

## 新聞稿

### 尋求庇護人士在Justice Centre Hong Kong的法律協助下贏得司法覆核

一位尋求庇護人士在Justice Centre Hong Kong的法律協助下贏得司法覆核，推翻酷刑聲請上訴委員會駁回其上訴的決定。當時這位懷有身孕的尋求庇護人士正要分娩，但酷刑聲請上訴委員會仍堅持繼續聆訊。是次司法覆核為Justice Centre Hong Kong在高等法院的首宗策略性訴訟案件。

Justice Centre 尋求保護人士服務主管Isaac Shaffer表示：「超過九成向酷刑聲請上訴委員會上訴的免遣返聲請者皆沒有律師代表。<sup>1</sup> 這令人憂慮，因為上訴非常重要，審裁員要判斷的是聲請人是否有受酷刑、迫害或死亡的風險，要考慮的法律與事實很複雜。更令人關注的是只有0.5%上訴成功。<sup>2</sup> 是次司法覆核判詞指出酷刑聲請上訴委員會抱懷疑冷嘲的態度，沒有惻隱之心，這可能可以解釋上訴成功率為何這樣低。」

這位尋求庇護人士在酷刑聲請上訴委員會聆訊後向Justice Centre求助，當時沒有律師代表。Justice Centre 與韋智達律師行及麥高義博士資深大律師合作，透過是次司法覆核突顯問題有多嚴重。

Justice Centre一直促請當局增加酷刑聲請上訴委員會的透明度及加強問責，與其他地區看齊。酷刑聲請上訴委員會聆訊都不公開進行，慣常地拒絕Justice Centre等非政府組織觀察，這等安排都是不必要的。同樣地，酷刑聲請上訴委員會一直未有落實聯合國禁止酷刑委員會有關公開決定書的建議，令公眾不能監察決定的質素，這安排也應該停止。

注譯：案件名稱及編號：Villarico Louterliz Talag v. Torture Claims Appeal Board [2018] HKCFI 468; HCAL179/2017，判案書全文（英文版）載於：[hklii.hk/eng/hk/cases/hkcfi/2018/468.html](http://hklii.hk/eng/hk/cases/hkcfi/2018/468.html)

#### 關於本會

Justice Centre Hong Kong 是一所致力保護被迫離開家園來港的民眾的非牟利人權組織。被強迫離開家園來港的民眾包括難民，其他尋求保護的民眾以及酷刑、人口販運及現代奴役的倖存者。更多關於本會資料請見 [www.justicecentre.org.hk](http://www.justicecentre.org.hk)。

#### 傳媒聯絡：

廣東話： 研究及政策主任李敏（Annie）  
（電話：Tel: +852 5661 6944；電郵：[annie@justicecentre.org.hk](mailto:annie@justicecentre.org.hk)）  
英語： 尋求保護人士服務主管Isaac Shaffer  
（電話：Tel: +852 5507 6163；電郵：[isaac@justicecentre.org.hk](mailto:isaac@justicecentre.org.hk)）

<sup>1</sup> 保安局，‘Torture Claims Appeal Board Operations’，有關索取資料要求的回覆（只有英文版），2017年6月28日，載於：[https://accessinfo.hk/en/request/tcab\\_statistics#incoming-654](https://accessinfo.hk/en/request/tcab_statistics#incoming-654)

<sup>2</sup> 保安局，‘TCAB statistics’，有關索取資料要求的回覆（只有英文版），2017年11月24日，載於：[https://accessinfo.hk/en/request/tcab\\_statistics#incoming-654](https://accessinfo.hk/en/request/tcab_statistics#incoming-654)

15 March 2018

## **Press Release**

### **Asylum Seeker Wins Judicial Review Challenge with Legal Assistance from Justice Centre Hong Kong**

An asylum seeker has won her judicial review challenge of the decision of the Torture Claims Appeal Board to dismiss her appeal. The pregnant asylum seeker was compelled by the Torture Claims Appeal Board to go ahead with her hearing, despite going into labour. This is the first strategic litigation case of Justice Centre Hong Kong at the High Court.

Isaac Shaffer, Head of Protection Claimant Services, Justice Centre, says, *'Well over 90% of the non-refoulement claimants on appeal before the Torture Claims Appeal Board are without legal representation. This is alarming given the critical importance of these proceedings, in which adjudicators review complex facts and law to determine if claimants are at risk of torture, persecution or death.<sup>3</sup> Of particular concern is that only around 0.5% of those appeals are then successful.<sup>4</sup> This recent judgment shows a deeply worrying "cynicism" and lack of compassion which may go some way to explaining this.'*

After the Torture Claims Appeal Board hearing, the claimant in question came to Justice Centre then without legal representation, Justice Centre worked with the legal team at Vidler and Co. and with barrister Dr. Gerard McCoy QC SC to shine a light on the depth of the problem.

Justice Centre has long urged that it is time to allow transparency and accountability into the practices of the Torture Claims Appeal Board in line with other jurisdictions. There can be no reasonable need for the hearings of the Board to always be held in private, with NGO's such as Justice Centre routinely refused access. Equally the failure to implement the recommendation of the United Nations Committee against Torture to publish judgments of the Board so that the public cannot see the quality of decision-making must not continue.

Note:

Case citation: Villarico Loutheliz Talag v. Torture Claims Appeal Board [2018] HKCFI 468; HCAL 179/2017

Full judgment available at: <http://hklii.hk/eng/hk/cases/hkcfi/2018/468.html>

#### **About Justice Centre Hong Kong**

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

For more information please visit: [www.justicecentre.org.hk](http://www.justicecentre.org.hk)

#### **Contact:**

Isaac Shaffer, Head of Protection Claimant Services,  
Tel: +852 5507 6163, email: [isaac@justicecentre.org.hk](mailto:isaac@justicecentre.org.hk)

<sup>3</sup> Security Bureau, 'Torture Claims Appeal Board Operations', response to data request, 28 June 2017, available at: [https://accessinfo.hk/en/request/torture\\_claims\\_appeal\\_board\\_oper#incoming-512](https://accessinfo.hk/en/request/torture_claims_appeal_board_oper#incoming-512)

<sup>4</sup> Security Bureau, 'TCAB statistics', response to data request, 24 November 2017, available at: [https://accessinfo.hk/en/request/tcab\\_statistics#incoming-654](https://accessinfo.hk/en/request/tcab_statistics#incoming-654)