

17 July 2013

## Questions for the Legislative Council Welfare Panel on 22 July 2013

Please note that, for ease of reference, we shall refer herein to all persons seeking and having been granted international protection in Hong Kong as refugees. This includes those claiming protection from Torture, CIDTP and/or Persecution (Refugee). It also includes those whose Torture claims have been rejected but whose CIDTP and/or Persecution claims remain extant.

First of all, there are three seemingly obvious, yet fundamental, premises that warrant repetition:

Premise 1: Refugees' claims must be presumed capable of meeting the criteria to amount to a successful claim until all legal remedies have been exhausted (which includes, *inter alia*, the launch of a Judicial Review in the High Court).

Premise 2: Due to local circumstances which are entirely beyond the control of the refugees, refugees are destitute *ab initio* in Hong Kong. They are prohibited from working and thus rely entirely on Government assistance for their financial and material needs.

Premise 3: Hong Kong law requires the Government to provide adequately for refugees' basic humanitarian needs to prevent destitution, suffering and despair. (see, Usman Butt judgment). This is not happening.

Therefore, the intolerable hardship refugees endure due to the failure by the Social Welfare Department (and its nominated contractor, International Social Service (ISS), to discharge their fiduciary duties, raises urgent and largely rhetorical queries:

1. According to what objective criteria and rationale do SWD-ISS cap **rental** assistance at 1200\$ for the vast majority of refugees? In view of which criteria is this amount considered sufficient? Are local Hong Kong residents able to live in a 1200\$ per month "accommodation"? Can SWD-ISS provide a list of available 1200\$ rooms in ten districts where refugees normally live? Why do ISS case officers at times force refugees to choose between rent and food assistance, refusing to provide both? Why failed CAT claimants with CIDTP and Refugee protections are denied welfare support for months? (a Bangladeshi claimant has been abandoned and left to his own devices since January 2013). How can he survive?
2. How do SWD-ISS expect refugees to secure adequate, legal, hygienic and humane housing when rental **deposits** are not provided? How can impoverished refugees, without income, enter tenancy agreements without deposits? How does a rigid no-deposit policy correlate with rental practices in HK? Why do SWD-ISS refer to 'temporary housing' when most refugees have lived there for years? Why don't SWD-ISS secure refugee housing with 'break lease clauses' to

ensure flexibility?

3. Why do SWD-ISS aid and abet the housing of refugees in **slums**? Who approves payment of government-funded rent for dangerous, unhygienic and illegal structures? Have SWD-ISS considered the consequence of lawsuits for injury and/or death in such places? How do these unlawful arrangements continue for years despite ISS site inspections? Why are there glaring discrepancies between the addresses on ISS contracts and where refugees actually reside? Who is responsible for matching landlord/rent documentation with refugees' homes?
4. Why do SWD-ISS cap **utilities** assistance at HK\$ 190? Why don't SWD-ISS ensure that landlords provide copies of original utility bills as proof of consumption? Why don't SWD-ISS stop landlords from gouging refugees with extortionary electricity demands? Why aren't government utility rebates ever passed on to refugee tenants? Why don't SWD-ISS demand that refugees' electricity meters be installed by the utility companies? Why haven't refugees in outlying slums been paid the utility allowance since the policy started in 2006? Will SWD-ISS reimburse the said refugees retroactively with interest to remedy the discrimination suffered?
5. Why do SWD-ISS fail to fully refund **transportation** fares for legitimate visits? Why do SWD-ISS arbitrarily cut refunds sometimes as much as 70%? (A recognised UNHCR refugee spent 1579\$ and was offered 915\$. A CIDTP claimant spent 261\$ and was offered 91\$. A torture claimant spent 420\$ and was offered 92\$.) Is it reasonable for SWD-ISS to demand that refugees walk more than 30 minutes to catch a cheaper bus? Why do SWD-ISS delay transport refunds to penniless refugees for 2-3 months? Why are trips to lawyers, courts, bail reporting, hospitals, clinics and flat hunting normally not refunded? Shouldn't SWD-ISS publish refund tables for average trips to prevent disputes?
6. Why hasn't SWD-ISS standardized the payment of **cooking gas** to refugees? Why refugees in outlying slums are refunded gas receipts every 5-6 months, compared to 2-3 months for urban refugees? Why has SWD-ISS ignored said refugees' desperate pleas for years? Why do case officers suggest, "Cook your food with your friend"? Are slum cooking methods deemed different than urban ones for identical food? Are slum refugees expected to light wood fires? This is a danger to all concerned, particularly in the outlying slums.
7. Why has the value of **food distribution** been capped at 900\$ a month since 2006? Can SWD-ISS demonstrate how to live healthily on 30\$ a day? Why aren't baby formula and diapers provided to infants and young children? Have SWD-ISS determined that every refugee mother is able to breastfeed? Why have SWD-ISS changed the food distribution from 3x to 6x a month? As refugees borrow transportation fees and aren't fully refunded, will SWD-ISS prepay said amounts? Would SWD-ISS consider refugees' unanimous demand to resume 3x collections?

8. SWD-ISS offer the excuse that Immigration doesn't allow failed CAT claimants to receive **medical waivers**. This is in breach of CIDTP and Refugee rights, not to mention inviolable human rights. What actions have SWD-ISS taken to ensure that sick refugees are provided with medical waivers without delay till the entire asylum process is exhausted? What do SWD-ISS expect said sick refugees to do? How do SWD-ISS callously disregard illness and suffering – even of young children?
9. SWD-ISS offer the excuse that Immigration doesn't allow children of failed CAT claimants to attend **school**. This is in breach of CIDTP, Refugee and human rights. What actions do SWD-ISS take to ensure that children attend school until their parents' asylum claims have exhausted the entire legal process? What do SWD-ISS expect children to do while parents await determination of their claims? How do SWD-ISS turn a blind eye to the breach of fundamental children's rights? What about the right of a child to play? The right to a school bag and the right to attend holiday and school parties like all other children? Their treatment is subhuman and substandard. SWD-ISS should be ashamed at such chronic discrimination.
10. How do SWD-ISS **review** the level of assistance provided refugees vis-à-vis the inflation rate? According to what criteria are the two correlated? Why haven't the rent assistance and food provision been revised for years? Can SWD-ISS demonstrate how refugees can survive with 1200\$ rent and 900\$ in groceries without working? Is this considered reasonable let alone viable?
11. What **assessment** do SWD-ISS perform of refugee social networks prior to determining assistance levels? Does such assessment differ by race and nationality? Why aren't the additional needs of families and children taken into account? Why are former foreign domestic helpers with torture claims discriminated against and at times denied food assistance? Why are their babies denied adequate assistance? Why are Bangladeshi and Pakistani provided with significantly lower aid and more restrictive conditions than their African counterparts?
12. Why did refugees' **complaints** fall on deaf ears for years? Don't SWD-ISS have procedures to receive, handle and remedy complaints? Will SWD-ISS accept a third party to handle refugee complaints independently? Why do SWD-ISS threaten refugees who lodge complaint letters? Why are refugees who sign ISS contracts 'in protest' threatened with the termination of all services? Why do SWD-ISS refuse to issue date-stamped receipts for complaint letters? Is it standard operating procedure for SWD-ISS to handle complaints by terminating welfare assistance to dissatisfied clients? Is this aimed at forcing obedience and submissiveness?
13. SWD-ISS maintain that each person is assessed individually. Do **case officers** proactively gain access to refugees' social networks before determining assistance? What are the guidelines for home visits (it's unacceptable to say it is case-by-case)? How many case officers are employed to assist refugee? How many case officers are social workers? How many refugees does each case officer manage? How many hours a month do case officers spend on outreach? Why do ISS case officers at times require that refugees share sleeping spaces and subsistence

food? Is it acceptable for case officers visiting the worst shacks to say, “You have a beautiful room”? Why do ISS case officer systematically refer refugees to underfunded NGOs to fulfil government duties? How is case officers’ performance reviewed and improved? Can reports and statistic be provided to back the answers to these questions?

14. Have SWD-ISS given thought to the outcome of **investigations** for theft by deception, false accounting and conspiracy to defraud relating to suspicious rent payments? Who is responsible for approving rental contracts bearing addresses different from where refugees live? Who is responsible for making payments for such fraudulent contracts? How is it possible that 10 refugees living in one illegal compound have ISS contracts bearing 6 different addresses, 5 to 30 minutes walking distance away? Who is responsible for paying landlords’ utility demands without supporting invoices from power companies? The ICAC should be brought in.
  
15. Have SWD-ISS assessed their **responsibility** in forcing refugees into the underground economy by failing to provide adequate social assistance? Are SWD-ISS acting as the government agents of social control? Have SWD-ISS bowed to political pressure in carrying out their humanitarian work? Will SWD-ISS publicly disclose select refugee files relating to ISS contracts, tenancy agreements, rental and utility payments going back years? Have SWD-ISS considered the legal and financial consequences of failing in their fiduciary duty towards refugees? Does SWD-ISS have contingency plans to compensate refugees for professional negligence? Have SWD-ISS consider whether the Director of Audit and ICAC might take an interest in these complaints?

**What remedial actions are SWD-ISS ready to take to immediately solve these problems?**

Sincerely yours

*Cosmo Beatson*

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Cosmo Beatson  
Executive Director