

Your ref.:
Our ref.: DI000A-21

19 January 2021

Bills Committee on Immigration (Amendment) Bill 2020
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

(By Email Only: bc_53_20@legco.gov.hk)

Dear Mr. Cheng Chung-tai, Mr. Michael Tien, Ms. Elizabeth Quat, and Mr. Chan Hak-kan,

RE: Request for civil society to make written submissions and oral representations to the Bills Committee regarding the Immigration (Amendment) Bill 2020

1. Hong Kong Dignity Institute urges the Bills Committee to invite and consider submissions and representations from civil society in respect of the Immigration (Amendment) Bill 2020 (“**Bill**”). As a non-profit social enterprise, Hong Kong Dignity Institute supports trafficked persons and other exploited communities in Hong Kong as well as investigates and advocates against exploitative systems and practices.
2. Hong Kong Dignity Institute has already identified a number of shortcomings with the Bill in respect of its impact on trafficked-in-persons. It is paramount for civil society to be given the opportunity to voice concerns on behalf of trafficked persons as some of these individuals seek protection from the Hong Kong Government through the Unified Screening Mechanism (“**USM**”). Accordingly, the Bill’s potentially significantly detrimental consequences on this population should be raised to the Bills Committee.
3. One particular concern relates to the proposed procedural reforms of the USM. Section 37ZT of the Bill places a heavy onus on the claimant to lodge all evidence relating to the claim within 7 days after they file their appeal. The intended consequence of such an amendment is to tackle “*delay tactics*”. We submit that in practice, this amendment would place an unduly harsh burden on trafficked persons, many of whom do not know they are in fact victims of human trafficking until later on in the assessment process when they meet a social worker, medical professional, NGO or lawyers who are trained and familiar with human trafficking matters. Before this point, many trafficked persons are unaware that their experiences amount to human trafficking. Notably, the *UNHCR 10-Point Plan in Action* makes this precise point regarding the assessment of mechanisms for screening and

referral.¹ The lack of awareness in this respect results in a common failure to consider the trafficked person's initial submissions through existing applicable human trafficking frameworks.

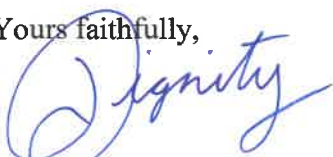
4. In our experience, many trafficked persons do not feel comfortable recounting traumatic events with others until a trusting relationship has been established. Often, the individuals fear stigmatization from their community and punishment at the hands of the authorities. Indeed, there are a plethora of obstacles faced by trafficked persons in speaking openly about their experiences.² These obstacles have been well documented and accounted for even as part of the recent 'Me-Too Movement'. In the appeal procedure, it is not uncommon for a claimant to seek assistance from a new lawyer or NGO who will look at their claims with a fresh perspective. It normally takes longer than one week for victims to open up about their experiences in this process.
5. The following scenario illustrates the harmful impact that this proposal would have on trafficked persons:

*Ama is a girl from a conservative town in Kenya who was trafficked by a gang in Asia. She was forced by the gang to enter Hong Kong and make money for them as a sex-worker. In meetings with lawyers and social workers Ama feels anxious and uncomfortable. She is worried that she will get into trouble or others will shame her if she speaks out about her sexual experiences. It takes a number of weeks until Ama opens up about what the gang did to her and forced her to do. **Only at this point is she told that she may be a victim of human trafficking, and only at this point does she realise her initial submissions were insufficient.***

As the Bill imposes on decision-makers to dissuade or place little weight on late submissions, or even treat late submissions as a negative factor in a claim, the application of a victim like Ama would be severely undermined.

6. This example set out above is only one way the Bill could detrimentally impact trafficked persons. In order to ensure the voices and concerns of this extremely vulnerable population are heard, we urge the Commission to consider fuller submissions and representations from Hong Kong Dignity Institute and other members of civil society.

Yours faithfully,



Hong Kong Dignity Institute



¹ UNHCR, The 10-Point Plan in Action, 2016 Update, Chapter 5: Mechanisms for Screening and Referral. Page 121. <https://www.unhcr.org/publications/manuals/5846d0207/10-point-plan-action-2016-update-chapter-5-mechanisms-screening-referral.html>.

² Home Office Publication, Victims of Modern Slavery-Frontline Staff Guidance, Version 3.0, 2016 page 20 <https://www.antislaverycommissioner.co.uk/media/1057/victims-of-modern-slavery-frontline-staff-guidance-v3.pdf>.