

**Legislative Council Bills Committee on  
Immigration (Amendment) Bill 2011  
Follow-up to the Second and Third Meetings on  
18 and 21 November 2011**

**Purpose**

This paper sets out the Administration's response to issues raised by Members and deputations at meetings of the Bills Committee on the Immigration (Amendment) Bill 2011 (the Bill) held on 18 and 21 November 2011.

**Basic facts of claims**

2. Since the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) was applied to Hong Kong in 1992, a total of about 11 000 torture claims were received. As at the end of November 2011, about 4 500 of these claims have been processed or withdrawn. Details are at Annex I.

3. At present, there are over 6 500 outstanding claims. Their profiles are summarized below –

|                         |     |                               |     |
|-------------------------|-----|-------------------------------|-----|
| (a) <u>Gender</u>       |     | (b) <u>Age</u>                |     |
| Male                    | 77% | Below 18                      | 3%  |
| Female                  | 23% | 18 - 30                       | 45% |
|                         |     | 31 - 40                       | 39% |
|                         |     | Above 40                      | 13% |
| (c) <u>Nationality</u>  |     | (d) <u>Immigration Status</u> |     |
| Pakistani               | 30% | Overstay                      | 57% |
| Indian                  | 17% | Illegal Entry                 | 38% |
| Indonesian <sup>1</sup> | 13% | Others                        | 5%  |
| Bangladeshi             | 12% |                               |     |
| Others <sup>2</sup>     | 28% |                               |     |

<sup>1</sup> Among the 827 Indonesian claimants, 716 were former foreign domestic helpers.

<sup>2</sup> Including Sri Lankan, Nepalese, Filipino and some African countries. Among the 296 Filipino claimants, 66 were former foreign domestic helpers.

(e) Length of stay in Hong Kong before making claims<sup>3</sup>

|                    |     |
|--------------------|-----|
| Less than 3 months | 39% |
| 3 - 12 months      | 23% |
| 1 - 2 years        | 17% |
| 2 years or more    | 21% |

[On average 14 months]

### **Claims already processed**

4. Since the launch of the enhanced screening mechanism for torture claims in December 2009, the Immigration Department (ImmD) has served torture claim forms on about 2 000 claimants. Among them, more than 1 000 claims were determined. The experience of implementing the enhanced mechanism is presented below.

#### Publicly-funded legal assistance

5. Claimants may receive legal assistance through the Duty Lawyer Service (most (94%) accepted the assistance). About 270 barristers and solicitors are providing assistance to claimants under this scheme of service. The scope of assistance includes assisting claimants in completing torture claim forms, attending screening interviews with them and explaining to them the ImmD's decisions. Claims considered meritorious by duty lawyers may continue to receive such assistance at petition stage.

#### Torture claim form

6. At the beginning of the screening process, a claimant is required to complete the torture claim form (at Annex II). Most claimants (96%) would make a data access request (DAR) to the ImmD in accordance with the Personal Data (Privacy) Ordinance before completing the form.

7. Since December 2009, the ImmD could in general complete such DARs in 40 days (which is in compliance with the statutory requirement as well). Starting from August 2011, the ImmD can complete this process in

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<sup>3</sup> About 85% of claimants made their claims only after they had been arrested for breaching the Immigration Ordinance or other ordinances.

21 days. We will further shorten the time needed to 14 days.

8. The information required in the claim form is mainly known facts to the claimant. Hence, claimants do not need to wait for their DAR results from the ImmD before completing the claim form (see Annex 3). That said, we understand that some claimants may wish to further check their completed forms with records kept by the ImmD.

### Screening Interview

9. After receiving the torture claim form, the ImmD will interview the claimants as necessary, in order to clarify or invite supplements to information provided in the form (in the presence of the duty lawyer and interpreter). In general, such interview may go on for one or two sessions for each case. By experience, the ImmD sometimes faces difficulties in arranging these interviews. Taking year 2011 as an example, out of the more than 1 200 interview sessions that the ImmD has arranged, 10% were cancelled due to claimants' unexplained absence. Apart from that, about 30% of the interviews could not be completed because of different reasons raised by claimants during the interview (e.g. feeling ill, etc.)<sup>4</sup>.

### Medical Report

10. If the claimant's physical or mental condition is relevant to the consideration of the torture claim and is in dispute, medical examination may be arranged. The ImmD would not request the medical practitioner conducting the medical examination for disclosure of the result. Under existing arrangement, the medical practitioner responsible for the examination must be a specialist registered under the Medical Council of Hong Kong and appointed by the Department of Health or Hospital Authority. The ImmD does not participate in selecting the medical practitioner responsible for examination or plays any role in the process.

### Petition

11. After the ImmD has made a decision on a torture claim and

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<sup>4</sup> Where a claimant fails to cooperate (e.g. repeated unexplained absence and refused to show up even after an ultimatum from the Department), the ImmD will proceed to make a decision on the claim based on available information.

notified the claimant by writing, the claimant may lodge a petition. Torture claim petitions are considered by adjudicators with legal background, who may conduct a hearing for a case if necessary. Among claims already decided by the ImmD, about 530 claimants (52%) lodged a petition, out of which about 40 continued to receive duty lawyers' assistance. Hearings were conducted for about 40 cases. The decisions made by immigration officers were upheld by adjudicators in all the completed petition cases.

### Removal Situation

12. Among the determined claims, about 440 claimants have been removed to their country of origin. The rest are remaining in Hong Kong for various reasons (e.g., petition under process, refugee screening result pending). Some claimants have absconded.

### **Consideration in deciding torture claims**

13. As stated in our response on 15 November to questions raised by the Legal Service Division of the Legislative Council on 20 October, during the assessment of a torture claim, an immigration officer must "take into account all relevant considerations" in accordance with the requirement set out in Article 3 of CAT. Key considerations in deciding a torture claim are covered by the Bill, including –

- (a) whether the grounds provided by the claimant fall within the definition of "torture" as stipulated under CAT (new section 37U in the Bill);
- (b) whether the claimant is credible (section 37ZD); and
- (c) whether the claimant may be internally relocated within his country of origin (section 37ZI(5)).

14. By experience, factors taken into account by the ImmD in considering individual cases include –

(a) Not falling within the definition of “Torture” in CAT

- Not involving public officials or other persons acting in an official capacity (consideration taken into account in 98% of determined cases)
- not involving treatment inflicting severe pain or suffering (72%)
- acts not committed for purposes or reasons set out in CAT (such as obtaining a confession, discrimination of any kind, etc.) (54%)

(b) Claimants’ credibility

- self-contradictory reason and evidence (76%)
- claim made only after being arrested or detained (46%)
- concealing information, misleading or delaying the processing of the claim (6%)
- not taking advantage of a reasonable opportunity to make a claim when routing through a third country or territory (3%)

(c) Internal relocation

The claimant can be relocated to another region in his place of origin without having to face the danger of being subjected to torture (88%).<sup>5</sup>

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<sup>5</sup> The judgment of the Court of First Instance in *TK v Jenkins* in 2011 pointed out that if the claimant deems relocating to another region in his home country infeasible, the burden of furnishing evidence to substantiate this point falls on the claimant.

## **Other Matters**

### Screening of Refugee Status

15. Among rejected torture claims who have not yet been repatriated, about 120 claimants are waiting for refugee screening results. The United Nations High Commissioner for Refugees has pledged to accord priority to these cases.

16. Regarding the proposal that the Administration should assess both claims made under CAT and the Refugee Convention (RC), the coverage and assessment criteria of the conventions are different. Moreover, any person may lodge a CAT claim or refugee claim at any time. There is no way to stop any person from delaying the process.

17. We reiterate that, as a matter of policy, the established policy of not extending the Refugee Convention to Hong Kong will not change in view of our actual situation in Hong Kong.<sup>6</sup>

### Claimant of substantiated claim to take employment

18. Regarding considerations for claimants of substantiated claims to take employment, section 37ZV stipulates that if the Director of Immigration believes there exists an exceptional circumstance, he may consider each claimant's case on its individual merits (such as the claimant's health condition) and take into account the need to exercise effective immigration control (such as whether a huge number of illegal immigrants will flock to Hong Kong) in deciding whether to grant a claimant permission to work at his discretion. We do not consider it necessary to cite all factors to be considered by the Director.<sup>7</sup>

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<sup>6</sup> In *C and Others v. the Director of Immigration*, the Court of First Instance of the High Court dismissed in February 2008 the application for the court to make an order to declare that the HKSARG has a duty to handle refugee status cases. In July 2011, the Court of Appeal dismissed the subsequent appeal as well.

<sup>7</sup> In *MA & Others v Director of Immigration*, the Court of First Instance of the High Court held in January 2011 that the said policy is not unreasonable and does not contravene the Basic Law and the provisions of the International Human Rights Covenant as applied to Hong Kong. The Court cited various factors that ought to be covered by the Director in considering issues concerned, including the claimant's mental health condition as one of the factors. However, it does not mean that the Director should approve a claimant's application for taking employment only when detriment caused to the claimant's mental health.

## Humanitarian assistance

19. The Social Welfare Department, on humanitarian grounds, offers basic assistance-in-kind through subvented service organizations to torture claimants (and asylum seekers) to meet their basic needs while decisions of their claims are pending. Such assistance includes accommodation, food, clothing, other basic necessities and transport allowance, etc. At present, about 5 500 torture claimants are receiving the assistance. The relevant estimated expenditure in 2011-12 is about \$150 million.

## Expediting processing of claims

20. Regarding Members' concerns on the progress of handling claims, our target is to complete the processing of outstanding claims as soon as practicable. The ImmD aims to decide on 1 200 claims in 2011-12. It also plans to further raise the target to deciding on at least 1 500 claims in the coming year. Meanwhile, discussion with the Duty Lawyer Service on necessary arrangements to expedite the handling of claims is under way.<sup>8</sup>

**Security Bureau**  
**December 2011**

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<sup>8</sup> The estimated expenditure for publicly-funded legal assistance for torture claims in 2011-12 is \$67.5 million. We will continue to earmark sufficient resources to cover the expenditure required.

Torture Claim Cases

| <b>Year</b>             | <b>Received</b>         | <b>Determined</b> <sup>①</sup> | <b>Withdrawn</b> | <b>Outstanding<br/>(Cumulative)</b> |
|-------------------------|-------------------------|--------------------------------|------------------|-------------------------------------|
| 2005 or before          | <b>53</b>               | 0                              | 4                | 49                                  |
| 2005                    | <b>211</b> <sup>②</sup> | 1                              | 30               | 229                                 |
| 2006                    | <b>528</b>              | 43                             | 54               | 660                                 |
| 2007                    | <b>1 584</b>            | 82                             | 51               | 2 111                               |
| 2008                    | <b>2 198</b>            | 179                            | 132              | 3 998                               |
| 2009 <sup>③</sup>       | <b>3 286</b>            | 0                              | 1 037            | 6 340 <sup>④</sup>                  |
| 2010 <sup>⑤</sup>       | <b>1 809</b>            | 214                            | 1 186            | 6 749                               |
| 2011<br>(as at end Nov) | <b>1 326</b>            | 829                            | 732              | 6 514                               |
| <b>Total</b>            | <b>10 995</b>           | <b>1 255</b>                   | <b>3 235</b>     | <b>6 514</b>                        |

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<sup>①</sup> This refers to the cases determined by the Immigration Department (ImmD).

<sup>②</sup> The number of torture claim upsurged after the Court of Final Appeal held in June 2004 that the ImmD has to make an independent assessment on torture claims and should meet high standards of fairness.

<sup>③</sup> The Court of First Instance of the High Court (CFI) held in December 2008 that the Administration should provide legal assistance to a torture claimant during the screening process and provide suitable training for the decision makers. The ImmD then suspended all screening works.

The CFI held in another judgment in March 2009 that illegal immigrants on recognizance found taking up illegal employment should not be prosecuted for the offence of “illegal remaining”. There was then an upsurge in the number of torture claims.

<sup>④</sup> This includes 93 reviewed cases.

<sup>⑤</sup> The Legislative Council passed the Immigration (Amendment) Bill 2009 in November 2009, making it an offence for illegal immigrants to take any employment or establish or join in any business.

The ImmD implemented the enhanced screening mechanism in December 2009.



Reference Number: \_\_\_\_\_

(For official use)



Immigration Department  
The Government of Hong Kong Special Administrative Region

**Questionnaire**  
**for**  
**Persons who have made Claims under**  
**Article 3 of the Convention against Torture and**  
**Other Cruel, Inhuman or**  
**Degrading Treatment or Punishment**

Name of Claimant: \_\_\_\_\_

Please read the guidelines for completion of this questionnaire at page 2 and 3 before answering any question.

## **Guidelines for Completion of Questionnaire**

1. This questionnaire must be completed fully in English or Chinese. It should be returned to the Director of Immigration (the “Director”) together with supporting documents, if any, either by post or in person to the Torture Claim Assessment Section (the “TCAS”) within 28 days. If you cannot meet the 28-day time limit, you should provide full explanation for why you cannot. Any request for extension will be considered on its own merits. If you are unable to return the questionnaire due to illness, you should produce a copy of the medical certificate for verification. If you fail or refuse to return the questionnaire as required without reasonable excuse, your claim will be determined on the basis of all available information and may be rejected if you have not provided sufficient material to substantiate your claim.
2. It is important for you to include all important facts and events relevant to your claim made under Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the “Convention”). You may enlist the help of your legal representative in completing the questionnaire. The information provided will form the basis upon which your claim is investigated, upon which you will be interviewed and upon which your claim will be assessed. If necessary, please use additional sheets to provide any further information which you consider relevant to your claim and indicate the total number of additional sheets attached at question 70.
3. It is important that you answer ALL the questions in the questionnaire truthfully. Providing false or misleading information at this or ANY stage may render you liable to prosecution. It may also adversely affect your credibility and prejudice your claim.
4. You have been served with a Notice entitled “Notice to Person Making a Claim under Article 3 of the Convention” which you should (or should have through the interpreter) read carefully before completing this questionnaire.
5. If you wish to provide documentary evidence readily available to you in support of your claim, it should be obtained and submitted together with your questionnaire. You should provide English or Chinese translation if any evidence or documents are in other languages and submit them without delay.
6. All information provided in this questionnaire will be used only for the purposes of assessing your claim or in the investigation of other claims made under Article 3 of the Convention where a claimant is related to you or where the claim is in some way linked to you. Under no circumstances will this information be disclosed to the authorities of the country from which you claim a fear of torture without your express consent. Notwithstanding this, the information may be disclosed to other Hong Kong Special Administrative Region (the “HKSAR”) government departments / bureaux, agencies, international organisations or other bodies where necessary for immigration and nationality purposes or to enable them to carry out their functions, or to secure entry facilities for repatriation. However, neither the information indicating that you have made a claim under Article 3 of the Convention nor any information pertaining to your claim will be provided to any government or country from which you claim a fear of torture.

In addition, nothing at all said by you will be used against you in any subsequent criminal proceedings of any nature except an Attempt to pervert the course of justice or the Making of false reports, etc. to a member of the Immigration Service.

7. The provision of information in this questionnaire is voluntary. However, you are reminded that failure to provide sufficient details relating to your identity and the claim may jeopardize the assessment of your claim / petition. You should also be aware of this and any failure to answer questions of importance to your claim may jeopardize your credibility.
8. If your dependants have claims which are different from your claim, they should make a separate application and complete a separate questionnaire. If they are unable to complete a separate questionnaire, for example, they are minors and have difficulties in presenting their claims, you should complete the questionnaires on their behalf. If your dependants do not have claims which are different from your claim, their claims will be included as part of your claim and all decisions taken in relation to your claim will apply to them if the grounds upon which your claim is based are also applicable to them.

**Points to note:**

- Do not leave any questions unanswered. Insert 'none' or 'not applicable' where appropriate.
- You should give as much relevant details as possible and be truthful as regards the information you provide.
- In the context of this questionnaire, country of origin refers to the country to which you may be removed or deported and in which you fear you will be harmed / mistreated.

**Access to Personal Data:**

- You have a right to request access to and correction of your personal data as provided for in sections 18 and 22 and Principle 6 in Schedule 1 of the Personal Data (Privacy) Ordinance (Chapter 486). Your right of access includes the right to obtain a copy of your personal data provided in this questionnaire subject to payment of a fee.
- Enquiries concerning the personal data collected by means of this questionnaire, including the making of request for access to and/or correction of the data, should be addressed to:

Chief Immigration Officer (Torture Claim Assessment)1  
7/F, Siu Lek Yuen Operational Base  
25 – 27 Yuen Shun Circuit, Siu Lek Yuen  
Shatin, New Territories

## Part 1 – Biographical Information

### Personal Details

1. Family name / Surname:  
\_\_\_\_\_
2. Given names: \_\_\_\_\_
3. Any other names: \_\_\_\_\_
4. Gender:    male        female        (tick as appropriate)
5. Date of birth:    \_\_\_\_/\_\_\_\_/\_\_\_\_    (DD/MM/YY)
6. Place of birth (Provide Town / Province / County): \_\_\_\_\_  
\_\_\_\_\_
7. Your last place of residence in your country of origin (Provide full address - Street, Town, Province, County): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. How long did you live at that address (give dates)? \_\_\_\_\_  
\_\_\_\_\_
9. Did you live anywhere else?    **Yes**     **No**   
If Yes, please give addresses and dates: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Citizenship at birth: \_\_\_\_\_
11. What is your current citizenship / nationality? \_\_\_\_\_
12. Have you ever held or are you entitled to claim the nationality / citizenship of, or right of residence or abode in, any other country or place?    **Yes**     **No**   
If Yes, please give details:  
\_\_\_\_\_  
\_\_\_\_\_

13. Do you have any documents from your country(ies) or place(s) of residence, which verify your identity?    **Yes** [   ]    **No** [   ]

If Yes, please give details: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

14. What is your ethnic group, tribe or race? \_\_\_\_\_

15. What is your religion? \_\_\_\_\_

16. What is your first language? \_\_\_\_\_

17. What other languages can you speak or write? \_\_\_\_\_

**Education History**

18. How many years of formal education / training have you had? \_\_\_\_\_ Year(s).

| From:<br>(month / year) | To:<br>(month / year) | Name and address of school | Qualifications obtained |
|-------------------------|-----------------------|----------------------------|-------------------------|
|                         |                       |                            |                         |
|                         |                       |                            |                         |
|                         |                       |                            |                         |
|                         |                       |                            |                         |

**Work History**

19. How many years have you been employed / self-employed? \_\_\_\_\_ Year(s).

| From:<br>(month / year) | To:<br>(month / year) | Name and address<br>of company or employer | Type of Work |
|-------------------------|-----------------------|--|--------------|
|                         |                       |  |              |
|                         |                       |  |              |
|                         |                       |  |              |

20. If you were not employed, did you receive any benefits or allowances or other payments in your country of origin? **Yes** [  ] **No** [  ] (If yes, please give details)

| From:<br>(month / year) | To:<br>(month / year) | Type of payment | Amount per month |
|-------------------------|-----------------------|-----------------|------------------|
|                         |                       |                 |                  |
|                         |                       |                 |                  |
|                         |                       |                 |                  |

**Family Details**

21. Present marital status: (Please mark appropriate box)

Single [  ]                      Married [  ]                      Separated [  ]

Divorced [  ]                      Widowed [  ]

Other, please specify [  ] \_\_\_\_\_ (e.g. cohabitation, polygamous marriage, etc.)

22. Full name of your previous spouse(s), if any: \_\_\_\_\_

23. Full name of your present spouse or partner(s): \_\_\_\_\_

24. His / Her date of birth:        \_\_\_\_/\_\_\_\_/\_\_\_\_                      (DD/MM/YY)

25. His / Her nationality:  
\_\_\_\_\_

26. His / Her religion: \_\_\_\_\_

27. His / Her present address (Provide full address - Street, Town, Province, County):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

28. Your dependant children: (List details for all your children from current or previous relationships & details for any other dependant or step children – if you have no children write ‘None’)

| Name of child and place of birth | Date of birth | Current whereabouts of child | Name of other parent (Please state if deceased and when) |
|----------------------------------|---------------|------------------------------|--|
|                                  |               |                              |  |
|                                  |               |                              |  |
|                                  |               |                              |  |
|                                  |               |                              |  |
|                                  |               |                              |  |
|                                  |               |                              |  |

29. Your parents:

|                             | Father | Mother |
|-----------------------------|--------|--------|
| Family name                 |        |        |
| Given name                  |        |        |
| Any other names             |        |        |
| Date of birth               |        |        |
| Nationality                 |        |        |
| Living or deceased          |        |        |
| Present address (if living) |        |        |

30. Your brothers and sisters (including step brothers or sisters):

| Family name | Given Name | Gender | Date of birth | Current whereabouts | Parent's name (if different from you)<br>(Please state if deceased and when) |
|-------------|------------|--------|---------------|---------------------|--|
|             |            |        |               |                     |  |
|             |            |        |               |                     |  |
|             |            |        |               |                     |  |
|             |            |        |               |                     |  |
|             |            |        |               |                     |  |

31. Additional dependants (If you have any other dependants who are not named above, please give details in full. Please use additional sheets as necessary.) :

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### Part 2 – Documentation

32. Do you have any documents to submit in support of your claim? (The document should be RELEVANT to your claim.) **Yes** [  ] **No** [  ]  
 If Yes, please list the documents which you are submitting below. (Please use additional sheets as necessary.)

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34. What do you fear may happen to you or any of the persons included in this claim if you return to your country of origin? Please give as much detail as possible.

(Please use additional sheets as necessary.)

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35. Are you afraid of being subjected to torture if you return to your country of origin?    **Yes** [  ]    **No** [  ]

If Yes, explain why you are afraid and describe the nature of torture you fear, by whom, and why it would be inflicted.

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36. Have you or any of the persons included in this claim ever been subjected to torture in the past by anyone?    **Yes** [  ]    **No** [  ]

If Yes, please explain in detail: (a) What happened; and (b) When and by whom was the torture inflicted.

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37. Did you seek assistance from, or report your fears to, any authorities in your country of origin or elsewhere?    **Yes** [  ]    **No** [  ]

If Yes, when and to whom did you report it? \_\_\_\_\_

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38. What action did the authorities take?

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39. If you did not seek assistance or report it, why:

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40. Have you ever moved to a different town or village or to another part of your country of origin to avoid any of the events you fear?      **Yes** [  ]      **No** [  ]

If Yes, please provide details including where and when you moved and how long you stayed there: \_\_\_\_\_

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If No, please explain why not:

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41. Do you think the authorities in your country of origin can and will protect you if you return?    Why and why not?

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42. Have you ever been arrested, detained or imprisoned in your country of origin?

**Yes** [ ] **No** [ ]

If Yes, please state (a) by whom, (b) for what reason, (c) when, (d) where and (e) for how long you were detained, and (f) what brought your detention to an end:

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43. Have any members of your close family ever been arrested, detained or imprisoned in your country of origin? **Yes** [ ] **No** [ ]

If Yes, please state (a) by whom, (b) for what reason, (c) when, (d) where and (e) for how long were they detained, and (f) what brought their detention to an end:

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44. Were any persons, such as a lawyer, relatives or friends, permitted to see you during detention? If so, how long after the arrest were you visited? Give details of the visits (the dates, the duration and the names of the visitors):

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45. Have you approached any international organisation such as the United Nations High Commissioner for Refugees (the “UNHCR”) for assistance?

**Yes** [ ] **No** [ ]

If Yes, when and whom did you approach: \_\_\_\_\_

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46. Did you make any refugee application in or outside the HKSAR before?

Yes [ ] No [ ]

If Yes, please state:

(i) the date(s) of your application: \_\_\_\_\_

(ii) the place(s) where you lodged the application: \_\_\_\_\_

(iii) the outcome of your application(s): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Note: You have to attach copies of all documents issued with regard to those refugee claims. If your refugee application is still under processing, you must inform this office of the outcome of your application once available.)

If No, do you intend to lodge one? Yes [ ] No [ ]

If No, why:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

47. If you have made / intend to make a refugee application in the HKSAR, are you willing to give consent for the UNHCR to release your information to the HKSAR Government (the "HKSARG")? Yes [ ] No [ ]

(Note: If Yes, please sign the form at Annex 1.)

48. If you have made / intend to make a refugee application in the HKSAR, are you willing to give consent for the HKSARG to release relevant parts of this questionnaire to the UNHCR? Yes [ ] No [ ]

(Note: If Yes, please sign the form at Annex 2.)

49. Have you or your family members ever belonged to or been associated with any organisations or groups in your home country, such as, but not limited to, a political party, student group, labour union, religious organisation, military or paramilitary group, civil patrol, guerrilla organisation, ethnic group, human rights group, or the press or media, which is relevant to your claim?

**Yes [ ] No [ ]**

If Yes, please describe for each person the level of participation, any leadership or other positions held, and the length of time you or your family members were involved in each organisation or activity if it is relevant to your claim. (Please use additional sheets as necessary.)

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50. Do you or your family members continue to participate in any way in these organisations or groups?

**Yes [ ] No [ ]**

If Yes, please describe for each person you or your family members' current level of participation, any leadership or other positions currently held, and the length of time you or your family members have been involved in each organisation or group. (Please use additional sheets as necessary.)

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## Part 4 – Travel Details

51. Have you travelled outside your country of origin on any occasion prior to coming to the HKSAR?   **Yes** [  ]   **No** [  ]

If Yes, please state when and to where? \_\_\_\_\_

\_\_\_\_\_

purposes of the journey(s) \_\_\_\_\_

\_\_\_\_\_

means by which you left (air, train, sea – please provide details) \_\_\_\_\_

\_\_\_\_\_

and date you returned to your country of origin \_\_\_\_\_

\_\_\_\_\_

52. Have you ever been issued with a passport or other travel document?

**Yes** [  ]   **No** [  ]

If Yes, please complete the following:

| Which country gave you the passport or travel document? | Date of issue | Place of issue | Where is it now? |
|---|---------------|----------------|------------------|
|   |               |                |                  |
|   |               |                |                  |
|   |               |                |                  |

53. Did you have a visa to enter any country?   **Yes** [  ]   **No** [  ]

If Yes, please complete the following:

| Country | Type of visa | Date of issue | Place of issue |
|---------|--------------|---------------|----------------|
|         |              |               |                |
|         |              |               |                |

|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|--|--|--|--|

54. Did you ever apply for a visa for the HKSAR?      **Yes** [  ]    **No** [  ]

If Yes, when and where did you apply? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

55. Were you issued with a visa for the HKSAR?      **Yes** [  ]    **No** [  ]

If Yes, please provide full details - type of visa, when and where issued, expiry date:

\_\_\_\_\_  
 \_\_\_\_\_

56. If you had no visa, what documents did you use to enter the HKSAR?

\_\_\_\_\_  
 \_\_\_\_\_

57. Date you last left your country of origin: \_\_\_\_/\_\_\_\_/\_\_\_\_ (DD/MM/YY)

58. What travel arrangements did you make for this journey and how did you make them? Did you have to pay anyone and, if yes, to whom and how much did you pay?

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

59. Mode(s) of transport: \_\_\_\_\_

60. During your recent journey to the HKSAR, which countries or places did you travel through?

\_\_\_\_\_  
 \_\_\_\_\_



For each country or place you travelled through please provide the following details:

| Country / Place | When were you there (dates)? | How long did you remain there? |
|-----------------|------------------------------|--------------------------------|
|                 |                              |                                |
|                 |                              |                                |
|                 |                              |                                |

61. Did anyone accompany you? If so, who (please give full name and present address)?

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62. If you are not traveling with your family members, why didn't they travel with you?

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63. Where are your family members now?

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64. Have you ever lived in a country other than your country of origin?

Yes [ ] No [ ]

If Yes, please complete the following table for each country you have lived in:

| Country | When did you reside there (length of residence & dates)? | Address at which you resided? |
|---------|--|-------------------------------|
|         |  |                               |
|         |  |                               |

**Part 5 – Completion of your Questionnaire**

65. Did you complete this questionnaire by yourself? **Yes** [ ] **No** [ ]

If No, who completed or assisted you to complete this questionnaire?

Name: \_\_\_\_\_

Means of contact (e.g. address or telephone number): \_\_\_\_\_

\_\_\_\_\_

Relationship to you: \_\_\_\_\_

Please state why you were unable to complete it or required assistance to complete it: \_\_\_\_\_

\_\_\_\_\_

66. Are you legally represented in making your claim? **Yes** [ ] **No** [ ]

If Yes, please state the name and address of your legal representatives:

\_\_\_\_\_

\_\_\_\_\_

67. Please indicate whether you prefer the interview(s) to be audio recorded:

**Yes** [ ] **No** [ ]

68. Do you require an interpreter when attending interview(s)? **Yes** [ ] **No** [ ]

If Yes, please specify the language / dialect.

\_\_\_\_\_

69. Do you have any special needs in relation to investigation / assessment of your torture claim (e.g. a signer or an interpreter of preferred gender, etc.)?

**Yes** [ ] **No** [ ]

If Yes, please state your needs with reasons.

\_\_\_\_\_

\_\_\_\_\_

70. Please state the total number of additional sheets attached to this questionnaire?

\_\_\_\_\_ **sheets**

71. Please provide a telephone number where you can be contacted during the day.  
(Note: If you change your telephone number, you must notify this office immediately in writing.)

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72. Please provide an address where you can be contacted. (Note: If you change your address, you must notify this office immediately in writing.)

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### **Part 6 – Interpreter’s Confirmation**

I, (print full name clearly) \_\_\_\_\_, hereby confirm that I have accurately interpreted the entire content of this questionnaire and all attached documents to the claimant from the English/Chinese language to the \_\_\_\_\_ language (state dialect if applicable). I am proficient in both languages and am able to communicate fully with the claimant. **The claimant has indicated that he / she fully understands the entire content of this questionnaire and all attached documents and the answers provided, as interpreted by me.**

---

Interpreter’s signature

---

Date

## Part 7 – Your Confirmation as a Claimant

**Before you sign, please check that you have answered all the questions fully and accurately giving as much detail as possible. All the information you have provided in this questionnaire will be considered in making a decision on your claim.**

If you **DID NOT** require the assistance of an interpreter, you should complete **CONFIRMATION A**.

If you **DID** require the assistance of an interpreter, you should complete **CONFIRMATION B**.

### **Confirmation A**

I confirm that the information provided in this questionnaire and all attached documents is complete, true and correct. I confirm that I am able to read English/Chinese and that I fully understand the entire content of this questionnaire and all attached documents. I provide the information knowing that if I willfully state anything which I know to be false or do not believe to be true, I may be liable to prosecution for a criminal offence.

---

Your signature

---

Date

### **Confirmation B**

I confirm that the entire content of this questionnaire and all attached documents has been interpreted to me. I confirm that the information I have provided in this questionnaire and all attached documents is complete, true and correct. I provide the information knowing that if I willfully state anything which I know to be false or do not believe to be true, I may be liable to prosecution for a criminal offence.

---

Your signature

---

Date

- End -

## Personal data kept by the Immigration Department

### Information Generally Included

- Travel record
- Immigration examination record and Control Case Report
- Information about arrest for offences under the Immigration Ordinance (e.g. landing in HK unlawfully or breach of condition of stay)
- Information about detention and release on recognizance

### Other information of some claimants kept by the Immigration Department

- Information about arrest for more serious offences under the Immigration Ordinance (e.g. engaging in unlawful employment, making false statements, forgery of documents and use and possession of forged documents)
- Criminal record other than those related to immigration offences
- Reason for removal or deportation, and information related to any petition, appeal and judicial review concerned
- Record of assessment of past torture claim, if any
- Visa applications (e.g. visit visa, application for extension of stay and foreign domestic helper employment visa, etc)

### Information to be provided by torture claimants in the Questionnaire

- **Personal data** : Name, gender, date and place of birth; place and duration of residence in country of origin, citizenship/nationality, right of residence or abode; ethnic group, tribe or race, religion; first language and other language(s) which claimant can speak or write; benefits or allowances or other payments received in country of origin; education and work history
- **Family details** : Marital status; personal particulars of current and former spouse(s) and dependant children, parents, brothers, sisters (including step brothers and sisters) and other dependants; current whereabouts of family members
- **Basis of claim** : Time and reason for leaving the country of origin; detailed information of what may happen if returned; torture experienced in the past;

records of arrest, detention or imprisonment in the country of origin; organisations or groups belonged to or been associated with in home country; assistance sought from or report made to any authorities in country of origin or elsewhere; protection available in country of origin; record of relocation to a different town or village or to another part of the country of origin for avoiding torture; record of seeking assistance from any international organisation

- **Travel details outside the HKSAR** : Date of leaving the country of origin; travel arrangements for the journey to the HKSAR (including how the arrangements were made, whether payment was made to anyone and the amount, mode of transportation, countries or places travelled through, whether there was any accompany, etc); countries or places claimant has ever lived in other than the country of origin; countries or places claimant has travelled to outside the country of origin prior to coming to the HKSAR; passport, other travel document or a visa to enter any country a claimant has ever been issued with
- **Visa applications for the HKSAR** : previous visa application(s) for the HKSAR (if claimant had no visa, the documents used to enter the HKSAR)