Lawyers seek new ways to help Hong Kong's human trafficking victims

By Reuters

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By Astrid Zweynert

HONG KONG, June 22 (Thomson Reuters Foundation) - An Indonesian domestic worker arrives in Hong Kong and has her passport taken away, a Bangladeshi teenager is coming to work on a construction site but he is denied a fair wage - two examples of the many forms that modern-day slavery can take.

Neither case could be tried in Hong Kong's courts under human trafficking laws because the territory narrowly defines it as a crime only involving cross-border sex trafficking for prostitution.

"This means it excludes trafficking for labour exploitation, debt bondage, domestic servitude or similar practices," Archana Kotecha, head of legal at Liberty Asia, a charity that fights against modern-day slavery, told the Thomson Reuters Foundation.

As a result there are few human trafficking prosecutions in Hong Kong, which the U.S. State Department in 2014 identified as a destination, transit and source territory for adults and children subjected to sex trafficking and forced labour.

But lawyers say other laws already on the books could be used to prosecute perpetrators of trafficking. Cases such as withholding a passport or not paying a fair wage, for example, could involve more than 50 breaches of Hong Kong's laws.

"A CRIME OF MANY CRIMES"

With its large migrant population - including some 320,000 domestic workers, mostly from the Philippines and Indonesia - Hong Kong needs a more comprehensive definition of human trafficking, said Kotecha.

"There is a clear legal gap when it comes to tackling human trafficking here," said Kotecha. "But human trafficking is a crime of many crimes, which means other laws may be applied to help trafficking victims."

To shed light on the legal situation, Liberty Asia and law firm Reed Smith Richards Butler have joined forces to analyse Hong Kong's legal framework and suggest strategies to improve prosecution rates and the protection of trafficking victims.

"The Hong Kong Legal Gap Analysis" report, released on Monday, pinpoints how existing laws can be applied in suspected human trafficking cases.

Kotecha cited false imprisonment - for example if a domestic worker is held in a home against her will, which is tantamount to slavery - as an offense that could be tried as a civil case to hold the perpetrator to account and compensate the victim.

"Civil law is becoming increasingly important in human trafficking cases, and it is an option that puts the victim in the driving seat whereas in a criminal case, the victim is practically a disempowered bystander," said Kotecha.

Other cases to be tried in the civil courts could include sexual harrassment and employment law claims.

Anti money-laundering laws can also play a crucial part in tackling human trafficking, said Kotecha.

"You can't divorce money-laundering from human trafficking and it is imperative for Hong Kong to identify these tainted funds," said Kotecha.

Hong Kong's anti-money laundering regime is well-placed to deal with the proceeds of crime arising from human trafficking but it would be more effective if the definition of human trafficking was broadened, said Kotecha.

The U.S. State Department's 2014 Trafficking in Persons (TIP) report said people from mainland China, the Philippines, Indonesia, Thailand, Vietnam, Nepal, Cambodia and other Southeast Asian countries as well as Colombia, Chad and Uganda had become victims of sex trafficking and forced labour in Hong Kong. (Reporting By Astrid Zweynert; Editing by XXXXX; Please credit the Thomson Reuters Foundation, the charitable arm of Thomson Reuters, that

covers humanitarian news, women's rights, trafficking, corruption and climate change. Visit www.trust.org)

Read more: http://www.dailymail.co.uk/wires/reuters/article-3134408/Lawyers-seek-new-ways-help-Hong-Kongs-human-trafficking-victims.html#ixzz3eUPTnyMo