

**For discussion on
24 July 2017**

**Legislative Council House Committee
Subcommittee on Children's Rights**

Non-refoulement claimants who are minors in Hong Kong

Purpose

This paper informs members of the situation of non-refoulement claimants who are minors in Hong Kong.

Background

2. The United Nations Convention relating to the Status of Refugees (the Refugee Convention) has never been applied to Hong Kong. The Government has always maintained a firm policy of not granting asylum and not determining or recognising refugee status of anyone. Claimants who lodged a non-refoulement claim to resist removal from Hong Kong will not be treated as “refugees” or “asylum seekers”. Regardless of the outcome of their non-refoulement claim, their immigration status as illegal immigrants / overstayers will not change; they are not permitted to reside in Hong Kong.

3. As at end June 2017, there were 8 205 non-refoulement claims pending determination by the Immigration Department (ImmD), out of which 387 claimants were minors, mostly from Indonesia (33%), India (13%), the Philippines (12%), Vietnam (7%) and Sri Lanka (7%). Separately, there were 483 minors pending determination of appeal on their rejected non-refoulement claims, or pending removal from Hong Kong.

Screening Procedures

4. Under the unified screening mechanism (USM), non-refoulement claimants have all reasonable opportunities to provide facts for establishing their claims. The Government also provides claimants

with publicly-funded legal assistance and interpretation service. In general, the grounds of a non-refoulement claim of a minor are the same as those of the claim(s) of his or her father and/or mother. In this regard, ImmD will process the claims of the minor and his or her father and/or mother in one go. According to the procedures under USM, ImmD will invite claimants to attend screening interview(s) after receiving their completed claim form. Claimants are required to provide information relating to the non-refoulement claim and answer relevant questions.

5. When their non-refoulement claim is finally rejected, claimants (including minors) will be removed from Hong Kong as soon as possible. As regards substantiated claimants (including minors), ImmD will regularly review their case; if the situation of the claimant or the risk State concerned has varied to the effect that the risk has ceased to exist, ImmD may revoke the decision on substantiating the claim according to established procedures.

6. ImmD's case officers received relevant training to handle and accommodate special needs of claimants who are minors, including giving appropriate attention to them to ensure effective communication at interviews, arranging a relative / guardian to accompany them to attend screening interviews, and seeking assistance from social workers or other professionals where necessary, etc. ImmD will accord priority to processing claims involving minors. Should the need arise, claimants may also request ImmD to accord priority to their claim, and raise other special needs for appropriate arrangements by ImmD.

Humanitarian Assistance

7. A non-governmental organisation is selected by the Social Welfare Department through open tendering procedures to provide humanitarian assistance to non-refoulement claimants. At present, the humanitarian assistance programme is administered and delivered by the International Social Service Hong Kong Branch (ISS-HK). Each month, each service user may receive assistance on items¹ including food, accommodation, utility allowance, transportation allowance and other

¹ Assistance items include food (\$1,200 E-token per month), accommodation (rent allowance at \$1,500 and \$750 for each adult and child respectively; rental deposits (a maximum of \$3,000 or an amount equivalent to two months of the rent, whichever is the less); property agent fees (\$750 or an amount equivalent to the rent for half a month, whichever is the less), utility allowance (\$300 per month), transportation allowance (\$200-\$420 per month) and other basic necessities (in-kind).

basic necessities (in-kind), based on the needs and circumstance of individual service users. For special cases with extra needs, ISS-HK may adjust the amount of assistance, subject to an assessment of the actual situation based on justifications and documental proofs provided. ISS-HK also provides counseling services to service users.

Advice Sought

8. Members are invited to note the content of this paper.

**Security Bureau
Immigration Department
Social Welfare Department
July 2017**