

**Legislative Council Panel on Constitutional Affairs, 21 July 2014: Agenda Item III. Third Report of HKSAR under the UN Convention on the Elimination of All Forms of Discrimination against Women**

**18 July 2014**

In its concluding comments in 2006,<sup>1</sup> the Committee on the Elimination of Discrimination against Women raised concern about abuses and double discrimination faced by female foreign domestic workers in the territory, recommending that the Hong Kong Government repeal the two-week rule, strengthen control of employment agencies and provide these workers with more accessible avenues of redress against abuse.

In its list of issues<sup>2</sup> before HKSAR's review in October 2014, the Committee asks the government to provide statistics on the prevalence of and more information on what it is doing to combat human trafficking in its territory, as well information on progress made to investigate and sanction acts of abuse and exploitation of women foreign domestic workers. More recently last month, the US Trafficking in Persons Report placed the Hong Kong SAR territory at Tier 2, where it has been ranked for five years.

In March 2014, Justice Centre Hong Kong, jointly with Liberty Asia, released a report that offered concrete recommendations to help combat forced labour and human trafficking in Hong Kong. While we appreciate some efforts that the government has taken, such as the introduction of a new paragraph on "human exploitation cases" in 2013, there are many feasible policy changes that could be made that would make a demonstrable impact on Hong Kong's human trafficking record.

In its report to CEDAW the Hong Kong Government, in relation to Article 6 of the Convention, notes that the Crimes Ordinance is the tool to combat exploitation of persons for sexual purposes.<sup>3</sup> However, Section 129 of the Crimes Ordinance (Cap. 200) only stipulates that "a person who takes part in bringing another person into, or taking another person out of, Hong Kong for the purpose of prostitution shall be guilty of the offence of trafficking in persons to or from Hong Kong".

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<sup>1</sup> CEDAW, "Concluding comments of the Committee on the Elimination of Discrimination against Women: China", UN Doc.: CEDAW/C/CHN/CO/6, 25 August 2006, para. 41-42.

<sup>2</sup> CEDAW, "List of issues and questions in relation to the combined seventh and eighth periodic reports of China", UN Doc.: CEDAW/C/CHN/Q/7-8, 10 March 2014, para. 10-12 and para. 17.

<sup>3</sup> HKSAR, "Combined seventh and eighth periodic reports of States parties: Hong Kong, China", UN Doc.: CEDAW/C/CHN-HKG/7-8, 17 January 2013, at para. 146

In light of Hong Kong's imminent appearance before CEDAW, we urge the government to take the following recommendations into consideration:

### **1. Expand the Definition of Trafficking to Include Forced Labour**

The Hong Kong Government's current definition of trafficking puts exclusive attention on trafficking for prostitution and does not encompass the full gamut of activity surrounding forced labour. It also assumes that trafficking involves transnational movement, rather than focusing on exploitation. The HKSAR Government should adopt a definition of human trafficking that includes trafficking for labour exploitation in line with the terms according to international standards contained in the UN Trafficking Protocol (2000).

### **2. Create a National Plan of Action to Combat Human Trafficking**

National plans of actions are a clear commitment to making progress on combatting human trafficking. Several countries' better practices can serve as guidance to the HKSAR Government, and the UN Office on Drugs and Crime also provides models and toolkits on how to develop such plans. A National Plan of Action would allow the opportunity to spell out a road map of holistic change from the prevention, prosecution and protection perspectives. We urge the design, implementation and evaluation of such a plan to be done in partnership and consultation with civil society.

### **3. Adopt a Comprehensive Anti-human Trafficking Law**

Currently, legal provisions relevant to human trafficking for forced labour are diffused across different ordinances. Many victims are therefore not able to hold traffickers fully accountable; enforcement can be piecemeal as responsibility is highly diffused; and, prevention is difficult because there is no way to assess the situation on the ground due to a lack of data collection and management systems for adequate monitoring and evaluation. A comprehensive piece of legislation to combat all forms of human trafficking would help overcome these current challenges and allow for a more concerted response.

### **4. Offer More Robust Labour Protections against Forced Labour**

By legislating and enforcing more decent working conditions, the incentives and legal loopholes that perpetrators have at their disposal to take advantage of cheap labour are also taken away. Certain industries that have been demonstrated to be more susceptible to forced labour - such as domestic work, which is overwhelmingly comprised of women - should be granted greater protection in particular. The Hong Kong Government should abolish the two-week rule and live-in requirements, regulate placement agencies more rigorously, and establish maximum working hours, amongst other reforms.

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Justice Centre Hong Kong, launched in 2014 is a non-profit organisation working fearlessly to protect the rights of Hong Kong's most vulnerable forced migrants – refugees, other people seeking protection and survivors of modern slavery. Justice Centre Hong Kong was formerly Hong Kong Refugee Advice Centre, which over a period of seven years, helped more than 2,000 refugee men, women and children on the road to a new life. Building on its expertise in refugee issues, Justice Centre identified a clear need for an increased response to tackling modern slavery in Hong Kong and has expanded its advocacy remit to fill this gap. To learn more, visit: [www.justicecentre.org.hk](http://www.justicecentre.org.hk)