

Submission to the Panel on Security of the Legislative Counsel

Comprehensive Review of the strategy of handling non-refoulement claims

LC Paper No. CB (2)1794/17-18(01) – July 2018

PREFACE

This submission to the **Panel on Security of the Legislative Counsel** is written in response to the Security Bureau's comprehensive review strategy paper of 4 July 2018. This is to advocates for **durable solutions** based on a holistic approach that will benefit the Hong Kong society and the refugees' community rather than depending on old strategies that have never proven any success around the world.

The Security Bureau submission of July 2018 describes 23 amendments to the Immigration Ordinance (Cap 115) which are being considered by the Immigration Department to **reduce the time frames for submission of documents and procedures, establishing binding schedules, limiting translation facilities, reducing consideration of mitigating circumstances, refusing to assist claimants in their claims, arranging for repatriation while an appeal is pending, and others.** The issues under consideration are clearly being directed to deterred asylum claimant from coming to Hong Kong and to put pressure on USM claimant already in the process. In fact, the whole government efforts and resources represented by these amendments are focusing on letting the world knows that Hong Kong is not a place that welcomes refugees. There is not one point in this document that is concerning about improving the process for the benefit of those who are in a desperate need of protection according to international laws.

In response to this document, I would like to highlight the following comments:

- The measures taken by the security bureau to deterred refugees from the city are not new in the history of refugees' protection. Other countries had once applied such measures to deterred refugees from crossing their borders; in addition to keep refugees in open camps or leave stranded refugees at the middle of the sea, etc. Yet these methods did not stop refugees fleeing danger, persecution and other inhumane treatments. It is clear that refugees do not flee because of assistance provided by the host country, but because of persecution and war. However, history has proven that such measures did not work in the past and hence, cannot work in our modern present or future.
- In fact, such measures may help to decrease the flow of refugees for a certain period of time, but it is not a long-term solution. On the other hand, unwise tight measures will – on the long term- create new humanitarian crisis, fear, mental health issues and trauma among refugees. It would add a brand new fear to theirs, which is the fear of deportation to a place where they previously faced persecution and/or torture.
- We cannot put all the asylum seekers in one category which addresses them as economic immigrants who left their countries to have better financial standards. This cannot be applied on people who risk their lives and almost drown in the seas and oceans and yet still trying to escape from the fear in their countries. They left their countries because of war, human right violation, persecution, killing and abduction. They travel because they want to be in a country that is safe, and their basic human rights can be protected.
- Hong Kong is an amazing city and I believe that it can be a role model and we can show the world how diverse we are. We can easily regain our reputation of being a welcoming, international city.
- Being welcoming is not contradicted with the government efforts in securing our borders and more importantly, keeping our city in the first place in the safe cities ranking around the world.

- We just need to understand that securing our borders doesn't necessary include:
 - a) Reducing time frames for submission of documents and procedures for USM Claimants;
 - b) Limiting translation facilities and conducting interviews in a language other than the claimant`s mother-tongue;
 - c) Refusing to assist claimants in their claims; or
 - d) Arranging for repatriation while an appeal is pending.

While all these measures may help to reduce the time of processing a claim, it may not be helpful in the long-term strategy. It will not contribute to the well-being of refugees who stuck in the city.

In the light of the above mentioned points, I would like to have the honor to present to you what we think can be helpful to address the refugee issues in our city through the following proposal for your consideration: Over the past decades, UNHCR has been advocating for a durable solution strategy for the refugees' crisis which include: resettlement to a third country, local integration or to return them to their home countries when conditions are favorable. These solutions need to be read together with a development strategy. Relief and development need to be implemented together for effective durable solutions. These solutions have been proven to be beneficial for both the host country and the refugees when implemented with development approach.

- 1) Hong Kong had a good example of welcoming refugees in the past, our desire is keep Hong Kong with this reputation. Refugees in this city show respect the government of Hong Kong in different situations, so, rather than keep thinking of how to make the system so tight regardless how the world would be looking to us, why not the

government of Hong Kong set a good example by implementing roles that work through a humanitarian and development pathway towards the good future of the refugees.

- 2) Hong Kong may consider seeking advice and training from other countries who have more experience in dealing with the refugees' crisis, like Canada, which has a good asylum seeking system, a fair acceptance rate, governmental and private sponsorship protocols and well-structured local integration policies that are highly effective and totally ensure the benefit of both the local community and the arriving refugees. One of the things that bothers me is that I know many cases of asylum seekers that their cases were rejected by USM Hong Kong, but accepted in countries like America, Canada, New Zealand.
- 3) Hong Kong may consider to apply the durable solution approach set in place by UNHCR which are the resettlement program, local integration or a voluntary departure. Set up development programs would guide the refugees towards one of these durable solutions. A very interesting fact that an asylum seeker who is married to a local spouse can be sponsored to have a depend visa and to become a resident and even permanent resident, but a mandated refugee cannot. If a spouse can sponsor a dependent visa, why not the government considers open this up to a private sponsorship program as in Canada, New Zealand, USA, Britain and Germany where a group of 4 to 5 people can sponsor a refugee to settle in the country. This would lift up the burden from the government's shoulders to provide financial assistance to the refugees; instead, their sponsors will take that responsibility. The government will be managing this system for a better integration.
- 4) Hong Kong may take the pathway of developing refugees to become contributors in our society. Instead of reducing the time of submission of the documents, the security bureau may consider that USM claimants to take "Educational and Vocational Background", this can be implemented in partnership between local NGOs and the

government if there are concerns about adding strain to the local education system. While in Hong Kong, USM claimant should be encouraged to take courses that could develop their skills. Enrollment in these courses will have a lot of impacts on the asylum seekers' lives. For example: keeping them busy, off the street, reducing crime rate, educating and preparing them for their future. In partnership with local NGOs who can offer such courses, the security bureau may make it an obligatory requirement that all claimants should attend language training program for English and/or Cantonese Languages. This takes place in Germany –for instance- as a must before introducing the asylum seekers to the labor market.

- 5) Instead of limiting translation facilities, the security bureau may consider as one of its requirements that all claimants should attend English language training in the waiting period, so that they would not be in need of an interpreters anymore. This training will not only help them with interviews, but also will prepare them for their future.
- 6) Instead of investing billions of dollars on humanitarian assistance of asylum seekers which is not durable, we can invest less amount in developing them and introduce them later to the labor market
- 7) Instead of reducing the consideration of mitigating circumstances, the security bureau may consider implementing anti-corruption training for the refugees in the city. Many refugees come from countries with a very high level of corruption. This training would help the refugees understand the importance of fight against corruption and its impact on developing a country. This can be a DNA that Hong Kong authorities put in the lives of refugees while being in the city.

- 7) Instead of arranging for repatriation while an appeal is pending, Hong Kong may consider to partner with the countries of origin in order to train and equip refugees to become – voluntarily- good contributors in their societies. So that when they return home, they can play a significant role to develop their countries. History has proven that deportation is not the right solution for refugees' crisis, camps are not the right solution too. These actions can only cool it down, but will never help humanitarian-wise.

- 8) The security bureau should consider a highly sensitive balance between the importance of securing the country borders and maintaining the humanitarian aspects of people who seek protection.

- 9) I will like us to tap into the great initiative by our great president, President Xi's initiative of "Belt and ROAD" and China's vision for Africa and other developing countries is an important initiative to leverage on. This initiative is for all to benefit from. Research has proven that when refugees return to their countries of origin, they possess enhanced skills, knowledge and ideas that can substantially contribute to the development of their countries. However, research has proven that such contribution can only be achievable when the country of origin has created a propitious social economic environment for using skills acquired abroad. I believe that "Belt and Road initiative" will create such social economic environment for re-integration. Instead of forcefully deporting refugees, we can start to train them with vocationally and educationally while emphasizing the impact of the cultural diversity so that when they return home, they may work alongside the Chinese people in their countries, helping to bridge the gap between Chinese and the local citizens of their countries. By learning Chinese language and Culture in Hong Kong, refugees may contribute to the development of the trade link between countries.

10) Instead of forcing the refugees to bring documents that may not be relevant to their claims, Hong Kong authorities may consider training refugees against corruption. Hong Kong have very powerful anti-corruption legislations which could be copied and spread all over the world. Hong Kong authorities and different parties may contribute in the refugees' training about anti-corruption legislature, so that when they get back to their home countries, they can play a significant role in rebuilding their countries and developing a healthy governmental system that will prevent long term refugees' crisis. Through such trainings, Hong Kong may develop internship programs with other governments to support refugees to return home voluntarily while being equipped with skills that may be use in their local governmental work.

11) China's vision of Africa is a very positive initiative by the Chinese government to strengthen cooperation between countries. The refugees' crisis can be seen as an advantage towards this development and cooperation. Hong Kong can play a good part in this initiative by setting up plans and strategies that would turn the refugees into becoming significant players in this vision. Setting up development seminars for refugees would definitely help them support the development of their countries.

12) History has proven that development is the ultimate durable and doable solution for the refugees' crisis. Hong Kong government in partnership with NGOs can do a great role in developing a system that will keep the refugees well-trained and highly motivated to integrate positively. It is a real challenge to implement such a system, but the end result will impress the whole world and will turn Hong Kong into a role model which many countries would like to imitate. There are ways in which Hong Kong can show the world a good example of how to develop refugees and prepare them for a better future.

13) There are many ways in which the government can open up the development strategies and to involve the refugees in the growth and development of the city, which will be a win-win situation for everyone and promote Hong Kong to be a city that not just welcomes the rich but also the poor.

Hong Kong played a significant role to protect the lives of many Vietnamese boat refugees and gave them the chance to live again. These people will never forget Hong Kong for their kindness. Hong Kong, when it was not as wealthy as it is now, show great sense of generosity to the refugees. Though not many were satisfy with it gesture, but reality is Hong Kong save the lives of many people. The previous generation of Hong Kong took the responsibility with love towards refugees that fled from war and persecution. I believe that the kind gesture of Hong Kong may have play a role to bless this city so greatly with so much. The kind gesture of the previous generation open the door for great people to be formed and great leaders to understand humanity and protecting the vulnerable. Why are we now so hard towards the refugee in this generation? Where do we want them to go? Where is the love for humanity? Let us make Hong Kong a proud and prosperous city for all both the rich and the poor, the locals and the strangers and let the world learn from Hong Kong a strategy that speaks powerfully in development.

By Roy Njuabe