



郭榮鏗立法會議員辦事處

Legislative Council Office of the Hon. Dennis Kwok

Dr Hon Elizabeth Quat
Chairperson
Subcommittee to Follow Up Issues Relating to
the Unified Screening Mechanism for Non-refoulement Claims

15 January 2019

Dear Chairperson,

Questions and Concerns Regarding Meeting
of the Subcommittee on 15 January 2019

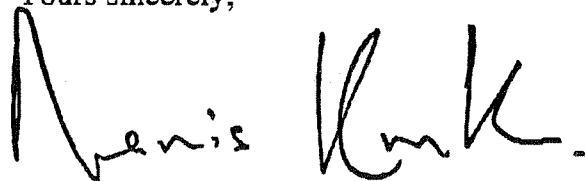
I have the following concerns and questions to the Government in relation to the agenda items of today's meeting:

1. The Pilot Scheme for Provision of Publicly-funded Legal Assistance for non-refoulement claimants ("Pilot Scheme") has been criticised for, among other reasons, its apparent lack of independence from the Immigration Department, meaning that claimants' legal advice are in a certain sense provided by the authority that decides their claims. While I am glad to learn that the Government will conduct a review of the Pilot Scheme soon, I share the concern of Justice Centre, an NGO specialising in protection claimants, about the methodology of the review and whether the Government will consult civil society and non-refoulement claimants for the review.
2. Duty lawyers have discretion to decide whether to continue representing a claimant on appeal before the Torture Claims Appeal Board. Could the Government explain whether there is any oversight or review mechanism of the duty lawyer's decision, or guideline for duty lawyers to determine whether a claimant should be represented, bearing in mind the importance of access to legal advice in all stages of the USM?
3. The high percentage of claimants not legally represented at the Torture Claims Appeal Board calls for concern of fairness of the process. Also, I wonder whether handling such a high number of appeals with claimants acting in person has any impact on efficiency of the Torture Claims Appeal Board? I echo Justice Centre's question in their submission: Has the Administration studied whether ensuring all claimants have access to legal representation will increase the efficiency of the TCAB?

4. I note in the Government's paper that the number of claims pending screening by ImmD as at the end of 2018 was only about 540, and that there is a decreasing trend in the number of new claims received. Given that the huge backlog of claims resulting from defeats of the lawfulness of previous screening mechanisms is now resolved, what is the justification of the Government's proposals to amend the Immigration Ordinance to expedite process of the claims at the cost of rendering the process unfair and susceptible to legal challenges?
5. It is regrettable that the Government has yet to update the LegCo its consideration of making TCAB decisions public. May the Government explain whether it will select and publicise redacted TCAB decisions with precedential value in order to give more transparency and confidence to the process?
6. As for school placement of children claimants in Hong Kong, may the Government provide details of the method they adopt for handling the cases requiring school placement, the number of children claimant involved, the number of children claimants successfully placed, and the average time the placement process takes. Also, may the Government explain whether it has considered collaborating with NGOs to facilitate school placement for children claimants; if yes, details of the collaboration; if not, why.

I would appreciate written reply by the Government.

Yours sincerely,

A handwritten signature in black ink that reads "Dennis Kwok". The signature is written in a cursive, slightly slanted style.

Dennis Kwok