

STOP.

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Clerk to Panel on Constitutional Affairs
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Written Submission from STOP.

to

Legislative Council of the Hong Kong Special Administrative Region, Panel on Constitutional Affairs on the third report of the Hong Kong Administrative Region under the International Convention on the Elimination of All Forms of Racial Discrimination

Introduction

1. Stop Trafficking of People (STOP.) makes this submission to the Legislative Council of the Hong Kong Special Administrative Region, Panel on Constitutional Affairs in relation to "The third report of the Hong Kong Administrative Region under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)".
2. STOP is a programme under Branches of Hope, a non-government organisation in Hong Kong. Our goals are to raise awareness about human trafficking, connect with key counter-trafficking groups, provide victims with support, allow their voices to be heard, and to serve as a catalyst for positive change in the fight against modern-day slavery. We are a frontline Hong Kong-based initiative that responds to victims' need through legal referral and social assistance, network building, outreach and public education.
3. STOP appreciates the opportunity to provide comments on the HKSAR's third report on ICERD.

Victims of Human Trafficking

4. Victims of trafficking, many of whom are from vulnerable populations such as ethnic minorities, migrant workers, non-citizens, women and children face particular hardship in accessing justice and supports in Hong Kong.
5. There is currently no comprehensive anti-human trafficking law in Hong Kong. The only legal provision that deals specifically with human trafficking (section 129 of the Crimes Ordinance, Cap. 200), applies only to trafficking across borders for the purpose of prostitution. No other forms of trafficking, including forced labour, are criminalised. Other trafficking-related legal provisions are dispersed throughout various pieces of legislation. The HKSAR Government's adoption of the Action Plan to Tackle Trafficking in Persons and to Enhance Protection of Foreign Domestic Workers in Hong Kong 2018 is a welcome initiative, but apart from Foreign Domestic Helpers, it does not refer to any other vulnerable groups.

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6. The practical realities of the current piecemeal system is that it is not sufficiently targeted to punish perpetrators for the crime of trafficking. Rather, perpetrators may be prosecuted for lesser offences relating to the component parts of trafficking or else they may slip through the cracks entirely.
7. Victims also have little incentive to come forward in the absence of appropriate remedies and victim supports. Access to legal aid, quality interpreters, emergency shelter, medical and psycho-social supports continue to be a struggle for victims and the NGOs assisting them. Further, the risk of victims being charged for breaches of labour contracts, violations of immigration laws and other offences continues to be a problem in the absence of formal legal provisions protecting victims from criminalisation.
8. The struggle is particularly dire for migrant communities who face additional barriers of language, isolation from their home country and inability to access many services. For example, the five government-funded shelters provide assistance only to those who hold a Hong Kong ID. Many victims who have been trafficked to Hong Kong would not be in possession of a Hong Kong ID.

Recommendations

9. We call on the Government to support the extension of the Palermo Protocol to HKSAR and enact a comprehensive anti-trafficking law that criminalises all forms of trafficking; and to
10. Strengthen and improve supports and protections for victims of trafficking including protection from criminalisation and access to emergency accommodation, financial, medical, psychological, social, interpretation, legal and other supports; as well as to
11. Establish a designated shelter for victims of human trafficking, including appropriate psycho-social supports.

Migrant Sex Workers

12. While prostitution is not illegal in Hong Kong, migrant sex workers are commonly arrested during police raids and prosecuted for breaches of immigration and other offences. It is not clear if current trafficking in persons' screening mechanisms are being consistently applied to identify potential victims of trafficking among the migrant sex worker population. It is also unclear if identified victims are being referred to appropriate supports and protected from criminalisation for offences committed as a direct consequence of their exploitation. Coupled with the high level of prejudice faced by sex workers in general, migrant sex workers are particularly vulnerable as they are usually ignorant of their legal rights in Hong Kong.

Recommendations

13. We urge the Government to increase transparency around present screening for victims of trafficking among migrant sex workers and to ensure the referral of identified victims to appropriate supports and services.
14. We also call on the Government to increase public awareness of and prevent sex trafficking, including through public education campaigns and training of police and relevant authorities.