

Attn: News Desks

Embargoed: 00:01 Wednesday May 21, 2014

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New report says HK government is doing 'bare minimum' to protect refugees

A report launched today (Wednesday) says the Hong Kong Government is doing the 'bare minimum' to protect vulnerable refugees and torture claimants entering their new refugee screening mechanism.

The report, by Justice Centre Hong Kong, is the first comprehensive analysis of refugees' and torture claimants' experiences and opinions of the unified screening mechanism (USM), the new government process for determining protection claims in Hong Kong, started in March 2014.

The USM brings refugee claims (referred to by the government as 'persecution' claims) together with torture and cruel, inhuman or degrading treatment or punishment (CIDTP) claims under one process. These are now collectively known as 'non-refoulement' claims. The government did not choose to implement this new policy – they were forced to do so by a ruling of the Court of Final Appeal last March.

Justice Centre (formerly Hong Kong Refugee Advice Centre) recorded the concerns expressed amongst 260 refugees who attended 22 Justice Centre information sessions on the USM in over 15 different languages since February 2014. The NGO also conducted an anonymous survey with 53 refugees and torture claimants, asking them about their experiences of trying to enter the USM and about their main concerns living as a refugee in Hong Kong.

Of those surveyed, **30 per cent** said they had no information about the USM before coming to Justice Centre information sessions; **24 per cent** were concerned about being rejected and/or deported and **11 per cent** didn't even know how to file a claim

Over half of the concerns expressed by refugees at the Justice Centre information sessions related to the procedures for accessing the system and **one third** were about the quality and fairness of the system. Around **a quarter** dealt with living conditions in Hong Kong, and the rest were about the role of the UN Refugee Agency (UNHCR) sub-office in Hong Kong and other personal issues.

The findings from the information sessions overwhelmingly demonstrate that most claimants' concerns (**over 50 per cent** of the total recorded) relate to a need for urgent clarification on USM procedures, particularly the preliminary steps on how to file a claim and even on a more basic level, fundamental information on what the USM actually is, why it has come about and the various definitions of torture, CIDTP and persecution.

There is also understandable confusion among claimants who filed a claim in the previous systems on whether they need to file a new claim in the current system, and what will happen if they do not. Many protection claimants did not understand the basics of where to file a claim, were worried about how to verify their application status once a claim letter had been filed, how to confirm it had been received by the Immigration Office, and what the next steps in the process would be.

A person who wishes to file a USM claim in Hong Kong must give 'written signification' to the Immigration Department's office in Kowloon Bay. From the start, there has been great anxiety about how to write this letter to Immigration, what information to include, how detailed to make the letter, what languages are acceptable to write in and where and how to file the letter. To better assist protection claimants, Justice Centre has developed a template for making a USM claim, however even with this template, many people still need assistance with writing the letter, particularly since at this point, claimants do not have access to a duty lawyer.

Justice Centre has also found some variations in the kinds of letters that are deemed “satisfactory” and those which are not. For example, in one case of two claimants who submitted almost identical letters, one received a reply that the written signification was satisfactory, and the other received a reply requesting further details. The only written information available to assist claimants is not in translation and does not specify in which languages the letter to file a claim may be written, exactly how to apply and how to obtain written proof that a letter has been filed.

The notice to persons filing a claim and the letters that have been sent by post to protection claimants confirming their status in the USM are also untranslated into the claimants’ native language and are so complex, full of technical legal jargon that they are unintelligible to even a native English speaker.

The quality of the USM system and procedural fairness were also a subject of main concern for participants’ in the information sessions, with around **one-third** of questions asked dealing with these issues. People seeking protection were anxious about the length of time to process a claim; access to free, quality legal aid early in the process as well as the ability to choose one’s legal representative; evidence required to support a claim, the appeals process and the success rate of the new system.

Many protection claimants also had concerns about their living situation in Hong Kong while waiting to be processed in this new system, relating to issues such as food, **(16 per cent)** right to work **(16 per cent)**, housing **(12 per cent)** and other livelihood issues.

The most frequent question asked in this area was, what will happen to successful claimants in the new USM at the end of the process? Protection claimants were anxious about what additional rights will be conferred if a claim is substantiated, and what options for durable solutions (resettlement to a third country, local integration and voluntary repatriation) will be available to them.

Justice Centre’s Executive Director **Aleta Miller** said:

“The findings of this report show that the government is doing the bare minimum to meet their obligations under the order from the Court of Final Appeal, but nothing more. For the most vulnerable people fleeing from unspeakable trauma such as war, torture and rape, this is wholly inadequate. The decisions the government will make under the new system could mean the difference between life and death for the people we work with and it’s extremely difficult for them to get clear, basic information on how to even enter it. This is a shambles.”

“The experiences of protection claimants recorded in this report show that this is a system with no direct means of access. There is little information for NGOs or claimants, no dedicated telephone number, no website, no public counter, no frontline staff. It seems this is a deliberate ploy by the government to make it as difficult as possible for refugees and other people seeking protection here to access it. And what happens to those whose claims are substantiated? Will they languish in limbo in Hong Kong on meagre government handouts, unable to work to support their family or even volunteer and with no legal status to be here, as current refugees and torture survivors do? This is a farce with the most dire of human consequences at stake. The government must do better.”

One refugee, who participated in the research and asked to remain anonymous, said:

“I would ask for it [the system] to just be fair and to give us a chance to say what we have to say and hear us out. We are all humans and only through talking to us in person can you really understand. The personal contact is important [rather than just writing a letter to file a claim], as well as translation and taking time to assess our case.”

The living conditions are really difficult. We would like dignity and respect. I do outreach with the Chinese

community, and sometimes their reaction is that we are really down there, like anywhere we go we are really looked down upon. We want a chance to make a livelihood, to be together in the community, to have respect and recognition.”

The full report is available at www.justicecentre.org.hk from Wednesday May 21.

Ends/

Notes to Eds:

- Justice Centre Hong Kong is a human rights organisation that works fearlessly to protect the rights of Hong Kong’s most vulnerable forced migrants: refugees, other people seeking protection and survivors of modern slavery. Launched in March 2014, 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. At its centre in Sai Ying Pun, the NGO provides free and independent information and assistance to all people seeking protection in Hong Kong, in their own language, where possible. It also provides one-to-one specialised support to the most vulnerable refugees and protection claimants. www.justicecentre.org.hk.
- The findings of this report were compiled by Justice Centre staff recording the issues raised amongst 260 protection claimants attending 22 information sessions about the unified screening mechanism in a variety of languages including: Arabic, Bahasa, Cantonese, English, French, Nepali, Somali, Sinhalese, Tagalog, Tamil, Urdu and Vietnamese. In addition, an anonymous qualitative survey of 53 protection claimants was conducted at the beginning of the sessions. For a full list of information sessions currently offered by Justice Centre Hong Kong, please see justicecentre.org.hk
- A ‘protection claimant’ is someone who has filed a claim for protection with the Hong Kong Government, and includes refugees, survivors of torture or cruel, inhuman or degrading treatment or punishment. As the USM is in its early stages, no claims have yet been fully processed.
- The Hong Kong Government has refused to seek the extension of the UN Refugee Convention to the region. Prior to the introduction of the unified screening mechanism in March 2014, the UNHCR undertook refugee status determination in Hong Kong.
- The UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) has been extended to Hong Kong since 1992 and an administrative screening mechanism was set up in 2012. Of around 11,500 torture claims processed by the Hong Kong Government since then, only around 20 claims have been successful.
- There are currently between 5 and 6,000 people seeking protection in Hong Kong.
- There are only around 100 recognised refugees in Hong Kong.