Guatemala (Tier 2)

The Government of Guatemala does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared to the previous reporting period; therefore Guatemala remained on Tier 2. These efforts included investigating, prosecuting, and convicting more traffickers; dedicating additional resources to increase judicial and prosecutorial capacity outside the capital; increasing regional coordination on trafficking cases; identifying and providing services to more victims; developing new victim identification; and launching several new awareness-raising campaigns, including for vulnerable populations. The government inaugurated a new specialized court to handle child trafficking cases and created a new inter-institutional database to manage human trafficking cases. However, the government did not meet the minimum standards in several key areas. The government decreased funding for victim protection and did not have adequate shelters for all identified trafficking victims. The government did not improve overall monitoring and oversight over its shelters providing for child trafficking victims, referred only 32 percent of victims to care, and specialized victim services remained inadequate given the scope of the problem and lack of services for adult victims. Corruption and complicity remained significant concerns.

PRIORITIZED RECOMMENDATIONS:

Vigorously investigate and prosecute trafficking offenses, with increased focus on suspected cases of forced labor. • Increase funding for and access to victim protection, particularly shelters and specialized services, to include vulnerable populations. • Investigate and hold government officials criminally accountable for complicity in trafficking. • Increase training efforts to identify trafficking victims, particularly among vulnerable populations, such as working children, returning migrants, individuals in prostitution, and children apprehended for illicit gang-related activities. • Increase efforts to proactively look for indicators of forced labor, including in the agricultural sector where workers were particularly vulnerable to forced labor. • Improve the monitoring, oversight, and capacity of shelter operations for child trafficking victims nationwide to address overcrowding, abuse, and neglect. • Amend the 2009 anti-trafficking law to include a definition of human trafficking consistent with international law. • Increase

efforts to investigate, prosecute, and convict child sex tourists and others engaged in sex trafficking of children. • Expand training for judges and prosecutors to include training on the use of forensic and other evidence to ensure trafficking cases are investigated and prosecuted as such rather than as lesser offenses. • Provide reintegration and witness protection support to victims once they leave shelters to prevent re-trafficking. • Increase funding for public awareness campaigns. • Create a trafficking-specific hotline capable of answering calls in Spanish and indigenous languages.

PROSECUTION

The government increased law enforcement efforts. The anti-trafficking law of 2009 criminalized sex trafficking and labor trafficking and prescribed penalties from eight to 18 years' imprisonment and a fine. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with penalties prescribed for other serious crimes, such as rape. Inconsistent with the definition of trafficking under international law, the law did not consider the use of force, fraud, or coercion as an essential element of an adult trafficking offense. The law defined trafficking broadly to include all labor exploitation and illegal adoption without the purpose of exploitation. The government initiated investigations of 332 complaints of trafficking-related offenses, compared with 272 complaints in 2018 and 254 complaints in 2017. In 2019, the government reported 211 of these complaints were specifically regarding trafficking rather than related offenses, compared with 140 of these complaints in 2018 and 127 in 2017. The Human Rights Ombudsman reported receiving 24 complaints of potential trafficking, which it referred to the Public Ministry; this compared with 23 complaints in 2018. The National Civil Police maintained the Special Directorate for Criminal Investigation (DEIC), which has a unit assigned specifically to combat trafficking. However, DEIC staff remained in constant rotations, which reduced awareness and understanding of trafficking investigation protocols. Observers noted that National Civil Police officers across the country had a lack of understanding of human trafficking.

Authorities prosecuted 71 defendants (68 involving sexual exploitation and three forced labor) for trafficking, compared with 32 defendants for trafficking in 2018, 52 defendants in 2017, and 43 defendants in 2016. Observers noted prosecutors did not utilize the criminal charge of trafficking in some parts of the country, which resulted in some trafficking crimes prosecuted as sexual assault. Authorities secured 16 convictions involving 25 traffickers in 2019, with sentences ranging

from eight to 16 years' imprisonment and fines starting at 300,000 Guatemalan quetzals ($39,010). This compared with 14 convictions against 22 traffickers in 2018 and 19 convictions in 2017. The Secretariat against Sexual Violence, Exploitation, and Trafficking in Persons (SVET) held bimonthly meetings during 2019 with various law enforcement and judicial entities to analyze and discuss prosecutions and sanctions of trafficking cases and ensure cases prosecutions were in accordance with Guatemalan law. The government was unable to provide an update to the 2018 case with trafficking charges against two government employees by the close of the reporting period. SVET and NGOs noted a lack of specific measures to deter, prosecute, and penalize government complicity in trafficking crimes.

The government dedicated resources to increase investigative and prosecutorial capacity outside the capital. The Public Ministry opened a regional prosecutor's office on anti-trafficking in Quetzaltenango in June 2019 to cover the western area of Guatemala. The judicial system inaugurated two special first instance criminal courts to prosecute trafficking-related crimes, one in Quetzaltenango and one in Guatemala City, to cover jurisdictions in the central and western regions of Guatemala; these courts will foster judicial expertise in trafficking cases. Observers noted that the specialized prosecutor's office in Quetzaltenango made progress on trafficking cases despite limited staffing, training, and resources. The judiciary also had local courts specialized in trafficking crimes in the departments of Quetzaltenango, Retalhuleu, San Marcos, Suchitepequez, Solola, Quiche, and Huehuetenango. In June 2019, the judiciary inaugurated a specialized court with support from a foreign government, the Integrated Attention Model for Children and Adolescents (MAINA), which consisted of 11 government institutions to provide care for child trafficking victims during the investigation process. MAINA was an effort led by the Public Ministry to reduce processing times significantly for child trafficking cases; it has expedited the prosecution of perpetrators in the Guatemala City metropolitan region by providing a specialized 24-hour court for hearings and a forensics laboratory for on-site laboratory capacity. SVET provided technical assistance to the new courts. The judicial system, however, continued to be an obstacle in seeking justice for trafficking crimes. Investigations often took longer than one year due to the judicial system's limited capacity, the Public Ministry's lack of resources, and the lengthy appeals process that could last two to three years. The judiciary trained 50 judges from eight departments in the western region on trafficking cases and how to standardize coordination for trafficking case

trials. SVET held inter-institutional government workshops to share experiences and analyze trafficking cases with the Public Ministry, the judiciary, and the National Civil Police. The judiciary signed a letter of understanding with a Canadian international organization to collaborate on opening specialized courts for trafficking crimes and with an international organization to train judges on trafficking crimes and child protection services. The Guatemalan Supreme Court signed a memorandum of understanding (MOU) with an international organization to facilitate expanded training to judges and magistrates for establishing cases with trafficking victims. Observers reported recent training for judges improved their awareness of and ability to identify trafficking crimes, but judges needed more training. Some judges, especially in the interior, lacked adequate training to apply forensic evidence in prosecutions, which led to cases tried as sexual assault rather than trafficking. The government had specialized police and prosecutors handle cases of human trafficking, including forced labor, although local experts reported some prosecutors lacked adequate training.

The government cooperated with Belize, Colombia, El Salvador, Honduras, Mexico, Nicaragua, Spain, and the United States on trafficking cases. Through international cooperation with a foreign government, the Public Ministry received financial and technical support to combat trafficking. The government signed an MOU with El Salvador and Honduras to expand cooperation to identify, dismantle, and deter illicit trafficking of migrants and trafficking in persons. The government's Ministry of Labor and Public Ministry signed an inter-institutional agreement to expand cooperation on combatting labor trafficking. The government provided or participated in training on trafficking indicators and processing trafficking cases for law enforcement officials and the judiciary. The government signed a border security agreement with a foreign government to establish a training program aimed at building capacity to identify human trafficking in the border regions.

PROTECTION

The government increased protection efforts, but provided shelter and services to fewer victims. SVET identified 678 trafficking victims (518 female victims, 158 male victims, and two non-binary victims, including children) in 2019, compared with 371 in 2018, 316 in 2017, 484 in 2016, and 673 in 2015. Reported data did not specify the types of trafficking involved in those cases. SVET developed the National Database of Trafficking in Persons Victims, the first inter-institutional

database for detailed trafficking victim information, with close coordination from members of the Inter-institutional Commission Against Trafficking-in-Persons (CIT). SVET also developed an online application for mobile phones for emergency attention to trafficking victims. Of the 678 victims identified, SVET referred 217 to shelter and services; this compared with the government and NGOs providing shelter and services to 238 trafficking victims in 2018 and 127 trafficking victims in 2017. There were three government-run shelters and four main NGO-run shelters that could house trafficking victims. In 2019, shelters began providing differentiated and specialized services and treatment plans for trafficking victims and compared with those of sexual exploitation. In cooperation with other government agencies and NGOs, the government provided services to victims such as food, housing, psychological care, healthcare, education, and apprenticeships. Observers reported NGOs provided the highest quality and most comprehensive care for child victims. Foreign victims had the same access to care as domestic trafficking victims. Shelters could also provide services and housing to victims with disabilities. There were no shelters, government- or NGO-run, for male trafficking victims. The government was unable to report the number of victims housed in government-run shelters; this compared with 77 trafficking victims (74 females and three males) in 2018, 89 trafficking victims (82 females and seven males) in 2017, and 77 in 2016. Adult and child victims stayed in shelters for 46 days on average.

The government provided 7.04 million quetzals ($915,470) in funding in 2019 for government-run shelters and specialized services, compared with 19.4 million quetzals ($2.52 million) in 2018 and 17.6 million quetzals ($2.29 million) in 2017. In November 2019, the congress revived the Institute for Assistance and Assistance to Victims of Crime and put it under the direct supervision of the President's Office. Congress approved a 50 million quetzal ($6.5 million) budget for the Institute's operations in 2019, which provided legal, psychological and counseling services to victims of violent crime nationwide, including trafficking victims. The ombudsman for Human Right's Office (PDH) had a specialized focus for the rights of trafficking; the PDH's budget was lowered by congress, putting its capacity and anti-trafficking activities at risk. Government funding for victim protection, particularly for shelters, remained limited.

Officials used an inter-institutional protocol for the screening, protection, and referral of trafficking victims. SVET also had a protocol for its Immediate

Response Team, which had a formal process for identifying, referring, and protecting victims in the short-term. In 2019, SVET created new protocols for victims of sexual violence, including trafficking: Integral First Response Model of Attention for Adult Victims of Violence, Sexual Exploitation and Trafficking; Protocol of Action in Temporary Specialized Shelter for the Care of Adult Women Migrants Victims of the Crime of Trafficking in Persons; and Updated Social Assistance Directory containing information about shelters and other social welfare organizations in Guatemala. SVET shared its protocol for screening for trafficking victims with the National Civil Police, the Secretary of Social Welfare (SBS), Public Ministry, Ministry of Health, and the Attorney General's Office. However, the SVET's Protocol of Action did not include thorough screening for vulnerable groups, and the protocol was not widely known by other institutions in the government. SVET also created a guide to strengthen comprehensive care by the government and NGOs for LGBTI persons who were victims of human trafficking. The National Civil Police agency's criminal investigative unit did not maintain a victim care team. While SBS has improved its specialized attention to trafficking victims in its shelters, officials noted that due to insufficient victim identification mechanisms, there may be some unidentified trafficking victims in non-trafficking shelters. SVET reported improved regional coordination on anti-trafficking efforts, with better coverage in Huehuetenango, Quetzaltenango, Solola, Quiche, Retalhuleu, Totonicapan, Suchitepequez, and San Marcos.

The courts referred underage trafficking victims to shelters. National Police officers accompanied minor victims to the shelters. The Ministry of Development had a care program to support victims, including trafficking victims, of sexual violence under 14 years old. In January 2019, the SBS assumed ownership and leadership over two formerly SVET-managed shelters in Coatepeque and Guatemala City for minor trafficking victims. An NGO and international organization provided operational assistance and training to SBS employees to ensure the two shelters remained operational and provided quality specialized care for victims and technical support for transfer of the shelters. No NGOs identified any problems with the transition. However, other observers noted instances of inter-agency competition and lack of coordination between SVET and SBS that affected shelter functioning and complicated victim care. In addition to its help with processing trafficking crimes of minors, the Public Ministry's new MAINA facility provided specialized services (medical, psychological, socioeconomic, and legal) for minor victims of crime, including trafficking, sexual violence, and abuse.

SVET repurposed and renovated its shelter in Coban for adult migrant trafficking victims, which included transgender women. An NGO maintained a specialized shelter for unaccompanied minors that assisted repatriation, discouraged irregular migration, and screened for trafficking.

Although Guatemalan law required judges to make all referrals to public or private shelters, in practice, judges often did not make timely referrals, delaying access to needed assistance. Judges at times referred child victims to their families, leaving some vulnerable to re-trafficking, as family members often were involved in their exploitation. Experts noted there was a shortage of shelters for child trafficking victims. The government screened returning unaccompanied children for trafficking indicators using SBS protocols for the attention and reception of such children in two government shelters. Some observers noted that some government and private shelters lack basic security features such as sufficient security cameras and/or security guard presence on the shelter compound. The government made efforts to improve its operations of government shelters, but overall monitoring and oversight, especially for children, remained weak. The government has still not implemented structural changes to overhaul the system in the aftermath of the March 2017 fire in an overcrowded government-managed shelter, which resulted in the deaths of 41 girls and injuries to others. The shelter had previously faced allegations of corruption, sexual exploitation, and a UN investigation into the shelter's management.

Observers noted there was still no comprehensive government-led mechanism to provide follow-up and reintegration support to victims after leaving shelters, nor did the government have sufficient expertise or organizational structures to do so, which could jeopardize victims' safety and increase vulnerability to re-trafficking. For example, in the SBS-run government shelter for female children and adolescent victims of trafficking crimes in Guatemala City, there was no formal program or mechanism to guide victims into a life after the shelter. Many victims lacked family connections to return to upon leaving the shelter on their 18th birthday. Shelter release remained an abrupt and jarring experience for victims. The Ministry of Labor, National Police, and Public Ministry signed an agreement for expanded inter-institutional coordination focused on identification and referrals for victims of labor exploitation and forced labor. While some government officials received training on implementing another protocol for identifying potential forced labor victims during labor inspections, NGOs expressed concern

the labor ministry did not proactively look for indicators of forced labor, including in the agricultural sector where workers were particularly vulnerable to forced labor.

Authorities encouraged victims to assist in the investigation and prosecution of traffickers and made options available for victim testimony either via video, in a Gesell Chamber, or from behind a partition in the courtroom to protect the victim's identity and privacy; victims could also participate in a witness protection program. The two new specialized first instance courts had specialized psychological services for victims and extra layers of confidentiality for witnesses who might be traumatized and/or intimidated to testify. The Public Ministry employed social workers and psychologists to serve as liaisons between the office and victims, accompany victims through the proceedings against their traffickers, and assist victims in accessing medical services. Although the Public Ministry reported it had assisted 270 individuals with these services in 2018, it did not report how many it assisted in 2019. Judges must order restitution when sentencing traffickers. The government, however, did not report any victims as having received restitution from 2017-2019, compared to seven victims who received restitution in 2016. The judiciary reported judges consistently order restitution, but observers reported a gap in enforcement of orders for payments and the inability of those convicted to pay restitution. Guatemalan law provided legal alternatives to the removal of foreign victims who may face hardship or retribution upon return to their home countries; the government did not provide data for the number of victims repatriated during the reporting period. Finding legal employment remained a problem for victims, with no specific system or program in place to help victims find employment. Civil society expressed concern some adult foreign victims chose to leave shelters and return to their home countries due to the lengthy investigation processes. The Public Ministry signed a cooperation agreement with Canada to improve victim service provisions.

PREVENTION

The government maintained prevention efforts. SVET served as the secretariat for CIT, coordinated government efforts against trafficking, and implemented the national anti-trafficking action plan for 2018-2024. Experts commented SVET had a relatively small budget, had relatively limited reach primarily in urban areas, and limited political support from elsewhere in the government. The Ministry of Labor reported it faced human and financial resource shortages in its ability to conduct

labor inspections and identify forced labor cases. Out of 229 labor inspectors, only 60 inspectors received human trafficking training during the reporting period. Observers noted that some civil society institutions on the CIT continued to report CIT was not inclusive of civil society perspectives. In 2019, SVET developed the Intersectoral Commission on Information Technology and Communication, which addressed trafficking crimes that utilize technology. The plan involved the Ministries of Interior, Education, Secretariat of Social Communication from the Executive, the Secretariat of Science and Technology, National Civil Police, National Council of Youth, the Judiciary, the Public Ministry, and Solicitor's Office. The SVET published its work plans and statistics on trafficking cases as well as government responses on its public website; SVET and PDH published their annual trafficking reports. The Public Ministry's anti-trafficking unit began creating an assessment of its trafficking cases. The SVET and the PDH had budgetary restrictions and a lack of support from the central government for its plans of prevention and awareness.

The government held a series of public events on the government's anti-trafficking efforts, involving high-level government representatives, in July 2019 to commemorate the World Day against Trafficking. In July, SVET launched its Blue Heart awareness campaign in digital ads, billboards, social media, radio, and television to educate the public on trafficking issues. With help from a foreign donor, SVET continued its campaign to combat commercial sexual exploitation of children in the travel and tourism industry by placing billboards and commercials in movie theaters, radio stations, and at the main national airport. The government conducted 46 different training sessions for journalists, first responders, NGO employees, psychologists, social workers, health sector workers teachers, federal and state-level government officials, and vulnerable populations such as youth and indigenous populations. SVET developed a virtual reality video game for adolescents and children to learn about the dangers and prevalence of trafficking crimes. The government did not operate a trafficking-specific hotline but encouraged the public to call three hotlines operated by the National Civil Police, the Attorney General's office, and the PDH ombudsman, which operate 24 hours a day year-round, were available in the Spanish and Mayan languages, and accepted reports anonymously. SVET held trainings with 297 agents of the National Civil Police call center to improve the identification of trafficking cases. SVET partnered with the Guatemalan Tourism Institute to train 189 taxi drivers about child sexual exploitation, including how to spot victims, report suspected crimes in

progress, and the connection of child sexual exploitation with tourism in Peten, Izabal, Suchitepequez, Retalhuleu, Zapaca, and Guatemala City.

The government developed draft regulations in 2017 related to labor recruiting of Guatemalan workers, but had not finalized or implemented them by the end of the reporting period. The government signed an agreement with the United States to formalize recruitment of temporary Guatemalan migrant labor to work in the United States; facilitation of a legal means of working in the United States will combat the susceptibility of some to being trafficked to the United States for forced labor. SVET collaborated with the Ministry of Labor and a public university to create a national certification program, "Certificate in Prevention and Combat of Exploitation," for National Civil Police agents. The government did not make efforts to reduce the demand for commercial sex acts. The government increased coordination with Mexico to deploy Guatemalan police, health, and other officials to border towns to promote the awareness of migrants of, and ensure the protection from, trafficking. Guatemalan border police found evidence of some adults kidnapping minor children to try to claim parent-child relationships when crossing borders.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Guatemala, and traffickers exploit victims from Guatemala abroad. Traffickers exploit Guatemalan women, LGBTI persons, girls, and boys in sex trafficking within the country and in Mexico, the United States, Belize, and other foreign countries. Foreign child-sex tourists, predominantly from Canada, the United States, and Western Europe, as well as Guatemalan men, patronize child sex trafficking victims for commercial sex acts. Traffickers exploit women and children from other Latin American countries and the United States in sex trafficking in Guatemala. The government has noted an increasing number of women traffickers. Traffickers exploit Guatemalan men, women, and children in forced labor within the country, often in agriculture or domestic service, and in the garment industry and domestic service in Mexico, the United States, and other countries. Experts identified the coffee, broccoli, sugar, stone quarry, and fireworks manufacturing sectors as at risk for the potential use of child forced labor. Forced labor in domestic service in Guatemala sometimes occurs through forced marriages. Traffickers particularly target indigenous Guatemalans, including children, for forced labor, including in tortilla-making shops in

Guatemala and in foreign countries. Traffickers exploit Guatemalan children in forced begging, street vending, and as street performers, particularly within Guatemala City and along the border with Mexico. Child victims' families are often complicit in their exploitation. Criminal organizations, including gangs, exploit girls in sex trafficking and coerce young males in urban areas to sell or transport drugs or commit extortion. Traffickers exploit some Latin American migrants transiting Guatemala en route to Mexico and the United States in sex trafficking or forced labor in Mexico, the United States, or Guatemala. Traffickers have exploited victims in migrant shelters. Police, military, and elected officials have been placed under investigation for paying children for sex acts, facilitating child sex trafficking, or protecting venues where trafficking occurs.