

HKSAR Government vehemently opposes US Trafficking in Persons Report 2024

The Government of the Hong Kong Special Administrative Region (HKSAR) today (June 25) vehemently objected to the unsubstantiated remarks about Hong Kong in the Trafficking in Persons Report 2024 (Report) of the Department of State of the United States (US).

A spokesman for the HKSAR Government said, "We vehemently oppose and firmly reject the unfounded and false remarks in the Report against the situation in Hong Kong. Trafficking in persons (TIP) is never 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. The findings in the Report are groundless. The rating of Hong Kong at Tier 2 (Watch List) is utterly unfair, misconceived, and not substantiated by facts."

The spokesman stressed, "The HKSAR Government has all along been making proactive and multi-pronged efforts in the fight against TIP. It has injected an enormous amount of resources into combatting TIP and enhancing the protection for foreign domestic helpers (FDHs) in Hong Kong. As a responsible member of the international community, we will continue our firm commitment to combatting TIP.

"In 2023, the HKSAR Government continued to spare no effort in conducting initial screenings for all persons vulnerable to TIP risks, including illegal immigrants, sex workers, illegal workers, FDHs, imported workers and other suspected victims, who had come to the attention of the departments concerned. The HKSAR Government conducted around 11 000 initial screenings in 2023, representing an increase of 45 per cent compared with 2022. Of note is that our heightened anti-trafficking efforts and increased number of screenings resulted in the identification of only three victims, which demonstrates that TIP is not a prevalent or widespread issue in Hong Kong. It is baseless and unfair to cast doubt on our determination in combatting TIP and the quality of our screenings merely because of the low number of the victims so identified."

The HKSAR Government consistently attaches great importance to protecting FDHs in Hong Kong, the population of which is some 360 000. An FDH Special Investigation Section was established in December 2019 in the Immigration Department (ImmD) to step up scrutiny of FDH visa applications to proactively identify potential TIP victims and cases of exploited FDHs. The ImmD will render assistance as appropriate to those FDHs who have been abused or exploited. For an 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, ImmD will waive the fee for his/her extension of stay. Also, the ImmD will keep record of such cases and take them into account in considering any future applications from the employers concerned, whose future applications for employing FDHs will normally not be approved if there

is evidence of abuse or exploitation of FDHs.

The Employment Ordinance (Cap. 57) (EO) provides comprehensive protection for the employment rights and benefits of FDHs, which are on par with those of local workers. In addition to legal safeguards, FDHs are entitled to additional benefits that are usually not available to local workers through a Government-stipulated Standard Employment Contract. They include free accommodation, free food (or food allowance in lieu), free medical treatment and free passage to/from their home countries. Under the EO, an employment agency (EA) is only allowed to charge job seekers, including FDHs, a commission of not more than 10 per cent of their first month's salary upon successful placement. Any EA contravening the requirement is liable to prosecution, as well as revocation of its licence upon conviction.

The dedicated Foreign Domestic Helpers Division of the Labour Department (LD) provides comprehensive support to FDHs, which include a one-stop portal in 12 languages and a dedicated 24-hour hotline for FDHs, a wide range of publications on the rights and benefits of FDHs, advice to FDHs on employment matters, and assistance to them in seeking help from relevant enforcement authorities. The LD also co-operates with local Consulates General and the civil society to enhance FDHs' awareness of their rights, and joins hands with the Police to advise FDHs to refrain from engaging in money laundering or other illicit activities.

In May 2024, the LD promulgated a revised Code of Practice for Employment Agencies (CoP) to strengthen the regulation of EAs and enhance the protection for FDHs. The revised CoP has tightened the restrictions on EAs' involvement in FDHs' financial affairs. Such measures include requiring EAs to, when applying for or renewing a licence, inform the LD whether they are operating in the same premises as any financial institution, and whether the EA licensee or would-be licensee is at the same time the responsible person of any financial institution. The revised CoP also prohibits EAs from providing FDHs with information relating to personal loans, and from withholding FDHs' personal documents, including passports and employment contracts, so as to forestall the EAs from coercing the FDHs to pay or repay any sum of money. Where an EA fails to comply with the requirements of the CoP, the LD may refuse to issue or renew, or revoke, the EA's licence. To prevent offenders from operating an EA again, the LD will reject applications for issue and renewal of licence if an applicant, or his/her management or employee has committed an offence under the EO or breached the CoP.

The spokesman said, "The 'two-week rule', under which 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, aims to allow sufficient time for FDHs to prepare for their departure. Also, the rule allows sufficient flexibility to cater for exceptional circumstances and does not preclude FDHs from working in Hong Kong again after returning to their places of origin. Exploitation of FDHs is never tolerated in Hong Kong. Any FDHs who have been abused or exploited could apply for change of their employers 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.

"The 'live-in requirement' underpins the long-established government policy of ensuring employment priority for the local workforce. As in many other jurisdictions, importation of workers in Hong Kong is allowed only when there is proven manpower shortage in specific trades that cannot be met by local workers. In accordance with this policy objective, live-in FDHs have been imported since the 1970s to address the shortage of local live-in domestic helpers. The legality of the "live-in requirement" was upheld by the Court of Appeal in a ruling handed down in 2020 in an appeal of a judicial review."

In 2023, the HKSAR Government strengthened training for, and fostered the awareness of TIP among, frontline officers of its law enforcement agencies (LEAs), the LD and FDHs. Around 1 900 officers from various government bureaux and departments and other relevant organisations attended TIP-related training in 2023, representing an increase of over 58 per cent compared with 2022. Also, a new arrangement was established in 2024 to provide workshops on combating TIP for frontline staff at the Hong Kong International Airport. Over 100 staff members have joined workshops of this kind so far. Meanwhile, the HKSAR Government continued close co-operation with local Consulates General in arranging regular sharing sessions for new FDHs to raise their TIP awareness.

On the unsubstantiated remarks in the Report about the lack of composite trafficking legislation in Hong Kong, the spokesman said, "The HKSAR Government's 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. 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. In fact, our legal framework has served Hong Kong well. Judicial rulings in recent years have affirmed on various occasions that the HKSAR Government had no positive obligation to enact and maintain a criminal offence specifically criminalising the relevant activities prohibited under Article 4 of the Hong Kong Bill of Rights (BOR 4), and that it would have a wide margin of discretion in the manner of compliance with its obligations under BOR 4. There is no indication to suggest that the effectiveness of our anti-TIP efforts has in any way been undermined without composite trafficking legislation."

Hong Kong LEAs have all along remained vigilant in investigation and enforcement. The Police continued to commit significant efforts to combating vice activities including prostitutions in 2023. A total of 70 anti-vice operations were mounted, an increase of 21 per cent compared with 2022. A total of 234 persons were arrested for the offence of keeping a vice establishment or prostitution-related crimes under the Crimes Ordinance (Cap. 200). As regards the protection of FDHs, the Police arrested 33 FDH employers in relation to physical or sexual abuse in 2023. Separately, 60 FDH employers were prosecuted for aiding and abetting their FDHs in breaching the latter's conditions of stay, with 43 employers convicted. In parallel, the LD continued to take robust enforcement actions against any EA that contravenes

the EO, the Employment Agency Regulations (Cap. 57A) or the CoP. In 2023, the LD conducted over 2 000 regular and surprise inspections to EAs, during which officers made detailed enquiries with EA operators about the operations of their EAs and scrutinised relevant records and documents. In the same year, four EAs were convicted for the relevant offences, while five EAs had their licences revoked, or refused for issue or renewal, for failure to comply with the CoP. The LD investigated each and every complaint case promptly, including interviewing complainants to obtain statements, seeking information from relevant persons or organisations, conducting enquiries with the EA licensee and the associates, and seizing records, etc., and instigated prosecution where there was sufficient evidence.

The spokesman added, "The legal framework in safeguarding national security in the HKSAR is fully in compliance with the international standard for the protection of human rights. The Hong Kong National Security Law and the Safeguarding National Security Ordinance clearly stipulate that human rights shall be respected and protected in safeguarding national security. The rights and freedoms, including the freedoms of speech, of the press and of publication, and the freedoms of association, of assembly, of procession and of demonstration, enjoyed by Hong Kong people under the Basic Law and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applicable to the HKSAR are protected in accordance with the law. Legislation that safeguards national security only targets a very small number of organisations and individuals that endanger national security."

The HKSAR Government has been steadfastly combating TIP in an all-out and highly proactive manner. Established in March 2018, a high-level steering committee provides policy steer on actions against TIP and protection of FDHs. It has promulgated the Action Plan to Tackle TIP and to Enhance Protection of FDHs in Hong Kong, with multi-faceted, comprehensive, strategic and targeted measures all firmly put in place by the end of 2019 to cover victim identification, investigation, enforcement, prosecution, victim protection and support, prevention, and partnership with different stakeholders.