victims of trafficking during the reporting period, and victim protection efforts remained inadequate. Victims identified by Malaysian authorities are adjudicated under a "protective order" that triggers their forcible detention in "shelters," where some are even isolated, unable to work or earn income, and have little or no access to legal or psychological assistance provided by the government or NGOs. The government reported that it provided some victims with courses in arts, aerobics, and English language skills. Nevertheless, government "shelters" still denied victims basic freedoms, and these facilities did not employ medical officers or trained psychologists. The government reported employing two counselors who visit the "shelters" on a weekly basis but their level of expertise and training was unclear. The government invited IOM to conduct an assessment of its victim care at the "shelters," which occurred during the year. The government treated victims of trafficking as illegal aliens and turned them over to immigration authorities for deportation after they provided evidence to prosecutors, usually after a 90-day stay at a trafficking in persons "shelter." Victims were at times locked in their rooms, handcuffed to and from court appearances, and reported being subjected to body patdowns and searches prior to entering the facilities. Victims were typically uninformed about the legal processes to which they were subjected, and the government did not make efforts

to inform the victims of why or for how long they were being detained. As reported during the previous reporting period, the government's policy of detaining trafficking victims against their will continued to provide a disincentive for victims and their advocates to bringing cases to the government's attention or cooperating with authorities; the government did not make any efforts to address this serious deficiency in its anti-trafficking response.

The Ministry of Women, Family, and Community Development continued to operate three "shelters" for women and children victims of trafficking, which resemble detention centers. These "shelters" detained suspected and confirmed foreign trafficking victims for 90 days (but often much longer) until they were deported to their home countries, per Malaysian law. The Ministry of Home Affairs ran a similar "shelter" for male victims of trafficking, which also detained suspected and confirmed trafficking victims. During the reporting period, there was at least one victim in government custody who attempted suicide while in a government "shelter." The government announced that the Women's Ministry would assume responsibility for the female, children, and male "shelters" as of March 31, 2011.

In 2010, 206 foreign women, 172 foreign men, and five foreign children were certified as trafficking victims and detained in government facilities. The government reported seven Malaysian victims identified by authorities, but did not share information on these cases. While the government reports that it encourages victims to assist in the prosecution of their traffickers, it did not make available any alternatives to repatriation for victims who may face harm or retribution upon return to their home country, nor did it provide any incentives for victim cooperation in the prosecution of their traffickers, such as work permits or extended stay visas. Victims were deported once prosecutors were satisfied with their testimonies. There were reports that one group of male victims of trafficking was held in government facilities for as long as 11 months. Poor investigation procedures did not take into account the best interests of victims, as under the current system, victims could be asked to recount their trafficking experience on up to seven different occasions to different officials. During trial proceedings, authorities did not make adequate efforts to separate victims from their traffickers or recruitment agents, which may have resulted in threats or pressure exerted on victims and their families if they cooperated with police and prosecutors. Several NGOs who provided comprehensive services to trafficking victims reported that they no longer refer cases to the police, as it is clear that doing so was detrimental to the welfare of the victims. Additionally, the referral of victims to authorities led to the transfer of custody to government facilities, where NGOs were reportedly barred from additional contact with the victims.

NGO trafficking shelters provide services that government "shelters" did not, and the government did not provide financial assistance to NGOs providing such services. Furthermore, the government required all identified victims to be confined in government "shelters." The anti-trafficking law provided immunity to trafficking victims for immigration offenses such as illegal entry, unlawful presence, and possession of false travel documents, but

victims continued to be detained and deported, similar to the government's treatment of illegal immigration offenders. The Attorney General's Chambers reportedly created standard operating procedures for the identification and processing of suspected trafficking victims, but did not share these procedures outside of the government. The government did not develop or implement formal procedures to proactively identify victims of labor trafficking. Some unidentified victims were routinely processed as illegal migrants and held in prisons or immigration detention centers prior to deportation. RELA continued to serve as security at immigration detention facilities and as 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.

Prevention

The Malaysian government continued some efforts to prevent human trafficking during the reporting period. Authorities increased cooperation with NGOs to discuss ways to improve their anti-trafficking responses. For example, in January 2011, the state of Selangor created its own state level anti-trafficking council staffed with many leaders from the NGO community. The inclusion of several NGOs on the National Council for Anti-Trafficking in Persons (MAPO), has significantly improved the dialog between the government and NGO community on trafficking issues. The November 2010, amendments to the anti-trafficking law included the Labor Department within the Ministry of Human Resources as an enforcement agency. The Ministry of Human Resources reported that it now requires that foreign domestic workers and their employers attend a compulsory half-day seminar on workers' rights and receive a pamphlet on those rights prior to starting employment. The Ministry also reported that a portion of a domestic worker's salary must be placed into a bank account in the employee's name in order to provide a record of payment and help resolve the thousands of labor disputes based on allegations of unpaid wages. The Home Ministry reported investigating the 277 outsourcing companies that recruit foreign workers into Malaysia and placed 42 on a watchlist for engaging in suspicious activities, such as use of falsified documents or listing false employers. The government continued an anti-trafficking public awareness campaign in print media, on the radio, and on television. The Women's Ministry continued to produce pamphlets about indicators of trafficking, which were distributed at border checkpoints and Malaysia's Human Rights Commission (SUHAKAM) distributed similar pamphlets. During the year, the government again failed to amend or replace a 2006 MOU with the Indonesian government covering the employment of Indonesian domestic workers in Malaysia—which authorizes Malaysian employers to confiscate and hold the passports of domestic employees and does not mandate basic employment standards—although the countries did sign an LOI. The government continued in practice 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. While authorities continued some anti-trafficking training for officials with responsibilities to combat trafficking, including trainings conducted through cooperation with a foreign donor, international organizations, and NGOs, the lack of understanding of human trafficking by many Malaysian front-line officers, such as police and immigration, continues to hinder the identification and proper investigation of trafficking cases and identification and assistance to trafficking victims. The government provided a group of 125 women's organizations with \$64,500 in funding to promote capacity building and awareness programs related to human trafficking. The government did not take measures to reduce the demand for forced labor or commercial sex acts. The government provided anti-trafficking training to Malaysian troops prior to their deployment abroad on international peacekeeping missions.

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 forced labor. Some women and girls also are subjected to sex trafficking. An unknown number of the 80,000 to 110,000 foreign workers currently working in the Maldives – primarily in the construction and service sectors – face conditions indicative of forced labor: fraudulent recruitment practices, confiscation of identity and travel documents, withholding or nonpayment of wages, or debt bondage. Thirty thousand of these workers do not have legal status in the country, though both legal and illegal workers were vulnerable to conditions of forced labor. Diplomatic sources estimate that half of the 35,000 Bangladeshi workers in the Maldives went there illegally and that a number of these workers are victims of trafficking. Migrant workers pay \$1,000 to \$4,000 in recruitment fees in order to migrate to the Maldives; such high recruitment costs increase workers' vulnerability to forced labor, as concluded in an ILO report. In addition to Bangladeshis and Indians, some migrants from Sri Lanka, Pakistan, and Nepal reportedly experienced recruitment fraud before arriving in the Maldives.

A small number of women from Sri Lanka, Thailand, India, China, the Philippines, Eastern Europe, and former Soviet Union countries, as well as some girls from Bangladesh, are subjected to sex trafficking in Male, the capital. Some reports indicate that the prostitution of local girls is also a problem in the Maldives. The Human Rights Commission of the Maldives reported that some migrant female domestic workers were trapped in circumstances in which employers used threats and intimidation to prevent them from leaving. Some underage Maldivian children are transported to Male from other islands for forced domestic service, and a small number were reportedly sexually abused by the families with whom they stayed. This is a corruption of the widely acknowledged practice where families send Maldivian children to live with a host family in Male for educational purposes.

Trafficking offenders in the Maldives usually fall into three groups: families that subject domestic servants to