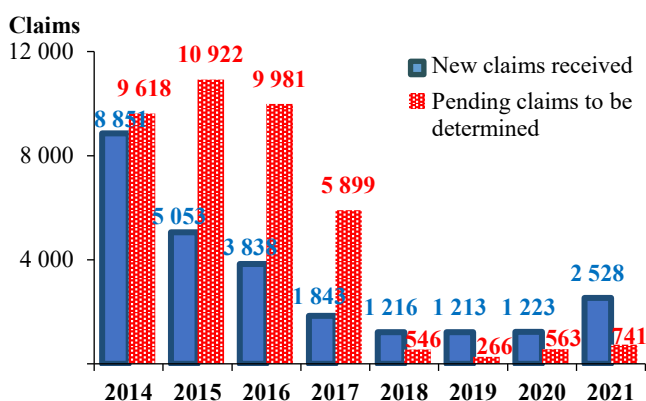
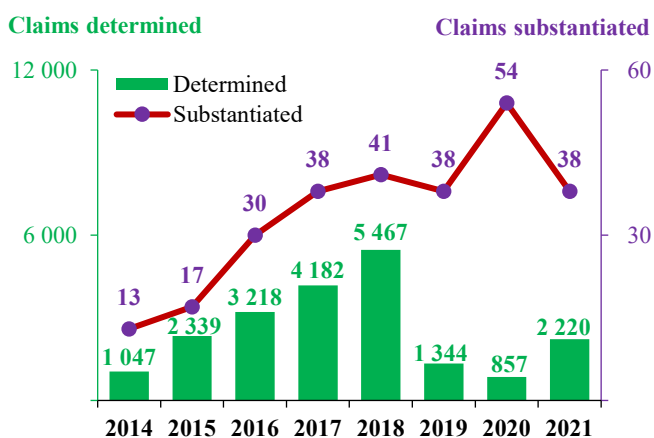


## Non-refoulement claimants in Hong Kong

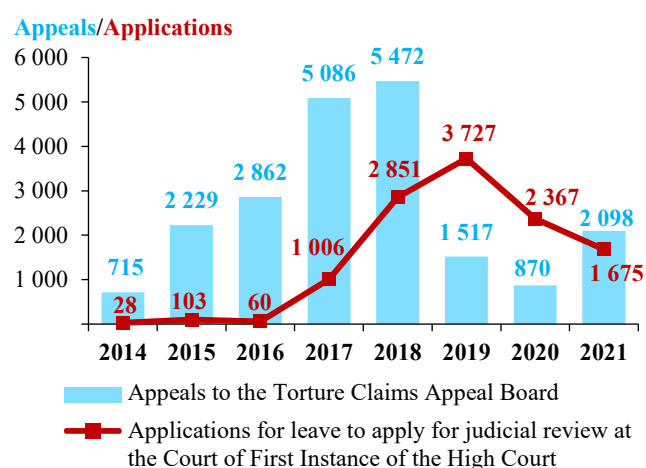
**Figure 1 – New and outstanding non-refoulement claims**



**Figure 2 – Annual determination of NR claims**



**Figure 3 – New cases of appeals and judicial reviews over outcomes of NR claims**

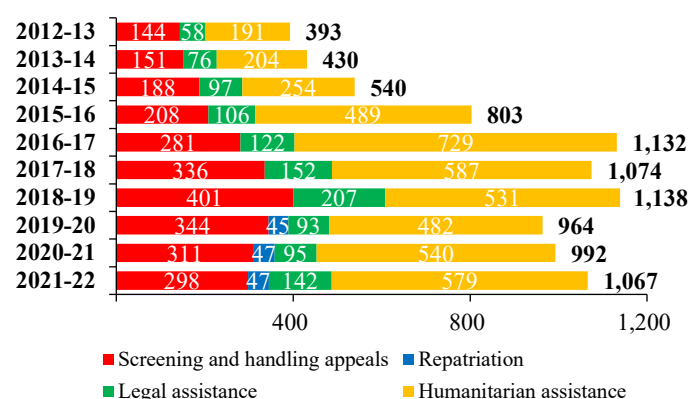


### Highlights

- As Hong Kong is not a signatory of the United Nations Convention relating to the Status of Refugees, illegal immigrants claiming that they might face torture or inhuman treatment in their home countries are not treated as “asylum seekers” nor “refugees”. Even with a Unified Screening Mechanism set up in March 2014 to screen these non-refoulement (“NR”) claims on all applicable grounds, NR claimants cannot legally stay in Hong Kong regardless of the screening outcome.
- Between 2005 and 2021, altogether 38 478 NR claims were made in Hong Kong. More specifically on the annual profile, the number of new claims peaked at 8 851 in 2014, before easing visibly to an annual average of 1 605 over the past five years (Figure 1). According to the Government, this moderation was partly attributable to tighter immigration control and cooperation with the Mainland authorities to combat cross-border smuggling of illegal immigrants.
- The annual backlog of claims to be determined plunged by 95% between 2015 and 2018, and has remained at less than 800 since then. While this was in part due to a drop in new claims, another factor was the Immigration Department (“ImmD”)’s creation of 83 new posts in 2016 to tackle the backlog of claims, contributing to a 70% rise in determined cases in just two years to a high of 5 467 in 2018 (Figure 2). As regards the outcome of determined claims, between 2014 and 2021, an overwhelming majority (99%) of them were ruled as unsubstantiated.
- However, NR claimants whose claims were determined as unsubstantiated have the right to lodge appeals to the Torture Claims Appeal Board, and possibly followed by judicial review (“JR”). In 2021, there were 2 098 new appeal cases, almost triple that of 2014 (Figure 3). Unsuccessful appellants can progressively launch legal challenges at various levels of court, starting with filing leave applications for JR at the Court of First Instance (“CFI”). In 2021 alone, they launched 2 537 JR cases across the courts. This included 1 675 leave applications for JR at the CFI, or 60 times the figure recorded in 2014. The legal procedures could last for a few years before completion. As it has been an established policy of the Government not to repatriate NR claimants before completion of the appeal or judicial procedures, there were still 14 819 NR claimants residing in Hong Kong at end-2021.

## Non-refoulement claimants in Hong Kong (cont'd)

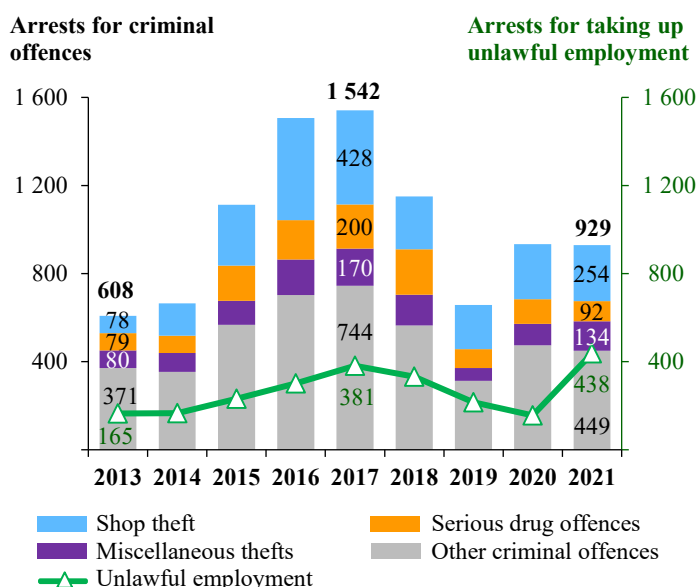
**Figure 4 – Government expenditure on NR claims (HK\$ million)**



**Figure 5 – Humanitarian assistance available for NR claimants**

Item	Amount (HK\$)
Food	\$1,200 per month
Rent	\$1,500 per adult and \$750 per child each month
Utilities charges such as electricity and gas	\$300 per month
Transportation	\$200 to \$420 per month
Other basic necessities	\$70 per month, provided in-kind

**Figure 6 – NR claimants arrested for criminal offences or unlawful employment**



## Highlights

- For the past decade as a whole, Government expenditure related to NR claimants totalled HK\$8.5 billion (**Figure 4**). Analyzed by type, more than half (54%) of such spending was for humanitarian assistance to claimants, followed by screening and handling appeals (31%) and legal assistance to NR claimants (13%). More specifically on annual expenditure on NR claimants, it increased by 172% in nine years to HK\$1.1 billion in 2021-2022.
- The Government has been providing NR claimants with humanitarian assistance since 2006, and it currently includes rent, food, transportation and utilities charges. There are nonetheless concerns in the community that per capita humanitarian assistance has been hovering at just around HK\$ 3,300 per month since 2014, apparently too low to meet basic needs (**Figure 5**). According to the Government, the level of assistance is set in a way to prevent NR claimants from becoming destitute, but at the same time to avoid being an incentive to attract more new claimants into Hong Kong.
- In recent years, there are increasing concerns over law and order issues arising from NR claimants. According to the Security Bureau, 929 non-ethnic Chinese persons holding recognizance forms (who are mostly NR claimants) were arrested for criminal offences in 2021, compared with the annual average of 1 022 recorded during 2013-2020 (**Figure 6**). While 42% of the arrests in 2021 were related to various kinds of theft, serious drug offences accounted for another 10%. Separately, according to ImmD, 438 non-ethnic Chinese on recognizance were arrested for taking up unlawful employment in 2021, 80% higher than the annual average of 244 in the preceding eight years. Some critics point out that financial difficulties arising from inadequate humanitarian assistance and lack of right to employment could be contributory factors for some NR claimants engaging in such illegal activities.

Data sources: Latest figures from the Judiciary, Social Welfare Department, Security Bureau, and Immigration Department.

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