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Right to Work and Vocational Training of refugees

This submission refers to the Special Meeting on Monday, 22 July 2013, at 3 pm in Conference Room 3 in LegCo regarding ways to improve the situation of refugees, torture claimants and asylum seekers in Hong Kong.

While the meeting may probably focus on the assistance in kind provided to refugees, we would like to highlight an issue which is directly linked, namely whether refugees have a **right to work**.

Welfare assistance and right to work both concern whether a person is able to sustain ones living.

Right to work

1. Most refugees able to work

While most refugees and asylum seekers receive assistance from the government, in fact most would rather work to cover their living expenses. The vast majority are in the age 18-59 (74% of refugees and 90% of asylum seekers, please refer to Appendix 1) and would be able to provide for themselves and contribute to society.

2. Other countries allow refugees to work

In Australia asylum applicants are allowed to work after 6 months, in United Kingdom after 12 months, and in USA after 150 days of stay, if the processing of the claim has not been finalized.

According to the Convention relating to the Status of Refugees ('Refugee Convention' article 17 (3) "[the] Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals".

Recognized refugees and successful CAT claimants may have to stay in Hong Kong for several years before they can be resettled to another country. It is important that they fully develop their skills while they are awaiting resettlement.

We suggest that the government allows claimants and asylum seekers to work after 1 year of stay if the claim is still in process. All refugees should enjoy the right to work.

Right to vocational training

1. International law

According to international law, governments are not allowed to discriminate against people on the basis of their immigration status. Thus the right to secondary education, including technical and vocational secondary education shall be made generally available and accessible to all according to article 13, 2(b) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which came into force in Hong Kong in 1976. The ICESCR emphasizes that the rights shall be enjoyed by all irrespective of status such as race, national origin or *other* status. Other status would thus include immigration status.

Secondly, the UN Committee on the Elimination of Racial Discrimination has published a “General Recommendation 30 (2004) on discrimination against non-citizens”, which states that the government should “[ensure] that public educational institutions are open to non-citizens”. Also it should “[remove] obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of education, housing, employment and health”¹. Thus people who are not residents of Hong Kong also enjoy the right to education.

2. Government policy on vocational training

According to government policy publicly funded vocational training and post-secondary education is only available to Hong Kong residents, but not to refugees, asylum seekers and torture claimants, who are either on recognizance or without any immigration papers. The Education Bureau claims that there are resources restraints and that vocational training is not obligatory.

¹ Office of the United Nations High Commissioner for Human Rights 2006: “The Rights of Non-citizens”, p. 51, New York and Geneva.

Furthermore, the Education Bureau has pointed out that the vocational training courses are intended for subsequent *local* employment. It points out that since asylum seeker/refugees/torture claimants are not allowed to work in Hong Kong, then it is not appropriate to arrange any kind of vocational training for them.

However, these arguments are highly flawed, as in fact the skills that can be obtained through the Vocational Training Council are basic skills within areas such as computing, business, housekeeping and automobile engineering, which can easily be used in other countries as well. By equipping refugees and asylum seekers with some basic skills the Hong Kong government can secure them a brighter future instead of wasting their potential.

Recommendations

1. The government should allow claimants and asylum seekers to work after 1 year of stay if the claim is still in process. All refugees should enjoy the right to work.
2. Vocational training should be made available to all refugees, and particular attention should be paid to young asylum seekers and refugees.

Appendix 1.

Statistics on age of refugees and asylum seekers provided by UNHCR

Breakdown of Age of Refugees

(as at 31 May 2013)

Age Cohort	Total
0 - 4 years	8
12 - 17 years	6
18 - 59 years	67
5 - 11 years	10
Grand Total	91

Breakdown of Age of Asylum-Seekers

(as at 31 May 2013)

Age Cohort	Total
0 - 4 years	64
12 - 17 years	28
18 - 59 years	1113
5 - 11 years	33
60+ years	5
Grand Total	1,243