

Government response to US Trafficking in Persons Report 2019

A Government spokesman said today (June 20) that the Hong Kong Special Administrative Region (HKSAR) Government has noted the release of the United States Trafficking in Persons Report 2019 (USTIP Report) by the United States (US) State Department, which upgrades the HKSAR to Tier 2.

"Trafficking in Persons (TIP) has never been a prevalent problem in Hong Kong. There is no sign that Hong Kong is being actively used by syndicates as a destination or transit point for TIP. This notwithstanding, the HKSAR Government has all along been combating TIP in an all-out and highly proactive manner. Our unparalleled efforts made in 2018, coupled with substantial additional resources injected to relevant departments and our effective framework of over 50 legislative provisions, will ensure that the achievements made in the past year will be sustained and form a solid foundation for further improvements in future," the spokesman said.

"The current-term HKSAR Government is vigorously combating TIP and enhancing the protection and well-being of foreign domestic helpers (FDHs). The HKSAR Government established in March 2018 a high-level inter-bureau/departmental Steering Committee chaired by the Chief Secretary for Administration and promulgated the Action Plan to Tackle TIP and to Enhance Protection of FDHs in Hong Kong. The Action Plan comprises a full range of comprehensive, strategic and targeted new measures on victim identification, investigation, enforcement, prosecution, victim protection and support, prevention and partnership building with different stakeholders, which were effectively implemented in the course of 2018."

On victim identification, the Police extended the TIP victim screening mechanism to all of its 24 police districts and relevant units. At the same time, the Customs and Excise Department (C&ED) also implemented the screening mechanism department-wide. Together with the Immigration Department (ImmD), which has implemented the mechanism since 2015, over 7 500 initial TIP victim screenings were conducted in 2018, which represents a marked 60 per cent increase as compared with the 2017 figure.

The spokesman said, "The Police, the ImmD and the C&ED also worked closely together to improve the victim screening form, drawing particular reference to similar screening tools published by the Civil Society Anti-Human Trafficking Task Force. A better tool helps produce more accurate assessment."

"Despite such proactive and intensified screening efforts, the percentage of victims identified has remained at a low level of less than 0.3 per cent (with only 18 victims identified in 2018), reinforcing our observation all along that TIP is not prevalent in Hong Kong."

On investigation and enforcement, the Police, the ImmD, the C&ED and the

Labour Department (LD) developed and instituted an inter-departmental joint investigation mechanism in August 2018 so that potential victims of TIP and FDH exploitation cases can be spared the agony of having to revisit their traumatic experience through serial interviews.

In addition, all relevant departments have appointed dedicated teams or designated focal points to handle TIP-related cases, greatly enhancing the overall and inter-departmental co-ordination on enforcement.

"Our law enforcement efforts have been stepped up and yielded positive outcomes. For example, in 2018, the Police conducted a total of 265 anti-vice operations, a 7.3 per cent increase as compared with the amount in 2017. In the same year, the Police investigated 136 sex trafficking-related cases and arrested a total of 19 syndicate members for a total of 110 counts of sex trafficking-related offences," the spokesman said.

The LD introduced multiple new measures in 2018 to further enhance protection for FDHs.

"The well-being of FDHs in Hong Kong is a major focus of the Steering Committee. There are currently over 390 000 FDHs in Hong Kong, constituting about 10 per cent of our labour force. Over the past two decades, the number of FDHs working here has more than doubled, clearly demonstrating that Hong Kong is one of the most popular destinations for FDHs in the world."

The LD has vigorously combated the malpractices of employment agencies (EA). Since April 2018, the LD has increased manpower and stepped up enforcement against EAs to complement the six-fold increase in maximum penalties against EAs for overcharging or operating without a licence following the enactment of the Employment (Amendment) Ordinance 2018 in February last year. The Ordinance has also given legal status to the Code of Practice for EAs (CoP) promulgated by the LD. EAs contravening the CoP's requirements may risk their licences being revoked or refused for renewal. Moreover, the annual target for inspections of EAs was 2 000 in 2018, a significant 54 per cent increase over the 2014 figure. In addition to initiating prompt investigations upon receipt of complaints, regular and surprise inspections of EAs were undertaken by the LD. In each inspection visit, the LD would conduct thorough inspection to scrutinise various records to ensure that the EAs inspected were operating in compliance with the statutory requirements and more than 40 items required in the CoP.

"Our efforts have yielded effective outcomes. In 2018, the LD successfully prosecuted 10 EAs and revoked or refused to issue or renew the licences of 11 EAs. This also demonstrates the effectiveness of the Employment (Amendment) Ordinance 2018 in imposing sanctions against EAs through enforcing the CoP," the spokesman said.

Since October 2018, records of conviction for overcharging or unlicensed operation by EAs, revocation and refusal for renewal of EA licences, and written warnings issued to EAs have been published on the LD's dedicated EA Portal (www.eaa.labour.gov.hk) to assist employers at large and job seekers, including FDHs, to make more informed decisions when engaging EA services.

In December 2018, the LD launched a dedicated 24-hour hotline (2157 9537) to provide one-stop support for FDHs in making enquiries and seeking advice on their employment rights and obligations. Interpretation service is provided in seven native languages of FDHs (namely Tagalog, Bahasa Indonesia, Thai, Nepali, Hindi, Punjabi and Urdu). An online form has also been made available on the LD's FDH Portal (www.fdh.labour.gov.hk) and EA Portal to assist FDHs to make enquiries and lodge complaints.

"In 2018, 48 FDH employers were prosecuted for aiding and abetting their FDHs in breaching their conditions of stay. Of these, 29 were convicted and sentenced to up to 12 weeks' imprisonment and fined up to \$45,000," the spokesman said.

Separately, the Secretary for Labour and Welfare visited Jakarta, Indonesia, in January 2019 to reaffirm the two governments' mutual commitment to safeguard the interests of Indonesian domestic helpers working in Hong Kong as well as enhance co-operation between the two sides in protecting FDHs.

On training and partnership, over 2 300 officials from various departments and organisations received TIP-related training locally or overseas in 2018 (around 30 per cent more than that in 2017). In particular, the Hospital Authority and the Multi-purpose Crisis Intervention and Support Centre also participated in such training sessions for the first time.

Furthermore, to foster stronger partnership with civil society, Government officials actively participated in events and campaigns organised by different local and international organisations in 2018.

The spokesman said, "Looking ahead, the HKSAR Government has already allocated additional annual funding of \$62.63 million starting from the 2019-20 financial year to support various departments to create close to 100 new permanent posts in the civil service dedicated to the fight against TIP. We will sustain our efforts in this regard."

To tackle TIP crimes, there are over 50 legal provisions against various types of TIP conduct which equip law enforcement agencies with the necessary power and authority and also the flexibility to take enforcement action against such crimes depending on the details of individual cases, rather than relying on a single piece of TIP legislation. The conduct referred to as "human trafficking" in the Palermo Protocol is fully covered and effectively prohibited by the relevant domestic legislation. Law enforcement agencies may resort to powers and rely on offences provided in different statutes in the course of investigation, enforcement and prosecution, so that they can cover all natures of crime involved, subject to individual case details and evidence.

"As a vibrant international metropolis, Hong Kong attaches great importance to the rule of law. We have a wide range of effective and comprehensive legislation to combat TIP crimes. Our multi-legislation approach targeting TIP has served Hong Kong well. It is thus unfair for some critics to maintain the view that the HKSAR Government lacks the

determination in tackling TIP simply because there is no composite TIP law."

"We consider some comments made by the US State Department in its USTIP Report on Hong Kong not entirely fair or well founded. We will maintain ongoing constructive dialogue and work closely with civil society and other governments to foster better mutual understanding and stronger partnership in combating TIP.

The HKSAR Government will continue the fight against TIP through a multi-pronged approach with commitment and determination," the spokesman said.