

總幹事
王 姬 麗



LC Paper No. CB(2)503/11-12(01)

Grace S. Wong
Administrator

Ref: CAT1/Corr 48/11 IV

5th December 2011

Mr Raymond Lam
Clerk to Bills Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong.

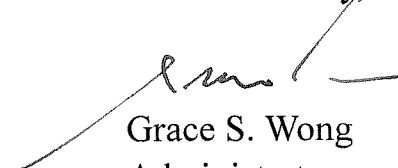
Dear Mr Lam

**Re: IMMIGRATION (AMENDMENT) BILL 2011
Bills Committee Meeting on Monday, 21 November 2011**

Dear Mr. Lam,

I have been directed by Mr. Joseph Li, Chairman of the Duty Lawyer Service Council (who attended in the Bills Committee Meeting as a Council Member of the Law Society) to provide a paper on statistics and data concerning the CAT (Convention Against Torture) Scheme operated by the Duty Lawyer Service which is enclosed herewith for your information and record.

Yours sincerely,



Grace S. Wong
Administrator

Encl.

香港中環皇后大道中十五號置地廣場告羅士打大廈二七〇七至八室

Administration Office: Rooms 2707-8, Gloucester Tower, The Landmark, 15 Queen's Road Central, Central, Hong Kong.
Tel: (852) 2526 6109 Fax: (852) 2868 1754 Home Page: www.dutylawyer.org.hk



IMMIGRATION (AMENDMENT) BILL 2011
Bills Committee Meeting on Monday, 21 November 2011

1. With effect from 24 December 2009, the Duty Lawyer Service has been extended to operate a CAT (Convention Against Torture, etc) Scheme on a pilot basis for an initial period of 12 months providing legal assistance to claimants during the screening of claims made under Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).
2. As at 18 November 2011, there are 272 duty lawyers on the CAT Panel (144 Barristers and 128 Solicitors). All duty lawyers joining the CAT Scheme have to be at least of three years standing and have successfully attended a training course on CAT claim organized by the Law Academy.
3. Up to 18 November 2011, the CAT Scheme has received and took up a total of 1,854 referral cases since the intake date of 28 December 2009.
4. Of the 1,854 cases received to date, 1,073 cases have been completed on the followings:
 - (i) Withdrawn CAT claim :171
 - (ii) Filed Questionnaire in support of the torture claim :1,304
 - (iii) Attended Screening Interview accompanied by duty lawyer :1,108
 - (iv) Received Determination of Claim from Immigration Department: 902
 - (v) 895 Applied for extension for the filing of Questionnaire with 130 cases still in the progress of applying for further extension.
 - (vi) Declined Assistance from the Duty Lawyer Service :32
 - (vii) Cannot be contacted for instructions: 82
5. Up to 18 November 2011, there were 11 medical examinations conducted. When the medical report is ready for collection, the Duty Lawyer Service would be informed by the case officer and arrangement would be made to collect the report (which is in a sealed envelope) from the office of the forensic pathologist or public hospital. The report would only be released to the Immigration case officer upon the consent of the claimant and advice of the duty lawyer.
6. Up to 18 November 2011, 441 claimants represented by the Duty Lawyer Service have also applied for Refugee Claim under UN High Commissioner for Refugee.



7. The average time required for submission of Questionnaires from the date of intake of cases is as follows:
 - (i) For 2010, the average was 87 days.
 - (ii) For the period from January to August 2011, the average was 80 days.
 - (iii) For the period from September to October 2011, the average was 48 days.

8. The Duty Lawyer Service has lodged a total of 39 petitions upon the advice of duty lawyers. Of the 39 petitions filed:
 - (i) 38 were rejected and
 - (ii) 1 is pending decision from Adjudicator.

9. No claimant has so far been successful in their CAT claims.

10. In order to ensure a fair assignment of cases, all cases referred to the Duty Lawyer Service by the Immigration Department have to be assigned evenly amongst duty lawyers who have expressed willingness to take up these cases and are also qualified to handle CAT cases as stated in paragraph 2 above.

11. On the question of assignments where the claimant is an existing client of a law firm, it has all along been the Duty Lawyer Service's policy as stated above that assignments as far as practicable have to be evenly distributed amongst duty lawyers on the panel. It is however also the Duty Lawyer Service's practice that in order to avoid any duplication of work already done, the Duty Lawyer Service is agreeable to assign the same duty lawyer (duty lawyer assignment is a personal assignment in that the assignment is not to a law firm or to a set of chambers) to continue to represent those claimants who have been offered legal advice by that duty lawyer or has also been engaged to represent them. Such request would only be allowed when that particular duty lawyer has not been saddled with too many CAT cases and is also in a position to handle the additional assignments in a timely and efficient manner.

12. Between January 2010 and 18 November 2011, there are 208 cases which the claimants requested for their own choice of duty lawyers. Of the 208 requests, 151 were approved and 57 were rejected.

Dated: 5 December 2011