

REFUGEE-HUMAN TRAFFICKING NEXUS RESEARCH

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INTRODUCTION

Justice Centre Hong Kong undertook this research with a view to exploring the refugee-trafficking nexus in Hong Kong. Specifically, Justice Centre wanted to examine if and how those seeking protection through Hong Kong's Unified Screening Mechanism (USM) might also be victims of trafficking. The refugee-trafficking nexus refers to the connections and overlaps between those seeking asylum and those being trafficked. Overlaps may occur when asylum seekers and refugees are trafficked as a result of their vulnerabilities as asylum seekers and refugees. Or they may occur when victims of trafficking are refugees as a result of their experiences. There is "a clear nexus between the circumstances which create refugees and those which lead to trafficking."¹ But where the refugee-trafficking nexus may be more understood (or at least its potential existence acknowledged) in many other states and territories, in Hong Kong any potential connections or overlaps are relatively unexplored and seldom acknowledged. Mechanisms for protection in Hong Kong are highly circumscribed: victims of persecution or torture with substantiated claims are only protected from refoulement and are never given permanent settlement in Hong Kong; and in law the criminalisation of human trafficking is restricted to the movement into or out of Hong Kong for sex work² and the assistance offered to those subsequently identified is very narrow. And to the extent that these protection mechanisms exist, there is little connection between the two.

Justice Centre Hong Kong is concerned that the unacknowledged refugee-trafficking nexus in Hong Kong fails to identify or adequately assist two particular types of people:

1. Individuals who might be victims of trafficking and have no other option but to seek non-refoulement protection as victims of persecution or torture through the current screening system for non-refoulement protection even though this system is not designed to screen for or address their unique vulnerabilities; and
2. Individuals who might be victims of persecution or torture and who have also experienced trafficking in their past, en route to Hong Kong or subsequent to their arrival in Hong Kong but whose specific vulnerabilities are never identified or addressed.

Given the unique vulnerabilities of victims of human trafficking, it is vital that all victims (and potential victims) are identified and appropriate protections provided. This is especially so for victims of trafficking who are unable to return home as a result of their experiences or because of unrelated experiences of persecution or torture. The objective of this report is thus to explore overlaps and connections between those claiming asylum and victims of trafficking. Hong Kong policies must recognise the potential for individuals to be both victims of persecution or torture and victims of trafficking. Hong Kong policies must also recognise that victims of trafficking have protection needs, even where their experiences do not amount to persecution and/or torture.

In order to examine if, where and how those seeking protection in Hong Kong might also be victims of trafficking, a sample of 50 Justice Centre Hong Kong case files were selected and

¹ Kneebone, Susan, "The Refugee-Trafficking Nexus: Making Good (the) Connections," *Refugee Survey Quarterly*, Vol. 29, No. 1, 2010, p. 137-160.

² The government's position is articulated in their answer to a question 'LCQ13: Comprehensive and multi-faceted measures by HKSAR to combat trafficking in persons' raised by the Legislative Council representative for the legal sector, Dennis Kwok, in March 2017, available at: <http://www.info.gov.hk/gia/general/201703/29/P2017032900707.htm>. They report that "the first tier features a standard procedure under which the Police, Immigration Directorate or Customs & Excise Department officers would conduct initial screening on vulnerable persons, including sex workers, illegal immigrants and Foreign Domestic Helpers, etc., who are arrested or who put themselves forward to the authorities with a view to ascertaining whether they are human trafficking victims."

analysed against a list of human trafficking indicators.³ The analysis framework⁴ was designed to screen for a number of indications of trafficking in the past, en route to Hong Kong, or once in Hong Kong. Given the varied backgrounds of those individuals approaching Justice Centre Hong Kong for assistance, the exploitation element screened for was not limited to one particular category and included forced labour, forced marriage and forced organ removal. A series of semi-structured interviews were then conducted with clients whose files had been included in the file analysis and had triggered trafficking indicators, and who were prepared to participate in additional research interviews. These interviews highlighted the complex and unique experiences which constitute the refugee-trafficking nexus in Hong Kong. A series of interviews with one particular client were also used to create a case study. This research is in no way intended to be exhaustive or representative. Instead, it is hoped that this report can initiate much needed discussions with service providers, civil society and authorities about how to address the refugee-trafficking nexus in Hong Kong. Following their experiences, victims of human trafficking require specialised support and protection. This is no less true in Hong Kong than in other jurisdictions. However victim protection in Hong Kong will always be inadequate if the processes for protection (even as limited as they are) do not recognise or address the needs of victims of trafficking.

³ Please see p.11 for selection criteria.

⁴ Please see the Appendix.

BACKGROUND

International Context

Both human trafficking and refugee status are defined through international law. The 1951 Convention Relating to the Status of Refugees (as amended by the 1967 Protocol Relating to the Status of Refugee) defines a refugee as anyone who *“owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”*⁵

And the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, defines human trafficking as: *“the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”*⁶ Importantly, although often considered in the context of forced sex work, the Palermo Protocol (as it has come to be known) recognises that the exploitation which is the ultimate purpose of human trafficking can be in any number of fields. At a minimum, the Protocol includes forced labour, slavery or practices similar to slavery, servitude and the removal of organs as forms of exploitation.

While the main emphasis of the Protocol is on cooperation between states to prevent, suppress and punish human trafficking, the Protocol also outlines a number of protection mechanisms for victims of trafficking.⁷ Article 6 of the Protocol stipulates that signatories should *“consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of: (a) appropriate housing; (b) counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand; (c) medical, psychological and material assistance; and (d) employment, educational and training opportunities.”*⁸ Thus the Protocol recognises that victims of trafficking will require assistance and support as a consequence of their experiences. The protections are therefore envisaged as a consequence of an individual’s status as a victim of trafficking and unrelated to any other status they might hold.

The Palermo Protocol recognises, however, that there is potential overlap between refugee status and human trafficking. Article 14 of the Protocol notes that nothing in the Protocol affects

⁵ Article 1, 1951 Convention Relating to the Status of Refugees, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfRefugees.aspx>

⁶ Article 3, 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>

⁷ Gallagher, Anne T, *The International Law of Human Trafficking*, 2nd ed., Cambridge: Cambridge University Press, 2012, p. 25-29, 81.

⁸ Article 6, 2000 *The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, available at: https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC_Convention/TOCebook-e.pdf

“the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.”⁹ This ‘savings clause’ recognises that some victims of trafficking may simultaneously meet the refugee definition.¹⁰ The United Nations High Commissioner for Refugees (UNHCR) likewise recognises the potential overlap, noting that refugees, asylum-seekers and internally displaced persons, stateless persons and other persons of concern to UNHCR risk becoming victims of trafficking.¹¹ UNHCR further notes that displacement and vulnerability linked to persecution may put refugees and others fleeing persecution at greater risk of exploitation and abuse (including human trafficking).¹²

An additional issue is whether the experience of trafficking or the fear of trafficking by itself could form the basis of a claim for refugee status. UNHCR notes that “not all victims or potential victims of trafficking fall within the scope of the refugee definition.”¹³ But UNHCR also recognises that trafficking or the fear of trafficking could constitute grounds for asylum where the forms of exploitation inherent in the trafficking experience (such as rape or forced labour) constitute serious violations of human rights that amount to persecution; where the trafficked person faces re-trafficking, reprisal from traffickers, ostracism, discrimination or punishment that amounts to persecution if returned home; and or where the impact of the previous persecution in the trafficking experience is severe enough to mean that return to the country of origin of the victim would be unbearable.¹⁴ As a consequence, UNHCR has called upon States to ensure they are open to receiving asylum claims from trafficked persons.¹⁵

Thus there are two contexts in which international law responds to the refugee-trafficking nexus: where those fleeing persecution risk becoming victims of trafficking as a result of their flight; and instances where experiences of trafficking or fear of trafficking constitute persecution as defined by the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. Many jurisdictions attempt to address both contexts. For example, in the United Kingdom potential victims of trafficking are identified and assisted through the National Referral Mechanism. The Home Office is one of the “competent authorities” for the National Referral Mechanism and is tasked with identifying and supporting victims of trafficking identified through the immigration process or where trafficking is part of an asylum claim. Other civil society organisations are authorised as “first responders” who refer potential victims of trafficking to “competent authorities,” including those working with refugees, such as the Refugee Council and Migrant

⁹ Article 14, 2000 *The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, available at: https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC_Convention/TOCebook-e.pdf

¹⁰ Gallagher, *The International Law of Human Trafficking*, p. 198.

¹¹ UNHCR, *Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked*, 2006, paragraph 5, available at: <http://www.unhcr.org/443b626b2.pdf>

¹² Bureau for Europe, Policy Unit, UNHCR, *Combating Human Trafficking: Overview of UNHCR Anti-Trafficking Activities in Europe*, December 2005, available at: <http://www.refworld.org/docid/43fd782d4.html>

¹³ UNHCR, *Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked*, paragraph 6.

¹⁴ Gallagher, *The International Law of Human Trafficking*, p. 200.

¹⁵ *Ibid*, p.198.

Help.¹⁶ The National Referral Mechanism thus recognises and responds to the possibility that victims of trafficking might simultaneously be refugees on other grounds, or that their experiences of trafficking or risk of future trafficking qualify them as refugees.

The system in the United Kingdom is not without censure, however, particularly in how the refugee-trafficking nexus is dealt with. The implementation of the National Referral Mechanism has been heavily criticised by civil society groups who argue that the current system conflates the two processes to the detriment of the protection needs of both victims of trafficking and refugees. Asylum and human trafficking victim status decisions are often made by the same Home Office officer even though the threshold for asylum decisions is much higher than that for trafficking decisions. Civil society groups have observed that the conflation results in incorrect thresholds being applied during the assessment stage.¹⁷ Civil society groups also report a culture of disbelief among Home Office decision-makers, the inability of the asylum system to properly determine credibility, and the impact of negative public discourse on decision-makers, arguing that these issues also arise in relation to human trafficking victim status determinations. Finally, groups have raised concerns that the protections which should be afforded to victims of trafficking are not being made available in practise where those individuals are also making claims for asylum. They note that in policy, victims of trafficking should be granted protection from removal from the UK for a period of 45 days to allow for recovery and reflection. In reality, however, they note that many individuals claiming both trafficking and asylum are given no time to recover and are interviewed before any determination of trafficking is made.¹⁸ Despite the very concerning problems in implementation, the National Referral Mechanism at least recognises the potential for individuals to be both victims of trafficking and in need of refugee protection.

Hong Kong Context

Hong Kong has a population of approximately 7.4 million people.¹⁹ With one of the most liberal visa regimes in the world,²⁰ the territory has a significant population of people considered to be non-resident. Amongst them are some 350,000 migrant domestic workers in the city, coming to Hong Kong through a formal temporary labour migration programme and constituting roughly 4% of the population of the city and almost 10% of total working population.²¹

¹⁶ National Crime Agency, the United Kingdom Government, "National Referral Mechanism", available at <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre/national-referral-mechanism>, accessed on 11 April 2017.

¹⁷ Jessica Elliott and Kate Garbers, "The National Referral Mechanism Pilots: A Review of the Training", the University of the West of England and Unseen, 2016, available at: <http://www.unseenuk.org/uploads/20160609115454807.pdf>

¹⁸ Abigail Stepnitz, "Anti-Trafficking Review", *A Lie More Disastrous than the Truth: Asylum and the identification of trafficked women in the UK*, no. 1 (2012): 104-19, accessed on 12 May, 2017. doi:10.14197/atr.2012.

¹⁹ Census and Statistics Department, the Hong Kong Government, 'Population', available at: <https://www.censtatd.gov.hk/hkstat/sub/so20.isp>, accessed on 21 April 2017.

²⁰ For example, over 170 nationalities may enter Hong Kong for business, social or pleasure visits visa-free for a stay ranging from 7 to 180 days, see Immigration Department, the Hong Kong Government, *Annual Report 2015*, chapter 1, available at: http://www.immd.gov.hk/publications/a_report_2015/en/ch1.html#c3

²¹ Justice Centre Hong Kong, "Coming Clean: The prevalence of forced labour and human trafficking for the purpose of forced labour amongst migrant domestic workers in Hong Kong", March 2016, available at: <http://www.justicecentre.org.hk/framework/uploads/2016/03/Coming-Clean-The-prevalence-of-forced-labour-and-human-trafficking-for-the-purpose-of-forced-labour-amongst-migrant-domestic-workers-in-Hong-Kong.pdf>, p.20.

There are varying degrees of vulnerability for non-residents and few mechanisms for protection. There are currently approximately 10,000 people seeking protection in Hong Kong from around 70 different countries of origin.²² But Hong Kong is not a signatory to the Convention Relating to the Status of Refugees. Although China is a state party, the Convention would have to be explicitly extended to cover the Special Administrative Region of Hong Kong (HKSAR). For its part, the HKSAR Government has consistently asserted that the territory would be vulnerable should the Convention be extended to cover the territory.²³ Until 2012, the UNHCR Sub-Office in Hong Kong undertook refugee status determination for people claiming protection in the territory from persecution, ‘filling the gap’ left by the HKSAR Government.

For those seeking protection from torture there was a different system. Unlike the UN Refugee Convention, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was extended to Hong Kong in 1992 and since then, successive judicial reviews have gradually necessitated that the HKSAR Government implement an administrative torture screening mechanism. The first of such mechanisms was established in 2004 and then enhanced in 2009. In 2012, the HKSAR Government created a statutory mechanism to screen claimants for risk of torture.

Legal experts and human rights advocates argued that the existence of these two separate but parallel paths for protection was procedurally inefficient, unfair, and prone to abuse, and called for HKSAR authorities to instead adopt a single, government-led screening mechanism. Legal challenges to address these systemic deficiencies resulted in landmark judgments by the Court of Final Appeal and precipitated a fundamental shift in the landscape for protection.²⁴ In response, the HKSAR Government began operating the USM in March 2014. This mechanism ‘unifies’ the separate systems for the parallel consideration and determination of torture claims (administered by the HKSAR Government) and persecution claims made with reference to the Refugee Convention (which had previously been administered by UNHCR). Through the USM the HKSAR Government thus assumes responsibility for the determination of all claims made for non-refoulement protection within HKSAR Government responsibility.²⁵ Despite this shift, access to protection remains rare. Since the commencement of the USM, 79 claims have been

²² Immigration Department, the Hong Kong Government, “Enforcement”, available at: <http://www.immd.gov.hk/eng/facts/enforcement.html>, accessed on 21 April 2017 and Security Bureau, the Hong Kong Government, “Follow-up to the meeting of 25 May 2016 of the Establishment Subcommittee”, available at: <http://www.legco.gov.hk/yr15-16/english/fc/esc/papers/esc20160525esc-100-1-e.pdf>.

²³ Chiu, Joanna. “New UNHCR head urges Hong Kong to protect refugees and asylum seekers”, *South China Morning Post*, December 2, 2012, available at: <http://www.scmp.com/news/hong-kong/article/1095267/new-unhcr-head-urges-hong-kong-protect-refugees-and-asylum-seekers>

²⁴ The judgement in the case of *Ukamaka Edward Wilson v. Secretary for Security* (FACV 15/2011) in December 2012 required the HKSAR Immigration Department to assess risk of CIDTP under Article 3 of the Bill of Rights Ordinance when considering removal or deportation. The judgement in the case of *C & Ors v the Director of Immigration and Another* ([2013] 4 HKC 563) in March 2013 required the HKSAR Immigration Department to assume responsibility for the determination of all claims made for non-refoulement protection within HKSAR Government responsibility.

²⁵ UNHCR, “Timeline of HK Office”, available at: <http://www.unhcr.org/hk/en/596-timeline.html>, accessed on 21 April 2017 and UNHCR, “Sub-office Hong Kong”, available at: <http://www.unhcr.org/hk/en/2660-usm-faq-2.html>, accessed on 21 April 2017.

substantiated by the HKSAR Government, making the substantiation rate approximately 0.8%.²⁶ This compares with an average of 30-40% in other developed jurisdictions.²⁷ The protection granted, moreover, still does not extend to permanent settlement in the territory.

The full extent of the presence of victims of trafficking in Hong Kong is to a large extent unknown. Hong Kong is not a signatory to the Palermo Protocol. Although China is a signatory, Hong Kong has not requested that coverage of the Protocol be extended to cover the territory. It is therefore under no obligation under international law to have any laws relating to human trafficking or to align its definition of trafficking in persons with the international standards outlined in the Palermo Protocol. Current Hong Kong legislation defines human trafficking only in terms of transnational sex work²⁸ and does not require any element of force, fraud, or coercion.²⁹ As a consequence, identification of victims of trafficking is severely limited. Hong Kong authorities reported that they identified only 26 trafficking victims in 2014 and 16 in 2015.³⁰ And a further 16 victims were identified in 2016.³¹ In contrast to these figures, Justice Centre Hong Kong's primary research estimated that the prevalence of trafficking for the purpose of forced labour amongst migrant domestic workers was approximately 2.4% or around 8,000 people.³²

The United Nations Committee against Torture, the Committee on Economic, Social and Cultural Rights, the Human Rights Committee and the Committee on the Elimination of Discrimination against Women have all expressed concern about the problem of human trafficking in Hong Kong, making specific mention of migrant domestic workers and the lack of protections against human trafficking extended to them.³³ In 2015, the Committee against Torture recommended that the Hong Kong Government adopt a trafficking definition in line with the Palermo Protocol and enforce the existing legislative framework to prosecute and punish trafficking and forced

²⁶ Security Bureau, response to data access request "Non-refoulement claims substantiated/allowed at first instance and appeal", 20 October 2017, available at: https://accessinfo.hk/en/request/non_refoulement_claims_substanti

²⁷ For example, in Australia the substantiation rate is approximately 40% (Department of Immigration and Border Control, *Asylum statistics—Australia: Quarterly Tables—June quarter 2014*, available at: <http://www.border.gov.au/ReportsandPublications/Documents/statistics/asylum-statistics-aus-jun-qtr-2014.pdf>, accessed on 12 May, 2017). In the UK the substantiation rate is approximately 38% (Home Office, the United Kingdom Government, *National Statistics: Asylum 25 August 2016*, available at: <https://www.gov.uk/government/publications/immigration-statistics-april-to-june-2016/asylum>, accessed on 12 May, 2017).

²⁸ The Hong Kong legislation refers to prostitution.

²⁹ In *ZN v Secretary for Justice* [2017] 1 HKLRD 559, the Court of First Instance held that trafficking a person for forced or compulsory labour is within the ambit of criminal liability as formulated by the prohibition of forced labour under Article 4 of the BOR and that a lack of criminalisation has rendered such prohibition ineffective. The Palermo Protocol definition of "human trafficking" was accepted by the Court. The Government is currently appealing the decision.

³⁰ The United States Department of State, "2016 Trafficking in Persons Report", June 2016, available at: <https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258781.htm>

³¹ Sylvia Yu, "Forced smiles mask pain of Hong Kong's trafficked bar girls", the Thomson Reuters Foundation, 28 February 2017, available at: <http://www.reuters.com/article/us-hongkong-trafficking-idUSKBN1682X6>

³² Justice Centre Hong Kong, "Coming Clean".

³³ *Ibid*, p. 24.

labour offenders, with appropriate penalties.³⁴ Civil society organisations in Hong Kong have also urged the HKSAR Government to conduct a formal review of the situation of human trafficking in the territory and argued that comprehensive anti-human trafficking legislation must be implemented.³⁵

Following the decision of the United States State Department to downgrade Hong Kong from Tier 2 to Tier 2 Watch List in its annual Trafficking in Persons Report in June 2016 the Immigration Department, the Police Force and the Customs and Excise Department reported that they developed new guidelines and an enhanced mechanism for victim identification and referral. Identified victims of human trafficking are referred to relevant departments for follow-up and protection, including counselling, shelter and medical services.³⁶ The Government has not released data on the number of individuals screened and victims identified since the implementation of the new guidelines and there is little other information publically available about the content of the new guidelines. Ultimately, however, the Government continues to resist the notion that Hong Kong is a destination, transit or source territory for any human trafficking. Using the low number of victims identified by Hong Kong authorities, the HKSAR Government argues that there is no sign that syndicates actively use Hong Kong as a destination or transit point for human trafficking, or that human trafficking is a prevalent or widespread problem in Hong Kong.³⁷

Thus, to the extent that systems for protection from persecution or torture or for victims of trafficking exist in Hong Kong, they operate separately and assume that these are distinct categories of people with distinct experiences. Theoretically, experiences of being trafficked which amount to persecution risk with reference to the Refugee Convention may be considered by the Government in the evaluation of non-refoulement claims but it is unclear if or to what extent this argument has been employed and successful. Additionally there is little publicly available information on how the Government might inform identified victims of trafficking of the opportunity to submit claims for non-refoulement protection.

One of the few contexts in which the HKSAR Government refers to human trafficking and refugees has been in relation to counter-people smuggling initiatives and collaboration with authorities of “major source countries” of non-refoulement claimants.³⁸ In 2016, the *Immigration (Unauthorized Entrants) Order, Cap.115D* was amended to stiffen penalties for smuggling people from certain countries. The Government stated that the objective was to deter smuggling

³⁴ United Nations Committee against Torture, “Concluding observations on the fifth periodic report of China with respect to Hong Kong, China”, CAT/C/CHN-HKG/CO/5, 3 February 2016, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/017/38/PDF/G1601738.pdf?OpenElement>

³⁵ See for example the statement of the Progressive Labour Union of Domestic Workers in Hong Kong, retrievable at <https://www.facebook.com/HKFADWU/posts/1067743676624863.0>, STOP’s press release in response to the TIP report, retrievable at <https://www.facebook.com/notes/stop/statement-of-stop-in-response-to-the-us-2016-tip-report/546824118835656> and Justice Centre Hong Kong’s media statement, retrievable at http://www.justicecentre.org.hk/framework/uploads/2013/08/Press-release_-_TIP-Report-2016.pdf

³⁶ Immigration Department, the Hong Kong Government, “LCQ13: Comprehensive and multi-faceted measures by HKSAR to combat trafficking in persons”, 29 March, 2017, available at: <http://www.info.gov.hk/gia/general/201703/29/P2017032900707.htm>

³⁷ *Ibid.*

³⁸ See for example the 2016 Review of the Immigration Department, available at: <http://www.immd.gov.hk/eng/press/press-releases/20170126.html>

syndicates and contain the number of non-refoulement claimants.³⁹ In its arguments for the amendments the Government used the terms ‘human trafficking syndicates’ and ‘human smuggling syndicates’ interchangeably without providing any information on the nature and extent of such human trafficking. It also did not mention the protection of trafficked persons or their right to seek asylum in this context.⁴⁰

³⁹ Security Bureau, the Hong Kong Government, “Legislative Council Brief: Immigration Ordinance (Chapter 115)- Immigration (Unauthorized Entrants) (Amendment) Order 2016”, 18 May 2016, available at: http://www.legco.gov.hk/yr15-16/english/subleg/brief/2016ln066_brf.pdf

⁴⁰ Security Bureau, Hong Kong Police Force & Immigration Department, the Hong Kong Government, “Comprehensive review of the strategy of handling non-refoulement claims: Proposed amendment to the Immigration (Unauthorized Entrants) Order, Cap.115D”, April 2016, available at: <http://www.legco.gov.hk/yr15-16/english/panels/se/papers/se20160412cb2-1219-3-e.pdf>

METHODOLOGY

This research employed a mixed methods approach. Exploratory interviews were undertaken with local and international experts to input into the analysis framework for the study. A sample of 50 Justice Centre Hong Kong client files were then reviewed against the analysis framework to identify where and how a range of trafficking indicators were triggered. Finally, the file analysis was supplemented by semi-structured individual interviews with consenting clients whose files had triggered potential indicators of human trafficking.

All the relevant clients consented to using the data in their files for research purposes and all information about clients included in this report has been anonymised.

Sampling

A sample size of 50 case files was chosen based on research studies in the United Kingdom with similar research objectives and methodologies.⁴¹ The study employed convenience sampling. To ensure findings were relevant to the current protection regime in Hong Kong, only files of clients who registered with Justice Centre Hong Kong in or after 2014 (when the USM was introduced) were included. All the files included in the sample also needed to contain at least one of the following: (i) an assessment form, (ii) a testimony, (iii) an interview transcript provided by the Immigration Department, or (iv) a notice of determination of the HKSAR Immigration Department or Torture Claims Appeal Board. Case files of the first 50 clients who gave consent to the use of their files for the research were used. Finally, since the objective of the study was to explore potential gaps in current protection policies in Hong Kong, the sample also needed to include case files covering cases at various stages of the USM, not only those whose claims have been substantiated. Included case files thus reflect accounts of persecution and/or torture and not necessarily accounts of facts that would be recognised as amounting to persecution and/or torture in the legal sense.

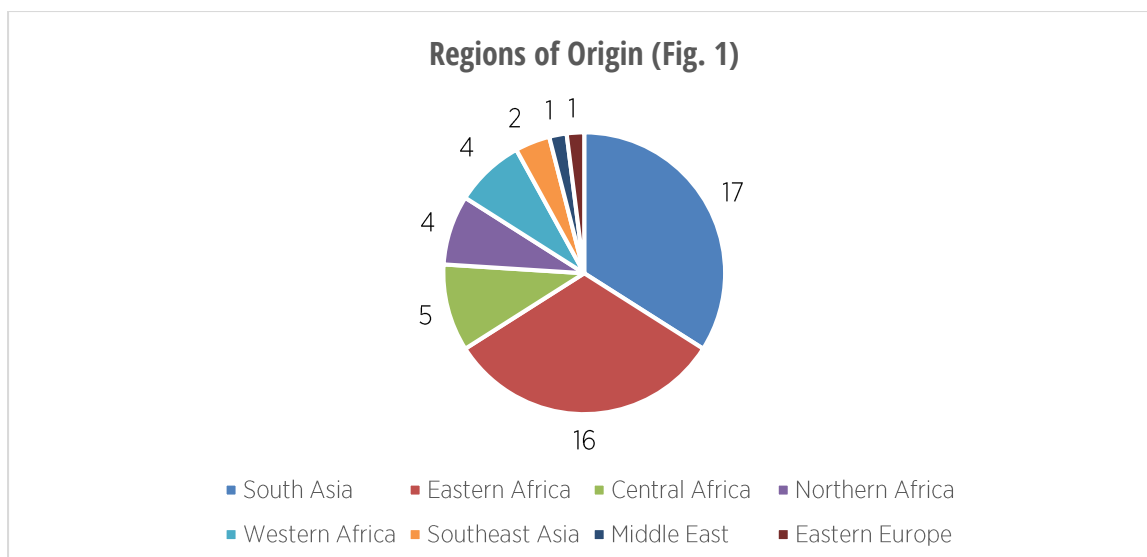
Given the sampling frame, the included files do not reflect a representative sample of all Justice Centre Hong Kong clients or of claimants within the USM in Hong Kong.

File Profile

Sampled files included cases which were at various stages of the process involved in claiming protection in Hong Kong. Three files included in the sample were for clients whose protection claims in Hong Kong had been substantiated by the HKSAR Government. Three were of clients whose claims had been rejected by the HKSAR Immigration Department and another four had been for claims which had been rejected by the Torture Claims Appeal Board. 24 files were for cases in which a decision was still outstanding and a further seven were of cases in the appeal process with decisions outstanding. In nine files, the stage of the claim was unclear.

Please see Figure 1 for the regions of origin of the 50 clients whose case files were included in the sample.

⁴¹ Jo Pettitt, "Proving Torture: Demanding the impossible Home Office mistreatment of expert medical evidence", November 2016, Freedom from Torture, available at: https://www.freedomfromtorture.org/sites/default/files/documents/proving_torture_a4_final.pdf and Jo Pettitt, "Body of Evidence: Treatment of Medico-Legal Reports for Survivors of Torture in the UK Asylum Tribunal", Freedom from Torture, 2011, available at: <https://www.freedomfromtorture.org/document/publication/5317>



In terms of travel paths to Hong Kong seven files indicated that clients had come to Hong Kong directly, 15 went to one transit point before arriving in Hong Kong, five went through two transit points, 10 went through three transit points and 11 passed through more than three countries before arriving in Hong Kong. Mainland China was the most common transit point; 18 files indicated that clients had transited through Mainland China before arriving in Hong Kong. The sampled files contained data suggesting that most clients (21) spent less than one month in travelling to Hong Kong. However, one file contained data indicating that the client's journey to Hong Kong took more than a year.

Surveying Instrument

The framework employed to analyse case files consisted of six sections designed to capture indicators from the “act”, “means”, and “purpose” elements outlined in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons. Part 1 of the instrument collected background information. Part 2 examined recruitment, transportation, transfer, harbouring or receipt for activities before arrival in Hong Kong. Part 3 examined exploitation before arrival in Hong Kong. Part 4 looked for any information on file about recruitment, transportation, transfer, harbouring or receipt for activities in Hong Kong. Part 5 collected data about how the client travelled to Hong Kong. Part 6 looked for any data which indicated exploitation in Hong Kong and Part 7 examined whether there was any information about the client's interactions with authorities or non-governmental organisations (NGOs) in Hong Kong. All collected data was coded and entered into a database. This database has been kept confidential to protect the privacy of the clients.

Selected indicators were based on those outlined by the International Labour Office (ILO) in the Operational Indicators of Trafficking in Human Beings (2009)⁴² and Hard to See, Harder to Count (2012).⁴³ However, neither of these frameworks includes specific indicators related to forced marriage. As a consequence, indicators of forced marriage were adapted from one of the most

⁴² Available at:

http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_105023.pdf

⁴³ Available at:

http://ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182096.pdf

recent discussions of human trafficking for the purpose of forced marriage, the Forced Marriage as a Form of Human Trafficking guide developed by the South Asian Women's Centre in 2014.⁴⁴ Additionally, neither of the ILO frameworks considered trafficking for the purpose of organ removal. In the absence of any known research frameworks outlining indicators of this type of trafficking, indicators of trafficking for the purposes of organ removal were developed based on Justice Centre Hong Kong staff experiences of handling such cases in other jurisdictions. Indicators which would apply to all clients, such as being in a situation of forced migration at the time of recruitment in Hong Kong, were removed. Definitions of some of the indicators were revised to ensure all instances of the "means" and "purpose" elements were captured. All indicators are outlined in the Appendix. Given the exploratory nature of the study, indicators were not weighted.

Interviews

Qualitative interviews were also conducted with four clients whose files included data which triggered indicators of human trafficking and who consented to additional interviews. The interviews were semi-structured with questions based on the specific experiences of each client. Topics explored included options they had when they considered whether to leave the country in which they were persecuted or forced to work, potential experiences of exploitation Hong Kong, any abuse of vulnerability by smugglers, agents or other third parties and whether there was any known intent to exploit them by smugglers, agents or other third parties.

Limitations

Indicators were included to capture the existence of vulnerability factors recorded in client files but not indicators of the abuse of these vulnerabilities. The question of if and how vulnerabilities had been abused was very difficult to assess in client testimonies and without specific and intensive individualised interviews.

A further limitation of this research is that Justice Centre Hong Kong client files do not necessarily include information about experiences en route to or after arriving in Hong Kong as these may not be relevant to arguments made in non-refoulement claims.

Finally, as noted above, because of the sampling frame this is not a representative sample of Justice Centre Hong Kong clients or of claimants within the USM in Hong Kong.

⁴⁴ South Asian Women's Centre, "Forced Marriage as a Form of Human Trafficking", 2014, available at: <http://www.sawc.org/wp-content/uploads/2015/04/Forced-Marriage-as-a-Form-of-Human-Trafficking-Resource-Guide.pdf>

FINDINGS

Analysis of Justice Centre Hong Kong's caseload revealed that there is an overlap between those seeking protection in Hong Kong and those who have experienced human trafficking. The analysis framework employed during the research screened for indicators of historical trafficking (in the client's past which may or may not be one of the reasons for flight) and contemporary trafficking en route to Hong Kong or subsequent to an individual's arrival in Hong Kong. The screening of 50 casefiles of clients supported by Justice Centre Hong Kong uncovered multiple indications of elements of human trafficking, particularly in the life histories of clients and in their experiences en route to Hong Kong. Screening did not reveal any examples suggestive of victims of trafficking seeking non-refoulement protection as victims of persecution or torture through the current system in the absence of other forms of protection for victims of trafficking but we cannot draw any conclusions from this. Given the services Justice Centre Hong Kong offers and its internal screening procedures this is not unexpected. This is an important area for further research.

Following the case file analysis, a smaller sub-set of case files were selected. Selection was based on the presence of more than one indicator of trafficking being present in the case file. Following selection of their case file, the respective client was invited for interview. Four clients consented to interview and in all four cases, the interviews uncovered relevant information which was not in the case files. Interviews highlighted the complex and unique experiences that constitute the refugee-trafficking nexus in Hong Kong. Interviews focused on experiences that may have been exploitative and explored in detail the relationship between clients and the individuals who facilitated their travel to Hong Kong or who were part of their experiences prior to or after arrival in Hong Kong. It is not surprising, therefore, that these interviews uncovered more detail than contained in Justice Centre Hong Kong case files. Clients approach Justice Centre Hong Kong at various stages. According to their immediate legal and psychosocial needs, Justice Centre Hong Kong staff may undertake detailed background histories or they may simply review legal documentation and refer the client to more appropriate forms of assistance. Interviews which specifically focused on potential experiences of human trafficking afforded more opportunity to investigate experiences, particularly where those potentially involved exploitation. All names in the client experiences reported below have been changed to protect their identities.

It should also be noted that victim of trafficking identification is difficult in general, regardless of the focus of intake processes. Numerous "practical, institutional and personal" barriers to identification have been noted including lack of knowledge or experience with trafficking, cultural barriers, lack of trust between clients and staff, lack of shared language, fear of retaliation by traffickers, and resistance on the part of clients to assistance options they believe available should they be identified as a victim of trafficking. And finally, those completing intake and screening processes need to be sufficiently knowledgeable about and sensitive to indications of vulnerability and types of exploitation individuals might experience.⁴⁵ These factors combine to make victim of trafficking identification challenging and time-intensive under any circumstances.

Historical Trafficking (Experiences Prior to Arrival in Hong Kong)

The analysis of Justice Centre Hong Kong case files exposed a range of past human trafficking indicators present in the sampled files. The end purpose of trafficking is exploitation and 22% of

⁴⁵ Brunovski and Surtees, 2017, *Vulnerability and exploitation along the Balkan route: identifying victims of human trafficking in Serbia*, Fafo, p. 21.

the sampled case files (11 of the 50) contained information suggestive of exploitation in the client's past. The indicators triggered pertained to forced labour and forced marriage, both forms of exploitation specifically covered in the Palermo Protocol. Three files also indicated that clients were minors at the commencement of exploitative labour. Of the files for the 28 clients who were or had been married before arrival in Hong Kong, five triggered at least one indicator of forced marriage prior to arrival in Hong Kong. All of the five clients were female and two of them were minors at the time of their marriage. None of the 50 files triggered any indicators of forced organ removal or showed signs of other forms of exploitation before arrival in Hong Kong.

Indicator	Number of times triggered
Forced labour	
Wages withheld	6
Excessive working days or hours	3
Bad living conditions	4
Hazardous work	6
No social protection	3
Forced tasks or clients	6
Forced to act against others	4
Strong influence of employer or agent	9
Limited freedom of movement or communication	5
Physical violence	3
Sexual violence	2
Psychological violence	3
Threat to impose even worse working conditions	0
Threat to inform family, community or public	0
Threat of denunciation to authorities	0
Threat or violence against family	0
Reduced freedom to terminate contract after debts incurred or training or other benefits paid for by employer	1
Forced marriage	
Exchange of favours, dowry, gifts or wealth for marriage	1
Sexual abuse	2
Unwanted pregnancy	0
Forced abortion	0
Physical abuse	5
Psychological abuse	3
Limited freedom of movement or communication	2
Forced organ removal	
Admitted to a hospital or clinic for unknown or unclear reasons	0
Limited freedom of movement or communication before operation	0
Fee promised for organ or blood removal	0
Fee withheld	0
No appropriate aftercare	0

Indicators of the “act” and “means” elements of trafficking were even more prevalent. Almost half of the sampled case files contained information which triggered “act” and “means” indicators. Neither “act” nor “means” indicators on their own are indicative of human trafficking since they would need to be for the purpose of exploitation but their presence does suggest that further investigation of possible exploitation would be valuable. Client files indicated that there was attempted or successful recruitment, transportation, transfer, harbouring, or receipt of the person for activities which took place before clients arrived in Hong Kong in 24 of the 50 files. Seven files indicated that clients were minors at the time of recruitment. All 24 files triggered at least one indicator of deception, coercion or vulnerability in the attempted or successful

recruitment, transportation, transfer, harbouring, or receipt for activities that would take place before their arrival in Hong Kong; four triggered at least one indicator of deception; eight triggered at least one indicator of coercion; and all 24 triggered at least one indicator of vulnerability.

Indicator	Number of times triggered
Whether there was attempted or actual recruitment, transportation, transfer, harbouring, or receipt of the person that was funded, arranged or assisted by a third party at any stage of the journey	24
Deception in the recruitment, transportation, transfer, harbouring, or receipt process	
Deception about the nature of job	1
Deception about the conditions of job	2
Deception through false promises of marriage or adoption	0
Deception through false promises of education, vocational training	0
Coercion in the recruitment, transportation, transfer, harbouring, or receipt process	
Physical violence	5
Abduction or selling of victim	6
Sexual abuse	1
Denied freedom of movement	5
Blackmail	1
Threats against family members	1
Personal documents withheld	2
Personal belongings withheld	1
Communications with other parties controlled for recruitment	4
Debt used as coercion	1
Threat of denunciation to authorities	0
Exclusion from community and social life	5
Vulnerability at the time of recruitment, transportation, transfer, harbouring, or receipt	
Victim of rape or domestic violence	1
Other forms of difficult family situation	8
Member of a minority racial, cultural or religious group	13
Being or having been in a situation of forced migration	8
Victim or former victim of human trafficking	1
Control of the third party	12
Economic reasons	4
A lack of information	6

Finally, 11 of the 50 files triggered at least one indicator of each of the “act,” “means” and “purpose” elements suggesting that 22% of the sampled cases involved historical experiences of trafficking. In all 11 cases, however, the different elements were not necessarily related to the same experience or incident. Significantly more investigation would be required to establish if the client had in fact been a victim of trafficking and whether these experiences were the trigger or one of the triggers for their flight to Hong Kong. Nonetheless, potential experiences of historical human trafficking amongst Justice Centre Hong Kong clients underscore the vulnerability of those seeking protection in Hong Kong. As noted elsewhere, the categories of refugee and victim of trafficking are “not mutually exclusive. Rather, these categories and experiences can best be understood along a continuum, with individuals occupying multiple ‘identities/statuses’ at different stages on their lives.”⁴⁶

One of the screened case files demonstrates this continuum and the possibility of individuals fitting multiple categories at various stages of their lives. This is illustrated by one client’s experience:

⁴⁶ *Ibid*, p. 12.

Rose comes from a very poor family in a rural area. Over time, the family had acquired large debts which they were unable to repay. Needing to repay the debt, Rose's father forced her to marry his creditor, Aman. Rose was still a child at the time of the marriage. After the marriage, Rose had to work in the home and on the farm for Aman's family, often working for 16 hours a day. She was given little food and was often slapped, hit, kicked and smacked by Aman and his family. Aman also frequently raped her and threatened to kill her, claiming she had been sold to him. Rose's parents were too poor to get proper medical treatment for her themselves but they attempted to mediate the situation with Aman and sought help from the community leaders but the situation did not improve. In desperation, Rose's parents borrowed more money to pay an agent to arrange work for Rose in Hong Kong as a domestic worker. Becoming a migrant domestic worker allowed Rose to flee and provided a means for her to repay the recruitment debt and support her family financially. On her way to Hong Kong, Rose stayed with the employment agency in her home country for several months for training. During this time, Aman could not find her and instead attacked her family. On commencing work in Hong Kong, Rose was able to remit money to her parents to repay the recruitment debt. Neither she nor her parents could repay the debt Aman had paid, however, and he continued to harass her parents. On one occasion, Aman injured her parents. Rose's employment contract in Hong Kong was terminated and her visa expired. Fearing that Aman would kill her because she was unable to repay his money, Rose remained in Hong Kong and overstayed her visa. During this time, Rose also fell pregnant. With a son born out of marriage, Rose now fears that neither she, nor her son, would be accepted by either her family or her community if she were to return home.

Contemporary Trafficking (Experiences en route and in Hong Kong)

Current Justice Centre Hong Kong intake processes include questions about client's experiences after arrival in Hong Kong, where the client is currently or very recently employed. These questions include:

- Do you live with your employer? Please describe your living conditions.
- Are you able to leave your job if you want?
- Can you come and go as you please?
- Has your employer ever physical hurt you or threatened to hurt you?
- Has your employer ever threatened your family?
- Are you in debt to your employer?
- Is your employer holding your passport/ID?

However, only four out of the 50 files included any data about clients' experiences of work in Hong Kong. Therefore only four files included any means to assess whether indicators of exploitation had been triggered. In all four cases, the clients had worked in Hong Kong as migrant domestic workers. None of the 50 files triggered any indicators of forced labour, forced marriage or forced organ removal or showed signs of other forms of exploitation after arrival in Hong Kong. As such, the Justice Centre Hong Kong database does not provide sufficient data points on potential exploitation and therefore potential human trafficking involving exploitation after arrival in Hong Kong. As will be shown in the case study, however, subsequent interviews with a sub-set of clients revealed that this dimension may very well be important and further research on this topic is warranted. This also suggests that the current screening questions by themselves are insufficient to capture potential human trafficking. In order to identify exploitation en route to Hong Kong, for example, specific probing about experiences before and during the journey to Hong Kong is necessary. And this probing needs to consider non-formal forms of employment which may occur en route.

As with the results of screening for historical trafficking, assessing case files for contemporary trafficking revealed that the vast majority of case file notes contained data that triggered

indicators of the “act” and “means” elements. 78% (39 files) of the sampled files contained information that suggested that attempted or successful recruitment, transportation, transfer, harbouring, or receipt of the person had occurred and that these “act” elements had been for “purpose” activities that would take place in Hong Kong. Five of the 39 clients were minors at the time. Among the 39 files, 31 files triggered at least one indicator of deception, coercion or vulnerability in the attempted or successful recruitment, transportation, transfer, harbouring, or receipt process; one triggered one indicator of deception and more than one indicator of coercion; two files triggered only one indicator of coercion; 31 client files triggered at least one indicator of vulnerability. Again, however, the fact that these process indicators are triggered is not sufficient to identify human trafficking en route to or after arrival in Hong Kong. Instead, the presence of these indicators highlights the vulnerability of those seeking protection in Hong Kong to trafficking and reinforces the importance of investigating any possible experiences of exploitation en route to Hong Kong.

Finally, four files included data about agents deceiving the client about their destination. For example, one file included information that the client was told by the agent that he would assist him to reach Australia but instead brought him to Hong Kong. All four clients who were deceived by the agent about their eventual destination were from the same country in Eastern Africa. Two of them were minors at the time.⁴⁷

Indicator	Number of times triggered
Whether there was attempted or actual recruitment, transportation, transfer, harbouring, or receipt of the person that was funded, arranged or assisted by a third party at any stage of the journey	39
Deception in the recruitment, transportation, transfer, harbouring, or receipt process	
Deception about the nature of job	0
Deception about the conditions of job	0
Deception about the legality of work in Hong Kong	0
Deception about the possibility of staying in Hong Kong in the long run	0
Deception through false promises of marriage or adoption	0
Deception through false promises of education, vocational training	0
Deception about the destination of the journey	4
Coercion in the recruitment, transportation, transfer, harbouring, or receipt process	
Physical violence	0
Abduction or selling of victim	0
Sexual abuse	0
Denied freedom of movement	1
Blackmail	0
Threats against family members	0
Personal documents withheld	2
Personal belongings withheld	1
Communications with other parties controlled for recruitment	1
Debt used as coercion	0
Threat of denunciation to authorities	0
Exclusion from community and social life	1
Vulnerability at the time of recruitment, transportation, transfer, harbouring, or receipt	
Victim of rape or domestic violence	11
Other forms of difficult family situation	19
Member of a minority racial, cultural or religious group	18
Having been an asylum seeker in another place	10
Control of the third party	14

⁴⁷ The data does not show any correlation between the group of vulnerability indicators as a whole and deception by the agent about the destination.

Economic reasons	11
A lack of information	5

None of the files included any information about whether clients had sought assistance from Hong Kong authorities on experiences of trafficking, involuntary recruitment or forced labour other than through the process of making a non-refoulement claim.

The case of Kani illustrates the vulnerability of the individuals in flight:

Kani is a member of an ethnic minority clan in his home country. Following a relationship with a girl from a majority clan, members of her family beat him severely and threatened to kill him. Kani's family decided he needed to flee the country and found an agent to help him leave. He does not know how they found the agent or managed to pay him. The agent told Kani that he would take him to Europe. Being severely injured at the time, Kani was unable to ask for any more information. And instead, Kani was brought to Hong Kong. The agent accompanied Kani on the entire journey. Kani did not know he was not going to Europe until they arrived in Hong Kong. He thought that the journey was longer than it should be but he was afraid and did not ask the agent any questions. Kani had no phone and speaks extremely limited English and no Chinese. It was his first time in another country. After they arrived in Hong Kong, the agent stole Kani's passport and other personal documents and vanished.

Case Study

The experiences of one client were used to create a case study highlighting the complex ways in which experiences which are constitutive of human trafficking can overlap with experiences of persecution. The name and any identifying information of this client have been changed to protect her identity.

Bibi

In her home country, a family member of Bibi's was killed. The family believed that the death of the family member was an accident until rumours began to circulate that the family member had been murdered. Bibi's family came into dispute with a politically influential figure because of the rumours. Bibi was sexually abused by public officers and faced death threats from the politically influential figure.

Needing to leave the country quickly but knowing very few people who had ever lived in another country Bibi confided in a family friend, Taylor. Taylor suggested Bibi leave for Hong Kong to work as a migrant domestic worker. Bibi feared staying in her home country and did not feel safe enough to look for more information about other ways to leave the country or other places to go. Taylor told Bibi that she would be doing domestic work but did not know tell her anything about Hong Kong or the conditions of her work. Taylor organised everything for Bibi: her passport, visa, the employment contract, her plane ticket.

Bibi's mother took out a loan for her to cover the costs of getting to Hong Kong. Bibi has been unable to reach her mother since she arrived in Hong Kong and does not know if or how she paid for this loan.

"Because at that time, I was thinking about saving my life that I accepted her suggestion [to come to Hong Kong]. I did not have time to think about the money that I had to pay to Taylor. All I wanted was to leave the country. [...] At that time my life was in so much danger and all my mother wanted was to save my life."

Arriving in Hong Kong, Bibi found herself working for up to 21 hours a day. Almost 90% of her wages were taken from her by her employer and Taylor. In this environment, Bibi was too scared to tell her employer when she was not feeling well and she never saw a doctor during her employment, despite being exhausted and unwell. “Even on my rest day I had to do everything and even had to prepare dinner for them and leave home. Before 7pm, I had to come back.”

Even though she disliked her working conditions and was exhausted from the extreme working hours, Bibi was very reluctant to quit. And she was also worried that she did not have enough money to support herself in Hong Kong during this time. After complaining to Taylor about the withholding of her wages: “[Taylor] told me if you can’t stay, go back to [your home country]. Because I can’t go back, I have to bear [it] and stay.” Going back to her home country was not an option, however, because she was scared that she would be killed. Before the employment contract was finished, however, Bibi could not stand it anymore and quit. Fearing to return to her country, Bibi stayed in Hong Kong. “Because when I had the problem I cannot go back so when I came out [of the employment contract] I knew I would need to protect myself.”

**“I didn’t think about plans
[before quitting].
I just wanted to leave.”**

With the assistance of an NGO, she lodged a claim against her employer with the Labour Tribunal for her unpaid wages. The Labour Tribunal awarded her a small percentage of the wages owed to her and a plane ticket. She did not tell the NGO or the Labour Tribunal of what had happened to her in her country or that she feared returning home because to her it was not relevant to the claim.

“I did not want to make a claim against the employers, [...] my employers are rich people. I did not want to push further, because I needed the protection.” Bibi was still too afraid to go home, however, and when her visa expired she decided to stay in Hong Kong in the home of a friend. She also received assistance from some churches. After a year in Hong Kong without a visa, Bibi was arrested for over-staying. At the detention centre she was informed by the Immigration Department of the possibility of making a claim for non-refoulement protection. She decided to make a claim but her non-refoulement claim was rejected. She then filed an appeal/petition with the Torture Claims Appeal Board, which was also rejected.

Bibi found making a non-refoulement claim very difficult to handle. She has had to prove that she cannot return to her country but it has been very hard for her to find any documentary evidence. And she did not know whether what Taylor or her employers did to her would be relevant to her non-refoulement claim when she made the claim.

CONCLUSIONS & RECOMMENDATIONS

The analysis of sampled Justice Centre Hong Kong case files uncovered multiple indications of potential human trafficking, particularly in the experiences of clients fleeing their home countries and attempting to find protection. In one case, the file analysis and subsequent interview revealed that there were indicators of the “act,” “means” and “purpose” aspects of human trafficking related to the same experience. In this instance, the need to flee created vulnerabilities that were subsequently exploited by a third party. The experiences of this client are highly suggestive of human trafficking, underlining the vulnerability of those fleeing persecution to becoming victims of trafficking as a result of their flight.

The results of this study show that, as in other states and territories, there are overlapping experiences amongst those people fleeing persecution and torture and victims of human trafficking in Hong Kong. The lack of recognition of the refugee-trafficking nexus, however, and the corresponding lack of appropriate policies generates protection gaps in Hong Kong. The absence of policies addressing the refugee-trafficking nexus leaves two types of people without adequate protection:

1. Individuals who might be victims of trafficking who have no other option but to seek non-refoulement protection as victims of persecution or torture through the current screening system for non-refoulement protection even though this system is not designed to screen for or address their unique vulnerabilities; and
2. Individuals who might be victims of persecution or torture and who have also experienced trafficking in their past, en route to Hong Kong or subsequent to their arrival in Hong Kong but whose unique vulnerabilities are never identified or addressed.

Hong Kong policies must recognise the potential for individuals to be both victims of persecution or torture and victims of trafficking. Hong Kong policies must also recognise that victims of trafficking have protection needs, even where their experiences don't amount to persecution and/or torture. Given the unique vulnerabilities of victims of human trafficking, it is vital that all victims (and potential victims) are identified and appropriate protections provided. This is especially so for victims of trafficking who are unable to return home as a result of their trafficking experiences or because of unrelated experiences of persecution or torture.

Given these results, Justice Centre Hong Kong makes a number of recommendations:

For Civil Society

- The results of this study suggest that it would be beneficial to amend intake processes to screen for potential experiences of human trafficking. Justice Centre Hong Kong screening processes have been adapted to proactively look for instances of recruitment, harbouring and receipt, of coercion and deception, and exploitation in the past, en route to Hong Kong, and after arrival in Hong Kong. Other organisations working with asylum seekers and refugees in Hong Kong are encouraged to amend their intake procedures and begin actively screening for experiences of human trafficking.
- Given the broad range of countries of origin of people seeking protection in Hong Kong, effective screening will require ongoing research about local conditions and locally specific indicators of human trafficking.
- Civil society organisations interacting with the USM should explore the feasibility of taking claims through the USM for victims of trafficking where that victim of trafficking has a well-founded fear of persecution should they return to their country of origin. This analysis must, however, consider the paucity of protection currently offered in Hong Kong.

- Justice Centre Hong Kong and other organisations interacting with the USM should also explore the referral system between organisations and whether there is a need for specialised training about the protection needs of victims of trafficking.
- Further research is needed to explore whether and to what extent current HKSAR policies, particularly not granting permission to work for those with cases in the USM combined with the current subsistence rates, contribute to or exacerbate exploitation risks in Hong Kong.

For the Hong Kong Government

- The results of this study provide yet more evidence about human trafficking in Hong Kong. Accordingly, the HKSAR Government is encouraged to publically acknowledge that Hong Kong is a source, destination and transit country for human trafficking and to work with civil society to identify and support victims.
- The HKSAR Government is encouraged to request the extension of both the Refugee Convention and the Palermo Protocol, which are both signed by China and applicable to Macau, to cover Hong Kong and to amend its legislation in line with the minimum requirements outlined in international law.
- Given the challenges in victim of trafficking identification and the complexity of cases likely to be encountered in Hong Kong, the HKSAR Government is encouraged to provide more training and ongoing support for all Immigration Department casework staff, Labour Department officials and Labour Tribunal officers, Police officers, Duty Lawyer Service lawyers and Judiciary on pro-active victim identification (even in cases where individuals do not self-identify as being a victim of trafficking).
- The HKSAR Government should establish a legal process for assessing claims of human trafficking and provide appropriate support to those victims identified or adapt the USM to process claims of human trafficking not tied to claims of persecution or torture.
- In line with provisions contained in the Palermo Protocol, the HKSAR Government should adopt victim centric recovery and reflection assistance to enable victims to pursue civil and criminal cases against the perpetrators.
- The HKSAR Government should amend the Immigration Ordinance to grant a minimum of one year's leave with financial support and/or permission to work for accepted victims of trafficking to pursue civil remedies and assist law enforcement agencies in criminal proceedings.
- The HKSAR should adapt legal aid regulations to ensure all victims of trafficking have meaningful access to justice in pursuing civil and criminal remedies.

LIST OF ABBREVIATIONS

Hong Kong Special Administrative Region	HKSAR
Non-governmental organisation	NGO
Unified Screening Mechanism	USM
United Nations High Commissioner for Refugees	UNHCR

ANNEX

ANALYSIS FRAMEWORK

Outline

1. Background information
2. The 'act' and the 'means' for activities that would take place before arrival in Hong Kong
3. Exploitation before arrival in Hong Kong
4. The 'act' and the 'means' for activities that would take place in Hong Kong
5. Migration to Hong Kong
6. Exploitation in Hong Kong
7. Any assistance from Hong Kong authorities

Ques no.	Question	Definition of the question	Codes	Skipping questions, if any
Part 1- Background information				
1.1	Country of origin	As stated by the client	Enter country name, 9=no information or invalid or conflicting information	
1.2	Nationality	As stated by the client	Enter nationality, 9=no information or invalid or conflicting information	
1.3	Gender	As stated by the client	0=male, 1=female, 2=transgender, 3=intersex, 9=no information or invalid or conflicting information	
1.4	Year of birth	As stated by the client	Enter year, 9=no information or invalid or conflicting information	
1.5	Marital status	As stated by the client	0=single, 1=married, 2=divorced/separated, 3=widowed, 9=no information or invalid or conflicting information	
1.6	Race/ ethnicity	As stated by the client	Enter name of race/ethnicity, 9=no information or invalid or conflicting information	

1.7	Religion	As stated by the client	Enter name of religion, 9=no information or invalid or conflicting information	
1.8	Year of departure from home country for journey to Hong Kong	Take the most recent journey to Hong Kong	Enter year, 9=no information or invalid or conflicting information	
1.9	Year of arrival in Hong Kong	Take the most recent journey to Hong Kong	Enter year, 9=no information or invalid or conflicting information	
1.10	Year of intake at Justice Centre/ Hong Kong Refugee Advice Centre		Enter year	
1.11	Year torture claim, asylum claim or non-refoulement claim made in Hong Kong	Take the year when the claim was formally recognised by the Immigration Department or the UNHCR as made. Take the earliest if multiple claims made.	Enter year, 9=no information or invalid or conflicting information	
1.12	Whether the person knew about the existence of the general refugee status determination process before the journey to Hong Kong	Facts that show that the person knew about the general process include seeking asylum in another place before coming to Hong Kong.	0=no 1=yes 9=no information or invalid or conflicting information	
1.13	Whether the person knew about the existence of the refugee status determination process or the Unified Screening Mechanism of Hong Kong before the journey to Hong Kong	Enter '0' only if there is explicit information that the person did not know. If there's no information, enter '9'.	0=no 1=yes 9=no information or invalid or conflicting information	
1.14	How did the person first learn about the existence of the refugee status determination process or the Unified Screening Mechanism of Hong Kong		0=informed by friends or relatives when the person was in home country 1= informed by agent arranging travel to Hong Kong in home country 2= informed by agent after leaving home country and before arrival in Hong Kong 3= informed by agent after arrival in Hong Kong 4= informed by strangers after arrival in Hong Kong	

			5= informed by Justice Centre or other service providers in Hong Kong 6=others 7= informed by the UNHCR in Hong Kong 9=no information or invalid or conflicting information	
1.15	Year of first instance decision made by the UNHCR, if any		Enter year, 9=no information, invalid or conflicting information or no decision made by the UNHCR	
1.16	Year of first instance decision made by the Immigration Department, if any		Enter year, 9=no information, invalid or conflicting information or no decision made by the Immigration Department	
1.17	Whether non-refoulement claim substantiated		0=no, claim rejected by the Immigration Department 1=no, claim rejected by the Torture Claims Appeal Board/ Adjudicator of the Non-refoulement Claims Petition Office (TCAB) 2=yes, claim considered substantiated by the Immigration Department 3=yes, claim rejected by the Immigration Department but considered substantiated by the TCAB 4=claim not determined by the Immigration Department yet 5=claim rejected by the Immigration Department and appeal/petition in process 9=no information or invalid or conflicting information	
1.18	Whether experience of being trafficked was made a ground (as trafficking) in the submissions	Submissions include those made by the client, duty lawyer(s), other lawyer(s) and Justice Centre.	0=no or no information 1=yes, but no information showing to which body such submissions were made 2=yes, such submissions made to the UNHCR 3=yes, such submissions made to the Immigration Department 4=yes, such submissions made to TCAB	

			5=yes, such submissions made to more than one of the following: the UNHCR, the Immigration Department, the TCAB 9= invalid or conflicting information	
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Part 2- The 'act' and the 'means' for activities that would take place before arrival in Hong Kong				
2.1	Whether there was attempted or actual recruitment, transportation, transfer, harbouring, or receipt of the person that was funded, arranged or assisted by a third party, namely a broker, an agent, an employer, a potential employer, a family member, a close family friend or a friend, before or at any stage of the journey	<p>Oxford Dictionary definitions:</p> <p>Recruitment: The action of finding new people to join an organization or support a cause.</p> <p>Transportation: Take or carry (people or goods) from one place to another by means of a vehicle, aircraft, or ship</p> <p>Transfer: Move from one place to another</p> <p>Harbouring: Give a home or shelter to</p> <p>Receipt: Be given, presented with, or paid</p> <p>It includes both formal and informal recruitment. Formal recruitment usually involves paperwork and informal recruitment may be done by a relative or friend without paperwork for example.</p>	<p>0=no or no information showing the indicator is triggered</p> <p>1=yes</p> <p>9= invalid or conflicting information</p>	<p>If 1, continue with the next question. If 0 or 9, skip to Part 3.</p>
2.2	Country in which the (attempted) recruitment, transportation, transfer, harbouring or receipt of the person happened		<p>Enter country name,</p> <p>9=no information or invalid or conflicting information</p>	
2.3	Whether aged under 18 when the (attempted) recruitment, transportation, transfer, harbouring or receipt of the person began		<p>0=no, 1=yes,</p> <p>9=no information or invalid or conflicting information</p>	
	<u>Deceptive recruitment</u>	Hereafter 'recruitment' includes recruitment, transportation, transfer, harbouring, or receipt of the person.		
2.4	Recruitment on the basis that there would be a job	This includes cases of recruitment into a job without a job lined up. This also includes cases of recruitment into the army.	<p>0=no information showing the person was so recruited, 1=yes, 9=invalid or conflicting information</p>	<p>If 1, continue with the</p>

				next question. If 0 or 9, skip to question 2.7.
2.5	Deception about the nature of job	This indicator is triggered when the person was given false information by a third party about the type of occupation, or when the person was told by a third party that there would be a job but there was actually none.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.6	Deception about the conditions of job	This indicator is triggered when the person was given false information by a third party about the conditions of the job such as the volume of work, salary, working hours, sick leave, health hazards and protection, working environment, insurance coverage and other benefits, and the actual conditions were worse than promised. This excludes deception about vocational training and education.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.7	Deception through false promises of marriage or adoption	This indicator is triggered when a third party gave false promises of marriage or adoption, or false or misleading information about the conditions of marriage or adoption. This includes: <ul style="list-style-type: none"> • Whether there would indeed be marriage or adoption; • Whether the person would have to work for the family's business after marriage; and • Whether the future spouse had already had a partner or spouse. 	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.8	Deception through false promises of education, vocational training	This indicator is triggered when a third party gave false promises of or false or misleading information about education or vocational training.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
	<u>Coercive recruitment</u>			

2.9	Physical violence	This indicator is triggered when violence or threat of violence was employed by a third party during the recruitment process.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.10	Abduction or selling of the person	This indicator is triggered when the person was sold to a third party in exchange for money, repayment of debt, land or other benefits to the family, or abducted by a third party during the recruitment process.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.11	Sexual abuse	This indicator is triggered when sexual violence or harassment (actual or threatened) was employed by a third party during the recruitment process.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.12	Denied freedom of movement	This indicator is triggered when the person was isolated, confined or under partial or constant surveillance by a third party during the recruitment process. This includes: <ul style="list-style-type: none"> • Being held in locked premises by the third party; and • Not being able to leave a training facility when no training was taking place. 	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.13	Blackmail	This indicator is triggered when the person was blackmailed for recruitment, for example when a third party threatened to disclose nude photos of the person if he or she refused to be recruited.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.14	Threats against family members	This includes the following by a third party against the family of the person to ensure (continued) participation in the recruitment process: <ul style="list-style-type: none"> • Threats of violence; • Removal of rights or privileges, including promotion; and • Financial penalties or other forms of punishment. 	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.15	Personal documents withheld	This indicator is triggered when identity papers, travel documents, marriage certificates, leases, deeds, or education certificates were confiscated by a third party during the recruitment process to prevent withdrawal.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	

2.16	Personal belongings withheld	This indicator is triggered when personal belongings or money were confiscated by a third party during the recruitment process to prevent withdrawal.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.17	Communications with other parties controlled	This includes: <ul style="list-style-type: none"> • Mobile phone being confiscated by a third party; • Fear of phone tapping by the third party; and • Being under constant or partial surveillance by a third party. 	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.18	Debt used as coercion	This includes the use of the following by a third party to prevent withdrawal from the recruitment process: <ul style="list-style-type: none"> • Debt resulting from recruitment costs; • Advance payment made to family on salary; and • Recruitment being a condition for a third party to lend money to the person's family. Mere incurrence of debt does not trigger this indicator. The debt does not have to be excessive for this indicator to be triggered.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.19	Threat of denunciation to authorities	This indicator is triggered when a third party threatened to denounce the person to authorities. The threat can be one of deportation.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.20	Exclusion from community and social life	This indicator is triggered when the person was excluded from community and social life to ensure (continued) participation in the recruitment process. This includes shame to the person or the family that would arise from refusing to be recruited. It also includes being kept by a third party at a recruitment facility and not able to leave.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
	<u>Vulnerability in the recruitment phase</u>			
2.21	Having suffered from rape or domestic violence before or at the time of recruitment		0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.22	Other forms of difficult family situation	This includes:	0=no information showing the indicator is triggered, 1=yes,	

		<ul style="list-style-type: none"> • A problematic family background (alcohol, violence, etc.); and • Providing the only or major source of income for the family. 	9=invalid or conflicting information	
2.23	Belonging to a minority racial, cultural or religious group	This includes being in a group minority in terms of power and/or number. This is based on the client's understanding as shown in the file. We do not look study country of origin information or do further research to determine this.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.24	Having been an asylum seeker in another place before or lived in a situation of forced migration	This includes situations where the person did not officially register with the UNHCR or the body in charge of refugee status determination but stayed in a refugee camp, or where the person had gone to another place to try to seek asylum. It also includes having made a claim under the Convention against Torture in another place before.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.25	Having been a victim of human trafficking at the time of the recruitment	The strength of facts required for this indicator to be triggered is lower. It is not required to go through this whole instrument to check if there was former human trafficking. Facts that trigger this indicator include passing through a large number of countries for a long time to go from the country of departure to the final destination, and the person self-identifying as a victim of former human trafficking.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.26	Control of the third party	This includes: <ul style="list-style-type: none"> • The operation of a criminal group in the area; • Economic or social dependency on the third party; • Mental, psychological or emotional dependency on the third party; • A pre-existing relationship between the person and a third party with an element of control by the third party, for example in terms of age, seniority or gender; and 	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	

		<ul style="list-style-type: none"> Cases where the person is pressured by relatives to be recruited. 		
2.27	Economic reasons	This includes: <ul style="list-style-type: none"> Being in debt; Being financially responsible for dependents; and A lack of employment opportunities in the area. 	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
2.28	A lack of information	This indicator is triggered when the lacked information about the conditions of work or the journey for example.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	

Part 3- Exploitation before arrival in Hong Kong				
Part 3(a)	Forced labour			
3.1.1	Having worked before arrival in Hong Kong or arrangements having been made for work that would take place before arrival in Hong Kong	This includes the provision of sexual services, joining the military, domestic work and joining protests on a regular basis.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
3.1.2	Having provided sexual services before arrival in Hong Kong or arrangements were made for it	This excludes forced sex in marriage.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
3.1.3	Having joined the military before arrival in Hong Kong or arrangements were made for it		0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
3.1.4	Wages withheld or manipulated	<p>This includes the following done by the employer or the employment agent:</p> <ul style="list-style-type: none"> • Withholding or deducting of wages or allowances; • Paying a salary lower than the statutory minimum salary (if any); and • Delay in paying wages. <p>Wages include payment in cash or in kind. This includes cases where the person was forced to work for free for his or her spouse and spouse's family. For other indicators of forced labour below, the spouse and spouse's family are considered as employers if the person did work, including domestic work, for them.</p>	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.1.5	Excessive working days or hours	This indicator is triggered when the person worked overtime with or without compensation.	0=no information showing the indicator is triggered, 1=yes,	

			2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.1.6	Bad living conditions	<p>This includes the following as a consequence of the actions of a third party:</p> <ul style="list-style-type: none"> • A lack of choice as to where to live or living conditions; • Living in conditions which are overcrowded, unsanitary or unsafe; • Having limited or no privacy; • Pest infestations; • Having no water electricity, working toilets, sinks or showers; and • Being homeless. 	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.1.7	Hazardous work	<p>This includes</p> <ul style="list-style-type: none"> • Providing sexual services without condoms; • Violence by customers; • Extreme heat or cold in the work environment; and • Work that was considered humiliating or dirty. 	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.1.8	No social protection	This indicator is triggered when work-related social protection that existed in that country was denied to the particular person as a result of actions of a third party. This includes being forced to work while sick and in the case of females being forced to work while pregnant or whilst menstruating.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.1.9	Performing forced tasks or clients	<p>This includes:</p> <ul style="list-style-type: none"> • Being forced to care for family members of a third party; • Being forced to earn a minimum amount of money per day; • Being forced to provide all types of sexual service; and 	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	

		<ul style="list-style-type: none"> Being forced to provide sexual services in locations not agreed upon. 		
3.1.10	Acting against others upon being forced to	<p>This includes cases where the person was forced by a third party to act against others, for example:</p> <ul style="list-style-type: none"> Inflicting violence on others; Exercising control over others; Threatening others; and Recruiting other persons into the trafficking process. <p>An example of means used by the employer or the employment agent to force the person to act against others is making the person witness the punishment of others.</p>	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.1.11	Under strong influence of the employer or employment agent	<p>This includes</p> <ul style="list-style-type: none"> Remaining with the same employer upon being forced to by the employer and the employment agent; Remaining in the same situation due to pressure from relatives; Remaining in the same situation due to pressure that arose from cultural and religious practices; and Matters relating to private life (marriage, education, health, religion, etc) being decided by the employer or the employment agent. 	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.1.12	Limited communication or freedom of movement	<p>This indicator is triggered when the person's movement or communication was restricted by the employer or employment agent. This includes:</p> <ul style="list-style-type: none"> Contact with family and friends or internet or phone access being restricted by the employer or employment agent; Being under constant or partial surveillance by the employer or the employment agent; 	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	

		<ul style="list-style-type: none"> • Identity documents being confiscated by the employer or the employment agent to limit movement or prevent resignation; • Being held in a locked environment by the employer or the employment agent either at work or while being transported to work; and • Being forced by the employer or the employment agent to work or reside in a location with limited public access. 		
3.1.13	Physical violence by employer or employment agent	<p>This indicator is triggered when the person suffered from actual or threatened physical abuse by the employer or employment agent. This includes</p> <ul style="list-style-type: none"> • Forced abortion; • Denial of food and/or drink; • Denial of right to access health care; • Forced intake of drugs and/or alcohol and torture. 	<p>0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information</p>	
3.1.14	Sexual violence by employer or employment agent	<p>This indicator is triggered when the person suffered from actual or threatened sexual abuse by the employer or the employment agent, including:</p> <ul style="list-style-type: none"> • Unwanted touching or sexual comments; and • Forced provision of sexual services to a third party. 	<p>0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information</p>	
3.1.15	Psychological violence by employer or employment agent	<p>Examples include being forced by the employer or employment agent to witness a group rape or punishment of others.</p> <p>If there is information about physical violence but not explicit information about any psychological violence that ensued or was inflicted, please choose 0.</p>	<p>0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information</p>	
	The impossibility of leaving			
3.1.16	Threat to impose even worse working conditions	<p>This includes the following by the employer or the employment agent as a means of preventing the person from leaving:</p> <ul style="list-style-type: none"> • A threat to impose even more excessive working hours; 	<p>0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information</p>	

		<ul style="list-style-type: none"> • A threat to be placed under constant control; and • Threat of forced activities such as the provision of sexual services. 		
3.1.17	Threat to inform family, community or public	This indicator is triggered when the employer or the employment agent threatened to inform the family of the person, the community or the public of situations or actions that were stigmatised or illegal, such as being pregnant out of wedlock and the provision of sexual services as a means of preventing the person from leaving.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.1.18	Threat of denunciation to authorities	This indicator is triggered when the employer or the employment agent threatened to report the person's illegal status or involvement in illegal work to the police or set them up for crimes as a means of preventing the person from leaving.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.1.19	Threat or violence against family members	This indicator is triggered when the employer or the employment agent imposed or threatened to impose physical, sexual or psychological harm on the family members of the person as a means of preventing the person from leaving.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.1.20	Reduced freedom to terminate labour contract after debts incurred or training or other benefits paid for by a third party	<p>This includes the following:</p> <ul style="list-style-type: none"> • The withholding of identity documents until debts were paid as a means of preventing the person from leaving; and • Where the person was made to work for the spouse or the spouse's family, having to pay them if he or she divorced the spouse. 	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.1.21	Whether the person was aged under 18 when the signs of forced labour began to show		0=no, 1=yes, 9=no information or invalid or conflicting information, or there was no sign of forced labour	
3.1.22	Country the signs of forced labour took place		Enter country name, 9=no information or invalid or conflicting information, or there was no sign of forced labour	

Part 3(b)	Forced marriage			
3.2.1	Married before arrival in Hong Kong or arrangements were made for marriage that would take place before arrival in Hong Kong	This includes marriages by customs and not by law.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
3.2.2	Exchange of favours, dowry, gifts, or wealth for marriage	Favours or gifts include land, property, jewellery, immigration purposes, fees for education and repayment of debt.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.2.3	Sexual abuse by spouse or spouse's family		0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.2.4	Unwanted pregnancy	This indicator is not triggered if there is information that the woman was made pregnant by a person other than her spouse.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.2.5	Forced abortion		0=no or no information 0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.2.6	Physical abuse by spouse or family		0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.2.7	Psychological abuse by spouse or family	This includes not being allowed by the spouse or family to socialise or make friends.	0=no information showing the indicator is triggered, 1=yes,	

		If there is information about physical violence but not explicit information about any psychological violence that ensued or was inflicted, please choose 0.	2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.2.8	Deprived of freedom of movement or communication	<p>This indicator is triggered when the person's movement or communication was restricted by the spouse or family. This includes:</p> <ul style="list-style-type: none"> • Passport, personal belongings, cash or savings being kept by the spouse or family to restrict the freedom of movement; • Mobile phone being confiscated by the spouse or family; • Fear of phone tapping by the spouse or family; and • Being under constant or partial surveillance by the spouse or family. 	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.2.9	Age at marriage or intended marriage		Enter age, 9=no information, invalid or conflicting information or no signs of forced marriage	
3.2.10	Country the marriage took place or the intended marriage would take place	Put 9 if none of the indicators were triggered (no '1' or '2' from 3.2.2 to 3.2.8)	Enter country name, 9=no information, invalid or conflicting information or no signs of forced marriage	

Part 3(c)	Forced organ removal			
3.3.1	An organ or blood was removed or taken before arrival in Hong Kong or arrangements were made for that		0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	If 1, continue with the next question. If 0 or 9, skip to question 3.3.3.
3.3.2	Country where the removal took place or the intended removal would take place		Enter country name, 9=no information, invalid or conflicting information	
3.3.3	Admitted into a hospital or a clinic for unknown or unclear reasons	This includes hospitals or clinics that were not registered.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.3.4	Restricted freedom of movement or communication before an operation	This includes: <ul style="list-style-type: none"> • Passport, personal belongings, cash or savings being kept by a third party to restrict the freedom of movement; • Mobile phone being confiscated by a third party; • Fear of phone tapping; and • Being under constant or partial surveillance. 	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.3.5	A fee promised for the organ or blood removal		0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.3.6	The fee referred to in 3.3.5 withheld partially or completely		0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened,	

			9=invalid or conflicting information	
3.3.7	No appropriate aftercare	This includes not being admitted to a registered hospital an operation.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
3.3.8	Whether aged under 18 when the signs of (intended) forced organ trade or blood sale began to show		0=no, 1=yes, 9=no information or invalid or conflicting information, or there was no sign of forced labour	
3.3.9	Country where the signs of (intended) forced organ trade happened		Enter country name, 9=no information or invalid or conflicting information, or there was no sign of forced labour	
Part 3(d)	Other forms of exploitation			
3.4.1	Other forms of exploitation	<p>This includes:</p> <ul style="list-style-type: none"> Engage in criminal activities such as drug trafficking upon being forced; and Cases where the family and friends of the person was forced to pay ransom money. <p>The confiscation of the person's passport by the agent or the failure of the agent to take the person to the promised destination in itself does not amount to exploitation for this indicator.</p>	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	If 1 or 2, continue with the next question. If 9, skip to Part 4.
3.4.2	Whether aged under 18 when signs of (intended) exploitation of other forms began to show		0=no, 1=yes, 9=no information or invalid or conflicting information, or there was no sign of other forms of exploitation	
3.4.3	Country where signs of (intended) exploitation of other forms happened		Enter country name, 9=no information or invalid or conflicting information, or there was no sign of other forms of exploitation	

Part 4- The 'act' and the 'means' for activities that would take place in Hong Kong				
4.1	Whether there was attempted or actual recruitment, transportation, transfer, harbouring, or receipt of the person that was funded, arranged or assisted by a third party, namely a broker, an agent, an employer, a potential employer, a family member, a close family friend or a friend before or at any stage of the journey	<p>Oxford dictionary definitions:</p> <p>Recruitment: The action of finding new people to join an organization or support a cause.</p> <p>Transportation: Take or carry (people or goods) from one place to another by means of a vehicle, aircraft, or ship</p> <p>Transfer: Move from one place to another</p> <p>Harbouring: Give a home or shelter to</p> <p>Receipt: Be given, presented with, or paid</p> <p>It includes both formal and informal recruitment. Formal recruitment usually involves paperwork and informal recruitment may be done by a relative or friend without paperwork for example.</p>	<p>0=no or no information showing the indicator is triggered</p> <p>1=yes</p> <p>9= invalid or conflicting information</p>	<p>If 1, continue with the next question. If 0 or 9, skip to Part 5.</p>
4.2	Country in which the (attempted) recruitment, transportation, transfer, harbouring or receipt of the person happened		<p>Enter country name,</p> <p>9=no information or invalid or conflicting information</p>	
4.3	Whether aged under 18 when the (attempted) recruitment, transportation, transfer, harbouring or receipt of the person began		<p>0=no, 1=yes,</p> <p>9=no information or invalid or conflicting information</p>	
	<u>Deceptive recruitment</u>	Hereafter 'recruitment' includes recruitment, transportation, transfer, harbouring, or receipt of the person.		
4.4	Recruitment on the basis that there would be a job	This includes cases of recruitment into a job without a job lined up. This also includes cases of recruitment into the army.	<p>0=no information showing the person was so recruited, 1=yes, 9=invalid or conflicting information</p>	<p>If 1, continue with the next</p>

				question. If 0 or 9, skip to question 4.8.
4.5	Deception about the nature of job	This indicator is triggered when the person was given false information by a third party about the type of occupation, or when the person was told by a third party that there would be a job but there was actually none.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.6	Deception about the conditions of job	This indicator is triggered when the person was given false information by a third party about the conditions of the job such as the volume of work, salary, working hours, sick leave, health hazards and protection, working environment, insurance coverage and other benefits, and the actual conditions were worse than promised. This excludes deception about vocational training and education.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.7	Deception about legality of work in Hong Kong	This indicator is triggered when the person was given false information by a third party that it would be lawful for them to work in Hong Kong, when in fact it would be illegal.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.8	Deception about the possibility of staying in Hong Kong in the long run	This indicator is triggered when the person was given false information by a third party that it would be possible for them to stay in Hong Kong in the long run, for example that it would be possible for them to get a resident's identity card or the right of abode in Hong Kong.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.9	Deception through false promises of marriage or adoption	This indicator is triggered when a third party gave false promises of marriage or adoption, or false or misleading information about the conditions of marriage or adoption. This includes: <ul style="list-style-type: none"> Whether there would indeed be marriage or adoption; 	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	

		<ul style="list-style-type: none"> Whether the person would have to work for the family's business after marriage; and Whether the future spouse had already had a partner or spouse. 		
4.10	Deception through false promises of education, vocational training	This indicator is triggered when a third party gave false promises of or false or misleading information about education or vocational training.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
	<u>Coercive recruitment</u>			
4.11	Physical violence	This indicator is triggered when violence or threat of violence was employed by a third party during the recruitment process.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.12	Abduction or selling of the person	This indicator is triggered when the person was sold to a third party in exchange for money, repayment of debt, land or other benefits to the family, or abducted by a third party during the recruitment process.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.13	Sexual abuse	This indicator is triggered when sexual violence or harassment (actual or threatened) was employed by a third party during the recruitment process.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.14	Denied freedom of movement	<p>This indicator is triggered when the person was isolated, confined or under partial or constant surveillance by a third party during the recruitment process. This includes:</p> <ul style="list-style-type: none"> Being held in locked premises by the third party; and Not being able to leave a training facility when no training was taking place. 	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.15	Blackmail	This indicator is triggered when the person was blackmailed for recruitment, for example when a third party threatened to disclose nude photos of the person if he or she refused to be recruited.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.16	Threats against family members	<p>This includes the following by a third party against the family of the person to ensure (continued) participation in the recruitment process:</p> <ul style="list-style-type: none"> Threats of violence; Removal of rights or privileges, including promotion; and 	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	

		Financial penalties or other forms of punishment.		
4.17	Personal documents withheld	This indicator is triggered when identity papers, travel documents, marriage certificates, leases, deeds, or education certificates were confiscated by a third party during the recruitment process to prevent withdrawal.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.18	Personal belongings withheld	This indicator is triggered when personal belongings or money were confiscated by a third party during the recruitment process to prevent withdrawal.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.19	Communications with other parties controlled	This includes: <ul style="list-style-type: none"> • Mobile phone being confiscated by a third party; • Fear of phone tapping by the third party; and • Being under constant or partial surveillance by a third party. 	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.20	Debt used as coercion	This includes the use of the following by a third party to prevent withdrawal from the recruitment process: <ul style="list-style-type: none"> • Debt resulting from recruitment costs; • Advance payment made to family on salary; and • Recruitment being a condition for a third party to lend money to the person's family. Mere incurrence of debt does not trigger this indicator. The debt does not have to be excessive for this indicator to be triggered.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.21	Threat of denunciation to authorities	This indicator is triggered when a third party threatened to denounce the person to authorities. The threat can be one of deportation.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.22	Exclusion from community and social life	This indicator is triggered when the person was excluded from community and social life to ensure (continued) participation in the recruitment process. This includes shame to the person or the family that would arise from refusing to be recruited. It also includes being kept by a third party at a recruitment facility and not able to leave.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	

	<u>Vulnerability in the recruitment phase</u>			
4.23	Having suffered from rape or domestic violence before or at the time of recruitment		0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.24	Other forms of difficult family situation	This includes: <ul style="list-style-type: none"> • A problematic family background (alcohol, violence, etc.); and • Providing the only or major source of income for the family. 	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.25	Belonging to a minority racial, cultural or religious group	This includes being in a group minority in terms of power and/or number. This is based on the client's understanding as shown in the file. We do not look study country of origin information or do further research to determine this.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.26	Having been an asylum seeker in another place before or lived in a situation of forced migration	This includes situations where the person did not officially register with the UNHCR or the body in charge of refugee status determination but stayed in a refugee camp, or where the person had gone to another place to try to seek asylum. It also includes having made a claim under the Convention against Torture in another place before.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.27	Control of the third party	This includes: <ul style="list-style-type: none"> • The operation of a criminal group in the area; • Economic or social dependency on the third party; • Mental, psychological or emotional dependency on the third party; • A pre-existing relationship between the person and a third party with an element of control by the third party, for example in terms of age, seniority or gender; and • Cases where the person is pressured by relatives to be recruited. 	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
4.28	Economic reasons	This includes: <ul style="list-style-type: none"> • Being in debt; 	0=no information showing the indicator is triggered, 1=yes,	

		<ul style="list-style-type: none"> • Being financially responsible for dependents; and • A lack of employment opportunities in the area. 	9=invalid or conflicting information	
4.29	A lack of information	This indicator is triggered when the lacked information about the conditions of work or the journey to Hong Kong for example.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	

Part 5- Migration to Hong Kong If the person came to Hong Kong more than once, take the most recent journey.				
5.1	Whether the person planned to come to Hong Kong as the first choice among all destinations	If there is no information showing that the person considered places other than Hong Kong, choose 1.	1=yes, 2=no, refused entry by other countries before coming to Hong Kong, 3=no, Hong Kong was a transit point en route to other countries but stopped in Hong Kong because he or she was arrested or for other reasons, 4= no, deceived by the agent about the destination, 5= no, went to mainland China and found that there's no UNHCR or the UNHCR there could not help them, and therefore came to Hong Kong, 6= no, went to places other than mainland China and found that there's no UNHCR or the UNHCR there could not help them, and therefore came to Hong Kong, 7=no, ended up in Hong Kong for other reasons, 9=invalid or conflicting information or no information	If 1, continue with the next question. If 2 to 9, skip to 5.3.
5.2	Reasons for coming to Hong Kong		1=had social network here, 2=recommended by others, 3=cheaper to come to Hong Kong than some other places, 4=a visa was not needed to come to Hong Kong, 5=more than one of the above, 6=others, 9=invalid or conflicting information or no information	
5.3	Whether travelled to Hong Kong alone and if not, with whom		0=alone, 1=with an agent, 2=with someone who was not an agent (e.g. dependent minor), 3=with an agent as well as someone who was not an agent, 4=with someone but there's no clear information to show whether that person was an agent, 9=invalid or conflicting information or no information	

5.4	Whether someone else assisted in the arrangements for the travel	This includes assisting to get a passport or other identity documents.	0=no, 1=yes, 9=invalid or conflicting information or no information	If 1, continue with the next question. If 0 or 9, skip to question 5.8.
5.5	Whether a fee was paid to the person(s) who arranged for the travel		0=no, 1=yes, 9=invalid or conflicting information or no information	
5.6	Amount of the fee		State the amount and currency	
5.7	How the person paid the fee		0=paid with own cash, 1=paid by family, 2=a loan or mortgage was taken out by the person, 3=a loan or mortgage was taken out by family, 4=other means, 9=invalid or conflicting information or no information	
5.8	Whether any identity document was kept by anyone the person travelled with	This includes forged, falsified and genuine identity documents.	0=no, 1=yes 2=not applicable because the person travelled alone 9=invalid or conflicting information or no information	
5.9	Whether the person travelled with any forged or falsified identity documents		0=no, 1=yes, 9=invalid or conflicting information or no information	If 1, continue with the next question. If 0 or 9, skip to question 5.12.
5.10	Whether the person was prosecuted by the Hong Kong Administration for		0=no, 1=yes, 9=invalid or conflicting information or no information	If 1, continue with the next

	using forged or falsified identity documents			question. If 0 or 9, skip to question 5.12.
5.11	Whether the person was convicted in Hong Kong for using forged or falsified identity documents		0=no, 1=yes, 9=invalid or conflicting information or no information	
5.12	Number of transit points in the journey to Hong Kong	A different town, village, city or country counts as a new point	Enter number	
5.13	How the person travelled from the country of origin to the first transit point (or Hong Kong if there was no transit point)		0=by land, 1=by air, 2=by sea, 9=invalid or conflicting information or no information	
5.14	First transit point (which country)		Enter country name, 9=invalid or conflicting information, no information or did not go through a transit point	
5.15	First transit point (which city)		Enter city name, 9=invalid or conflicting information, no information or did not go through a transit point	
5.16	Time spent at the first transit point		0=less than 7 days, 1=7 days to 1 month, 2=longer than 1 month and shorter than or equal to 1 year, 3=longer than 1 year, 9=invalid or conflicting information, no information or did not go through a transit point	
5.17	How the person travelled from the first transit point to the second (or Hong Kong if they only went through one transit point)	A different town/village/city/country counts as a new point	0=by land, 1=by air, 2=by sea, 9=invalid or conflicting information, no information or did not go through a transit point	
5.18	Second transit point (which country)		Enter country name,	

			9=invalid or conflicting information, no information or did not go through more than one transit point	
5.19	Second transit point (which city)		Enter city name, 9=invalid or conflicting information, no information or did not go through more than one transit point	
5.20	Time spent at second transit point		0=less than 7 days, 1=7 days to 1 month, 2=longer than 1 month and shorter than or equal to 1 year, 3=longer than 1 year, 9=invalid or conflicting information, no information or did not go through more than one transit point	
5.21	How the person travelled from the second transit point to the third (or Hong Kong if he or she went through only two transit points)		0=by land, 1=by air, 2=by sea, 9=invalid or conflicting information, no information or did not go through more than one transit point	
5.22	Third transit point (which country)		Enter country name, 9=invalid or conflicting information, no information or did not go through more than two transit points	
5.23	Third transit point (which city)		Enter city name, 9=invalid or conflicting information, no information or did not go through more than two transit points	
5.24	Time spent at the third transit point		0=less than 7 days, 1=7 days to 1 month, 2=longer than 1 month and shorter than or equal to 1 year, 3=longer than 1 year, 9=invalid or conflicting information, no information or did not go through more than two transit points	
5.25	How the person travelled from the third transit point to the fourth (or Hong Kong if the person went through only 3 transit points)		0=by land, 1=by air, 2=by sea, 9=invalid or conflicting information, no information or did not go through more than two transit points	

5.26	Fourth transit point (which country)		Enter country name, 9=invalid or conflicting information, no information or did not go through more than three transit points	
5.27	Fourth transit point (which city)		Enter city name, 9=invalid or conflicting information, no information or did not go through more than three transit points	
5.28	Time spent at the fourth transit point		0=less than 7 days, 1=7 days to 1 month, 2=longer than 1 month and shorter than or equal to 1 year, 3=longer than 1 year, 9=invalid or conflicting information, no information or did not go through more than three transit points	
5.29	How the person travelled from the fourth transit point to Hong Kong		0=by land, 1=by air, 2=by sea, 9=invalid or conflicting information, no information or went through fewer than or more than four transit points	If 9, continue with the next question. If 0 to 3, skip to question 5.31.
5.30	If the person went through more than 4 transit points, how did he or she travel from the last transit point to Hong Kong		0=by land, 1=by air, 2=by sea, 9=invalid or conflicting information or no information	
5.31	Movement or communication controlled at any transit point	This includes: <ul style="list-style-type: none"> • Passport and personal belongings being kept by the agent; • Phone or internet access restricted by the agent; • Fear of phone tapping; and • Coercion such as threats of violence made by the agent to prevent the person from leaving. 	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	

5.32	Violence or threat of violence by the during the journey to Hong Kong		0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
5.33	Whether the person went through an immigration control point when entering Hong Kong, and which control point		0=did not go through an immigration control point, 1=yes, Hong Kong Airport, 2=yes, Lo Wu, 3=yes, Hung Hom, 4=yes, Lok Ma Chau, 5=yes, Man Kam To, 6=yes, Sha Tao Kok, 7=yes, China Ferry Terminal, 8=yes, Macau Ferry Terminal, 9=yes, Tuen Mun Ferry Terminal, 10=yes, Shenzhen Bay, 11=yes, Kai Tak Cruise Terminal, 12=yes, but not clear which control point, 13=invalid or conflicting information or no information	If 0 or 13, continue with the next question. If 1 to 11, skip to question 5.35.
5.34	Region where the person entered Hong Kong if not through an immigration control point		0=North-eastern New Territories 1=North-western New Territories 2=Kowloon 3=Hong Kong Island 9=invalid or conflicting information or no information	
5.35	Whether the person was detained by the Hong Kong Administration	This does not include imprisonment after being found guilty after a trial.	0=no, 1=yes, 9=invalid or conflicting information or no information	If 1, continue with the next question. If 0 or 9, go to Part 6.
5.36	Whether the Hong Kong Administration gave using falsified or forged identity document as a reason for the detention		0=no, 1=yes, 9=invalid or conflicting information or no information	

5.37	Whether the Hong Kong Administration gave overstaying as a reason for the detention		0=no, 1=yes, 9=invalid or conflicting information or no information	
5.38	Whether the Hong Kong Administration gave taking up employment illegally as a reason for the detention		0=no, 1=yes, 9= invalid/conflicting/no information	
5.39	Length of the detention		1=shorter than a week, 2=7 to 13 days, 3=14 to 31 days, 4=longer than one month and shorter or equal to 6 months, 5= longer than 6 months and shorter than or equal to a year, 6=longer than a year, 7=invalid or conflicting information or no information	

Part 6- Exploitation in Hong Kong				
Part 6(a)	Forced labour			
6.1.1	Having worked before arrival in Hong Kong or arrangements having been made for work that would take place before arrival in Hong Kong	This includes the provision of sexual services, joining the military, domestic work and joining protests on a regular basis.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
6.1.2	Having provided sexual services before arrival in Hong Kong or arrangements were made for it	This excludes forced sex in marriage.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
6.1.3	Having joined the military before arrival in Hong Kong or arrangements were made for it	Only tick 'yes' if status as migrant domestic worker was recognised by the Immigration Department.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
6.1.4	Wages withheld or manipulated	<p>This includes the following done by the employer or the employment agent:</p> <ul style="list-style-type: none"> • Withholding or deducting of wages or allowances; • Paying a salary lower than the statutory minimum salary (if any); and • Delay in paying wages. <p>Wages include payment in cash or in kind. This includes cases where the person was forced to work for free for his or her spouse and spouse's family. For other indicators of forced labour below, the spouse and spouse's family are considered as employers if the person did work, including domestic work, for them.</p>	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.1.5	Excessive working days or hours	This indicator is triggered when the person worked overtime with or without compensation.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened,	

			9=invalid or conflicting information	
6.1.6	Bad living conditions	<p>This includes the following as a consequence of the actions of a third party:</p> <ul style="list-style-type: none"> • A lack of choice as to where to live or living conditions; • Living in conditions which are overcrowded, unsanitary or unsafe; • Having limited or no privacy; • Pest infestations; • Having no water electricity, working toilets, sinks or showers; and • Being homeless. <p>This excludes living in poor conditions because the amount of the housing allowance given by the Hong Kong Government to non-refoulement claimants is limited.</p> <p>This indicator would be relevant the living conditions when the person worked as a migrant domestic worker for example.</p>	<p>0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information</p>	
6.1.7	Hazardous work	<p>This includes</p> <ul style="list-style-type: none"> • Providing sexual services without condoms; • Violence by customers; • Extreme heat or cold in the work environment; and <p>Work that was considered humiliating or dirty.</p>	<p>0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information</p>	
6.1.8	No social protection	<p>This indicator is triggered when work-related social protection that existed in that country was denied to the particular person as a result of actions of a third party. This includes being forced to work while sick and in the case of females being forced to work while pregnant or whilst menstruating.</p>	<p>0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information</p>	
6.1.9	Performed forced tasks or clients	<p>This includes:</p> <ul style="list-style-type: none"> • Being forced to care for family members of a third party; • Being forced to earn a minimum amount of money per day; 	<p>0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information</p>	

		<ul style="list-style-type: none"> • Being forced to provide all types of sexual service; and • Being forced to provide sexual services in locations not agreed upon. 		
6.1.10	Acted against others upon being forced to	<p>This includes cases where the person was forced by a third party to act against others, for example:</p> <ul style="list-style-type: none"> • Inflicting violence on others; • Exercising control over others; • Threatening others; and • Recruiting other persons into the trafficking process. <p>An example of means used by the employer or the employment agent to force the person to act against others is making the person witness the punishment of others.</p>	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.1.11	Under strong influence of employer or employment agent	<p>This includes</p> <ul style="list-style-type: none"> • Remaining with the same employer upon being forced to by the employer and the employment agent; • Remaining in the same situation due to pressure from relatives; • Remaining in the same situation due to pressure that arose from cultural and religious practices; and • Matters relating to private life (marriage, education, health, religion, etc) being decided by the employer or the employment agent. 	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.1.12	Limited communication or freedom of movement	<p>This indicator is triggered when the person's movement or communication was restricted by the employer or employment agent. This includes:</p> <ul style="list-style-type: none"> • Contact with family and friends or internet or phone access being restricted by the employer or employment agent; • Being under constant or partial surveillance by the employer or the employment agent; 	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	

		<ul style="list-style-type: none"> • Identity documents being confiscated by the employer or the employment agent to limit movement or prevent resignation; • Being held in a locked environment by the employer or the employment agent either at work or while being transported to work; and <p>Being forced by the employer or the employment agent to work or reside in a location with limited public access.</p>		
6.1.13	Physical violence by employer or employment agent	<p>This indicator is triggered when the person suffered from actual or threatened physical abuse by the employer or employment agent. This includes</p> <ul style="list-style-type: none"> • Forced abortion; • Denial of food and/or drink; • Denial of right to access health care; • Forced intake of drugs and/or alcohol and torture. 	<p>0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information</p>	
6.1.14	Sexual violence by employer or employment agent	<p>This indicator is triggered when the person suffered from actual or threatened sexual abuse by the employer or the employment agent, including:</p> <ul style="list-style-type: none"> • Unwanted touching or sexual comments; and <p>Forced provision of sexual services to a third party.</p>	<p>0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information</p>	
6.1.15	Psychological violence by employer or employment agent	<p>Examples include being forced by the employer or employment agent to witness a group rape or punishment of others.</p> <p>If there is information about physical violence but not explicit information about any psychological violence that ensued or was inflicted, please choose 0.</p>	<p>0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information</p>	
	The impossibility of leaving			
6.1.16	Threat to impose even worse working conditions	<p>This includes the following by the employer or the employment agent as a means of preventing the person from leaving:</p> <ul style="list-style-type: none"> • A threat to impose even more excessive working hours; 	<p>0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information</p>	

		<ul style="list-style-type: none"> A threat to be placed under constant control; and <p>Threat of forced activities such as the provision of sexual services.</p>		
6.1.17	Threats to inform family, community or public	This indicator is triggered when the employer or the employment agent threatened to inform the family of the person, the community or the public of situations or actions that were stigmatised or illegal, such as being pregnant out of wedlock and the provision of sexual services as a means of preventing the person from leaving.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.1.18	Threat of denunciation to authorities in Hong Kong	This indicator is triggered when the employer or the employment agent threatened to report the person's illegal status or involvement in illegal work to the Police or the Immigration Department, or set them up for crimes as a means of preventing the person from leaving.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.1.19	Threats or violence against family members	This indicator is triggered when the employer or the employment agent imposed or threatened to impose physical, sexual or psychological harm on the family members of the person as a means of preventing the person from leaving.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.1.20	Reduced freedom to terminate labour contract after debts incurred or training or other benefits paid for by a third party	<p>This includes the following:</p> <ul style="list-style-type: none"> The withholding of identity documents until debts were paid as a means of preventing the person from leaving; and <p>Where the person was made to work for the spouse or the spouse's family, having to pay them if he or she divorced the spouse.</p>	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.1.21	Whether the person was aged under 18 when the signs of forced labour began to show		0=no, 1=yes, 9=no information or invalid or conflicting information, or there was no sign of forced labour	

Part 6(b)	Forced marriage			
6.2.1	Married in Hong Kong or arrangements were made for it	This includes marriages by customs and not by law.	0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
6.2.2	Married in another country but living with spouse in Hong Kong or arrangements were made for it		0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	If 1 in 6.2.1 or 6.2.2, continue with the next question. Otherwise, skip to Part 6(c).
6.2.3	Exchange of favours, dowry, gifts, or wealth for marriage	Favours or gifts include land, property, jewellery, immigration purposes, fees for education and repayment of debt.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.2.4	Sexual abuse by spouse or spouse's family		0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.2.5	Unwanted pregnancy	This indicator is not triggered if there is information that the woman was made pregnant by a person other than her spouse.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.2.6	Forced abortion		0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.2.7	Physical abuse by spouse or family		0=no information showing the indicator is triggered, 1=yes,	

			2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.2.8	Psychological abuse by spouse or family	This includes not being allowed by the spouse or family to socialise or make friends. If there is information about physical violence but not explicit information about any psychological violence that ensued or was inflicted, please choose 0.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.2.9	Deprived of freedom of movement or communication	This indicator is triggered when the person's movement or communication was restricted by the spouse or family. This includes: <ul style="list-style-type: none"> • Passport, personal belongings, cash or savings being kept by the spouse or family to restrict the freedom of movement; • Mobile phone being confiscated by the spouse or family; • Fear of phone tapping by the spouse or family; and • Being under constant or partial surveillance by the spouse or family. 	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.2.10	Year the marriage took place or the intended marriage would take place		Enter year, 9=invalid or conflicting information, no information or no signs of forced marriage	
6.2.11	Age at (intended) marriage		Enter age, 9=no information, invalid or conflicting information or no signs of forced marriage	

Part 6(c)	Forced organ trade			
6.3.1	An organ or blood was removed or taken in Hong Kong or arrangements were made for it		0=no information showing the indicator is triggered, 1=yes, 9=invalid or conflicting information	
6.3.2	Admitted into a hospital or a clinic for unknown or unclear reasons	This includes hospitals or clinics that were not registered either in or out of Hong Kong	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.3.3	Restricted freedom of movement or communication before an operation	This includes: <ul style="list-style-type: none"> • Passport, personal belongings, cash or savings being kept by a third party to restrict the freedom of movement; • Mobile phone being confiscated by a third party; • Fear of phone tapping; and • Being under constant or partial surveillance. 	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.3.4	A fee promised for the organ or blood removal		0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.3.5	The fee referred to in 6.3.4 withheld partially or completely		0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.3.6	No appropriate aftercare	This includes not being admitted to a registered hospital an operation.	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	
6.3.7	Whether aged under 18 when the signs of		0=no, 1=yes,	

	(intended) forced organ trade or blood sale began to show		9=no information or invalid or conflicting information, or there was no sign of forced labour	
Part 6(d)	Other forms of exploitation			
6.4.1	Other forms of exploitation	<p>This includes:</p> <ul style="list-style-type: none"> Engage in criminal activities such as drug trafficking upon being forced; and Cases where the family and friends of the person was forced to pay ransom money. <p>The confiscation of the person's passport by the agent or the failure of the agent to take the person to the promised destination in itself does not amount to exploitation for this indicator.</p>	0=no information showing the indicator is triggered, 1=yes, 2=there was the intent for this to happen but no information shows that it has happened, 9=invalid or conflicting information	If 1, continue with the next question. If 0 or 9, skip to Part 7.
6.4.2	Whether aged under 18 when signs of (intended) exploitation of other forms began to show		0=no, 1=yes, 9=no information or invalid or conflicting information, or there was no sign of other forms of exploitation	

Part 7- Any assistance from authorities in Hong Kong

7.1	Whether sought or got help from authorities in Hong Kong on the involuntary recruitment or exploitation	<p>Before coming to Justice Centre or the Hong Kong Refugee Advice Centre, whether the person had sought or got help from Hong Kong authorities on any coercion, deception, abuse of vulnerability in the recruitment process or exploitation, other than by making a USM claim, CAT claim or asylum claim. This includes but is not limited to:</p> <ul style="list-style-type: none">• Exploitation in employment, such as excessive working hours;• Forced marriage;• Forced organ trade;• Actual or threatened violence suffered in recruitment;• Deception in recruitment; and• Exploitation by agent in the journey to Hong Kong. <p>The person does not have to say he or she was a victim of human trafficking when seeking help from Hong Kong authorities for this indicator to be triggered.</p>	0=no, 1=yes, 9=no information or invalid or conflicting information	
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ABOUT JUSTICE CENTRE HONG KONG

Justice Centre Hong Kong Ltd. is a non-profit human rights organisation working fearlessly to protect the rights of Hong Kong's most vulnerable people: refugees, other people seeking protection, survivors of torture, human trafficking and forced labour.

Launched in 2014, Justice Centre was formerly Hong Kong Refugee Advice Centre (HKRAC), which over seven years helped more than 2,000 refugee men, women and children on the road to a new life. At our centre, people seeking protection in Hong Kong receive free and independent legal information, and specialised legal and psychosocial assistance.

Justice Centre advocates with and for forced migrants, bringing their voices into the public debate. We campaign for legislative and policy change, conduct research and work with the media and civil society to fight root causes and change systems and minds.

Justice Centre Hong Kong Ltd is a registered charity [IR91/9790]

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