

UNHCR Choosin: We all see that the system in Hong Kong needs to be changed, needs to be improved. HKGov should take more responsibility, including taking up RSD into their hand. I think the merge of the procedure, between CAT and RSD, if it's done by the government would be (better) for so many reasons, particularly it would be more efficient, more economical.

But I would admit that the UNHCR RSD procedure would have some weak points, but I think we talk in a different angle. If the government would do RSD, it would be subject to Judicial Review and – as many panels have mentioned – UNHCR is immune from the Judicial Review. That is our privilege. But it does not make us that we don't do it responsibly. If you look at the government procedure, it's subject to the domestic law and to have the government to do RSD you have to (see) the law first, the government must accede to the 1951 Refugee Convention. If the person don't like the outcome of the government decision, they can take it to the court.

But for UNHCR our responsibility is under international law which is institute the UNHCR, which gives us the mandate to give international protection to refugees. And also to supervise the implementation of the 1951 Convention. So what we do under our mandate is to consider asylum-seekers and refugees as our clients, not our rival or opponent. We are supposed to help them to identify themselves or to dig into their story to see whether they are in need of international protection. So when we interview asylum-seekers we do on that basis, that we are working out with our clients to find out whether the person need international protection or not, whether they are a refugee or not. And probably that is why what we are doing is not subject for the judicial review. Is not that when the government do RSD that is based on the domestic law.

I totally agree with Patricia on the need of the Judicial Review for this in Hong Kong. But that does not mean that we don't advocate for this issue. We always work try to work out with the government to accede to the Convention, to try to dot the RSD by themselves and to get directly involved to providing assistance to refugees. And that is what the panels have the view. And we are still working hard on that, on the detention, which I think has been improved quite a lot, mostly thanks to the judicial review initiated by Barnes & Daly. The involvement of the government into doing CAT and everything.

I would like to comment on a few things, particularly on the recognition rate given by Aleta on the cases that have RAC involved. It was said that UNHCR's recognition rate was 10%? ... that 90% were rejected ... but when RAC do it, the recognition rate is about 60%. I will not challenge that that is not the truth. That may be the fact. But you have to look on the (crowded?) The case that the RAC do, are the cases RAC has selected, out of the thousands of cases, RAC do 54 cases. And after screening and after providing assistance, the (rejection) is very high, that I can see, but if you put all the cases together, particularly as Patricia mentioned, that we have to accept, that we have to admit that many of them are the case that we call "manifestly unfounded cases." So there are many cases that when you go through it, mostly the case will be rejected. So to use the recognition rate of the 60% against the 10% that UNHCR do, I would say that is a little bit misleading. So I just want to correct that.

Come to what Mr. Beatson talking about, UNHCR irrelevant activities, to be frank, I don't know what I could say about it. Because the information that Mr. Beatson has, seems to me, I don't know where he

got it from. He probably pick up somewhere. Mr. Beatson has a lot of opportunity to join the meeting with UNHCR. He chooses to leave the meeting. And he never asked any questions about this to get certification from us. When he put the information, the first article to the website, the Vision First website, we tried to contact. And we want to give explanation of the question to, we cannot get hold of him. We sent response in writing to open letter and tried to put in the website, it was rejected. So I don't know. The information is still the same, despite a lot of clarification that we provide to Mr. Beatson.

So I'm not sure what kind of intention Mr. Beatson try to put into the criticism. We very much welcome the constructive criticism and we try to improve, like when we get the criticism from the RAC about our procedure, that maybe there is some weakness in our procedure. We try to make it more transparent, although our procedure is practice worldwide that we do RSD ourselves. Actually as a pilot, Head-Quarter will ask us as a pilot office to try the legal representation. We agreed to have legal representation for five years and encourage RAC to work with us. And I think we work quite well with RAC. And we appreciate that RAC try to protect the rights of the refugees.

But to criticize and to attack without any substantive grounds ... for example, Mr. Beatson mentioned about that refugees were treated badly by the staff of my office, to tell them not to raise issue, otherwise we are going to resettle them or will not recognize them, or whatever. As I mentioned in the open letter to Mr. Beatson, if there is any case like that, please bring it to our attention. We have the mechanism to address it. We have the Complaint Box in the office, in the waiting room also, to address whatever complaint from the refugee. But to talk about it without any proof, or substantive information, I think it is not very constructive. Thank you

MSN Ibrahim: UNHCR has "Refugees Urbanization Policy", what does UNHCR do to address protection and social welfare?

UNHCR Choosin: Let me talk about the mandate of UNHCR ... to prevent sending back the people to the country where they will face persecution. Secondly we have to be supportive in providing durable solutions. Thirdly we have do the promotion of refugee law. That is what mainly UNHCR in Hong Kong is doing. That we work pretty well with the government to ensure, that all the asylum-seekers that we accepted they got the application and are allowed to remain in Hong Kong until the RSD procedure is finalized by UNHCR. We also have the Durable Solution Unit, that seek durable solutions for refugees, which in HK is mainly the resettlement. Because the repatriation we have a very small number and local settlement is basically only the case that is married to the local people.

So the main durable solution for the refugees in Hong Kong is the resettlement. That we are working very closely with the consulate of Canada and USA. These are the main two resettlement countries for Hong Kong. The others would be occasionally that they offer resettlement places for refugees. The problem of resettlement is the long process, particularly after 9/11 that the security check very seriously by resettlement countries. Normally would take over a year, even two years for a case to get the resettlement, that would depart from Hong Kong. But I think most of the case of refugee in Hong Kong don't find much problem in finding resettlement. Only we have some protected cases that are quite

small number and mainly are the cases that either have a criminal record or something like that. Those cases really become protected because no country will take them.

UNHCR Liantine: On your question on advocating for resettlement and resettlement opportunities. We in our office are constantly advocating for more resettlement places to open for the refugees that are here in Hong Kong. The resettlement process is a bit complicated. Different resettlement countries have different priorities as to which countries they would like to receive applications from. Now not all countries take applications from refugees in HK, so our job in this office is to constantly be lobbying to our Head-Quarters and also to resettlement countries to try to open more resettlement places up for us. And as Choosin said, unfortunately the process does take quite long. Once somebody gets accepted as a refugee, it is our mandate to prove, to find a durable solution for them. And we do work as hard as we can to be able to find them one.

But for resettlement, ultimately the decision making powers are not in our hands. But we work very hard to get our refugees resettled as quickly as possible. But there are limits. [MSN says it can takes seven years] I'm not going to comment on individual cases, but on average seven years is not the case. And one of the biggest issues the public has is they are getting these facts that are incorrect. And as Choosin said earlier, constructive criticism is always welcome. We work very closely with a lot of NGOs, Christian Action, RAC in the past. We know that life is difficult for refugees in HK. But there a lot of incorrect factual information out there and a lot of criticism that is really not very constructive to helping refugees. Because that is what we are all here to do, right? We are all here to help refugees.

UNHCR Choosin: Normally it would be not more than two years for resettlement. For the Canadian case about one year or one and a half year.

Vine Church Tony: Looking at moving things forward in HK, it would appear that the presence of UNHCR would be preventing this from happening. That it is a deterrent to that. What is the UNHCR's legal agreement with HKGov. Would HKGov feel under pressure if UNHCR withdrew from this process in HK?

UNHCR Choosin: We have the agreement with Hong Kong to implement our mandate. But Hong Kong always emphasises that Hong Kong is not signatory to the Convention, but allow UNHCR to implement its mandate by assisting refugees ... and looking for durable solutions for refugees. I don't know whether ... probably that may be a good idea if UNHCR is not around, maybe Hong Kong would take more responsibility. I would hope so. And maybe that would be a good idea to discuss about.

Peter Ho: Does the UNHCR have the ability to help out a little bit more?

HKU Kelley: It's short-term, medium-term, long-term strategy.

UNHCR Choosin: I'm glad to topic come up as I want to talk about the assistance also. Everyone would agree with me that one of the UNHCR's role, and one of the Hong Kong civil society's, is to try to encourage or to engage the government into take responsibility, including doing RSD, providing assistance. That is what UNHCR has been trying to do all along, to convince the government to do RSD

along with the CAT claims. And we also try to involve the government more on the assistance. In 2006 the government agreed to provide direct assistance to the asylum-seekers, but the government doesn't want to touch the refugees. Not until last year that we could ask the government to directly provide assistance to the refugees. I think it doesn't matter whether UNHCR have funds or doesn't have funds. We should always advocate for the government to always do more, to take more responsibility and to get more involved in refugee issues.

But also last year we are really in the very difficult situation and that is probably the reason why the government finally decided to help, because the UNHCR is not capable to assist. Talking about the funds that we raise in Hong Kong. Yes we raised certain funds, that should be enough to provide to refugees, but the system of UNHCR is not like local NGOs. The policy of the office is that whatever we raise in Hong Kong, or anywhere in the world by UNHCR office, all the funds have to go to head-quarter. Why? Because first of all head-quarter would be the best office to consider what is a priority for using the funds of UNHCR. If head-quarter allow each office to use the funds on their own, that would be a problem. Certain places like in Africa or sudden crisis, the fund will not go. The fund raised publicly basically is very small, compared to the whole budget. But UNHCR can use that fund for the certain crisis, that we really need. So we cannot spend any single cent by ourselves. We have to go to head-quarter first and head-quarter will dedicate, give back every year, each year, annually what we need or what they can provide, in order to address the need. That's why, although we raised some money, we don't spend that money.

Secondly, when you are talking about UNHCR cut the assistance, someone said that we cut from 1500, someone said that we cut from 2500. But I don't think we should consider cut. UNHCR assistance program to refugees has been replaced by the government. The government has agreed to come in and provide basic assistance, to cover the need of refugees. When you consider what is the basic, what is the need, you must have a standard to measure it. And what UNHCR practice around the world is that we have to use the local standard. When the government provides refugee assistance, the same amount they provide to the Hong Kong people who need assistance, need financial assistance from the government, that is the standard that we have to take. Because in many situations, when refugees receive better than the local people, that is clear that is a problem for refugees themselves, because it can turn local community against the refugees.

And in some situations, like I used to work before, many people cross the border to get assistance as a refugee. So sometimes giving can create more problems. But we have to make sure refugees receive up to the standard that they need. And UNHCR is very concerned that, because the refugees are foreigners, to use the local standard sometimes can be very difficult. So in that case we try to fill up the gap. We consider that in that case OK we try to fill up the gap, we provide cash complement on top of the government provision. We give 300. It is not that we reduce the assistance from 1500 to 300. The 1500 that the UNHCR used to provide is already covered by the government. So that is the minimum standard that refugees receive. The 300 that we provide is on top of the assistance that the government provides. To help the refugees better cope with the situation, they can buy miscellaneous things.

And we planned that after three months we will review this assistance, we would do it together with the stakeholders, like NGOs, government, refugees themselves, asylum-seekers and UNHCR. We will sit together and we will evaluate what is the gap and whether UNHCR has to do more or not. It is not that it is the luxury things that ... If you consider what the government provide, not only the 300 that we provide, accommodation always not enough, but I haven't heard that refugees are evacuated from the place where they live because of this. UNHCR provide on top of the accommodation when need be, because we know the inflation in Hong Kong, the cost of accommodation is very high and maybe the amount provided by the government may not be enough. In those cases, particularly in the case of the vulnerable people, like women with children, we want to make sure that they receive appropriate accommodation. In that case we provide on top. And sometimes the amount that we provide extra to the refugee is more than the basis that is provided by the government. So we are supposed to review and try to fill the gap, but we must base on certain standard.

HKU Kelley: Thank you Choosin for highlighting that.

Cosmo's closing remarks: I'm not going to comment on comments. What we really have to keep our focus on is that Hong Kong Government keeps deflecting their intervention and participation (in refugee matters.) If you read court judgments you will so often find the Director of Immigration repeating the standard line. I have come across at least twelve different court judgments where the same paragraph is used, hardly unchanged to the comma. So that just means there is a first shield of excuse and unfortunately it does carry the UNHCR name. Whether this mandate is something that the UNHCR could itself get out of, I don't know because the government works in its own way; it's difficult for us to understand it. But as long as the government in court keeps saying, "we have a system and the UNHCR is doing it, they offer the best solution" we as advocates – and I'm speaking on behalf of all our clients – we have a huge problem, because we can never move forward. This has blocked progress for ten years, we don't want this to continue till 2047, when the refugee convention will cover Hong Kong. Together we need to think about how to approach the government. The target is not UNHCR, I think we are working on the same boat, we need to get to shore ... that (target) isn't even Immigration Department, because it follows the Immigration Ordinance ... we have to find a way together to tackle Hong Kong Government with lobbying at the highest level.