

**Society for Community Organization
Asylum Seekers' and Refugees' Voice
52, Princess Margaret Road, 3/F
Homantin
Tel: 2713 9165 Fax: 2761 3326**

**Submission to LegCo Panel on Security
Regarding the Torture Claim Screening Mechanism**

Panel on Security meeting 29th September 2009

A. Status of successful CAT claimants

Society for Community Organization welcomes the fact that the government is taking steps to improve the torture claim screening mechanism. However, it is important that the screening mechanism is discussed within the context of a long term solution for claimants.

Recognized refugees under the UNHCR are resettled to the other countries where they have opportunities to work, study and become citizens.

So far the Administration has only stated that successful CAT claimants will not be deported, but it has not mentioned any plans to resettle them to other countries or what their status will be in Hong Kong once being recognized under the CAT scheme.

A number of questions must be solved and taken into account when the CAT mechanism is reviewed:

1. Will the government support successful claimants to be resettled to other countries?
2. What is the status of successful claimants? Will they be allowed to work or will they just stay on recognizance without any right to work or study?
3. If the government's only plan is that successful claimants will not be deported to a home country, for how long will a successful claimant stay on recognizance and when will there be a change in status?

B. Training of Immigration officers

The type of training provided to Immigration officers is important to their ability to screen cases. The government should provide more detailed information about the contents of the training provided by the UNHCR, Office of the High commissioner for Human Rights and the UK Border Agency.

The government should not only rely on the UNCHR's training. The lack of procedural fairness in the UNHCR system may mean that the training that UNHCR provides may be quite different from that provided by countries that have their own screening mechanisms. The Administration should look at the training and screening mechanisms of other countries, such as Canada and UK.

1. How many officers have attended in the training?
2. What are the contents of the training, and how many hours of training have they attended?

C. Screening Procedures

According to figures provided by the Administration there are no 5,638 CAT claimants. The government should consider the fact that many claimants have stayed in Hong Kong for many years, waiting for their cases to be finalized.

During their stay they have not been able to work or study and they have been anxiously waiting for the outcome of their claims. The government should screen their cases as fast as possible so that claimants can continue their lives. Owing to the fact that the previous unfair procedure has wasted many years of people's lives, the government should put serious effort and resources into expedite the cases, while observing fairness in the procedure.

Secondly, more details are needed about the new screening procedure.

1. The immigration officers have both received training in the UNHCR screening procedure and the procedures adopted abroad. Please explain which system the new screening system has been modelled upon and the rationale behind adopting the specific procedure. Which parts have been modelled on the UNHCR procedure and which have been modelled on the procedures abroad?
2. The government has conducted research about the screening mechanisms abroad. As it would be in the interest of the public to understand overseas practices, the government should publish the research report.
3. Please provide details of the specific time limits laid down for the various steps in the screening process.
4. Regarding the independent persons to handle petitions lodged by claimants, how many persons will be handling each petition? What is the status of these independent persons? Will the government set up an independent board/tribunal?
5. What is the budget set aside for each claimant to obtain evidence? Will the claimants have access to independent medical examinations to provide evidence of previous torture?

D. Legal assistance

According to the administration's paper: "Torture Claim Screening Mechanism: Latest Progress" (LC Paper No. CB(2) 2514/08-09(01)) the claimant may be accompanied by a duty lawyer, "if necessary", at the screening interviews.

1. The Administration should provide details of what is meant by "necessary". Who determines whether it is necessary or not, and will all requests by the claimant to be accompanied by a duty lawyer be met? Are there any limits regarding the number of hours a duty lawyer can accompany the claimant?
2. Regarding legal representation to lodge petitions, does it involve making complete written submissions and submitting evidence?
3. What is the funding from the Government's Professional Services Development Assistance Scheme to organize courses for lawyers? Please also provide details of the envisaged training of the lawyers, such as content and number of hours.
6. Please provide details of whether there are any limits regarding the number of hours that a duty lawyer can support a claimant.
7. Please explain whether interpreter services will be arranged during meetings between the duty lawyer and the torture claimant. Are there any limits as to number of hours, and what is the budget set aside for this purpose? How many interpreters are available, what are their qualifications, and how many interpreters are available for each language?
8. What are the mechanisms available to inform people at the border about legal advice? Will legal advice be available at borders as well?

E. Legislative framework

1. What is the status of the interview records made under the old CAT screening mechanism, where there was no legal representation? Will the government rely on such records under the new scheme?

F. Assistance in kind:

1. Please provide the nutritional guideline that the government uses to provide assistance to asylum seekers. Does such a guideline exist?
2. Please provide a list of number of items and types of items that an adult male would need for 10 days according to the nutritional guidelines and compare it with the food provided to an asylum seeker