



To:

Members of the Panel on Security
Legislative Council
Legislative Council Complex,
1 Legislative Council Road,
Central, Hong Kong

2 July 2013

Dear Members of the Panel on Security,

Screening of Non-refoulement Claims

This letter refers to item II, Screening of Non-refoulement Claims, of the agenda of the meeting in the Panel on Security on Tuesday, 2 July 2013.

Society for Community Organization (SoCO) welcomes the government's decision to set up a unified screening mechanism (USM), following the rulings of the Court of Final Appeal (CFA) in *Ubamaka Edward Wilson v. Secretary for Security* (FACV 15/2011) and *C & Ors v. Director of Immigration* (FACV 18-20/2011).

While welcoming a USM, SoCO would urge the government to review the whole administrative and legal framework protecting people from *refoulement*. We urge the government to consider the following:

1. Becoming party to the Refugee Convention

The government should strongly consider becoming a signatory to the 1951 Convention relating to the Status of Refugees (the Refugee Convention), which now has 145 State parties. The Refugee Convention is the only international agreement that recognizes the rights and obligations of refugees. It also includes basic human rights such as the right not to be forcibly returned, the right to education, work and public assistance. If Hong Kong

signs it demonstrates its commitment to treating refugees according to internationally recognized standards.

2. Legislative framework

In its paper (LC Paper No. CB (2)1465/12-13(01)) the Security Bureau only mentions setting up an USM, without discussing the legal framework. While the screening mechanism under the Convention Against Torture (CAT) is protected under a legislative framework under the Immigration (Amendment) Ordinance 2012, the rights to be protected against cruel, inhuman or degrading treatment or punishment (CIDTP) or persecution with reference to Article 33 of the Refugee Convention are not yet incorporated in the Immigration (Amendment) Ordinance 2012. The government should therefore review the whole statutory framework based on the new USM.

However, besides from only setting up a legal framework for the new USM, it is time for the government to review what basic human rights that should be protected to ensure that refugees have a right to work, education and public assistance.

3. Legal assistance

While welcoming the fact that the government is committed to providing legal assistance to all claimants under the new USM, SoCO urges the government to review the services provided by the Duty Lawyer scheme to see whether it meets the needs of claimants or whether the Legal Aid Department would be in a better position to assist claims under the new USM.



Society for Community Organization