

Government strongly objects to United States Trafficking in Persons Report 2020

A Government spokesman said today (June 26) that the Hong Kong Special Administrative Region (HKSAR) Government strongly objects to the United States Trafficking in Persons Report 2020 (the Report) released by the United States Department of State.

The spokesman said, "The Report contains allegations made by unidentified sources and without specific case details. It is disappointing to note that much of the analysis in the Report appears to be based merely on hearsay. The findings are groundless, and the rating of Hong Kong at Tier-2 Watch List is obviously seriously biased and not substantiated by facts. The HKSAR Government firmly rejects the findings and rating on such a sloppy and prejudiced basis. As a matter of fact, the HKSAR Government attaches great importance to combatting trafficking-in-persons (TIP)."

"Indeed, Hong Kong has all along been making proactive, all-out and multi-pronged efforts to combat TIP. The Action Plan to Tackle TIP and to Enhance Protection of Foreign Domestic Helpers in Hong Kong (the Action Plan) and our continuous efforts in the past two years formed a solid foundation. Our resolve to combat TIP is beyond doubt, regardless of any one-sided and biased views on our solid work," the spokesman added.

In 2019, over 7 500 initial TIP victim screenings were conducted by various departments concerned, including the Hong Kong Police Force (HKPF), the Immigration Department (ImmD), the Customs and Excise Department (C&ED) and the Labour Department (LD). Screening questions used by various departments are akin to the ones proposed by advocating non-government organisations. Definition of TIP adopted is the same as the one set out in the Palermo Protocol (although it has never been applied to Hong Kong). Despite such proactive and intensified screening efforts, only three persons were identified as TIP victims (i.e. 0.04 per cent of all screening conducted).

"The small number and percentage of victims identified reinforces our observation all along that TIP has never been a prevalent problem in Hong Kong. There has never been any sign that Hong Kong is being actively used by syndicates as a destination or transit point for TIP. It is irresponsible to call it otherwise without presenting any solid evidence, making the Report just a bare assertion. To attack Hong Kong for lagging behind in our anti-TIP efforts despite such positive outcome is grossly unfair and illogical," the spokesman said.

In March 2018, the HKSAR Government went an extra mile in setting up a high-level inter-bureau/departmental Steering Committee, chaired by the Chief Secretary for Administration, and with the Secretary for Security and the

Secretary for Labour and Welfare as Vice Chairmen, to provide high-level policy steer on actions against TIP. The Steering Committee swiftly promulgated the Action Plan, comprising 14 new and 20 on-going measures on victim identification, investigation, enforcement, prosecution, victim protection and support, prevention and partnership building with different stakeholders.

In 2019, the Government pressed ahead with its anti-TIP efforts in full gear. By end-2019, the Action Plan was fully implemented, with all initiatives firmly in place.

"To support the implementation of the Action Plan, the Government has, since the 2019-20 financial year, provided recurrent funding amounting to \$62 million annually to create 98 new posts in the HKPF, ImmD, C&ED, LD and the Department of Justice (DoJ).

"One of the new initiatives implemented in 2019 was LD's initial victim screening mechanism at the 10 branch offices of its Labour Relations Division across Hong Kong since mid-December 2019. This has further enhanced the protection for foreign domestic helpers (FDHs) as those potentially being exploited or abused could be identified at an early stage. Accordingly, those who might possibly be facing greater dangers (e.g. being physically abused) could be identified as early as possible and be referred to law enforcement agencies for conducting full debriefing and follow-up investigations. Since the implementation of the initial victim screening mechanism and as at end-May 2020, 742 initial screenings had been conducted. No TIP victim was identified," the spokesman said.

In 2019, LD continued to take rigorous enforcement action against employment agencies (EAs) in breach of the Employment Ordinance (Cap. 57) (EO), the Employment Agency Regulations (Cap. 57A) (EAR) and the Code of Practice for EAs (CoP). LD conducted about 2 000 regular and surprise inspections of EAs annually to ensure that EAs operate in compliance with EO, EAR and CoP. Prompt investigation would be initiated upon receiving any complaints from job-seekers or employers. LD also set up a new dedicated team in its Employment Agencies Administration to strengthen the enforcement of the Employment (Amendment) Ordinance 2018.

In 2019, LD successfully prosecuted 10 EAs under EO, of which four were prosecuted for overcharging job-seekers, two for unlicensed operation and four for other offences. The licences of 13 EAs were revoked or refused to be issued/renewed, which was an 18 per cent increase as compared with year 2018. The grounds for revoking or refusing to issue/renew these licences include, among others, involvement in the financial affairs of job-seekers, retention of passports without consent, violation of other CoP requirements, etc. The above demonstrates the effectiveness of the enforcement actions taken against EAs.

In parallel, ImmD also set up a new dedicated team in December 2019 to step up the checking of all FDH visa applications, as well as to conduct criminal investigations into TIP-related offences in relation to immigration matters arising from such applications, with a view to taking a more

proactive approach in identifying FDHs potentially being exploited and increasing the chance of victims being identified. As at end-May 2020, a total of 944 cases were screened under the TIP victim screenings mechanism by the new dedicated team of ImmD. No victim was identified.

As regards prosecution, as a general guiding principle, our prosecutors are mandated to give due consideration to any TIP elements that may feature in any given case when deciding whether prosecution should be instigated or continued. In appropriate cases, a witness may be granted immunity from prosecution, having regard to the established legal principles and the guidelines under the Prosecution Code. Over the past years, DoJ has granted immunities to suspected TIP victims and exploited FDHs in various cases to facilitate them to testify against their perpetrators in court.

TIP is a heinous crime that has never been tolerated in Hong Kong. Hong Kong has a long and well-established legal framework. There are over 50 legal provisions against various TIP conducts that form a comprehensive package of safeguards comparable to composite TIP laws found in other jurisdictions. Some of the offences attract penalty of up to life imprisonment.

"Our intensified efforts and notable improvements achieved in recent years, including dedicated efforts both in policy steer and frontline enforcement, significant expansion of victim screening coverage and investment of substantial new resources, should have been duly recognised. To persistently attack our multi-legislation approach, which has proved to be effective, insisting that Hong Kong must introduce a composite TIP law, is most unreasonable and inconceivable. Ignoring our efforts and achievements solely because we adopt a multi-legislation approach to tackle TIP seriously calls into question the credibility and objectivity of the Report," the spokesman said.

The spokesman stressed, "The HKSAR Government will continue to foster a constructive partnership with the civil society in combating TIP on all fronts. Hard facts and evidence have clearly confirmed that TIP has never been a prevalent problem in Hong Kong."