**EASTWEEK MAGAZINE ARTICLE – 2 JULY 2013**

**Convention Against Torture:**

Edward Snowden’s (former US intelligence contractor) political asylum application in Ecuador gathered a lot of attention in Hong Kong. Together with the World Refugee Day on June 20, these two events raised public awareness on asylum seekers, who have been neglected by the Hong Kong people.

There are about 5000 torture claimants who sought help under the Convention Against Torture (CAT) scheme in Hong Kong. Some claimants claimed to be suffering from potential torture threats from the Bengal government, while some claimants suffer potential persecution by the Islamic Fundamentalists Taliban. The political asylum seekers receive $1200 subsidies and a minimal amount of donation from charities or religious organizations. They feel hopeless, as they are unable to move forward or move back to their own country.

The Hong Kong government usually takes around 4 to 5 years to complete the screening procedure for each applicant. Meanwhile, the African and South-Asian claimants have been caught being involved in illegal work and other illegal activities. An Indian worker was arrested as a suspect of the rape and sexual assault incident in the Chungking Mansions. 4 Indians and Pakistanis were also involved in the physical attack of the nephew of Nina Wang Kung Yu-sum, the former chairman of the Chinachem Group. These incidents further raised the concerns regarding the CAT scheme.

Close to 20 Bengalis are currently living in the abandoned farmland in Ping Che in the New Territories. Each claimant has waited for over 4 years. As political asylum seekers, they stay together in metal compartments that are filled with spider webs and molds. The houses have an unbearable smell. Although the air-conditioners are included in some rooms, the claimants are not able to afford the electricity fees; hence, the houses are extremely hot in the summer and freezing in the winter. The ceilings often leak during rainy days. There were times where the ceilings fell down when the asylum seekers were sleeping.

Thaidoul Alam asserted to be a driver of the former commander of the Bengladeshi Army. “I give him rides to and from work during the day. At night, I witnessed the robbery and all kinds of illegal offences that he had committed,” Alam says. Alam escaped to Hong Kong due to the threat of revenge of the victims. He submitted the torture claim under the CAT scheme. However, it is very difficult for most of the applicants to provide “sufficient evidence” to support their torture claims, as some of them did not even have the opportunity to notify their family before they left their hometown.

Due to insufficient evidence, Alam has spent 6 years waiting for the response while carrying the temporary permit to stay. Despite the fact that he misses his wife and children, he cannot go back to his home country due to the threat of torture and murder. He came to the city because Hong Kong, PRC is a party of the United Nation Convention Against Torture. In pursuance of Article 3 of the convention, Hong Kong has a duty not to “expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subject to torture.” Under international law, the right to freedom against inhumane and degrading treatment is also not derogable. Hong Kong government has the responsibility to provide protection for the claimants under international human rights conventions, but the compliance is highly questionable.

**Drop in Application**

The claimants sought to apply for the political protection under the CAT. Due to the lack of subsidies and resources, the applicants are often forced to work illegally to pay for the electronic bills and other basic expenses for necessity. Because of this, people often categorize them as economic migrants who solely aim to seek employment in Hong Kong after an illegal way of entrance. According to the Immigration Ordinance amendment in 2009, illegal migrants are subjected to a maximum fine of $50,000 and imprisonment of 3 years. Since the enactment, the applications of asylum seekers have accordingly decreased from 1809 applicants in 2010 to 1174 applicants in 2012.

**Maintenance from friends**

Another asylum seeker from Pakistan, Raja Amir Nawaz, claimed to be a leader of a group that was associated with the army and Taliban. In 2007, the Taliban requested Nawaz to provide certain information, but he refused. To avoid harmful consequences and to protect his family, he escaped to Hong Kong.

Contrary to Alam, Nawaz has a better living condition in Hong Kong. He is currently living with his Pakistani friends in a house in Pat Heung, where he can enjoy entertainment such as a LCD TV and DVD players. He also had a chance to go on boat trips with his friends.

Both applications of Alam and Nawaz are pending. Because Taliban is a “private association,” the government is reluctant to approve the applications. Although Nawaz has received relatively better care here, he has attempted to commit suicide for 3 times. “I am a businessman, and I have a wide social network. But I am wasting my life waiting here for over five years,” he says.

According to statistics provided by the HK Immigration Departments, a total of around 12000 claimants have submitted applications under the CAT scheme. Over 80% are from India, Pakistan, Indonesia and other South-African countries.

**Lower Rate of Approval than Australia**

Vision First, a non-profitable organization established in 2009, is committed to offering assistance, advice and care to all asylum seekers. It also provides temporary residence for up to 10 asylum seekers in Sai Wan. The founder of the organization, Cosmo Beatson, says “the average waiting time for each claimant is over 4 years, but there is only 7 successful claims over the years. The successful rate is much higher in other countries. 44% of the applications were approved in Australia in the last few years.”

He commented that the HK Immigration Department has adopted “a Culture of Rejection” while countries like Singapore clearly refused to sign these international conventions. It is contradictory for the Hong Kong government to be a party of the convention, but not fully complying with it and does not provide practical help to the people. Thus, the applicants have no other choice except spending years after years waiting for a response.

The Immigration Department has a duty to screen the claims with reasonable care and due diligence. If in doubt, the executives should approve the application, unless the contrary is shown.

Some South-Asians try to extend their permits to work and stay in Hong Kong by submitting the torture application. Some claimants provide no contacting information, when the Department requests more information from them regarding their claims and background.

Gordon Mathews, the professor of anthropology of The Chinese University of Hong Kong, supposed that most staffs in the investigation department only research and find evidence from mainstream databases including Google. He thinks that the unclear policy of Hong Kong might attract many economic migrants to the city. To assist genuine claimants, he suggested that the results of the investigation would be more accurate if the department by conducting inquiry in home countries of the claimants.

**Social Issues and Crime Rates**

The lengthy screening procedure has lead to other social concerns, when claimants are staying in Hong Kong illegally. The Security Bureau has published that 674 people were involved in illegal migration to Hong Kong in 2011.

The applicants often work as a coolie or as a cheap labour for restaurants, but they are not protected by the Minimum Wage Ordinance provisions. Some of them are even involved in selling counterfeit products and illicit cigarettes and gasoline.

Professor Gordon has suggested that the Hong Kong government should issue temporary working permits to the CAT applicants. “Genuine asylum seekers are not willing to apply for working visas because they might face refoulement or extradition and threat of torture, once it is expired. On the other hand, economic migrants frequently apply for working visas.” This raised a controversial discussion regarding the impact of granting the applicants the right to work.

The Immigration Department will consider about 1500 to 2000 cases from 2013-2014. Also, Immigration replied that the screening procedure is relatively long due to various of factors including whether the applicants are willing to cooperate with the investigation and the amount of evidence they provide. It takes the Department around 2 months to consider all submitted applications. Rejected claimants have 14 days to appeal their cases and the judgments will normally be handed down within four weeks.

Lal escaped from Sri Lanka to Hong Kong to avoid coercions of the government. He is the first applicant who has successful received his refugee status after staying in Hong Kong with his family for over 8 years. He is currently living in the Lantau Island, where he has worked in distribution companies and restaurants. His wish is to own his own farmland and to teach lessons on plantation of organic herbs from Sri Lanka.

The United Nation High Commissioner for Refugees has recommended that the screening procedure should not take longer than 6 months. Yet, Lal thought that the procedure could have been shortened if the Sri Lanka government was more cooperative with the Immigration Department.