

4th October 2018

**TO THE HONOURABLE AND MEMBERS OF THE SUBCOMMITTEE TO FOLLOW UP
ISSUES RELATING TO THE UNIFIED SCREENING MECHANISM FOR NON-
REFOULEMENT CLAIMS OF THE LEGISLATIVE COUNCIL**

We are writing this petition to draw the attention of the Committee to the proposals submitted by the Immigration Department to amend the Immigration Ordinance (Cap. 115) in July 2018. The proposed tightening policy which imposes further restrictions to the Unified Screening Mechanism (USM), would pose detrimental impacts on the lives of all asylum seekers in Hong Kong. We therefore stand against the proposals and call for humanitarian treatment from the Hong Kong government. We would also like to express the opinions and feelings of asylum seekers in Hong Kong towards such proposals.

First, to shorten the time period for claimants to submit their non-refoulement claim forms and make appeals is an extremely harsh act to claimants. The newly proposed time limits, which are 14 days for claim forms submissions and 7 days for appeal applications, are insufficient for claimants to gather necessary information and prepare documentation for their applications. Especially, in certain cases where claimants suffered from physical, psychological and mental damage in armed conflicts in their countries of origin, it often requires extra time for them to recover from their previous traumatic experiences and be physically and psychologically prepared for such applications upon their arrival in Hong Kong.

Second, the proposed reduction in time allowed to obtain supporting documents in their applications and fill in their notice of appeal to the Torture Claims Appeal Board would place more obstacles for claimants. In fact, it is often the case that extra time is needed for claimants to prepare supporting documents due to the following factors:

- While fleeing from danger, asylum seekers often could not prepare all the required documents for future applications of non-refoulement claim because we could only focus on saving our own lives. Therefore, it is unrealistic to ask asylum seekers to gather

- evidence during our times of fleeing and that is why many of us come to Hong Kong without any evidence for our claims.
- It is extremely difficult for claimants to gather supporting documents from our countries of origin given that we are no longer there, especially for those who escaped for immediate survival, such as armed conflicts and threats to life.
 - Processing and transferring documents from other countries to Hong Kong often takes a long time and requires payment.
 - Some claimants need to collect information from the internet, which most of the asylum seekers in Hong Kong cannot access upon our initial arrival. We need assistance from immigration officers or non-governmental organizations in order to do so, and so much more time is needed.

In addition, asylum seekers often need to change our mailing addresses due to the high rent in Hong Kong. Hence, it often happens that letters of notification being sent to the addresses that we previously provided cannot reach us soon enough for us to make an appeal in time. It is even possible for certain claimants to not have received any letters before their deadlines of applications.

Third, allowing the Immigration Department to conduct a screening interview in a language other than the claimant's mother-tongue puts the claimant in a very disadvantaged position. It limits the claimant's freedom of expression, which ought to be a basic human right. It should be understood that we may not express our ideas freely and precisely in a foreign language which only the Immigration Department assumes we understand; moreover, the Immigration Department's belief that claimants should be able to understand and communicate in a specific, designated language is highly unjustifiable. We urge for more languages to be provided to claimants during the screening interviews to ensure fairness in the claim application and substantiation process.

Fourth, allowing immigration officers to be armed and possess ammunition in detention facilities for claimants brings unnecessary harm and hostility to both asylum seekers and the officers. We would like to point out that claimants are NOT criminals but ordinary people who simply come to Hong Kong for protection, not violence. It is unnecessary to arm the immigration officers when the city already has a police force. For claimants, armed officers might beget or

intensify their pressure and fear from previous traumas. It also creates an untrusted, tensioned and hostile environment for both immigration officers and claimants.

In light of the above factors, we ask the Council to consider the numerous difficulties that asylum seekers and refugees in Hong Kong already face and STOP the tightening proposal which increases the chance of us being rejected by USM and puts us in further obstacles and dangers. Meanwhile, we also urge the Immigration Department to enhance transparency in their case substantiation processes; for instance, they should provide more concrete reasons when rejecting claims. We believe that a transparent and just system in handling asylum claims is especially crucial in view of the unreasonably low substantiation rate of claims by the Hong Kong immigration department as compared to worldwide. While nearly half (46 %) of EU-28 first instance asylum decisions in 2017 resulted in positive outcomes, which means that the governments granted claimants refugee or subsidiary protection statuses, or authorised them to stay for humanitarian reasons, there were only 135 cases out of 17 978 torture/non-refoulement claims that had been substantiated by the Immigration Department of Hong Kong between late 2009 – when the enhanced administrative mechanism commenced – and June 2018, meaning that the substantiation rate is as low as 0.75%! How could there be such a big difference?

Everyone deserves a future, but we don't have it now in Hong Kong. Almost all refugees and asylum seekers spend years staying in Hong Kong, hopelessly waiting for their claims to be substantiated; meanwhile, we are deprived of our rights to work and study. Eventually, it is not just our time that is being slowly taken away, but also our skills, knowledge and dreams, which allow us to live like a human. After being stuck for so many years, many can no longer imagine how a new life or a future can be like no matter where we will go in the future. We always believe there are much more than Hong Kong, as a renowned international city, should and can do to put humanitarian values in actual practice, rather than tightening asylum policies and blocking asylum seekers out from the city. There should be basic rights to work and study for asylum seekers and refugees who have been staying in Hong Kong for more than seven years due to the long substantiating periods; specific mental health services should be provided to asylum seekers and refugees to cater for their psychological needs created by previous traumatic experiences and current stressful conditions in Hong Kong; for asylum seekers whose cases were rejected, they should be given the authorisation to stay for humanitarian reasons such that their lives can be secured.



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We hope you understand that no one leaves home unless home is the mouth of a shark. We sincerely hope the Panel could consider our needs and uphold the humanitarian virtues in Hong Kong. Thank you.

From the Refugee Union Hong Kong

