

## **Parallel report to the Committee on the Elimination of Discrimination against Women**

### **Complimenting the ninth periodic report submitted by Hong Kong, China**

**February 2021**

#### **1. Introduction**

Justice Centre Hong Kong (“Justice Centre”) appreciates this opportunity to provide a parallel report to the Committee on the Elimination of Discrimination against Women (“the Committee”) for Hong Kong, China (“Hong Kong”)’s ninth periodic review under the Convention on the Elimination of All Forms of Discrimination against Women (“CEDAW”).

This submission focuses on issues affecting refugee and asylum-seeking women in Hong Kong, with specific regard to the Committee’s general recommendation No.32 on gender-related dimensions of refugee status, asylum, nationality and statelessness of women<sup>1</sup>.

#### **2. General legal framework**

##### **2.1 The Unified Screening Mechanism**

Hong Kong is not a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto (“the 1951 Refugee Convention”). The Hong Kong Government (“the Government”) therefore limits its obligation to non-refoulement, and refuses to grant additional rights and legal status to refugees and asylum seekers within the territory.

Following a series of successful judicial challenges, the Unified Screening Mechanism (“USM”) was launched in March 2014 to screen non-refoulement claims on the following grounds:

- The prohibition of torture
- The prohibition of cruel, inhuman or degrading treatment or punishment (“CIDTP”)
- The right to life;
- The prohibition on return to risk of persecution, with reference to Article 33 of the 1951 Refugee Convention<sup>2</sup>;
- The prohibition on breaches of absolute and non-derogable human rights on return or removal<sup>3</sup>.

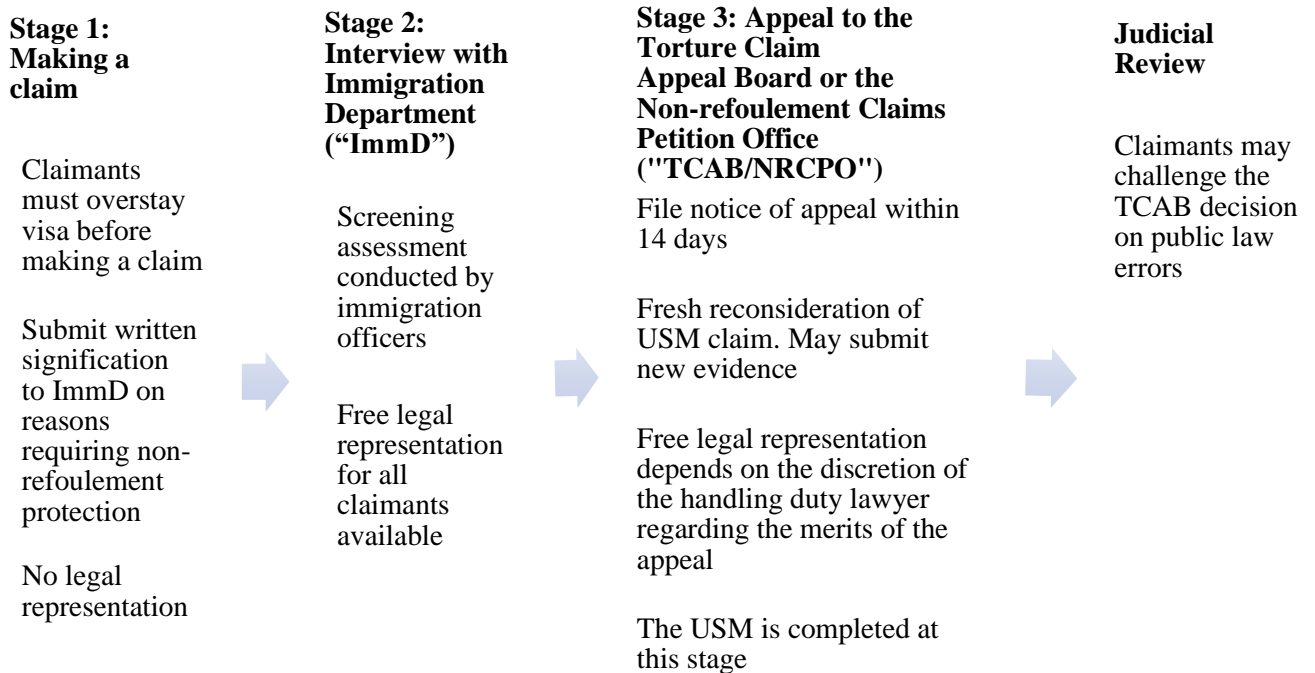
The USM screening process is briefly as follows:

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<sup>1</sup> CEDAW/C/GC32

<sup>2</sup> *C and Others v Director of Immigration and Another* [2013] HKCFCA 21; (2013) 16 HKCFAR 280; [2013] 4 HKC 563; FACV 19/2011 (25 March 2013)

<sup>3</sup> See for example, *Re Mohammad Palash* [2018] HKCA 417; CACV 297/2017 (23 July 2018) and *Re MD Zahidur Rahman Manik* [2018] HKCA 766; CACV 314/2018 (29 October 2018), which concern the right to fair trial



Various treaty bodies, including the Human Rights Committee<sup>4</sup>, the Committee against Torture<sup>5</sup>, and the Committee on Economic, Social and Cultural Rights<sup>6</sup> have expressed concerns that the USM falls short of Hong Kong’s international human rights obligations. For a detailed critique of the USM see Justice Centre’s parallel report to the Human Rights Committee for Hong Kong’s fourth review under the ICCPR<sup>7</sup>.

## 2.2 Policy of enforced illegality

The Government maintains that people seeking protection in Hong Kong are “illegal immigrants” and must not be treated as “asylum seekers” or “refugees” as the 1951 Refugee Convention has never been applied to Hong Kong<sup>8</sup>. This is despite that Hong Kong’s statutory regime requires asylum seekers to overstay their visas – and henceforth become officially “illegal” – to become eligible for non-refoulement protection<sup>9</sup>.

This perpetual illegal status affects every aspect of claimants’ daily lives, such as accessing healthcare, housing and education. This illegality is also inherited by children born to claimants

<sup>4</sup> CCPR/C/CHN-HKG/CO/3 at [9]

<sup>5</sup> CAT/C/CHN-HKG/CO/5 at [6] – [7]

<sup>6</sup> E/C.12/CHN/CO/2 at [41], [42], [51]

<sup>7</sup> Available at: <https://www.legco.gov.hk/yr20-21/chinese/panels/ca/papers/ca20201116cb2-247-1-ec.pdf>

<sup>8</sup> Fourth Report of the Hong Kong Special Administrative Region of the People’s Republic of China under the International Covenant on Economic, Social and Cultural Rights (“State Report”) (5 August 2020) at [27].

<sup>9</sup> Immigration Ordinance (Cap. 115), Section 37W

in Hong Kong, who may be stateless<sup>10</sup>. For a detailed critique see the Refugee Concern Network’s parallel report to the Committee on Economic, Social and Cultural Rights<sup>11</sup>.

Further, the Government’s categorisation of people seeking protection in Hong Kong as “illegal immigrants” feeds into a discriminatory narrative that portrays people in need of international protection as abusers of the system or criminals. Since 2015, civil society has documented the use of xenophobic terms such as “fake refugees”, “toxic tumours” and “Southeast Asian thieves” by the media and politicians<sup>12</sup>. The Committee on Economic, Social and Cultural Rights<sup>13</sup>, the Committee on the Rights of the Child<sup>14</sup> and Special Mandate holders<sup>15</sup> have expressed concerns over discrimination and the use of stigmatising rhetoric towards refugees, migrants and ethnic minorities in Hong Kong.

### 3. Arrival

We are concerned that women who wish to seek international protection are summarily removed from Hong Kong upon arrival without the opportunity to assert their right not to be returned to a country where they may face serious human rights violations.

First-hand accounts from our service users suggest that people who seek asylum at border control points are refused permission to land. They are told by immigration officers that Hong Kong does not recognise refugees and they must return to their home countries. Moreover, people are interrogated by immigration officers and/or instructed to sign documents without the assistance of interpreters. Some women also report that they have been subjected to strip searches, including cavity searches, in humiliating and degrading circumstances. Examples include insensitive and disrespectful remarks made by immigration officers about women with visible scarring caused by sexual and gender-based violence (“SGBV”) and multiple cavity searches being performed on survivors of sexual violence. Whilst some women eventually managed to halt their removal and lodge USM claims, we do not know the number of asylum seekers who have been removed without the opportunity to seek assistance.

The Government confirmed in its reply to the Committee’s list of issues in Hong Kong’s last review under CEDAW that its policy is to remove potential asylum seekers rather than offering an avenue to seek protection<sup>16</sup>.

### 4. Immigration detention

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<sup>10</sup> Annie Li, “When ‘qualifying’ as a refugee gets you permanent ‘illegal’ status in Hong Kong”, *Oxford Monitor of Forced Migration* Volume 8, No.2 (January 2020), p.30. Available at: <https://www.oxforcedmigration.com/post/when-qualifying-as-a-refugee-gets-you-permanent-illegal-status-in-hong-kong>

<sup>11</sup> Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fICO%2fHKG%2f43933&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fICO%2fHKG%2f43933&Lang=en)

<sup>12</sup> Isabella Ng, Sharice Fungyee Choi and Ales Lihshing Chan, “Framing the Issue of Asylum Seekers and Refugees for Tougher Refugee Policy—a Study of the Media’s Portrayal in Post-colonial Hong Kong”, *Journal of International Migration and Integration* 20, 593-617 (2019)

<sup>13</sup> E/C.12/CHN/CO/2 at [41]

<sup>14</sup> CRC/C/CHN/CO/3-4 at [29] – [30]

<sup>15</sup> Communication No. CHN 14/2016. Available at:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22905>

<sup>16</sup> CEDAW/C/CHN/Q/7-8/Add.1 at [30] – [31], p. 37/53

The Government has wide powers to detain under the Immigration Ordinance (Cap. 115). Refugees, asylum seekers, victims of trafficking, migrant domestic workers and other vulnerable migrants are particularly prone to being detained as they are more likely to contravene immigration regulations due to their precarious status. Notably, asylum seekers can only commence their USM claims when they are subject or liable to be removed from Hong Kong<sup>17</sup>. This means asylum seekers who enter Hong Kong with a valid visa must first overstay their visas before they are eligible to lodge a protection claim, thereby committing an immigration offence, which increases their likelihood of being detained.

#### 4.1 Lack of transparency

The Immigration Department detains more than 10,000 individuals annually<sup>18</sup>. Despite this high number, the Immigration Department claims that it does not systematically maintain data on detainees' demography (such as their age, gender, immigration status and national origin), the duration of detention or detention condition<sup>19</sup>. As at September 2020, 93 out of about 295 detainees at the main detention facility, the Castle Peak Bay Immigration Detention Centre ("CIC"), were women<sup>20</sup>. The lack of information makes it incredibly difficult for civil society to monitor the prevalence of immigration detention and assist those in need.

#### 4.2 No screening for suitability for detention

The Immigration Department has no mechanism or detailed guidelines to identify vulnerable persons unsuitable for detention. While the Government's cursory Detention Policy lists relevant factors against detention, including serious ill-health and "satisfactory evidence" of torture, in our experience this policy is not implemented<sup>21</sup>. We note that women who have experienced torture, CIDTP, SGBV and human trafficking were detained without going through any screening process.

#### 4.3 Lack of procedural safeguards

There are limited procedural safeguards against potential arbitrary detention. The Government's Detention Policy provides that detention "will be kept under regular review and will be reviewed when there is a material change of circumstance"<sup>22</sup>, but in our experience this

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<sup>17</sup> Immigration Ordinance, Section 37W(1).

<sup>18</sup> Immigration Department, "Appendix 13 – Enforcement Branch Statistics", Annual Report 2018. Available at: [https://www.immd.gov.hk/publications/a\\_report\\_2018/en/appendices-13.html](https://www.immd.gov.hk/publications/a_report_2018/en/appendices-13.html)

<sup>19</sup> Immigration Department, "Immigration Detention" (March 2020). Available at: [https://accessinfo.hk/en/request/immigration\\_detention\\_2#incoming-1315](https://accessinfo.hk/en/request/immigration_detention_2#incoming-1315)

<sup>20</sup> When requested, the Government is able to provide limited data at a particular point in time. Chan Ping-ting, "The 'second imprisonment' of female CIC detainees participating in the hunger strike" (刑滿出獄卻不能重獲自由: 青山灣女羈留者絕食抗議「二次囚禁」) *The News Lens* 關鍵評論 (16 September 2020). Available at: <https://www.thenewslens.com/article/140584>

<sup>21</sup> Security Bureau, "Detention Policy". Available at: <https://www.sb.gov.hk/eng/special/pdfs/Detention%20policy-e.pdf>; "Policy for detention pending final determination of the claimant's torture claim". Available at: [https://www.immd.gov.hk/pdf/Detention\\_policy\\_en.pdf](https://www.immd.gov.hk/pdf/Detention_policy_en.pdf)

<sup>22</sup> Immigration Department, "Policy for detention pending final determination of the claimant's torture claim". Available at: [https://www.immd.gov.hk/pdf/Detention\\_policy\\_en.pdf](https://www.immd.gov.hk/pdf/Detention_policy_en.pdf)

internal review is no more than a box-ticking exercise and fails to safeguard the rights of detainees.

There is no bail application process or an independent review mechanism to regularly review the cases of immigration detainees. While limited judicial oversight is available via *habeas corpus*, to our knowledge there has been no successful application in the immigration context. This is due to not least the fact that detainees have limited access to legal advice and representation<sup>23</sup>.

#### 4.4 Conditions of detention and human rights violations

Detainees and civil society organisations have long expressed concerns about the poor conditions at immigration detention facilities, such as substandard food, overcrowding, the lack of basic amenities such as beds and blankets, poor hygiene and substandard medical care<sup>24</sup>. There are alarming reports of human rights violations at detention centres, including verbal abuse, physical abuse, and the punitive use of solitary confinement<sup>25</sup>. Specifically, female detainees alleged that they were subjected to medical examinations and strip searches conducted by male medical officers<sup>26</sup>.

#### 4.5 Lack of effective complaints and monitoring mechanism

There are no effective complaints and monitoring mechanisms within immigration detention facilities. Complaints against members of the Immigration Department are investigated internally by the Department<sup>27</sup>. There is no guarantee that complaints made by detainees are confidential, and in any event, the imbalance of power between detainees and immigration officers means that detainees are unlikely to make complaints for fear of retaliation. Statistics from 2010 – 2020 shows that the number of complaints received relating to detention is

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<sup>23</sup> Statistics from 2009 – 2019 show that the number of legal aid applications (“LA”) made relating to habeas corpus applications were few and far between, and since 2017 all applications were refused. Email exchange between Justice Centre staff and the Department of Legal Aid under the Access to Information Code (14 August 2020).

<sup>24</sup> Laura Westbrook, “Coronavirus: Hong Kong lawyers, lawmakers flag hygiene issues at detention centre, but Immigration says health measures in place”, SCMP (26 April 2020). Available at: <https://www.scmp.com/news/hong-kong/health-environment/article/3081544/coronavirus-hong-kong-lawyers-lawmakers-flag>

<sup>25</sup> “Subdued during strip-search and medications withheld: CIC detainees allege abuse (遭赤裸制服、被拒提供藥物青山灣中心羈留人士控訴受虐)”, *Stand News*, 8 June 2020. Available at:

<https://www.thestandnews.com/society/遭赤裸制服-被拒提供藥物-青山灣中心羈留人士控訴受虐/>; “CIC detainees allege inhuman treatment. Concern group accuses Immigration of distorting facts, suppressing the fourth estate CIC (羈留人士稱被不人道對待 關注組斥入境處歪曲事實、打壓第四權)”, *Independent Media*, 19 August 2020. Available at: <https://www.inmediahk.net/node/1076597>

<sup>26</sup> “Male doctor strip searched me: expelled Indonesian” RTHK (7 December 2019). Available at: <https://news.rthk.hk/rthk/en/component/k2/1496483-20191207.htm>

<sup>27</sup> Section 15 of the Immigration (Treatment of Detainees) Order (Cap. 115E) provides that a detainee may complain to the Superintendent or other officers authorized to receive complaints, who shall investigate that complaint; and Section 13 of the Immigration Service (Treatment of Detained Persons) Order (Cap 331C) provides that complaints made by a detainee shall be brought to the attention of an officer not below the rank of Assistant Principal Immigration Officer.

extremely low relative to the detainee population, and none of the complaints received in this period were substantiated<sup>28</sup>.

The only form of external monitoring is visits conducted by government-appointed Justices of the Peace (“JP”). JP visits are not unannounced, and the mechanism to lodge complaints is not confidential. Detainees therefore often refrain from lodging complaints to JPs for fear of reprisals<sup>29</sup>. There is no established mechanism for independent parties, such as civil society organisations, to regularly access detention facilities to monitor the situation<sup>30</sup>. The Committee against Torture has expressed concerns about Hong Kong’s lack of effective complaints and monitoring mechanisms within detention facilities<sup>31</sup>.

In the past 5 years, 731 unlawful detention claims were brought against the Immigration Department, all of which were settled out of court<sup>32</sup>. Although settlement does not necessarily imply liability, this volume of settled unlawful detention cases is highly suggestive of systematic issues within Hong Kong’s immigration detention regime.

## 5. Screening process

Hong Kong’s substantiation rate for non-refoulement claims is at less than 1%, which is among the lowest in the developed world. The low recognition rate is indicative of systematic failures of the screening mechanism, including poor quality decisions, the lack of substantive and procedural fairness, and the lack of legal representation.

The lack of gender-sensitivity throughout the USM creates significant barriers for women, who must face a hostile, adversarial and retraumatising system that does not comprehend the particular forms of persecution and human rights violations women experience on grounds of gender or sex.

### 5.1 Low quality of USM decisions

Justice Centre observes that USM decisions are of a low standard. Basic mistakes are frequently noted, including mistaking claimants’ countries of origin, using unverified information from Wikipedia as evidence to determine claims, or using outdated, substandard or otherwise non-credible sources as country of origin information. In addition to basic errors, decision makers display an overall poor grasp of non-refoulement law and concepts, including gender related

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<sup>28</sup> Immigration Department, “Immigration Department Complaint Mechanism“ (November, 2020). Available at [https://accessinfo.hk/en/request/immigration\\_department\\_complaint#incoming-1499](https://accessinfo.hk/en/request/immigration_department_complaint#incoming-1499)

<sup>29</sup> Cheng Tsing-yi, “JP visits not unannounced, organisations ask for review of prisons complaints mechanism 太平紳士巡倉非突擊 團體促檢討監獄投訴機制”, Citizen News (8 March 2019). Available at: [https://www.hkcnnews.com/article/18939/懲教署-囚權-立法\\_會-18939/太平紳士巡倉非突擊-團體促檢討監獄投訴機制](https://www.hkcnnews.com/article/18939/懲教署-囚權-立法_會-18939/太平紳士巡倉非突擊-團體促檢討監獄投訴機制)

<sup>30</sup> The only form of access available to civil society organisations is social visits, which is limited to 15 minutes. The visitor and the detainee are separated by glass partitions, making it impossible to exchange documents. It is also not possible to bring an interpreter as only one visitor per detainee is permitted.

<sup>31</sup> CAT/C/CHN-HKG/CO/5 at [16] – [17]

<sup>32</sup> “CIC detainees kept naked in detention & received only diapers. Lawyers suspect torture. (青山灣有羈留者須赤裸僅獲尿片如廁 律師質疑屬酷刑)”, *RTHK News*, 14 December 2020. Available at: <https://news.rthk.hk/rthk/ch/component/k2/1565171-20201214.htm>.

considerations. We discuss a few examples concerning the lack of gender sensitivity in asylum decision making below:

- (1) Female asylum seekers, including minors, who are part of a family seeking asylum are not always able to have their claims considered meaningfully with regard to gender specific risks of persecution which may be independent from the claims of their male family members. For example, in cases involving spouses, the Immigration Department tend to assume that the husband is the lead claimant, and spouses are often not provided with the option of a separate interview. There is no guidance on whether the claims of women, children and other members of a family should be considered jointly or individually in cases involving families<sup>33</sup>.
- (2) Decision makers almost always dismiss accounts of SGBV as private acts. In cases involving private actors, there is little recognition that violence against women, such as domestic violence, forced marriages, trafficking or female genital mutilation, can constitute legitimate grounds for international protection where violence against women is tolerated by the State.

Even in cases where the perpetrators were state actors, decision makers often conclude that these actors were not acting under state orders and do not recognise their acts of violence as indicative of the women’s past experience or future risk of persecution or other violations. In one case surveyed by Justice Centre, a women’s rape by police officers were dismissed as follows:

“The ‘Rape Incident’ in no doubt was the most serious crime your wife encountered from some CID officers... They did it out of impulse and out of their own evil will but not under [State] consent or acquiescence.”

- (3) Decision makers frequently dismiss evidence of past SGBV for not reaching a level of severity or frequency to justify future risk of harm. This is a misapplication of relevant principles, as past harm is not a prerequisite for justifying future risk of harm; where past harm has occurred, its severity or frequency is equally not determinative of future risk. Even in cases where the claimant’s past experiences of violence, considered objectively, is severe, their evidence is still dismissed for not reaching the required level of severity.

For example, in a case where a woman experienced persistent sexual harassment by members of the majority clan which culminated in the abduction and gang rape of the woman and the murder of her daughter, the decision-maker assessed the woman’s future risk of harm to be low as “there is no indication that [members of the majority clan] had exerted intense and continuous efforts to locate [you] with a view to causing further harm or killing [you]”.

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<sup>33</sup> In the recent decision of *Fabio Arlyn Timogan*, the Court of Appeal affirmed that non-refoulement claims by children are separate claims from claims advanced by their parents, and that separate consideration should be given to each claimant’s personal circumstances even if the claims were based on the same set of primary facts. *Fabio Arlyn Timogan and Others v Evan Ruth and Another* CACV 32/3030 [2020] HKCA 971 (27 November 2020)

In another case where a woman was starved by her trafficker, the decision maker said:

"Despite your Auntie [trafficker] did not provide you with food and water, she has an ability and opportunity to starve you to death if she so wished. Her behaviour clearly indicates that she had no real intention to kill you."

- (4) Decision makers often make adverse credibility findings based on late disclosure of SGBV and other traumatic events, apparent inconsistencies, speculative plausibility arguments and the claimant's behaviour (such as her demeanour when giving evidence) without any regard to the complex role trauma, cultural differences, shame, gender and other intersectional factors may affect claimants' capacity to present their cases.
- (5) The excessively high threshold for granting protection is contrasted by the low bar for establishing safety when decision makers consider internal flight options for women. Weak states with entrenched and institutionalized patriarchy where violence against women is rampant are often considered safe. For example, in a case concerning a Somali claimant, the decision maker considered internal relocation viable as: "the [Somali] government is aware of the problems of impunity and sexual violence and is striving to improve state protection of civilians."

## 5.2 Lack of procedural safeguards

There is an overall lack of training, tools and guidance for decision makers on the adjudication of USM claims. In as far as gender-related claims are concerned, there is no practical guidance on how people at heightened vulnerabilities or other special needs, such as survivors of SGBV or children, should be approached during interview or at appeal hearings. The only form of procedural guidance available is the TCAB's *Principles, Procedures and Practice Direction of the Torture Claims Appeal Board* and the NRCPO's *Practice and Procedure Guide for the Administrative Non-refoulement Claims Petition Scheme*, which provide that claimants should indicate their special needs in their Notice of Appeal or Petition, and that the appeal board "will take steps to accommodate such special needs as far as practicable"<sup>34</sup>.

In our experience, the interview or hearing process can be adversarial. Because there is no relevant guidance, women can at times be aggressively questioned about their SGBV experiences. As one of our service users reflected:

"I was scared of the interview. This person is not here to make you feel comfortable. They are against you."

The interview environment is not always supportive for women, with some adjudicators displaying blatant cynicism and hostility. For instance, in the case of *Villarico Louterliz Talag*, the adjudicator insisted the hearing continue despite the heavily pregnant claimant experiencing

<sup>34</sup> Security Bureau, "The Principles, Procedures and Practice Directions of the Torture Claims Appeal Board" (Sixth Edition, 28 August 2019) and "The Practice and Procedure Guide of the Administrative Non-refoulement Claims Petition Scheme" (Fifth Edition, 28 August 2019) at [24.1] and [30.1] respectively. Available at <https://www.sb.gov.hk/eng/links/tcab/index.htm>



severe pain arising from labour contractions and requesting an adjournment<sup>35</sup>. The High Court commented following the claimant’s successful judicial review application:

“What is unacceptable is [the adjudicator’s] clear cynicism. Despite her obvious pregnancy, he undoubtedly assumed that a complaint of pain was an excuse to adjourn the hearing. He did not stop to consider the complaint may have been genuine. She at one point can clearly be heard on the audio recording drawing in a deep long breath as if in pain yet if he had any doubts, he still made no enquiry of her situation to ascertain if it is genuine”<sup>36</sup>.

### **5.3 Lack of access to legal representation**

The vast majority of claimants are unrepresented at the appeal stage. Statistics from 2014 – 2020 shows that only about 8% of claimants are provided with publicly funded duty lawyers at the appeal stage. Although claimants who are rejected for duty lawyer representation at the appeal stage are entitled to request a second opinion by a different lawyer as to the merits of their case, this option is not published anywhere and there is no apparent requirement for claimants to be informed of this option. Less than 1% of claimants requested a second opinion in the said period, which suggests most claimants are not aware of their right to request this<sup>37</sup>.

Further, we note that there is a lack of training for duty lawyers on gender sensitivity and gender-specific asylum claims. For example, duty lawyers often interview families together when preparing their claims, and do not always advise female claimants that they may have a valid claim in their own right.

### **5.4 Lack of support services**

Mental health support beyond medication for psychiatric conditions is limited through the public healthcare system in Hong Kong across the board. While refugees and asylum seekers can receive support through counselling services provided by NGOs, the demand for mental health services is high. Women experiencing trauma are not always able to receive counselling and support before, during and after the asylum process.

## **6. Standard of living**

### **6.1 Inadequate social support**

Non-refoulement claimants are provided with minimal humanitarian assistance. Unlike other forms of welfare assistance provided by the Government, the level of humanitarian assistance has not been adjusted since 2014. The monthly assistance includes<sup>38</sup>:

- Food allowance: HK\$1,200 (EUR\$126) in the form of pre-paid supermarket cards
- Housing allowance: HK\$1,500 (EUR\$158) per adult and \$750 (EUR\$79) per child paid directly to the landlord
- Utilities: HK\$300 (EUR\$31)

<sup>35</sup> *Villarico Louterliz Talag v. Torture Claims Appeal Board* [2018] HKCFI 468; HCAL 179/2017. Available at: <http://hklii.hk/eng/hk/cases/hkcfi/2018/468.html>

<sup>36</sup> *Ibid* at [7]

<sup>37</sup> Security Bureau, “Publicly funded legal representation at TCAB 2014-2020” (September 2020). Available at: [https://accessinfo.hk/en/request/publicly\\_funded\\_legal\\_representa#incoming-1431](https://accessinfo.hk/en/request/publicly_funded_legal_representa#incoming-1431)

<sup>38</sup> Secretary for Security, “Humanitarian assistance for non-refoulement claimants” (15 February 2017). Available at: <https://www.info.gov.hk/gia/general/201702/15/P2017021500554.htm>

- Transportation: HK\$200 – 420 (EUR\$21–44)
- Other basic necessities, such as toiletry items, diapers, menstrual products, provided in kind. Claimants said that these products are either insufficient or of poor quality. Alarming, there are reports of young women skipping school because of period poverty.

The level of assistance is inadequate for protection claimants to enjoy an adequate standard of living and many are in fact living in prolonged destitution below Hong Kong's poverty line<sup>39</sup>. Claimant's situation is compounded by the lack of right to work. It is also noteworthy that the humanitarian assistance package involves very little transfer of money to claimants, as the housing allowance is paid directly to the landlord and the food allowance is provided as a food card. This arrangement limits claimants' cash liquidity needed for day-to-day expenses.

This extended destitution means that some claimants may be forced to take up work informally for subsistence. Women in this situation are particularly vulnerable to exploitation, including survival sex work in exploitative or coercive arrangements.

## 6.2 Domestic violence concerns

The precarious socio-economic and legal status of refugees and asylum seekers also means that women are at risk of being forced to remain in domestic violence. Given the subsistence level of welfare provided, it is very difficult for women to leave an abusive family situation. They may also be afraid of making the situation known in case it jeopardises their protection claims. Cultural and language barriers, unfamiliarity with the support landscape and institutional incompetence of frontline responders further bar refugee women from accessing support<sup>40</sup>.

## 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 migrants: refugees, other people seeking protection, and survivors of torture, human trafficking and forced labour. We provide substantial legal and psychosocial support to over 100 individuals seeking protection in Hong Kong per year, and provide general legal information and support to over 200 individuals. We are currently assisting 117 women and girls on their road to safety. We aim to benefit many more through our research and policy work.

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<sup>39</sup>Census and Statistics Department, "Poverty Situation". Available at: <https://www.censtatd.gov.hk/hkstat/sub/so461.jsp>

<sup>40</sup> For an overview of the barriers faced by ethnic minority women in accessing domestic violence support, see "Chapter 6: Marriage, Family and Domestic Violence" in Puja Kapai, *Status of Ethnic Minorities in Hong Kong 1997 – 2014*, the Faculty of Law, the University of Hong Kong (2015).