

Government vehemently objects to United States Trafficking in Persons Report 2021

A Government spokesman said today (July 2) that the Hong Kong Special Administrative Region (HKSAR) Government vehemently objects to the biased and unreasonable assessment of the United States Trafficking in Persons Report 2021 (the Report) released by the United States Department of State (USDS).

The spokesman said, "Hong Kong has all along been making proactive, all-out and multi-pronged efforts to combat trafficking in persons (TIP). The USDS not only ignored the fact that TIP has never been a prevalent problem in Hong Kong, but also neglected our unparalleled efforts made over the years and the substantial amount of resources injected in the fight against TIP. The rating of Hong Kong at Tier-2 Watch List is obviously biased and not substantiated by facts."

Since 2018, the HKSAR Government went an extra mile in setting up a high-level Steering Committee, chaired by the Chief Secretary for Administration, to provide policy steer on actions against TIP and protection of foreign domestic helpers (FDHs). The Action Plan to Tackle TIP and to Enhance Protection of FDHs in Hong Kong (Action Plan) has also been promulgated with multi-faceted measures which are comprehensive, strategic and targeted. Additional funding amounting to \$62 million annually was also allocated to support the implementation of the Action Plan by creating 98 new posts in various departments since the 2019-20 financial year. All 34 measures in the Action Plan were firmly in place by end 2019.

"Among the various new initiatives and achievements is the establishment of a dedicated FDH Division in the Labour Department (LD) in September 2020 to enhance the protection of FDHs. The main responsibilities of the FDH Division include enhancing promotion and education to improve FDHs' and employers' understanding of their respective rights and obligations, providing support services for FDHs and their employers, and supporting the implementation of FDH policy measures. Besides, the Immigration Department (ImmD) has set up the new 'FDH Special Investigation Section' 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."

In 2020, LD continued to take rigorous enforcement actions against employment agencies (EAs). LD conducts about 2 000 regular and surprise inspections of EAs annually to ensure that EAs operate in compliance with the Employment Ordinance (Cap. 57) (EO), the Employment Agency Regulations (Cap. 57A) and the Code of Practice for EAs. Prompt investigation will be initiated upon receiving complaints from job-seekers or employers. In 2020, LD successfully prosecuted 11 EAs under EO, of which three were prosecuted for

overcharging job-seekers, three for unlicensed operation and five for other offences. In the same period, LD revoked or refused to issue the licences of seven EAs.

"There has never been any sign that Hong Kong is being actively used by syndicates as a destination or transit point for TIP. Even the COVID-19 pandemic has not swayed the determination of the HKSAR Government in the fight against TIP on all fronts. In 2020, over 6 900 initial screenings were conducted by the Hong Kong Police Force, Customs and Excise Department, ImmD and LD, with only three victims identified. The very small number and percentage of victims identified reinforces our observation all along that TIP has never been a prevalent problem in Hong Kong," the spokesman added.

The HKSAR Government has repeatedly advised that the current comprehensive legislative framework has served Hong Kong well, and TIP has never been a problem in Hong Kong. Every jurisdiction should have its latitude to determine the best legal framework to tackle the issue. There is simply no one-size-fits-all solution. It is also noteworthy that the Hong Kong Court of Final Appeal handed down a judgment in January 2020, confirming that the HKSAR Government has no positive obligation to enact and maintain a criminal offence specifically for dealing with TIP violations, and has a wide margin of discretion in the manner in which it complies with its obligations to tackle TIP. To persistently attack our multi-legislation approach (which has proven to be effective) is grossly unreasonable.

"We would also like to reiterate that investigation and prosecution of TIP cases is both time and labour intensive. Whether and how one would be prosecuted and convicted very much depends on the merits, facts and evidence of individual cases, as well as other factors such as the willingness of the victim(s) to proceed with the investigation. Besides, the HKSAR Government has been offering a variety of assistance to TIP victims in need, and they may choose whether to receive our services on their own volition. The Report's accusation of the lack of enforcement, prosecution or assistance is entirely baseless," the spokesman said.

The spokesman also stressed, "it should be pointed out that the four categories of offences of endangering national security which the Hong Kong National Security Law provides, are clearly defined with the elements of the offences, the penalties, mitigation factors and consequences clearly prescribed. Acts and activities endangering national security are distinctly different from normal interactions. Law-abiding people will not unwittingly violate the law. The USDS' comments on the Hong Kong National Security Law in the TIP Report clearly do not reflect the facts."

"We have injected enormous amount of efforts and resources to combat TIP and protect FDH against exploitation. Unfortunately, our dedicated efforts and notable improvements achieved on both policy steer and frontline enforcement have not been recognised by the USDS. TIP has never been tolerated in Hong Kong. Our all-embracing Action Plan, comprehensive legal framework, vigorous enforcement efforts, independent judiciary, rule of law and a clean government, etc., have placed us on a solid footing to combat TIP

and related offences. We express deep regret over the biased and unfair assessment in the Report," the spokesman said.