

Three illegal workers jailed

Three illegal workers, comprising an Indian, a Pakistani and a Vietnamese, were jailed by Shatin Magistrates' Courts on August 10 and 13.

During a joint operation conducted by the Immigration Department (ImmD) and the Hong Kong Police Force codenamed "Powerplayer" on June 27, enforcement officers raided a recycling shop in Sham Shui Po. A male Indian illegal worker, aged 43, was arrested. When intercepted he was conveying goods. Upon identity checking, he produced for inspection a recognisance form issued by the ImmD, which prohibits him from taking employment. Further investigation revealed that he was a non-refoulement claimant.

During an anti-illegal worker joint operation with the Hong Kong Police Force mounted on August 8, enforcement officers raided a residential building under renovation in Mong Kok. A male Pakistani illegal worker, aged 36, was arrested. When intercepted he was conveying and disposing debris. Upon identity checking, he produced for inspection a recognisance form issued by the ImmD, which prohibits him from taking employment. Further investigation revealed that he was a non-refoulement claimant.

Furthermore, during operation "Twilight" conducted on June 13, ImmD investigators raided a sports ground in Sheung Shui. A male Vietnamese illegal worker, aged 54, was arrested. When intercepted, he was repairing the turf. Upon identity checking, he produced for inspection a recognisance form issued by the ImmD, which prohibits him from taking employment. Further investigation revealed that he was a non-refoulement claimant.

The three illegal workers were charged at Shatin Magistrates' Courts on August 10 and 13 with taking employment after landing in Hong Kong unlawfully and remaining in Hong Kong without the authority of the Director of Immigration or while being a person in respect of whom a removal order or deportation order was in force. After trial, they were sentenced to 15 months' imprisonment.

The ImmD spokesman warned that, as stipulated in section 38AA of the Immigration Ordinance, illegal immigrants or people who are the subject of a removal order or a deportation order are 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. The Court of Appeal has issued a guideline ruling that a sentence of 15 months' imprisonment should be applied in such cases.

The spokesman reiterated that it is a serious offence to employ people who are not lawfully employable. The maximum penalty is imprisonment for three years and a fine of \$350,000. 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. The maximum penalty for failing to inspect such a document is imprisonment for one year and a fine of \$150,000.

Under the existing mechanism, the ImmD will, as a standard procedure, conduct 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 officers will conduct a full debriefing and identification by using a standardised checklist to ascertain the presence of TIP elements, such as threat 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 interference, medical services, counselling, shelter, temporary accommodation and other supporting services. The ImmD calls on TIP victims to report crimes to the relevant departments.