

**SOCIETY FOR COMMUNITY ORGANIZATION
HONG KONG HUMAN RIGHTS COMMISSION**

**Asylum seekers
denied right to food
and shelter**

**Submission to the LegCo Panel on Home Affairs
Relating to the Concluding Observations of
the UN Committee on Economic, Social and Cultural Rights
(Agenda item IV)**

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Introduction

SoCO and HKHRC would like to urgently draw the attention of the Legislative Council Panel on Home Affairs to the fates of asylum seekers in Hong Kong. Although most Vietnamese refugees have been resettled, there are still many people escaping from Africa and Southasia seeking asylum in Hong Kong.

While China and Macao have already ratified the Convention Relating to the Status of Refugees, which now already have 145 States Parties, the Convention has not yet been extended to Hong Kong. The lack of any refugee law means that asylum seekers are **left without any basic means of living, including food and shelter and are subject to detention and deportation.**

Number of refugees and asylum seekers

By the end of 2003 there were 1,902 refugees and 390 new applications for asylum. For the period Jan-August 2004 alone, 462 new applications for asylum were received by the UNHCR. At this moment there are 724 asylum seekers and 110 who have already been given the status as a refugee. Thus the number of asylum seekers is on the *increase*.

Risks of detention and deportation

As the government does not recognize their status, many are in **detention** while waiting for the UNHCR to determine their status. Furthermore there are no safeguards against refoulement, meaning that an asylum seeker risks being sent back to the country he has left to save his life. Thus asylum seekers risk being returned without due process to home countries where they risk facing real danger of persecution.

The appalling conditions must be changed immediately, and we urge the Panel on Home Affairs to seriously criticize the government for the abhorrent denial of their economic and social rights.

No food or shelter (article 11 of ICESCR)

The lack of any policies to deal with the various problems met by asylum seekers means that government does not support asylum seekers in any way. Social security or special funds are not available. Thus many asylum seekers are homeless, living on the street. Others who are lucky may be able to seek shelter temporarily at churches. There are no hostels that accept asylum seekers because of their lack of any Hong Kong Identity Cards. At the same time, because the government does not recognize the status of asylum seekers, staying illegally in Hong Kong means that many are in detention while waiting for their status determination by UNHCR. In a specific case, a Pakistani asylum seeker spent two years in administrative detention before being granted refugee status.

The government has left it to the UNHCR to support asylum seekers and refugees. However, because of limited funding, asylum seekers are not eligible for any support except in special cases which involve children or single women. Thus single males or couples are not assisted financially by the UNHCR either.

No right to work (article 6 of ICESCR)

The fact that asylum seekers are not allowed to work, given the fact that most of them are either illegally staying in Hong Kong or having visitors' visas, further adds to the abhorrent situation. Without any social security or permission to work, they are left without any means to supporting themselves or their family.

Children left without any education (article 13)

Asylum seeker children are not eligible to study in the public schools in Hong Kong given their legal status. The Government does not recognize the right to education of these children migrants. There is in lack of a clear policy or guidelines to offer school placements to these children. The Education Department will not offer school placements to these children unless their eligibility has been confirmed by the Director of Immigration. Such applications are dealt with on a case-by-case basis. That is to say, the right to public education of these children is vested in the discretion of the Director of Immigration. At the moment there is only one asylum seeker child who has been able to gain access to education.

Recommendations

- 1. To enact a refugee and asylum seeker policy and ratify the Convention Relating to the Status of Refugees.**
- 2. To immediately assist asylum seekers and refugees with food and shelter.**
- 3. To issue valid identity papers to asylum seekers and refugees to protect them against detention and removal.**
- 4. To provide education to children of asylum seekers and refugees.**