

The evolution of asylum policies in Hong Kong

9 Dec 1992	The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) is extended to Hong Kong. HK was not a sovereign state and could not sign this convention, instead the UK extended this convention to the colony. On 10 Jun 1997 Beijing confirms its validity.
1993 - 2004	Government relied entirely on UNHCR decisions. When refugee claims were rejected by UNHCR, the government would reject torture claims without independent assessments.
8 Jun 2004	Prabakar judgment in the Court of Final Appeal: required that the government conduct its own screening of torture claims in order to assure “high standards of fairness”.
2004 - 2008	Non-statutory, Administrative Torture Screening Mechanism in effect.
5 Dec 2008	FB judgment in the Court of First Instance: which held, that the blanket policy of denying legal representation to torture claimants were unlawful and failed to meet the high standards of fairness. Thus Immigration Dept. must conduct assessment interviews with torture claimant in the presence of his legal representative and with the assistance of an interpreter. An appeal system is required.
24 Dec 2009	Launch of the “Enhanced Torture Screening Mechanism” as a statutory system: provision of publicly-funded legal assistance to torture claimants through the Duty Lawyer Service; unsuccessful torture claimants may lodge petition against the determinations made by the Immigration Department on their claims to the Security Bureau within 14 days of determination; if the claimants are aggrieved by the refusal, they may apply for judicial review to challenge the refusal decision.
21 Dec 2012	Ubamaka judgment in the Court of Final Appeal: the right not to be subject to torture, cruel, inhuman, degrading treatment or punishment (CIDTP) is absolute and non-derogable, even for those who have no right to enter and remain in HK.
25 Mar 2013	C, KMF, BF judgment in the Court of Final Appeal: Immigration Dept. can no longer rely on UNHCR refugee status determination (RSD). Immigration must conduct its own refugee screening, satisfying high standards of fairness and ensuring access to judicial review.
31 Dec 2013	Unified Screening Mechanism failed to launch by the end of 2013 as announced by the Security Bureau on 2 July 2013 to the Legislative Council.