

LegCo Panel on Welfare Services (22-07-13) Written Submission
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Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

-Article 25 -Universal Declaration of Human Rights- Retrieved from www.ohchr.org

1. Introduction

- 1.1. The following written submission by Malabika Das, MSW, PhD Candidate, Department of Social Work and Social Administration, University of Hong Kong, is provided in response to participation on the Panel on Welfare Services Special Meeting on Monday, 22 July 2013 3:00 pm - 4:25 pm entitled *Ways to improve situation of refugees, torture claimants and asylum seekers in Hong Kong*. This submission is provided following the Panel due to Ms. Das participating on the Panel on short notice. Ms. Das is grateful and gives thanks for the opportunity to participate and contribute to this important dialogue.
- 1.2. Ms. Das has been working with Hong Kong refugees, asylum seekers and torture claimant community (hereby referred to as Claimants) since 2010. She provides volunteer services to in the forms of Organizational and Clinical Consulting and Counseling. She is a Social Work Doctoral Candidate at the University of Hong Kong. She has completed two research studies and is currently working on her Doctoral Dissertation, focusing on Claimants lived experiences, strengths and challenges in Hong Kong.

2. Overview of Social Welfare Issues

- 2.1. Claimants in Hong Kong live in complex and often, traumatic circumstances. Claimants' resilience is daily tested as they face pre-migration, displacement and post-migration challenges. General stressors from displacement include social isolation and discrimination in host society, uncertainty regarding family welfare, loss of economic self-sufficiency, traditional social support networks, values and social roles, lack of meaningful activities, essential health, educational, and economic resources. In Ms. Das's research and consultancy experience, the above noted stressors have been well established for Claimants in Hong Kong.
- 2.2. Deep-rooted barriers to social welfare of Claimants include the government of Hong Kong (HKSAR) not being a signatory to the Refugee Convention as well as inefficient and inadequate asylum and torture screening systems. This in turn has created a limbo-like state for Claimants that can last from a few months to sometimes, nine years or longer. Many Claimants have been rejected in one or both systems, and some are still waiting to be screened. Many fear for their general welfare and lives if returned to their home countries (refoulement).
- 2.3. While Claimants live in uncertainty in Hong Kong, enforced dependency and the inability for legal employment (or the right to work) has been a key driving force in their bio-psycho-social-

spiritual deterioration. International Social Services-Hong Kong Branch (ISS) housing support is insufficient, and often Claimants are expected to financially supplement the rent difference. However, unable to work legally, they face a harsh survival in Hong Kong. Many may face exploitation from illegal work. The system of enforced dependency and inability to work has resulted in a cycle of oppression that can be humiliating as their autonomy is diminished.

2.4. Furthermore, some Claimants have shared feelings of disappointment and the overall lack of dignity upon receiving ISS supplied spoiled or almost spoiled food. They have no cash allowance and since they receive food bags, they are unable to purchase what they want or need, when they want, in the open market. Another glaring concern is that many Claimants have also expressed discontent in ISS service workers attitude towards them.

2.5. ISS often depends on the small network of NGO service providers and churches to cushion the service and resource gaps for Claimants. It is understood that ISS's ability for service capacity is limited, however, often other service providers are stretched to the limit as they work in resource poor settings and should not have to be ones shouldering this burden. There has been tremendous pressure and stress on service provision, raising concerns of financial sustainability of the much-needed assistance that currently fills service gaps.

2.6. **Recommendation: Right to Work and Cash Allowance**

As people begin to feel useless and meaningless, their life value and purpose may begin to diminish while unemployed. However, when they have work and purpose their resiliency and general healing is increased (Mollica, 2006)¹.

- Enabling employment, apprenticeship, volunteer, vocational, skills, training, mentoring, leadership and education opportunities would provide meaningful and purposive activity.
- Claimants would not have to spend year after year burdened by feelings of uncertainty, uselessness and hopelessness.
- Mental health issues may improve since they are linked to Claimants' lives in Hong Kong.
- Claimants could gain skills and experience that would act as stepping-stones and building blocks to their future. They could contribute to the larger Hong Kong society.
- Illegal work and exploitation would be lessened, ensuring greater safety for Claimants.
- If given cash allowance, Claimants could purchase food when needed and alleviate insufficient and inadequate ISS-supplied food.

3. **Overview of Health and Mental Healthcare Issues**

3.1. The consequence of the above-noted barriers for Claimant individuals and families has resulted in complex and often untreated mental and behavioral health issues. There has been an ever-increasing need for crisis intervention and ongoing psychosocial support and care for Claimants. Mental health symptoms relating to Posttraumatic Stress Disorder (PTSD),

¹ Healing Invisible Wounds: Paths to Hope and Recovery in a Violent World by Richard F. Mollica, MD. He has spent more than thirty years helping victims of trauma. Now he draws from hundreds of interviews, years of research, and his counseling experience to show us a new way of helping people overcome their pain. People have an inherent ability to heal themselves. And the lessons we can learn from the survivors of such trials and extreme situations can even teach us how to cope better with everyday life.

Generalized Anxiety Disorder (Anxiety) and Major Depressive Disorder (Depression) have been identified along with complex trauma, and complicated grief. Ms. Das has also observed behavioral health symptoms relating to suicidal ideation, substance abuse and use, and violence (including communal violence, spousal and child abuse and self harm).

- 3.2. There are substantial concerns around the health and mental health care for Claimants in Hong Kong. Claimants may arrive in Hong Kong with a range of healthcare needs. While they wait for their cases to be processed, they face healthcare access barriers of language, culture and general disregard by healthcare providers within the Hospital Authority (HA) system. Comprehensive assessments and diagnosis are rare. More often than not, Claimants are given Panadol for health concerns. Some Claimants discussed being shifted from doctor to doctor, and even being told to return for specialized services for a debilitating illness after two years.
- 3.3. Accessing medication and receiving waivers from ISS has also proved to be cumbersome and difficult as they navigate the bureaucratic barriers they face in the system including transport funds. A key concern is that many HA service providers are untrained around health issues rising from armed conflict, torture and persecution and may not know how to physically examine. The cultural, ethnic, and language barriers compound the issue. This has created a cycle of systemic oppression to healthcare services for Claimants in Hong Kong. Currently, only a few physicians provide much-needed pro bono healthcare for Claimants.
- 3.4. Mental health services are even more rare for Claimants to access. Until recently, pro bono services were virtually non-existent except for a few cases. While mental health and counseling services now exist through an NGO, it is estimated that many who have needed services in the past or present still do not have access. Not all individuals may need ongoing mental health services, however many may still be traumatized from pre-migration, displacement and post-migration traumas and stressors. A further barrier is that many local mental health providers and counselors do not have the specialized training and experience to work with Claimants.

3.5. Recommendation: Training of Local Health and Mental Healthcare Providers

Health is a human right. In this regard, at minimum:

- A core group of healthcare providers should be trained to have awareness of the issues facing survivors of armed conflict, persecution, torture and gender based violence. Trainings will build healthcare service capacity for this underserved population.
- HKSAR can collaborate with HA, NGO's, universities, and interested volunteers to build capacity to provide specialized healthcare services and medical examinations.
- HKSAR can consult with service providers who offer these services to better understand the Claimant mental health and psychosocial needs. (Please see 6.5. for more training recommendations)

4. Overview of Social Support Issues

- 4.1. Aside from the concerns around policy, enforced dependency and right to work, Hong Kong's social support and services for Claimants is largely fragmented and compartmentalized to each service provider. Although in recent years, there has been increased collaboration between various service providers, which should be commended. Often Claimants have shared about the

disconnection around service provision, which has become cumbersome as they constantly go back and forth for information and services. System bureaucracy has often super ceded services.

4.2. Studies such as Gorst-Unsworth and Goldenberg (1998), and Simich, Beiser, Stewart, and Mwakarimba (2005), indicate that inadequate social support negatively impact Claimants. This can include depression, isolation, and post-traumatic stress. Ms. Das has witnessed how current inadequate social support (social welfare) has negatively impacted Claimant families, influencing things such as substance abuse and family violence. Within the current available literature, social support is emphasized as a key protective factor in post migration settings. Having appropriate social support helps newcomers by fostering empowerment, community networks and social integration, stress reduction, platforms to share experiences, and overall health and well being.

4.3. Recommendation: Implement a Holistic Model of Social Support and Welfare

- Implementing holistic healing, a multi-cultural attitude and an ecological approach to traumatized individuals and communities is propped by many of the world's refugee trauma experts. Ms. Das proposes involved parties should be working towards a holistic framework of care ² for Claimants using a rights-based approach.
- A multi-level holistic intervention addressing needs of the Claimant with sensitivity to torture, stress, isolation, loss of identity, and political alienation is integral to the value and utilization of services, interventions, programs and support.
- The micro, mezzo and macro levels integrate to ensure holistic services that foster social support and resilience at all levels. Please see Appendix A: *Model of Holistic Support for Claimants* for elements of this model.

4.4. Recommendation: Collaboration between all Stakeholders

- Collaboration between the HKSAR, the Claimant communities, and service providers is needed. While each agency provides their own level of service and expertise, agencies should work together to provide an umbrella of care for Claimants.
- This will improve multi-modal service delivery, multi-disciplinary advocacy, information and resource sharing and increased communication between all stakeholders.
- Implementation of holistic social support and inclusive welfare services should be developed and tailored to be efficient and culturally appropriate to the needs of Hong Kong Claimants.
- For collaborative research, partnering with Claimants, research institutions and Universities may broaden the scope of resource mobilization and knowledge building about situational contexts.
- This will enable a space to share about their bio-psycho-social-spiritual needs, supports and strengths from a traditional and culture specific context and understand the situational context. This in turn can further lead to action plans and comprehensive services.

² *Uplifting Social Support for Refugees and Asylum Seekers* by Das and Chan is a chapter in *Social Support and Health, Theory, Research and Practice with Diverse Populations*, Nova Publishers, 2013. Refugees and asylum seekers (R&AS) are some of the worlds most resilient and strong-willed people. Simultaneously, they can also be some of the world's most vulnerable and marginalized. Through a process of traumatization and transformation, R&AS navigate the many intricate roads of their life journeys. Beyond navigation, with appropriate social support, R&AS can also heal, start anew, and thrive during the process. Social support is a vital tool benefiting their post-migration experiences and circumstances. Social support can act as restorative stepping-stones that positively impact and mitigate further mental and behavioral health issues, acculturation stress and inter-generational traumas.

5. Overview of Development of Proposed Unified Screening Issues

5.1. It is much welcomed that the HKSAR will take on Refugee Status Determination (RSD) and create the proposed Unified Screening System. Adapting the above holistic model of care and support should go hand in hand with HKSAR's implementation of the new process. Since the HKSAR has little experience with screening for asylum and there has been a call for a more improved torture screening system, this is the HKSAR's opportunity to develop a system that regarded as an international standard of excellence.

5.2. Recommendation: Inclusive Participation by Stakeholders

- Larger policies that govern the services should be acting act as protection not oppression. This is now increasingly important since several systemic shifts are taking place.
- The HKSAR should be commended for enabling platforms and opening dialogue with local service providers, Claimants and advocates to discuss Claimant security and social welfare.
- These voices will be critical for information sharing, knowledge building, and service collaboration since much of the experience and expertise lies in this group.
- The HKSAR's can build on this to create an efficient and effective system and enable multi-disciplinary expertise and support.
- Service providers, and advocates can conduct their important human rights work alongside the HKSAR as partners and share a common mission: to care for the underserved and often neglected Claimant community.

5.3. Recommendation: Research of Best Practices

- Consulting with global refugee experts to assist in the development of the system would be advised, such as Dr. Richard Mollica, Founder of the Harvard Program in Refugee Trauma.³
- In the United States, Health Right International's Human Rights Clinic⁴ based in New York City bridges medical, psychosocial and legal needs of asylum seekers through a vast volunteer network. Following a mandatory training, physicians and mental health professionals (psychiatrists, psychologists and clinical social workers) meet asylum seekers referred by their lawyers, to sensitively conduct medical and psychological assessments. These are then included as affidavits in their asylum case. The group has a high success rate in asylum advocacy.
- Organizations such as Health Right International and Physicians for Human Rights have implemented asylum programs that enable multi disciplinary, professional services and volunteers in asylum cases. These are examples of global models that warrant consideration. A thorough examination of global practices can be undertaken; Universities can assist with this.

³ The Harvard Program in Refugee Trauma (HPRT), originally founded at the Harvard School of Public Health, is a multi-disciplinary program that has been pioneering the health and mental health care of traumatized refugees and civilians in areas of conflict/post-conflict and natural disasters for over two decades. Its clinical program serves as a global model that has been replicated worldwide. See more at: <http://hprt-cambridge.org/about/>

⁴ Human Rights Clinic volunteer clinicians provide clinical examinations for survivors, document the physical and psychological signs of abuse, and prepare affidavits for use as expert evidence in immigration proceedings. Clinicians establish whether a client's claims of torture and abuse are consistent with clinical evidence by carefully eliciting the client's story and performing a detailed physical and/or psychological assessment. See more at: <http://www.healthright.org/where-we-work/us>

6. Overview of Trauma and Case Evidence Issues

6.1. During the interview process, Claimants are expected to tell their stories for evidentiary support in their various cases, which can add to their mental health concerns. In evidentiary interviews, trauma symptoms can affect the interview process since the body and mind are automatically reacting to traumatic memories. Traumatization varies in individuals and people respond differently in interviews. A traumatized person will not “act” a certain way.

6.2. Furthermore, some Claimants can recall all details of their story however others may be unable to distinctively remember or clearly explain details of their story. Some become overwhelmed when asked to do so. If screeners are not trained of the effects of trauma, torture, persecution and displacement, they may be confused into thinking the Claimant is not being truthful. This is a dangerous misconception and the rationale in their decision making process could be compromised to the detriment of the Claimant.

6.3. In Ms. Das’s experience, many Claimants going through the asylum and torture screening process in Hong Kong more often than not, have shared negative and sometimes egregious screening experiences. Some have shared stories of arbitrary decision-making, interpreter miscommunication, and general disregard and mistrust by interviewers. The effect of recalling trauma in the absence of psychosocial care, treatments or other supportive environments has impacted re-traumatization, mental and behavioral health issues in the Claimant community.

6.4. Recommendation: Ensuring Bio-Psycho-Social Safety

- In development of this new screening system, HKSAR has an opportunity to increase sensitivity to the mental health needs of Claimants. Comprehensive training and awareness of screeners can mitigate re-traumatization in a Claimant. (See below for more on training)
- Partnering with local NGO’s and Churches who have extensive experience and good relationships with Claimants can offer an extensive support system and ensure safety.
- Implement crisis plans to mitigate consequences from severe mental or behavioral health issues.
- Allow counselors and mental health providers to be onsite for added crisis and general support, particularly for vulnerable Claimants.
- Forcing a strict deadline on traumatized people to tell and then retell their stories can be dangerous to their well-being. Vulnerability of Claimants should be considered by all parties.

6.5. Recommendation: Comprehensive Training of Unified Screening System Stakeholders

- It is imperative that all Stakeholders of the Unified Screening System (Screeners, Interpreters, Decision Makers, Legal Representatives, Medical and Psychological Experts) working with Claimants’ are comprehensively trained.
- They should be thoroughly aware of working sensitivity with culturally diverse and often traumatized people with a multitude of specialized issues.
- Trained and aware personnel can prevent re-traumatization and enhance general welfare of Claimants. This will also enhance informed and fair decision-making.

- The HKSAR can work with expert organizations such as Physicians for Human Rights⁵, which consult national and international bodies to provide torture trainings, and guidance in implementing comprehensive systems for investigating torture and persecution. Please see Appendix B: *Istanbul Protocol Plan of Action Initiative* for further information of collaboration opportunities with Physicians for Human Rights.
- 6.6. Many Claimants and their teams find it challenging to meet the current torture case submission deadlines. Thorough and sensitive investigation as well as obtaining medical and psychological reports, take time to obtain. Moreover, there is a limited pool of trained and knowledgeable medical, legal and mental health service providers providing these services for Claimants. These barriers affect Claimants and their teams' ability to adequately meet current torture case submission deadlines. Hong Kong social services, resources and needed professional services serving Claimants are under- capacity.
- 6.7. Furthermore, at times HK immigration may request Claimants to be medically or psychologically examined by HA personnel to provide case evidence for reports. If this is the case, then it is imperative that HA personnel are comprehensively trained and sensitized to the specialized health and mental health issues of Claimants. If they have not been trained and are providing case reports, this would be a serious concern and would need to be immediately rectified since this evidence may influence decision-making of Claimant cases.

6.8. Recommendation: Revisit Case Submission Timeline Regulations

- Current case submission timeline regulations need revisiting. Claimants and their teams need to prepare their legal case including obtaining medical and psychological examinations as evidence. They should be allotted the fair and reasonable amount of time to prepare their cases.
- At case registration, clear submission and interview dates should be set so that the Claimant and their team understand expectations and timelines. Needs of Claimants should be considered.

6.9. Recommendation: Build Capacity for Medical and Mental Health Case Evidence

- Besides the training of lawyers and legal advocates, there should be a larger pool of trained medical and psychological service providers. Working with NGO's, HA, universities and advocates would be a suggestion in creating a larger pool of professionals to provide medical and psychological evidence.
- In other countries, for medical evidence, trained physicians who are not forensic experts can provide medical reports. For psychological reports, clinical social workers can provide reports since much of their work engages psychological issues.

⁵ Physicians for Human Rights (PHR) is an independent organization that uses medicine and science to stop mass atrocities and severe human rights violations against individuals. PHR was founded in 1986 on the idea that health professionals, with their specialized skills, ethical duties, and credible voices, are uniquely positioned to stop human rights violations. Today, our expertise is sought by local human rights organizations, governments, the United Nations, international courts, and regional groups like the African Union and the European Union. The power of our investigations allows us to work with others to raise awareness and press for change on the most severe human rights violations of the day. See more at: <http://physiciansforhumanrights.org/about/>

- By opening this service need to trained physicians and clinical social workers and counselors, there will be a larger pool of qualified professionals to provide medical and psychological reports as evidence, filling this glaring gap in Claimant case submission.
- Since many in Hong Kong have not done this work, new professionals with a commitment to human rights but less experienced in this arena, can be comprehensively trained and mentored. This could be a good start.
- Additionally, Physicians for Human Rights has developed the international standards to document torture, known as the Istanbul Protocol⁶. This training would be useful for all Stakeholders, and can guide medical and mental health professionals providing case evidence.

7. Conclusion

- 7.1. This submission's recommendations intersect with each other to create a holistic framework of care for a vulnerable but resilient population in Hong Kong: refugees, asylum seekers and torture claimants. The shifting of HKSAR policy opens new avenues to partner with and collaborate the expertise from Claimants and service providers. A system that is tailored to meet the needs of all parties is ideal. Ultimately, policy that enables empowerment of Claimants would facilitate empowerment and success for greater Hong Kong.
- 7.2. This is an immense and exciting opportunity for HKSAR to expand itself on the regional and world stage as a human rights defender. Since Hong Kong has traditionally been a haven for those fleeing oppression including previous generations of its local citizens. The new Unified Screening System and further policy making can be a launching point to better serve humanity on its shores. This transition time affords a chance to create a new system with an international standard of excellence in investigating and documenting torture and persecutions, ensuring safety and appropriate holistic social support to the world's most vulnerable people, and providing clear, transparent decision making for Claimants using a human rights lens.
- 7.3. Ms. Das thanks LegCo for the opportunity to provide this written submission and would be available to further consult, research and expand on suggestions, recommendations, and dialogue around these issues. She would be happy to assist in initiating consultations with Claimants, local and global experts to assist the HKSAR in development of the Unified Screening System. She is committed to advocate for HKSAR's implementation of a new, fair and just system, for HKSAR, its Claimants and for the betterment of Hong Kong society.

⁶ The Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, commonly known as the Istanbul Protocol, outlines international legal standards and sets out specific guidelines on how to conduct effective legal and medical investigations into allegations of torture and ill treatment. See more at: <http://physiciansforhumanrights.org/issues/torture/international-torture/istanbul-protocol.html#IPPOA>; <http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>

Appendix A: Model of Holistic Support for Claimants

Service and interventions with Claimants should be geared at the micro, mezzo and macro levels of the post migration setting. Based upon the literature review and the advocacy experience the following holistic model of key protective social support elements was created. The person in the environment is interconnected to each level as they interact and impact with each other. The protective elements are suggestions to foster resilience and support at each level.

Macro Level

1. *UN Refugee Convention*: Nations who have signed this Convention offer safeguards for Claimants.
2. *Inclusive Policies*: Inclusive policies with Claimants contributions can enhance and appropriately tailor social support.
3. *Resource Mobilization*: Resource mobilization can often be the bottom line in services, programs, and available social support.
4. *Public Awareness*: Societal attitudes and values can often sway policies, so promoting awareness and sensitivity towards Claimants is imperative. Public campaigns can raise awareness of the reality of Claimant experiences and can demystify false rhetoric. This can be effective in changing negative societal perceptions and attitudes.
5. *Efficient Resettlement and Immigration*: The element of uncertainty can be traumatic for individuals and families, so efficient and transparent policies and immigration services can ease Claimant burden.
6. *Legal Advocacy and Protection*: Legal advocacy and support can significantly alter the macro framework of a community as demonstrated in Hong Kong. Often it is through judicial review of oppressive policy, or newly enacted policies that provide support and protection to Claimant. Legal services and representation are critical to the process and legal experts must be employed in the process to advocate for Claimants to bridge liaisons to decision makers.
7. *International Dialogue*: Open conversation with the international community around best practices, policies and models will enable a cohesive, solution-focused, global response to Claimant issues.

Mezzo Level

1. *Collaborative Research*: Services, programs and interventions should be informed by research and evaluations done with community members.
2. *Culture Sensitive Programs*: Services should be culturally sensitive and can use cultural norms as strength for communities.
3. *Interdisciplinary Advocacy*: Service providers can work together and bridge efforts to offer efficient and effective services.
4. *Unified Service Partners*: Providers can build partnerships and coalitions to advocate for macro level change as well as streamline mezzo-level services.
5. *Professional Training and Education Development*: This is needed for all Stakeholders working in various capacities with Claimants. Staff and volunteer service providers should be equipped and well trained. For psychosocial programs, clinical supervision is ideal but peer consultation groups can be initiated to support and equip volunteer counselors. Additionally, ongoing professional training and education programs should be available for the team.
6. *Accessible and Non-Stigmatizing Service Settings*: Service settings should be accessible and non-stigmatizing so that Claimants can safely access services. Seeking mental health services is often not a norm in many communities.

Micro Level

At the micro level, services should be tailored and appropriate for individuals. Not every Claimant will need the same amount of assistance regarding their trauma exposure and post migration needs. However, a significant amount of people will need help to heal. Also, using the bio-psycho-social-spiritual model, items are listed under each category in no particular order, reflecting the promotion of strengths and resilience at that level. Trauma work includes targeted work with Claimants who have severe mental health issues needing medication. (Adapted from Das and Chan, 2013)

Appendix B: Istanbul Protocol Plan of Action Initiative

Building on more than 12 years of global anti-torture initiatives, Physicians for Human Rights is working with stakeholders and experts to develop a roadmap for how countries can fulfill their obligations to end torture. The Plan of Action will assist countries by providing them with:

1. A statement of principles and critical steps that must be taken for effective torture investigation and documentation;
2. A set of detailed and concrete actions for countries to take to establish and maintain a system of effective and independent torture investigations; and
3. A comprehensive collection of supplemental resource materials for the various stakeholders (policy makers, politicians, legislators, prosecutors, judges, health professionals, etc.) who are involved in torture investigations and documentation.

PHR is working closely with critical international and regional organizations, including leading NGOs, National Human Rights Institutions, and the National Preventive Mechanisms under the Optional Protocol to the UN Convention Against Torture. The initiative is supported by the UN High Commissioner for Human Rights. See more at: <http://physiciansforhumanrights.org/issues/torture/international-torture/istanbul-protocol.html#IPPOA>

Appendix C: References

<http://www.healthright.org>

<http://hpert-cambridge.org>

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