CHINA: TIER 3

The Government of the People’s Republic of China (PRC) does not fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so; therefore, China was downgraded to Tier 3. Despite the lack of significant efforts, the government took some steps to address trafficking, including increasing cooperation with other countries to investigate cases involving Chinese trafficking victims overseas and by funding awareness campaigns and materials to increase general understanding of the issue. The government continued to provide law enforcement data and reported convicting numerous traffickers; however, it was unclear how many of the cases reported by the government were consistent with the international definition of human trafficking. The government reported operating shelters specifically for trafficking victims, as well as multi-purpose shelters available to accommodate trafficking victims. However, some unverified media and NGOs reports indicated government complicity in forced labor continued, including in some drug rehabilitation facilities where individuals continued to be detained without judicial process. Human rights organizations and media continued to report local officials in Xinjiang coerced Uighur men and women to participate in forced labor in and outside the province, despite the local government issuing a notice in early 2017 the practice had been completely abolished. The government convicted fewer sex and labor traffickers compared to the previous reporting period. Authorities continued to forcibly repatriate North Koreans, where they faced severe punishment including forced labor and execution, without screening them for indicators of trafficking. While the government reported mandating authorities screen for indicators of trafficking among all individuals arrested for prostitution, it was unclear if any were screened, and the government did not report referring any such potential victims to shelters or other care. The law does not fully criminalize all forms of trafficking such as the facilitation of prostitution involving children younger than the age of 18, and defines several crimes as human trafficking that do not fit within international law. The government handled most cases with indicators of forced labor as administrative issues and initiated prosecutions of the traffickers in relatively few cases.

RECOMMENDATIONS FOR CHINA
End forced labor in government facilities and by government officials outside of the penal process; vigorously investigate, prosecute, and impose prison sentences on perpetrators of forced labor and sex trafficking, including government officials who facilitate or are complicit in trafficking; update the legal framework to criminalize fully all forms of trafficking, including the facilitation of prostitution involving children younger than the age of 18; expand efforts to institute proactive, formal procedures to systematically identify trafficking victims throughout the country, including labor trafficking victims, Chinese victims returning from abroad, and victims among vulnerable groups, such as migrant workers and foreign and local women and children arrested for prostitution; improve procedures to prevent victims from being punished for acts committed as a direct result of being subjected to trafficking; ensure authorities do not subject trafficking victims to detention, punishment, or forcible repatriation; expand victim protection services, including comprehensive counseling and medical, reintegration, and other rehabilitative assistance for male and female victims of sex and labor trafficking; provide legal alternatives to foreign victims’ removal to countries where they would face hardship or retribution, particularly North Korea; increase the transparency of government efforts to combat trafficking and provide disaggregated data on efforts to investigate and prosecute sex and labor trafficking of adults and children and to identify and provide protection services to victims of all forms of trafficking; and continue to provide data on the number of criminal investigations, prosecutions and convictions in cases identified as involving forced labor, including recruiters and employers who facilitate forced labor and debt bondage, both within China and abroad.

PROSECUTION

The government decreased law enforcement efforts. It reported crimes outside international law’s definition of human trafficking, making it difficult to assess appreciable progress from the previous reporting period. Not all statistics were captured by the central government. The criminal code prohibits many forms of trafficking, although it differs from international law on human trafficking. Article 240 of the criminal code prohibits “abducting and trafficking of women or children,” which is defined as a series of acts (e.g., abduction, kidnapping, purchasing, selling, sending, receiving) for the purpose of selling women and children. While the acts that comprise the crime are not tied specifically to a purpose of exploitation, as international law defines trafficking in persons, crimes such as forced
labor or forced prostitution are addressed in related articles. In addition, a 2016 opinion from the Supreme People’s Court (SPC) interpreting article 240, et seq. provides that “selling and buying human beings is banned for any reason. The SPC will penalize crimes of trafficking and purchasing regardless of victims’ gender, age, and nationality for whatever purpose according to the law.” Crimes under article 240 are punishable by no less than 10 years imprisonment, with life imprisonment or the death penalty possible in particularly serious circumstances. Article 241 criminalizes the purchase of women or children, although like article 240, it does not require that the purchase be done for the purpose of exploitation as international law defines human trafficking. Article 358 criminalizes organizing prostitution and forced prostitution, which is punishable by five to 10 years imprisonment or, with aggravated circumstances, up to life imprisonment. Article 359 makes it a crime to harbor prostitution or seduce or introduce others into prostitution and is subject to a maximum five years sentence and payment of a fine; for the seduction of girls younger than the age of 14 into ‘prostitution,’ the sentence is five years or more and a fine. Under international law, the inducement of children under the age of 18 to engage in prostitution, without resort to force, fraud, or coercion, and the forced prostitution of adults, are both forms of sex trafficking. Article 244 makes it a crime to force a person “to work by violence, threat or restriction of personal freedom” and to recruit, transport or otherwise assist in forcing others to labor, punishable by three to 10 years imprisonment and a fine. Prescribed penalties under all these statutes are sufficiently stringent and commensurate with those prescribed for other serious crimes, including rape. In January 2017, SPC issued a widely-publicized formal interpretation regarding the application of the law in cases involving the trafficking of women and children which advised that in certain cases, including when women or children were purchased and then subjected to sexual exploitation or begging, respectively, a person found guilty of trafficking should be convicted “according to the provisions of combined punishment for several crimes,” thereby increasing the penalty for such crimes.

The government continued to provide some law enforcement data; it reported investigating 1,004 trafficking cases (1,414 in 2015) and convicting 1,756 traffickers (2,076 in 2015) in 2016. However, unlike in the previous reporting period, it did not report the number of prosecutions initiated in 2016.
In addition, due to China’s definition of human trafficking, which may include human smuggling, child abduction, forced marriage, and fraudulent adoptions, the exact number of trafficking offenses the government investigated, prosecuted, and convicted was unclear. The Ministry of Public Security (MPS) reported investigating 1,004 cases of human trafficking and arresting 2,036 suspects (1,932 in 2015), including 45 suspected cases of forced labor (21 in 2015) involving the arrest of 74 suspects. In one investigation across 13 provinces involving disabled labor trafficking victims, the government arrested 464 suspects. The government reported convicting 435 sex traffickers (642 in 2015) and 19 labor traffickers (72 in 2015) as well as convicting 1,302 offenders in cases in which it was unclear what forms of exploitation occurred. The government did not report the number of investigations, prosecutions, or convictions involving cases of children or disabled persons forced to beg or engage in other illegal activities.

The government handled most cases with indicators of forced labor as administrative issues through the Ministry of Human Resources and Social Services and seldom initiated prosecutions of such cases under anti-trafficking statutes. The government increased law enforcement cooperation with foreign governments, investigating cases of Chinese citizens subjected to trafficking in the United States, Africa and Europe, with some investigations resulting in prosecutions. The government reported funding training in rural areas for court officials and prosecutors; however, it did not provide detailed information on these efforts. In addition, law enforcement officials, prosecutors, and judges attended trainings on trafficking organized by other countries and international organizations; when authorities participated in these trainings, the PRC sometimes provided speakers and venues, and funded lodging, transportation, and meals for some participants. Despite reports of police accepting bribes from sex traffickers, including brothel owners, the government reported few investigations of government employees complicit in human trafficking offenses. Two officials who reportedly solicited child trafficking victims for commercial sex acts were expelled from their political party and positions; however it is unclear if the government subjected these officials to criminal prosecution.

PROTECTION

The government maintained minimal efforts to protect victims. The government did not report comprehensive data on how many victims it identified during the reporting period. It did report
identifying 432 women and 406 children as a result of law enforcement investigations, in addition to identifying 98 disabled labor trafficking victims. However, it was unclear how many were victims of human trafficking as defined by international law and despite reporting services were available to assist victims, it did not report how many victims it assisted during the reporting period. The government reported maintaining at least 10 shelters specifically dedicated to care for trafficking victims, as well as eight shelters for foreign trafficking victims and more than 2,300 multi-purpose shelters nationwide that could accommodate trafficking victims. The government reported victims could receive shelter, medical care, counseling, and other services. However, the government did not provide victim protection data to ascertain the extent to which trafficking victims in fact accessed these shelters or services. Access to specialized services was dependent upon victims’ location and gender. Rehabilitation services for trafficking victims, especially mental health services, were limited. The impact or effectiveness of the government’s previously reported victim assistance—including border liaison offices, victim funds, hotlines, and government-to-government agreements to assist victims—remained unclear. Foreign embassies in China reportedly provided shelter or protective services to victims.

The government sponsored trainings and provided speakers for trainings organized by an international organization to government officials and civil society on a national referral mechanism and standards for treatment of victims of trafficking. The government detained women during police prostitution raids and detained some of these women while their cases were under investigation; previously, detained women could be held for up to 15 days, however, the government reported a new policy during the reporting period to limit detention to a maximum of 72 hours. While the government reported it mandated screening for trafficking indicators of all individuals arrested for prostitution, it did not report how many victims were identified from this screening and referred to shelters or other care facilities. The Office to Combat Trafficking in Persons continued to disseminate trafficking victim identification procedures to law enforcement officials throughout the country. The government held interagency meetings to establish a national referral mechanism and adopted victim identification guidelines, however, identification procedures varied according to local officials’ training and understanding of trafficking. This variation increased the risk that unidentified trafficking victims were detained or deported following arrest for unlawful acts committed as a direct result of being subjected
to human trafficking. The government entered into agreements with neighboring countries and increased training of border officials. The government did not uniformly provide temporary or permanent residence permits to foreign trafficking victims. The government reported cooperating with law enforcement in Spain, France, Malaysia, the United States, and countries in Africa on cases involving Chinese women exploited in sex trafficking; however, most victims chose not to return to China. Chinese law provides victims the right to request criminal prosecution and claim financial restitution by filing civil lawsuits against their traffickers; the government did not report if any victim benefited from this provision. The judicial system did not require victims to testify against their traffickers in court and allowed prosecutors to submit previously recorded statements as evidence. Authorities continued to detain North Korean asylum-seekers and forcibly repatriated some to North Korea where they faced severe punishment or death, including in North Korean forced labor camps. As it was unclear if the government screened these individuals for indicators of trafficking and there were reports the government forcibly returned some North Korean trafficking victims in previous years, authorities may have forcibly repatriated some North Korean trafficking victims. The government did not report if legal alternatives to repatriation were available for suspected North Korean trafficking victims.

PREVENTION

The government maintained efforts to prevent trafficking. The government funded a television show, used traditional and social media, and distributed posters and other materials at transportation and community centers to increase general understanding of the issue. The government continued to hold an annual inter-ministerial meeting to coordinate antitrafficking efforts. MPS continued to coordinate the antitrafficking interagency process and lead interagency efforts to implement the National Action Plan on Combatting Human Trafficking. In 2016, MPS invested more than 5 million renminbi (RMB) ($720,250) on handling major cases, conferences, trainings, information system construction, and international law enforcement cooperation, as well as 50 million RMB ($7.2 million) for a special antitrafficking fund for local law enforcement. The government reported conducting campaigns to educate vulnerable children on the risks of exploitation and allocated resources to maintain contact with children left in rural communities whose parents have migrated to cities. Academics and experts noted
the gender imbalance due to the previous one child policy could contribute to crimes of human trafficking in China. The government’s easing of the birth limitation policy may decrease future demand for prostitution and foreign women as brides for Chinese men. Provincial government officials acknowledged most marriages between foreign women and Chinese men, including some forced marriages that may also involve trafficking, had not been legally formalized and examined options to legitimize such marriages and formulate mechanisms to provide residency rights to foreign nationals who married a Chinese citizen. Government officials pointed to a reduction in child abduction cases as an indicator of a reduction in human trafficking crimes; however, it was unclear how many child abduction cases in China are related to exploitation in commercial sex or forced labor.

The government hukou (household registration) system continued to contribute to the vulnerability of internal migrants by limiting employment opportunities and reducing access to social services. The government addressed some of these vulnerabilities by requiring local governments to provide a mechanism for migrant workers to obtain residency permits in urban areas. The government reported efforts to reduce forced labor by including language in written agreements with foreign businesses and countries explicitly prohibiting human trafficking. The government attempted to reduce the demand for commercial sex through its crackdown on corruption and high profile arrests of men soliciting or procuring prostitution. Addressing reports of Chinese nationals engaged in child sex tourism, media reports indicated the government issued draft regulations penalizing Chinese tourists engaging in prostitution while abroad; however, it was unclear if these regulations were issued or implemented. The government did not report investigating or prosecuting any Chinese citizens for purchasing commercial sex while abroad. The government provided antitrafficking training to its troops prior to their deployment abroad as part of international peacekeeping missions and to its diplomatic personnel.

TRAFFICKING PROFILE

As reported over the past five years, China is a source, destination, and transit country for men, women, and children subjected to forced labor and sex trafficking. China’s internal migrant population, estimated to exceed 180 million people, is vulnerable to trafficking, with Chinese men, women, and children subjected to forced labor in brick kilns, coal mines and factories, some of which operate
illegally and take advantage of lax government enforcement. While the law prohibits employers from withholding property from an employee as a security deposit, previous reports indicated such practices continued, thus making certain workers vulnerable to forced labor. Forced begging by adults and children occurs throughout China. There are reports of traffickers targeting for forced labor and forced begging persons with developmental disabilities as well as children whose parents have migrated to the cities and left them with relatives, estimated at more than 60 million. International media and the ILO report children in some work-study programs supported by local governments and schools are forced to work in factories. African and Asian men are exploited on Chinese vessels, working under conditions indicative of forced labor.

State-sponsored forced labor continued to be an area of concern in China. In 2013, the PRC’s National People’s Congress ratified a decision to abolish “Re-education through labor” (RTL), a systematic form of forced labor of individuals subjected to extra-judicial detention from which the government reportedly profited. The government closed most RTL facilities by October 2015; however, the government reportedly converted some RTL facilities into state-sponsored drug rehabilitation facilities or administrative detention centers where, according to unverified reports, forced labor continued. Religious and political activists held in legal education facilities previously reported forced labor occurred in pretrial detention and outside of penal sentences. The government previously detained some women for prostitution offenses for up to two years, and subsequently up to 15 days, without due process in “custody and education” centers where they were subjected to forced labor, but it reported changing its official policy in 2016 to limit the time women detained for prostitution could be held in detention facilities to 72 hours. Reports continued of forced labor in and outside Xinjiang, whereby the government forced ethnic Uighurs to perform farm labor as a way of keeping them from getting involved in “illegal activities.” On February 4, 2017, the local government issued a notice that rural obligatory labor had been completely abolished throughout Xinjiang; however, it remains unclear if this practice was in fact discontinued. A new law on the management of foreign NGO activities inside mainland China placed foreign NGOs under the supervision of the MPS. As a result of concerns with the law’s vaguely worded provisions, an already limited space for civil society, including those able to provide services for trafficking victims and those vulnerable to exploitation, was further constrained.
Chinese women and girls are subjected to sex trafficking within China. Traffickers typically recruit them from rural areas and take them to urban centers, using a combination of fraudulent job offers and coercion by imposing large travel fees, confiscating passports, confining victims, or physically and financially threatening victims to compel their engagement in commercial sex. Well-organized criminal syndicates and local gangs play key roles in the trafficking of Chinese women and girls in China, recruiting victims with fraudulent employment opportunities and subsequently forcing them into commercial sex. Chinese men, women, and children are also subjected to forced labor and sex trafficking in at least 19 other countries. Traffickers recruit girls and young women, often from rural areas of China, and Chinese men and women who are forced to labor in restaurants, shops, agriculture, and factories in overseas Chinese communities. Some are promised jobs abroad and confined to private homes upon arrival overseas, held in conditions indicative of forced labor, and compelled to conduct telephone scams. Chinese men in Africa and South America experience abuse at construction sites, in coal and copper mines, and in other extractive industries where they face conditions indicative of forced labor such as non-payment of wages, restrictions on movement, withholding of passports, and physical abuse. Chinese women and girls are subjected to sexual exploitation throughout the world, including in major cities, construction sites, remote mining and logging camps, and areas with high concentrations of Chinese migrant workers.

Women and children from neighboring Asian countries, Africa, and the Americas are subjected to forced labor and sex trafficking in China. North Korean women are subjected to forced prostitution, forced marriage, and forced labor in agriculture, domestic service, and factories. According to media and a 2015 UN report, North Korean citizens are subjected to forced labor in China by the North Korean government, possibly with the knowledge of Chinese officials. African and South American women are promised legitimate jobs in China and forced into prostitution upon arrival. The Chinese government’s birth limitation policy and a cultural preference for sons created a skewed sex ratio of 117 boys to 100 girls in China, which observers assert increases the demand for prostitution and for foreign women as brides for Chinese men—both of which may be procured by force or coercion. Women and girls are kidnapped or recruited through marriage brokers and transported to China, where some are subjected to commercial sex or forced labor.