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2024 Trafficking in Persons Report: Hong Kong

HONG KONG (Tier 2 Watch List)

The Government of Hong Kong does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included increasing the number of screenings of vulnerable populations for trafficking indicators, arresting six alleged sex traffickers, and training officials from various agencies on anti-trafficking topics. However, the government did not demonstrate overall increasing efforts compared with the previous reporting period. It did not convict any sex traffickers and did not convict any labor traffickers for the fifth consecutive year. Victim identification efforts and services remained inadequate. Despite the government screening thousands of vulnerable persons for trafficking indicators, it identified only three victims, a decrease compared with identifying 32 victims during the previous reporting period. The government did not provide services to any victims. Foreign domestic workers remained at high risk of trafficking, and authorities did not take adequate measures to protect them and prevent trafficking; the government did not identify any victims among foreign domestic workers. A code of practice is in place; however, the government allowed employers and labor recruiters to charge recruitment fees to migrant workers, and did not adequately enforce limits on such fees, passport retention, and other practices that increase trafficking risks. Authorities likely penalized trafficking victims through arrest and deportation for immigration, narcotics, and commercial sex offenses committed as a direct result of being trafficked. The government did not fully criminalize all forms of trafficking and did not provide comprehensive data of successful trafficking investigations, prosecutions, or victim identification efforts independent of associated criminal investigations. Therefore Hong Kong was downgraded to Tier 2 Watch List.

PRIORITIZED RECOMMENDATIONS:

Improve the quality of screenings conducted to identify trafficking victims, increasingly screen individuals in commercial sex and foreign domestic workers for trafficking, and ensure children exploited in commercial sex are identified as trafficking victims and referred to services. * Enact legislation that criminalizes all forms of trafficking consistent with the definition set forth in the 2000 UN TIP Protocol. * Ensure authorities offer and refer trafficking victims to services. * Vigorously investigate and prosecute suspected sex and labor traffickers and seek adequate penalties for convicted traffickers, which should involve significant prison terms. * Engage in continuous and regular collaboration with NGOs and social welfare experts to update anti-trafficking policies; review victim-centered interview processes and investigations. * Cease penalization of victims for criminal offenses committed as a direct result of being trafficked. * Create in-depth training programs for the judiciary, labor tribunal, and other interagency stakeholders. * Develop formal SOPs for referring victims to care and train stakeholders on their use. * Increase the availability and quality of protection services – including short-term shelter, long-term housing, counseling, and medical care – for all trafficking victims, including by partnering with and allocating sufficient funding and/or in-kind support to civil society service providers. * Allow foreign victims to work and study in Hong Kong while participating in judicial proceedings against traffickers. * Increase protections for foreign domestic workers, including by prohibiting worker-charged recruitment fees, permanently eliminating the “two-week rule” affording workers an option to live outside their place of employment, and creating legal maximum working hours.

PROSECUTION

The government decreased anti-trafficking law enforcement efforts; the absence of laws that fully criminalize trafficking made it difficult to accurately assess the government’s prosecution efforts compared with the previous year and to determine which law enforcement actions involved human trafficking as defined by international law. Hong Kong law did not criminalize all forms of human trafficking, and the government relied on various provisions of laws relating to “prostitution”, immigration, employment, and physical abuse to prosecute trafficking crimes. Inconsistent with the international law definition, Section 129 of the Crimes Ordinance, which criminalized “trafficking in persons to or from Hong Kong,” required transnational movement and did not require the use of force, fraud, or coercion. Section 129 prescribed penalties of up to 10 years’ imprisonment, which were sufficiently stringent and, with respect to sex trafficking, commensurate with punishments prescribed for other grave crimes, such as rape. Section 130 criminalized the harboring, controlling, or directing of a person for the purpose of “prostitution” and prescribed penalties of up to 14 years’ imprisonment. Section 131 criminalized procuring a person to engage in commercial sex acts and

prescribed penalties of up to 10 years' imprisonment. Section 137 criminalized living on the earnings of commercial sex acts of others and prescribed penalties of up to 10 years' imprisonment.

The government reported it did not initiate any trafficking investigations in 2023. The government reported continuing investigations initiated in the prior reporting period involving the exploitation of Hong Kong citizens in online scam operations in Southeast Asia, and prosecutions for two suspects charged with fraud remained ongoing at the end of the reporting period. The government reported initiating prosecutions of six alleged sex traffickers arrested under Section 129 of the Crimes Ordinance, compared with no sex trafficking prosecutions during the previous reporting period. The government did not report initiating any prosecutions for labor trafficking; this was compared with the government initiating three prosecutions of alleged labor traffickers during the previous reporting period. In addition, the government reported arresting 26 suspects (compared with 29 in 2022) during investigations potentially related to sex trafficking, including for violations of Sections 130, 131, and 137 of the Crimes Ordinance; however, the government reported it ultimately did not identify cases of sex trafficking in relation to these arrests. The government did not convict any sex traffickers and has not convicted a labor trafficker for five consecutive years. The government did not report any investigations, prosecutions, or convictions of government employees complicit in human trafficking crimes.

Law enforcement officials often did not adequately investigate trafficking cases and sometimes closed cases with clear indicators of trafficking. For example, as of March 2023, a judicial review was granted in a case challenging the Hong Kong authorities' decision not to classify an individual convicted of drug smuggling as a victim of trafficking, without disclosing a justification for the decision. The case is currently pending judgement. In another example, in May 2022 the government lodged an appeal against the Court of First Instance's judgement in the high-profile *CB v Commissioner of Police & Secretary for Justice* case, whereby the Court ruled the absence of specific legislation criminalizing forced labor in Hong Kong prevented the proper investigation of complaints related to such abuses. In February 2024 the Court of Appeal decided there was no causal connection between the Police's investigations, which did not identify the applicant as a victim of forced labor, and whether a bespoke legislation criminalizing forced labor exists. As such, the High Court determined a bespoke legislation criminalizing forced labor was unnecessary as a matter of law. However, the Court thoroughly explored the details of crimes committed against CB and the failures of police in their investigation to treat her as a victim of forced labor and human trafficking.

The government reported using a "joint investigative process" in trafficking cases to coordinate interviews of victims among law

enforcement agencies to prevent victims who experienced trauma from repeated interviews. Law enforcement did not adequately prosecute operators of unscrupulous employment agencies or money lenders for their roles in facilitating labor trafficking through debt-based coercion. The absence of laws criminalizing all forms of trafficking impeded officials' ability to investigate or charge suspected traffickers. This also resulted in the prosecution of trafficking crimes under laws with weak penalties. Fears of penalization and the absence of adequate services resulted in many victims choosing not to report their exploitation or declining to cooperate with authorities in investigations. Inadequate victim identification led to victims identified by NGOs pursuing justice in civil tribunal courts, and the government did not pursue criminal cases against the traffickers. NGOs previously reported judicial officials lacked an awareness of trafficking and recommended those officials attend anti-trafficking trainings.

The police had dedicated teams for investigating trafficking and the exploitation of foreign domestic workers. The government maintained designated points of contact for trafficking issues in relevant agencies. Nonetheless, civil society organizations previously reported being unable to reach these designated contacts and teams, including when attempting to refer victims to police; and some reported government officials could not direct them to a person responsible for trafficking in their agency. The government cooperated with foreign governments and law enforcement on anti-trafficking investigations involving Hong Kong victims in Southeast Asia countries. The government trained officials from various agencies and prosecutors on anti-trafficking policies, including the trafficking law and investigations.

PROTECTION

The government decreased efforts to protect victims. Police, immigration, labor, and customs officials used a two-tiered identification mechanism to screen vulnerable populations for trafficking indicators. Through this mechanism, officials referred potential victims for a full identification "debriefing" after determining whether an individual met at least one of seven indicators listed on the standard screening form of the first tier of the identification mechanism. Officials screened approximately 10,989 individuals in 2023, compared with 7,576 screened in 2022, and identified three victims; this was a decrease from identifying 31 victims exploited in labor trafficking and one victim exploited in sex trafficking in 2022. Authorities' implementation of the screening mechanism and victim identification was ineffective and inconsistent, and officials did not identify any victims from vulnerable populations, such as foreign domestic workers or individuals in commercial sex. Officials lacked understanding of psychological trauma associated with trafficking. NGOs reported law enforcement made efforts to improve its interviewing procedures and provide breaks and basic amenities to potential victims, but law enforcement often did not use a trauma-informed approach while

interviewing potential victims during the identification process, which exacerbated victims' emotional distress. Authorities used a standard screening form; although the government reported the screening form applied to all persons, the form itself only included vulnerable populations of foreign nationals, not Hong Kong citizens. Authorities did not routinely screen individuals in commercial sex for trafficking indicators. Hong Kong's low age of consent, 16, further hindered efforts to identify children exploited in sex trafficking. Despite media reports indicating officials identified children in commercial sex during law enforcement actions on brothels, government authorities did not identify them as trafficking victims or refer them to services. The government did not consistently provide potential victims with immediate stabilizing care upon their initial contact with authorities or provide legal assistance for victims. The government continued to maintain an interagency task force comprised of the Security Bureau, the Immigration Department, and Public Security to identify and support victims exploited in overseas employment fraud and online scam operations. The task force coordinated with foreign governments and the People's Republic of China (PRC) embassies in foreign countries to repatriate 31 victims to Hong Kong. The Hong Kong Government reported offering 42 victims, which it has assisted with exiting forced labor situations during the previous reporting period, with access to assistance from the Hong Kong Government, including but not limited to provision of shelter, medical services, psychological support, counseling, and financial assistance as necessary, but none requested referral to such services.

While the government reported agencies could refer potential victims to anti-trafficking teams and provide them services, the government lacked a formal referral process and clear guidance for officials to inform victims of available services. The government reported offering services to the three identified victims but did not report referring any victims to services, compared with referring 32 victims to services in the previous reporting period. Victims commonly preferred to receive services provided by foreign consulates or NGOs, rather than services offered by the government. The government partially subsidized six NGO-operated and three government-operated shelters that served victims of violence, abuse, and exploitation, including trafficking victims. These shelters could provide temporary accommodation, counseling, and medical and psychological services to local and foreign victims, regardless of gender or age. Some services were not available to foreign victims, including welfare and social services provided by the Social Welfare Department. The government reported meeting with an NGO to discuss trafficking case referral processes.

The government could assist foreign victims, including domestic workers, with returning to Hong Kong to serve as witnesses in trials by providing financial assistance; it did not report providing financial assistance to victims. To enable foreign victims to temporarily remain in Hong Kong, the

government could provide visa extensions with fee waivers and could provide victims who were foreign domestic workers with permission to change their employer. Authorities generally did not permit foreign victims, including those given visa extensions, to work or study while they remained in Hong Kong, unless an exception was granted; this likely deterred some victims from remaining in Hong Kong to participate as witnesses in investigations against traffickers. Hong Kong law allowed victims to seek compensation from traffickers through civil suits and labor tribunals. Nonetheless, a shortage of interpretation services, a lack of trained attorneys, a prohibition from working for foreign victims while awaiting a decision, and judges' inexperience with forced labor cases sometimes impaired victims' attempts to claim back wages or compensation through labor tribunals and deterred some from bringing claims forward.

Due to a lack of effective identification procedures, authorities likely detained, arrested, and deported some unidentified trafficking victims. Authorities penalized victims for immigration, narcotics, or commercial sex offenses committed as a direct result of being trafficked. During police actions on brothels, authorities arrested individuals in commercial sex, did not screen them for indicators of trafficking, and deported foreign individuals without screening. The government typically initiated immigration proceedings against foreign victims, rather than referring them to services and investigating or prosecuting the traffickers. The government did not report granting immunity from prosecution to any victims or exploited foreign domestic workers, compared with three victims in 2022.

PREVENTION

The government maintained efforts to prevent trafficking. However, the government continued to publicly deny trafficking was a prevalent crime in Hong Kong, despite ongoing anti-trafficking efforts of government officials and NGOs. The Hong Kong authorities reported a governmental anti-trafficking steering committee led by the Chief Secretary for Administration and the inter-departmental working group led by the Security Bureau met regularly. The government allocated 77 million Hong Kong dollars (\$9.9 million) for its 2024-2025 fiscal year budget to continue implementation of the 2018 anti-trafficking action plan, compared with 62 million Hong Kong dollars (\$8 million) allocated in the previous year. In addition, after the imposition of the National Security Law by the Chinese National People's Congress on Hong Kong in June 2020, under which any speech critical of the government or its policies could be construed as pro-secession, subversive, or inciting hate against the government, along with increased restrictions to freedom of expression, NGOs and other civil society organizations reported they were more cautious in their engagement with the government, including on human trafficking. Similarly, after the March 23, 2024 enactment of the Safeguarding

National Security Ordinance under Article 23 of the Hong Kong Basic Law, civil society organizations started to report similar restrictions.

The government did not conduct campaigns to raise awareness of sex trafficking; however, it displayed alerts in airports and distributed flyers at departure counters to warn passengers traveling to Southeast Asian countries of the increased risks of overseas employment scams, including forced labor in online scam operations. The government organized trafficking awareness training for front-line staff at the Hong Kong International Airport. To improve awareness of the rights of foreign domestic workers and the responsibilities of employers, the government continued to distribute informational packets to workers and employers, publish advertisements in Filipino- and Indonesian-language newspapers, work with the Philippine and Indonesian consulates to provide briefings to newly arriving domestic workers, and publish translated versions of standard employment contracts in 11 foreign languages. The government continued to distribute information cards created by an international organization that listed information on support services available to foreign domestic workers and trafficking victims.

The government's process for evaluating non-refoulement claims, which did not allow claimants to legally work in Hong Kong while their claims were under review, increased some refugees' vulnerability to trafficking; however, the government commonly granted work permissions for those with approved claims and those awaiting UNHCR resettlement. The government's policies requiring foreign domestic workers to live with their employer and previous requirement to return to their home countries within two weeks after their contracts' termination ("two-week rule") increased workers' vulnerability to exploitation by abusive employers and unscrupulous employment agencies. The requirement that workers live with their employers enabled exploitative employers to limit workers' freedom of movement and communications, and sometimes employers required workers to live in inadequate conditions. The lack of regulations setting a maximum number of legal working hours for foreign domestic workers also contributed to their vulnerability. The government requested employment agencies comply with a code of practice covering statutory requirements and standards for Hong Kong-based employment agencies. Despite being a violation of the code of practice, observers reported money lenders and employment agencies often operated at the same address without consequence; this enabled employment agencies complicit in labor trafficking to indebt workers through loans for recruitment fees that were often beyond the legal limits. The Labor Department (LD) proposed an amendment to the code of practice to require employment agencies explain to domestic workers that applications to change employer before the completion of the standard two-year contract will "normally not be approved," apart from in "exceptional circumstances." These circumstances include "the transfer, migration, death or financial reasons" relating to the original employer, or

where “there is evidence that the [foreign domestic worker] has been abused or exploited.” NGOs said the new rules would make it harder for exploited or abused workers to leave dangerous work environments and could exacerbate vulnerability to forced labor.

In 2023, the police arrested 33 foreign domestic helper employers for physically or sexually abusing employees but did not report investigating such cases for potential trafficking crimes or identifying those involved as potential victims; among them, the government prosecuted and convicted five employers for offenses such as assault, causing bodily harm, indecent assault, and voyeurism. One remaining foreign domestic helper employer case will be tried in judicial court. The government convicted four employers for assault and one for voyeurism; sentences ranged from fines to four and a half months’ imprisonment. The government also reported convicting 43 employers of domestic workers for illegally using workers to perform duties outside their contracts (23 in 2022); sentences ranged from 100 hours of community service to five months’ imprisonment. Previously, observers reported the government allowed employers convicted of exploiting foreign domestic workers to continue to hire workers. Hong Kong law permitted employment agencies to charge job seekers, including foreign domestic workers, up to 10 percent of their first months’ salary in recruitment fees. Because authorities did not enforce this rule, agencies often charged much higher fees and confiscated workers’ passports and/or contracts as collateral, practices that perpetuated debt-based coercion.

The Employment Agencies Administration (EAA) conducted cursory inspections of some employment agencies; observers previously reported the inspections were ineffective, often only consisted of cursory reviews of documentation, and did not scrutinize the fees employers charged foreign domestic workers. In addition, the EAA did not proactively investigate unscrupulous agencies and typically required a victim to make a complaint against an agency before initiating an investigation. The EAA was not regularly open on Sundays, the only non-work day for most foreign domestic workers, preventing some workers from filing complaints in person; however, the EAA opened on some weekends. To facilitate the ability of foreign domestic workers to make inquiries and complaints, LD operated an online portal as well as a 24-hour hotline with interpretation available in 13 languages. In 2023, the LD prosecuted four agencies for operating without a license, or other violations (three agencies prosecuted in 2022) but did not report the number convicted or referral of any for criminal investigations for potential trafficking crimes. The LD revoked the license of five employment agencies in 2023, citing non-compliance of the code of practice (one in 2022).

A previous study found that while the EAA increased investigations of employment agencies, the number of prosecutions for non-compliance of the code of practice remained low. In addition, previous reports indicated

some employment agencies continued to operate, and unlawfully retain workers' passports with impunity, after losing their licenses, sometimes operating while their conviction was under appeal or reopening under different names. Despite having the legal discretion to revoke agency licenses administratively, observers reported the EAA over-relied on criminal convictions of agencies to do so. Furthermore, fines and other penalties given to employment agencies for exploiting foreign domestic workers were not significant enough to act as a deterrent. The government did not report efforts to reduce demand for commercial sex acts, nor did it provide anti-trafficking training to its personnel posted overseas. Until early April 2023, LD operated a hotline for potential trafficking victims from Hong Kong and their families to report fraudulent employment scams and receive help; in April 2023, the Immigration Department introduced an online messaging channel to replace the hotline approach, in order to enhance the convenience for Hong Kong residents in need of assistance outside Hong Kong to contact the Immigration department. The 2000 UN TIP Protocol did not apply to Hong Kong.

TRAFFICKING PROFILE:

As reported over the past five years, human traffickers exploit domestic and foreign victims in Hong Kong, and traffickers exploit victims from Hong Kong abroad. Victims include citizens from mainland PRC, Indonesia, Kenya, the Philippines, Thailand, Uganda, and other Southeast Asian countries, as well as countries in South Asia, Africa, and South America. Traffickers exploit foreign women, including from Eastern Europe, Africa, and Southeast Asia in sex trafficking. Traffickers exploit migrant workers in shipping and construction, electronic recycling facilities, nursing homes, and private homes. Drug trafficking syndicates have coerced foreign women, including by physical violence, to carry drugs into Hong Kong. Increasingly, traffickers use fraudulent promises of high-paying jobs to lure Hong Kong citizens to primarily Cambodia, Laos, and Burma and exploit them in forced labor in online scam operations.

Traffickers recruit victims from the Philippines, mainland PRC, and countries in South America using false promises of lucrative employment and force them into commercial sex. Some foreign victims entered Hong Kong on two-week tourist visas, as part of a circuit of major cities in the region used by traffickers, including Bangkok and Taipei, and were coerced into commercial sex through debt-based coercion. NGOs reported increasing occurrences of online solicitation of commercial sex acts, which reduced their access to individuals in commercial sex and may have increased individuals' vulnerability to coercive tactics. Traffickers use coercive methods, such as threats of reporting victims to police or immigration authorities, withholding of identification documents, and blackmailing victims with threats of online distribution of photographs, to coerce them to engage in online commercial sex acts. Brothel operators and others exploit Hong Kong children in sex trafficking. "Compensated

dating” also continues to facilitate commercial sexual exploitation of Hong Kong children and adults, making them vulnerable to trafficking. Traffickers exploit victims from Hong Kong in North America in commercial sex.

Approximately 340,000 foreign domestic workers, primarily from Indonesia and the Philippines, work in Hong Kong. Some foreign domestic workers become victims of debt bondage and domestic servitude in the private homes in which they are employed. Some operators of employment agencies subject victims to labor trafficking through debt-based coercion by charging workers job placement fees above legal limits and by sometimes withholding their identification documents. The accumulated debts sometimes amount to a significant portion of a worker’s first-year salary, and unscrupulous agencies sometimes compel workers to take loans from money lenders to pay excessive fees. Some employers, money lenders, and employment agencies illegally withhold passports, employment contracts, or other possessions until the debt is paid. Some workers are required to work up to 17 hours per day; experience verbal, sexual, or physical abuse in the home; live in inadequate conditions; and/or are denied a legally required weekly day off. Throughout the COVID-19 pandemic, many workers faced increased workloads and daily work hours, and some employers denied workers a mandated day off. Observers also reported brothels, bars, and clubs recruited foreign domestic workers to engage in commercial sex acts, sometimes through fraudulent recruitment methods. Some foreign domestic workers sign contracts to work in Hong Kong, but, upon arrival, traffickers coerce or lure them to work in mainland PRC, the Middle East, or Russia. As demand for foreign domestic workers in Hong Kong increased, NGOs reported workers from countries other than Indonesia and the Philippines were increasingly vulnerable to exploitation. Some employment agencies reportedly hired foreign domestic workers under false pretenses and forced them into commercial sex.

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Austrian Red Cross	Wiedner Hauptstraße	Contact
Austrian Centre for	32, 1041 Wien	Imprint & Disclaimer
Country of Origin and	T +43 1 589 00 583	F.A.Q.
Asylum Research and	F +43 1 589 00 589	Data Protection Notice
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