

Mainland-Hong Kong Joint Operation against illegal immigration

The Immigration Department (ImmD) mounted a joint operation codenamed "Mungoshunt-3" with the Hong Kong Police Force and Guangdong Provincial authorities to combat non-ethnic Chinese illegal immigrants for three consecutive days from November 4 to November 6. During the operation, a total of 127 persons were arrested in Hong Kong and Guangdong Province.

Officers from ImmD and Hong Kong Police Force had conducted territory-wide anti-illegal immigrant operation and raided the suspected hideouts of illegal immigrants. The ImmD had also mounted a series of territory-wide anti-illegal worker operations to step up enforcement actions against non-ethnic Chinese illegal immigrants. In addition, to combat illegal immigrants sneaking into Hong Kong by sea, Marine Police had collaborated with Mainland authorities to ramp up sea patrol and interception of suspicious vessels.

During the operation, the ImmD joined forces with Hong Kong Police to conduct sudden raid at over 218 target locations and intercept 60 suspicious vessels and 990 persons, successfully seized two vessels and arrested 70 persons. For the arrested persons, two Mainlander illegal male immigrants aged 23 and 28 and one Indian male aged 29 holding recognizance form were arrested for "aiding and abetting others to land in Hong Kong unlawfully and remain in Hong Kong". Twenty-two male illegal immigrants, consisting of two Mainlanders, nine Bangladeshis, seven Pakistanis, three Indians and one Vietnamese, aged 22 to 56, were arrested. During the anti-illegal worker operation, five Mainlanders and 31 non-ethnic Chinese were arrested for breach of recognizance's condition, taking up unapproved employment and overstaying in Hong Kong respectively. Arrested Mainlanders consisted of one male and four female, age 38 to 59, while the 31 arrested non-ethnic Chinese consisted of six male and 25 female, age 23 to 50, among which seven were holders of recognizance forms issued by the ImmD, which prohibit them from taking up employment. During the operation, nine suspected employers were arrested, consisted of eight male and a female, age 36 to 79.

Mainland authorities from Guangdong Province had arrested 57 persons, including seven arrangers and 50 non-ethnic Chinese intended to sneak into Hong Kong illegally, consisting 35 Bangladeshi, 12 Pakistani and three Indians.

An ImmD spokesman said, "As stipulated in the Immigration Ordinance, 'Arranging passage to Hong Kong of unauthorized entrants' and 'Assisting unauthorized entrant to remain' are serious offences. Offenders arranging passage to Hong Kong of unauthorized entrants face a maximum fine of \$5,000,000 and up to 14 years' imprisonment while offenders assisting unauthorized entrant to remain face a maximum fine of \$500,000 and up to 10 years' imprisonment. The ImmD would continue to collaborate with Hong Kong Police Force and relevant department to step up enforcement actions and

conduct joint operation to combat illegal immigration activities."

The spokesman said, "Any person who contravenes a condition of stay in force in respect of him or her shall be guilty of an offence. Also, visitors are not allowed to take employment in Hong Kong, whether paid or unpaid, without the permission of the Director of Immigration. Offenders are liable to prosecution and upon conviction face a maximum fine of \$50,000 and up to two years' imprisonment. Aiders and abettors are also liable to prosecution and penalties."

The spokesman warned, "As stipulated in section 38AA of the Immigration Ordinance, an illegal immigrant, a person who is the subject of a removal order or a deportation order, an overstayer or a person who was refused permission to land is prohibited from taking any employment, whether paid or unpaid, or establishing or joining in any business. Offenders are liable upon conviction to a maximum fine of \$50,000 and up to three years' imprisonment. Under the prevailing laws, it is an offence to use or possess a forged Hong Kong identity card. Offenders are liable to prosecution and upon conviction face a maximum fine of \$100,000 and up to 10 years' imprisonment."

The spokesman reiterated that it is a serious offence to employ people who are not lawfully employable. Under the Immigration Ordinance, the maximum penalty for an employer employing a person who is not lawfully employable, i.e. an illegal immigrant, a person who is the subject of a removal order or a deportation order, an overstayer or a person who was refused permission to land, has been significantly increased from a fine of \$350,000 and three years' imprisonment to a fine of \$500,000 and 10 years' imprisonment to reflect the gravity of such offences. The director, manager, secretary, partner, etc, of the company concerned may also bear criminal liability. The High Court has laid down sentencing guidelines that the employer of an illegal worker should be given an immediate custodial sentence.

According to the court sentencing, employers must take all practicable steps to determine whether a person is lawfully employable prior to employment. Apart from inspecting a prospective employee's identity card, the employer has the explicit duty to make enquiries regarding the person and ensure that the answers would not cast any reasonable doubt concerning the lawful employability of the person. The court will not accept failure to do so as a defence in proceedings. It is also an offence if an employer fails to inspect the job seeker's valid travel document if the job seeker does not have a Hong Kong permanent identity card. Offenders are liable upon conviction to a maximum fine of \$150,000 and to imprisonment for one year. In that connection, the spokesman would like to remind all employers not to defy the law by employing illegal workers. The ImmD will continue to take resolute enforcement action to combat such offences.

Under the existing mechanism, the ImmD will, as a standard procedure, conduct an initial screening of vulnerable persons, including illegal workers, illegal immigrants, sex workers and foreign domestic helpers, who are arrested during any operation with a view to ascertaining whether they are trafficking in persons (TIP) victims. When any TIP indicator is revealed

in the initial screening, the ImmD officers will conduct a full debriefing and identification by using a standardised checklist to ascertain the presence of TIP elements, such as threats and coercion in the recruitment phase and the nature of exploitation. Identified TIP victims will be provided with various forms of support and assistance, including urgent intervention, medical services, counselling, shelter or temporary accommodation and other supporting services. The ImmD calls on TIP victims to report crimes to the relevant departments immediately.