

## **KUWAIT: Tier 2 Watch List**

The Government of Kuwait does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated significant efforts by initiating more investigations and prosecutions; referring significantly more cases of illegal recruitment for criminal investigation; amending the domestic worker law to disincentivize unscrupulous recruiting practices; and operationalizing a government-run central recruitment company intended to reduce recruitment costs and combat illegal recruiting fees. The government also established a specialized prosecutorial unit to expedite trafficking cases, and, formally passed and funded its five-year national strategy to combat trafficking. However, the government did not demonstrate increasing efforts compared to the previous reporting period. Some officials continued to use arbitration and administrative penalties to resolve grievances filed by domestic and other migrant workers, instead of investigating such cases as human trafficking crimes. Protracted litigation and subsequent appeals processes led most victims to decline to file court cases, and widespread corruption sometimes dissuaded workers from reporting trafficking cases to law enforcement. The government did not regularly use formal established procedures for identifying victims, and some foreign workers who quit their jobs without permission were subjected to criminal penalties, detention, and/or deportation. Because the government has devoted sufficient resources to a written plan, that, if implemented, would constitute significant efforts to meet the minimum standards, Kuwait was granted a waiver per the Trafficking Victims Protection Act from an otherwise required downgrade to Tier 3. Therefore Kuwait remained on Tier 2 Watch List for the third consecutive year.

### **RECOMMENDATIONS FOR KUWAIT**

Continue to increase law enforcement efforts to investigate, prosecute, and convict traffickers, including Kuwaiti citizens, under the 2013 anti-trafficking law; investigate, prosecute, and convict sponsors and employers who subject foreign domestic workers to involuntary servitude or illegally hold migrant workers' passports; strengthen enforcement of the domestic labor law (law 68/15) to ensure domestic workers rights are protected; fully employ the centralized recruitment company; continue to institute reforms to the visa-sponsored employment system; routinely employ procedures to proactively identify and refer to protection services all victims of human trafficking; continue to train law enforcement officials to identify trafficking victims among vulnerable populations, and proactively screen

for human trafficking victims during migrant round-ups to ensure victims are not wrongfully punished; ensure the availability of shelter and services to all trafficking victims; fully implement the new national anti-trafficking strategy; and continue to expand efforts to raise awareness and prevent trafficking.

## **PROSECUTION**

The government demonstrated uneven law enforcement efforts. The 2013 anti-trafficking law criminalized sex and labor trafficking and prescribed penalties ranging from 15 years to life imprisonment, which were sufficiently stringent and, with regard to sex trafficking, commensurate with those prescribed for other serious crimes, such as rape.

In 2017, the public prosecutor's office created a specialized unit to manage, investigate, and expedite the processing of trafficking cases. During the year, the government investigated 60 potential trafficking cases, an increase from six investigated in 2016. It discovered cases through tips from foreign embassies, civil society, hotlines, and the government-run shelter. Officials prosecuted 22 defendants in 10 cases, compared with 15 perpetrators prosecuted during the previous reporting period. The government charged five defendants (in 10 cases) with forced labor and 17 defendants (in seven cases) with sex trafficking. The government charged all 22 defendants—including four Kuwaiti nationals—with trafficking under the 2013 anti-trafficking law. At the close of the reporting period, the government convicted two sex traffickers and sentenced them both to 15 years imprisonment while it administered life sentences for four other sex traffickers. The trials of 15 defendants remained pending though it sentenced six convicted traffickers; during the previous reporting period the government achieved nine convictions—including one Kuwaiti citizen—under the anti-trafficking law.

The Ministry of Interior's (MOI) Domestic Labor Department (DLD) investigated employers and recruiting agencies, in addition to initiating investigations following grievances filed by employees, NGOs, embassies of labor-sending countries, and private citizens, and subsequently arbitrated such grievances. MOI authorities continued to investigate domestic worker recruitment agencies and residences to ensure compliance with the 2015 domestic labor law. During the reporting period, officials conducted 17,560 such inspections, referred more than 440 for criminal investigations following trafficking screenings, blacklisted 500 employers, and permanently shut down 82 recruitment agencies for domestic labor law contraventions, substantially up from 1,806 inspections, 39 referrals, none

blacklisted, and 90 permanent closures, respectively, during the previous reporting period. Generally, Kuwaiti authorities did not categorize or investigate labor violations of domestic workers as human trafficking and continued to typically treat such cases as administrative infractions, using official arbitration resulting in monetary compensation and repayment of back-wages to victims, application of administrative fines, and closure of recruitment firms to resolve such cases; such approaches do not provide adequate deterrence to the commission of forced labor crimes. If a settlement could not be agreed upon, DLD officials referred the case to the courts, and if the complaint involved a gross violation, such as assault or domestic worker abuse, authorities transferred the case directly to the public prosecutor's office. Many domestic worker abuse cases were not prosecuted due to lack of evidence or witnesses, or, in many cases, prohibitively expensive legal fees. In some cases, characterized by local media as including trafficking indicators, the government sought prosecution for abuse or simple assault rather than as violations of anti-trafficking laws.

Although the withholding of workers' passports is prohibited under Kuwaiti law, this practice remained common among sponsors and employers of foreign workers; however, in nearly all of the 3,800 complaints of passport retention received by the government during the reporting period, employers were ordered to return employees' passports. Reports claimed some government officials sold work permits to illegal recruiters or even directly to migrant workers, potentially facilitating trafficking; the government did not report efforts to prosecute and convict officials complicit in trafficking or trafficking-related offenses. The MOI's anti-trafficking unit conducted four anti-trafficking training programs during the reporting year, which covered signs of trafficking and a victim-centered approach to law enforcement efforts and reached 120 trainees across all MOI departments. It also facilitated eight training programs in cooperation with an international organization, reaching approximately 45 front-line responders at the MOI. The DLD produced internal training programs on a weekly basis targeting investigators and labor inspectors.

## **PROTECTION**

The government maintained efforts to protect trafficking victims. During the reporting period, the government identified and referred 48 domestic workers—including 13 of whom were trafficking victims—to its shelter, compared to 76 it referred during the previous one. It provided shelter to a total of 3,000 domestic workers, including some potential forced labor victims, in its shelter dedicated for

runaway female domestic workers; this is compared to 5,000 in 2016. The shelter received referrals from embassies, NGOs, international organizations, churches, private citizens, and other migrant workers. Although the government had in place a screening process to identify potential trafficking victims among vulnerable populations, such as foreign migrant workers, domestic workers, and women in prostitution, the extent to which the government employed this proactive screening mechanism during migrant roundups was unknown. The shelter served as a one-stop facility, providing medical and psychological care, repatriation assistance, and access to officials from various ministries to facilitate legal assistance, including filing cases against employers. Residents at the shelter had access to cell phones and adequate freedom of movement. Although a shelter for men was not established during the reporting period, officials allocated and approved a budget for construction of one. The government apportioned an annual budget of 2 million Kuwaiti dinar (\$6.6 million) for shelter operations and protection programs for trafficking victims, a slight increase from 1.9 million Kuwaiti dinar (\$6.3 million) the prior year. Some international organizations, in conjunction with foreign affairs officials, provided assistance to an unknown number of domestic workers from nations without diplomatic representation in Kuwait who needed to procure travel documentation. Embassies of the Philippines, India, and Sri Lanka maintained their own domestic worker shelters and worked closely with the Kuwait government to seek compensation and legal redress for their nationals subjected to exploitative working conditions in the country. The MOI continued its voluntary repatriation program and facilitated the repatriation of and provided transition assistance for more than 200 foreign domestic workers who were trafficking victims during the reporting period. Separately, the DLD provided repatriation assistance for 858 additional domestic workers and recouped approximately 193,720 Kuwaiti dinar (\$643,600). The government allowed victims residing in its shelter to either change sponsors or be repatriated to their country of origin once their residency status was resolved or pending the resolution of a legal case, without respective sponsor approval. It did not report deporting those who faced retaliation or retribution in their respective home countries. In compliance with a UN Security Council Resolution, the government reportedly repatriated North Korean nationals, many of whom were potential trafficking victims. In January 2018, the MOI offered a general residency amnesty for all visa violators and absconders—including an estimated 154,000 expatriates—to either pay a fine and adjust their status if they were gainfully employed or return to their home countries without paying any

outstanding fines and would still be eligible to return to Kuwait with a new work permit; the amnesty period existed for three consecutive months.

In August 2017, the MOI amended provisions of the domestic worker law that pertained to costs of doing business as recruitment professionals. The amendments stipulated that for issuance or renewal of a license for a domestic labor recruitment firm, single offices were required to submit financial deposits of 40,000 Kuwaiti dinar (\$132,890) bearing a validity of two years, while larger companies were obliged to present a letter of guarantee worth 100,000 Kuwaiti dinar (\$332,230) also with a two-year validity; this allowed the government to build a reserve of funds to adjudicate cases of labor law violations, use the money from the deposits to pay unpaid wages, and also cover repatriation fees. However, systemic challenges, including threat of criminalization and limited access to legal support, remained an impediment to the government's protection efforts. The 2013 anti-trafficking law did not stipulate that victims who flee abusive employers should be immune from prosecution. Therefore, some workers who fled their employers without permission risked criminal penalties and arrest, detention at police stations, and deportation, even if they were fleeing an abusive sponsor. The risk of penalization, coupled with protracted litigation processes and expensive legal fees, discouraged workers from appealing to police or other authorities for protection and adequate legal redress for their exploitation. In addition, it was not uncommon for sponsors to file counter-grievances against trafficking victims who reported their own, which sometimes resulted in administrative deportation or detention of the employees. The government reported public prosecutors willingly tried cases on victims' behalf using their oral and written statements; however, it lacked privacy laws to protect victims against potential retribution and often was unable to provide adequate care for victims throughout the duration of legal proceedings.

## **PREVENTION**

The government increased its efforts to prevent human trafficking. In February 2018, the Council of Ministers officially approved and funded Kuwait's national strategy to combat trafficking and tasked the Ministries of Justice and Foreign Affairs to commence implementation. Several ministries, in collaboration with an international organization, printed and disseminated anti-trafficking pamphlets and actively participated in public awareness campaigns that warned against using illegal domestic worker recruitment companies and stressed the importance of hiring workers with the requisite documentation. Various officials also took part in awareness messages on local television outlets and continued to disseminate

pamphlets to educate migrant workers on their rights, which were published in multiple languages in airports, embassies, and labor-recruitment agencies.

In September 2017, the government's new centralized recruitment center, which was developed during the previous reporting period in adherence to the domestic labor law, became fully operational in reducing recruitment costs, curbing illegal recruitment fees, hiring male domestic workers, and securing labor agreements for female employees; the government did not report how many domestic workers the government recruited via this central agency. The domestic labor law (Law 68 /15) guaranteed domestic workers one day off per week, a maximum 12-hour workday, minimum wage paid per month, paid annual leave, and access to file formal grievances at the MOI, among other protections, and 2016 by-laws regulated implementation of this law. Amendments to the 2010 labor law, passed in 2016, increased penalties for non-payment of wages, made mandatory documentation of all paid wages, and required prison time and fines for employers and government officials who failed to adhere to provisions of this law. In January 2018, authorities launched the Mobile Labor Disputes Office to help workers in remote areas of the country file complaints against labor law violating employers. The mobile unit was run by an emergency team of investigators, inspectors, translators, lawyers, and lay volunteers. Officials also unveiled online services that allowed workers and employers to dock and track workplace issues electronically, automatically alerted workers if an employer filed an absconding charge, notified the respective source country embassy, and ensured users the ability to challenge any settlement incurred. During the reporting period, the government received approximately 20,600 official grievances from foreign workers, the most common included pay discrepancies, requests to transfer employment to a different sponsor, and overtime pay disputes. According to government reports, roughly 90 percent of grievances pertaining to employment transfer grievances were resolved in favor of the employee. The grievances unresolved via mediation were referred to the labor courts, with 7,590 cases sent during the year. The government did not report outcomes of the cases referred for criminal investigation or which, if any, would be considered for prosecution under the anti-trafficking law. In January 2017, authorities investigated a Kuwaiti company on suspicion of labor law violations against its foreign workers; at the close of the reporting year, the government was still negotiating with the company and employees to determine punitive charges or fines to levy on the former and adequate compensation for the latter. However, the government repatriated those workers who decided to return home or readjusted

the status of those workers who found new employment. Both the DLD and the MOI's anti-trafficking department launched hotlines to assist vulnerable migrant workers, to include potential trafficking victims. The government made appreciable efforts to reduce the demand for commercial sex and forced labor. The government provided anti-trafficking training for its diplomatic personnel.

## **TRAFFICKING PROFILE**

As reported over the past five years, Kuwait is a destination country for men and women subjected to forced labor and, to a significantly lesser extent, forced prostitution. Men and women migrate from Africa, South and Southeast Asia, and the Middle East, to work predominantly in the domestic service, construction, hospitality, and sanitation sectors, and the vast majority arrive voluntarily. Domestic workers are especially vulnerable to forced labor, physical and sexual abuse as they often have limited access to assistance. As conditions remain perilous for many, several labor-sending countries, including Nepal, India, Indonesia, Ethiopia, Zimbabwe, Bangladesh, and most recently, the Philippines, continue to restrict their female nationals from domestic employment in Kuwait. As countries restrict labor movements to Kuwait, the government has commenced recruitment of domestic employees from African labor-sending countries including Uganda, Cote d'Ivoire, Sierra Leone, Ghana, Nigeria, Tanzania, the Gambia, and Liberia, and most recently Cameroon, Togo, Benin, Guinea, and Burundi. Upon arrival, some sponsors subject migrants to forced labor, including non-payment of wages, protracted working hours, deprivation of food, substandard housing, threats or harassment, physical or sexual abuse, and restrictions on movement, such as confinement to the workplace and passport confiscation. Although the practice is illegal, many migrant workers pay exorbitant fees to recruiting agents in their countries of origin and/or are coerced into paying labor broker fees in Kuwait which, according to Kuwaiti law, should be paid by the employer, thereby rendering workers vulnerable to forced labor, including debt bondage. In some cases, workers are not provided copies of their contracts, or the contracts are not written in a language they can read. Additionally, many sponsors pay high fees to agencies for migrant workers. Some labor recruiting companies facilitate trafficking through the use of deceptive techniques to bring in migrant workers on the basis of unenforceable contracts, fraudulent visas, and nonexistent positions. Reports allege officials take bribes or overtly sell work permits to illegal labor recruiting companies or directly to migrant workers. For more than a decade, reports indicate the Democratic People's Republic of Korea (DPRK or North

Korea) has sent more than 4,000 North Korean laborers to Kuwait for forced labor on construction projects, sourced by a North Korean company operated by the Workers' Party of Korea and the North Korean military. According to these reports, employees work 14 to 16 hours a day while the company retains 80 to 90 percent of the workers' wages, and monitors and confines the workers, who live in impoverished conditions and are in very poor health due to lack of adequate nutrition and health care. In a previous reporting period, the government ceased issuing new work visas to North Korean workers, and during the current reporting period, it discontinued visa renewals for these workers.

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 leaving abusive workplaces; as a result, domestic workers are particularly vulnerable to forced labor inside private homes. Many workers report experiencing work conditions substantially different from those described in the contract. In addition, previous sources report runaway domestic workers are sometimes exploited in forced prostitution by agents or criminals, who manipulate their illegal status. Although illegal, passport confiscation by employers continues to be a common practice in Kuwait.