

HKSAR Government strongly opposes US Trafficking in Persons Report 2023

The Government of the Hong Kong Special Administrative Region (HKSAR) today (June 16) vehemently refuted the assessment about Hong Kong in the Trafficking in Persons Report 2023 (Report) of the Department of State of the United States (US).

A spokesman for the HKSAR Government said, "We noted the rating of Hong Kong is adjusted upward to Tier 2 in the Report. The HKSAR Government strongly disapproves of and firmly rejects the unsubstantiated remarks in the US' Report against the situation of Hong Kong. Trafficking in persons (TIP) is never a prevalent problem in Hong Kong, and there has never been any sign that Hong Kong is being actively used by syndicates as a destination or transit point for TIP."

The spokesman added, "The HKSAR Government has all along been making proactive and multi-pronged efforts in the fight against TIP, and injected an enormous amount of resources to combat TIP and enhance the protection and well-being of foreign domestic helpers (FDHs) in Hong Kong. A high-level Steering Committee to Tackle TIP and to Enhance Protection of FDHs was established in March 2018 and it promulgated the Action Plan to Tackle TIP and to Enhance Protection of FDHs in Hong Kong with multi-faceted and targeted measures, covering victim identification, investigation, enforcement, prosecution, victim protection and support, prevention, and partnership with different stakeholders. By the end of 2019, all measures in the Action Plan have been firmly put in place.

"Despite the challenges posed by the COVID-19 pandemic over the past three years or so, the HKSAR Government sustained its wide-ranging anti-TIP efforts. In 2022, the HKSAR Government spared no effort as before to conduct initial screenings of all persons vulnerable to TIP risks, including illegal immigrants, sex workers, illegal workers, FDHs, and imported workers and other suspected victims, who came to the attention of the departments concerned."

In particular, an FDH Special Investigation Section was established in December 2019 in the Immigration Department (ImmD) to step up scrutiny of FDH visa applications to facilitate identification of potential TIP victims and cases of exploited FDHs. The ImmD will render assistance as appropriate to FDHs who have been abused or exploited. For FDH established to be a victim of a criminal case who needs to stay in Hong Kong to assist in investigation or act as a witness in legal proceedings, the ImmD will waive the fee for his/her extension of stay. Also, the ImmD will keep records of such cases and take them into account in considering any future applications from employers concerned. If there is evidence that an employer has abused or exploited his/her FDH, his/her future application for employing FDH will normally not be approved.

The spokesman said, "The HKSAR Government reiterates its commitment to safeguarding the employment rights and benefits of FDHs, who are offered statutory protection under the Employment Ordinance (Cap. 57) as well as additional benefits in accordance with a Government-prescribed Standard Employment Contract. The Foreign Domestic Helpers Division of the Labour Department (LD) renders one-stop support for FDHs, including maintaining a dedicated 24-hour hotline for FDHs, providing advice on employment matters, assisting FDHs to seek help from relevant authorities, co-operating with consulates general and the civil society, and publicising the rights and benefits of FDHs through various channels.

"Regarding the 'two-week rule', i.e. an FDH shall leave Hong Kong upon completion of employment contract or within two weeks from the date of early contract termination, whichever is the earlier, its purpose is to allow sufficient time for FDHs to prepare for their departure. Also, this rule has allowed sufficient flexibility to cater for exceptional circumstances and does not preclude FDHs from working in Hong Kong again after returning to their place of origin. Exploitation of FDHs is never tolerated in Hong Kong. FDHs who have been abused or exploited could apply for change of employer in Hong Kong without first returning to their places of origin. FDHs abused or exploited should not feel inhibited from lodging complaints against their employers.

"As for the 'live-in requirement', it underpins the long-established Government policy that priority in employment should be given to the local workforce and importation of workers will only be allowed when there is proven manpower shortage in specific trades that cannot be filled by local workers. It is along this policy objective that live-in FDHs have been imported since the 1970s to meet the shortage of local live-in domestic helpers."

The spokesman stressed, "In 2022, around 1 200 frontline officers of the HKSAR Government received anti-TIP training. On the other hand, some 7 600 initial screenings were conducted with a record-high of 32 TIP victims identified. Among the 32 TIP victims, one victim involved a foreigner being trafficked into Hong Kong, while 31 were related to Hong Kong residents involved in the employment fraud in Southeast Asian countries being trafficked out of Hong Kong. The swift identification of 31 victims from the employment fraud, in particular, speaks for the effectiveness of the HKSAR Government's TIP victim screening mechanism and the fact that TIP is never tolerated in Hong Kong."

On the so-called claim about the lack of composite trafficking legislation in Hong Kong, the spokesman said, "The HKSAR Government maintains the view that its current legislative framework, which comprises over 50 legal provisions against various TIP conducts, provides a comprehensive package of safeguards comparable to composite TIP laws found in other jurisdictions and has served Hong Kong well. It should be emphasised that every jurisdiction should have its latitude to determine the best legal framework to tackle the issue and there is simply no one-size-fits-all

solution. There is no indication to suggest that the effectiveness of the HKSAR Government's anti-TIP efforts has been undermined without composite trafficking legislation.

"It is most inconceivable for the US Department of State to ignore the HKSAR Government's strenuous efforts in combating TIP, persistently attack our multi-legislation approach, and insist that Hong Kong must introduce a composite TIP law, which totally expose the US' double standards. 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 US' Report.

"Hong Kong law enforcement agencies have all along remained vigilant in investigation and enforcement. The Police continued to commit significant efforts to combating vice activities including prostitutions in 2022. Some 60 anti-vice operations were mounted and over 300 persons were arrested for the offence of keeping a vice establishment or prostitution-related crimes under the Crimes Ordinance (Cap. 200), representing a year-on-year 10 percent increase in terms of the number of arrestees. At the same time, 38 FDH employers were prosecuted for aiding and abetting their FDHs in breaching the latter's conditions of stay, and five FDH employers were prosecuted for other offences such as common assault, wounding, indecent assault and rape.

"The LD continues to take rigorous enforcement actions against employment agencies (EAs) in breach of the Employment Ordinance, the Employment Agency Regulations (Cap. 57A) and the Code of Practice for EAs, including overcharging commission from job seekers, unlicensed operation, withholding of personal properties of FDHs, or being involved in the financial affairs of FDHs such as money lending. The LD investigates each and every complaint case promptly and prosecutes cases where there is sufficient evidence. In 2022, the LD conducted about 1 700 regular or surprise inspections to EAs, issued over 800 warnings, successfully prosecuted three EAs and revoked the licence of one EA. In addition, swift actions were taken in cancelling the licence of an EA specialising in arranging FDHs from a particular foreign country to Hong Kong in connection with a staff member of the EA being convicted of overcharging of commission."

The spokesman added, "The US Department of State's remarks about the Hong Kong National Security Law in the Report amount to nothing but sheer political smears against Hong Kong. The Hong Kong National Security Law clearly stipulates four categories of offences endangering national security, with the elements of the offences, the penalties, mitigation factors and consequences clearly prescribed. Any law enforcement actions taken by Hong Kong law enforcement agencies are based on evidence, strictly according to the law, and for the acts of the persons concerned. Acts and activities endangering national security are distinctly different from normal interactions. Law-abiding people will not unwittingly violate the law."

The spokesman stressed, "As a responsible member of the international community, the HKSAR Government will continue its firm commitment to contributing to the global efforts for this important cause."