

KUWAIT: TIER 3

Kuwait is a destination country for men and women who are subjected to forced labor and, to a lesser degree, forced prostitution. Men and women migrate from India, Egypt, Bangladesh, Syria, Pakistan, the Philippines, Sri Lanka, Indonesia, Nepal, Iran, Jordan, Ethiopia, Ghana, Iraq, Lebanon, and Kenya to work in Kuwait, mainly in the domestic service, construction, and sanitation sectors. In the last year, there was a reported increase in migrants from Ethiopia, Uganda, and Madagascar, while Filipino and Sri Lankan women represent a significant percentage of Kuwait's domestic worker population. Though most migrants enter Kuwait voluntarily, upon arrival some sponsors and labor recruitment firms subject some migrants to forced labor, including through nonpayment of wages, long working hours without rest, deprivation of food, threats, physical or sexual abuse, and restrictions on movement, such as confinement to the workplace and the withholding of passports. Many of the migrant workers arriving in Kuwait have paid exorbitant fees to recruiters in their home countries or are coerced into paying labor broker fees in Kuwait that, by Kuwaiti law, should be paid by the employer – a practice that makes workers highly vulnerable to forced labor, including debt bondage, once in Kuwait. Kuwait's sponsorship law, which ties a migrant worker's legal residence and valid immigration status to an employer, restricts workers' movements and penalizes them for "running away" from abusive workplaces; as a result, domestic workers are particularly vulnerable to forced labor inside private homes. While Kuwait requires employers to use a standard contract for domestic workers delineating some basic rights, Kuwait lacks a domestic labor law to govern the relationship between domestic workers and sponsors; thus, many workers report work conditions that are substantially different from those described in the contract. Some workers never see the contract at all. In addition, sources report that runaway domestic workers fall prey to forced prostitution by agents or criminals who exploit their illegal status.

The Government of Kuwait does not fully comply with the minimum standards for the elimination of trafficking and is not making sufficient efforts to do so. The government

did not demonstrate efforts to prosecute nor convict trafficking offenders using the 2013 anti-trafficking law or other laws that address trafficking crimes. Nascent efforts to help abused workers, such as by issuing exit and travel documents to those whose passports had been confiscated by their employers, were not accompanied by any enforcement activities against the employers from whom the workers had fled. The government's victim protection measures remained weak. The government did not proactively identify victims of trafficking among vulnerable populations, nor did it refer suspected victims to protection services; victims of trafficking continued to be arrested, detained, and deported. Though the government partially opened its high-capacity shelter for victims of trafficking, the shelter's referral procedures prevented some women from receiving assistance. The government increased efforts to prevent trafficking during the reporting period by investigating numerous recruitment firms and companies for fraudulent labor practices, as well as multiple government officials complicit in visa fraud; however, there was no lead national anti-trafficking coordinating body and the government did not systematically monitor its anti-trafficking efforts.

RECOMMENDATIONS FOR KUWAIT

Enforce laws against sponsors and employers who illegally hold migrant workers' passports; implement the 2013 anti-trafficking law by investigating and prosecuting trafficking offenses, and convicting and punishing offenders, particularly sponsors who subject domestic workers to involuntary servitude; greatly increase law enforcement efforts, including investigations of trafficking offenses perpetrated by Kuwaiti citizens, and establish standard operating procedures for investigations and prosecutions of trafficking crimes; establish procedures to proactively identify and refer to protection services all victims of human trafficking, especially among the female domestic worker population; establish linkages between nascent victim care efforts and law enforcement activities; fully open and make operational the large-capacity shelter for all trafficking victims, to include providing health, psychosocial, and legal services, allow victims to leave the shelter at will, train shelter staff, and allow all suspected trafficking victims access to the shelter regardless of a referral from a foreign embassy; ensure the

availability of shelter and services to male victims, victims of sex trafficking, and victims of labor trafficking outside of the domestic worker context; amend the sponsorship law to protect foreign workers, including domestic workers, from abuse; provide more anti-trafficking training to law enforcement and judicial officials; establish an inter-ministerial anti-trafficking committee; and continue to increase efforts to prevent trafficking.

PROSECUTION

The government made limited anti-trafficking law enforcement efforts. The government enacted anti-trafficking legislation in March 2013, which prohibits all forms of trafficking. The law prescribes penalties ranging from 15 years' to life imprisonment; these penalties are sufficiently stringent and commensurate with penalties prescribed for other serious crimes, such as rape. During the reporting period, the government did not report any prosecutions, convictions, or sentences of trafficking offenders for either forced labor or sex trafficking. Although the withholding of workers' passports is prohibited under Kuwaiti law, this practice remains common among sponsors and employers of foreign workers, and the government demonstrated no efforts to enforce this prohibition. Almost none of the domestic workers who took refuge in their home-country embassy shelters had their passports in their possession. The government remained reluctant to prosecute Kuwaiti citizens for trafficking offenses. Kuwaiti law enforcement generally treated cases of forced labor as administrative labor infractions, for which punishment was limited to assessing fines, shutting down employment firms, issuing orders for employers to return withheld passports, or requiring employers to pay back-wages. In 2013, the Judicial Institute instituted a mandatory course on human trafficking for judicial officials. Additionally, the Ministry of Interior (MOI) began a training-of-trainers program to raise awareness of trafficking within the police ranks in this reporting period.

PROTECTION

The government made some progress to protect victims of trafficking by partially opening its large-capacity shelter for runaway domestic workers. However, the

government failed to develop and implement formal procedures for the proactive identification of trafficking victims among vulnerable populations, such as foreign migrants, domestic workers, and women in prostitution, and the government did not develop or implement a referral mechanism to provide adequate protection services to victims. While Article 12 of the anti-trafficking law stipulates that the public prosecutors may refer a trafficking victim to an appropriate care facility during an ongoing trial until the time of repatriation, there was no indication that this occurred in practice during the reporting period. The 2013 anti-trafficking legislation did not stipulate providing protection from prosecution for victims who fled abusive employers, but none were reportedly prosecuted in practice. Furthermore, Kuwait's migrant sponsorship law effectively dissuades foreign workers from reporting abuses committed by their employers to government authorities. Workers who left their employer's residences without permission risked criminal penalties and arrest, detention, and deportation, even if they were fleeing from an abusive sponsor. The threat of these consequences discouraged workers from appealing to police or other government authorities for protection and from obtaining adequate legal redress for their exploitation. Trafficking victims rarely filed cases against their employers, yet some victims who alleged nonpayment of wages reportedly received monetary compensation for wages owed from their employers. Moreover, the government did not systematically provide victims with access to legal aid or representation. Some foreign embassies reported that some personally motivated police officials helped to ensure that victims of trafficking were not subjected to unwarranted incarceration. Beginning in mid-April 2013, large-scale immigration sweeps resulted in the arrest and deportation of tens of thousands of the estimated 90,000 foreign workers illegally residing in Kuwait. There was no indication that the government took measures to identify trafficking victims among this population or provide protective services to migrants who may have experienced human trafficking. In April 2013, the government partially opened its high-capacity shelter for runaway domestic workers and accepted a limited number of women, some of whom were trafficking victims though it was unclear whether sex trafficking victims could also access this shelter. The lack of adequate staffing prevented the shelter from being fully operational and providing in-house services. While the facility can hold up to 700

people, there were only 140 women residing in the shelter at the end of the reporting period. Victims were not able to leave the facility unescorted. The shelter assisted women to file grievances against employers and resolve labor disputes. Since the shelter opened, it assisted and provided shelter to 1,970 women, the majority of whom were repatriated, while others resolved labor disputes with current employers or found new employment. Victims must be referred to the shelter by a foreign embassy or international organization before being accepted, which prevented some women from countries with no diplomatic representation in Kuwait from receiving services. There continued to be no shelter or other protective services afforded for male victims of trafficking. Many domestic workers continued to seek assistance at their embassies; some source-country embassies reported providing shelter to at least 200 domestic workers who ran away from their employers. In 2013, the MOI issued approximately 1,000 emergency travel documents for the repatriation of laborers whose passports were confiscated by their employers; similarly, the MOI provided some source country embassies with funds to pay for the repatriation of trafficking victims. The government did not provide funding to domestic NGOs or international organizations that provide direct services to trafficking victims. The government did not encourage victims of trafficking to assist in the investigation and prosecution of trafficking cases, and it did not offer foreign trafficking victims legal alternatives to their removal to countries in which they may face hardship or retribution.

PREVENTION

The government made some progress in preventing trafficking in persons. The government did not have a national coordinating body responsible solely for anti-trafficking efforts and the government did not conduct anti-trafficking public awareness campaigns. The National Assembly, however, prepared a report on visa trading and human trafficking, which was highly critical of the government, parliament, and employers for contributing to the country's trafficking problems; the report concluded with various recommendations for the Kuwaiti government, including elimination of the sponsorship system, enforcement of anti-trafficking laws, stiffening penalties for

companies and employers that hire an excessive amount of foreign laborers, and implementing awareness campaigns for foreign workers on their legal rights. The Ministry of Information sponsored an event on the role of media in combatting human trafficking during which more than 50 participants discussed ways to portray trafficking in the media. The draft legislation to create a General Authority for Manpower, as required by the 2010 Private Sector Labor Law, was not enacted at the end of the reporting period. The government took actions to reduce the demand for commercial sex acts and forced labor. In 2013, the government initiated investigations of companies that allegedly brought large numbers of unskilled foreign workers into Kuwait under false promises of work and illegally selling work visas. As a result of these investigations, the government reportedly closed numerous labor recruitment firms, charged 700 companies with labor violations, and blocked approximately 1,000 employers from issuing new work visas. In December 2013, the media reported that the government was conducting ongoing visa fraud investigations of officials from the Ministry of Commerce, MOI, and including members of the ruling Al-Sabah family. These investigations were ongoing at the end of the reporting period, and an MOI official was reportedly referred for prosecution for illegally selling visas. The government did not report efforts to reduce the demand for international and domestic child sex tourism.