

Submission to the Committee on Economic, Social and Cultural Rights (CESCR)

complementing the Third Report of the
Hong Kong Special Administrative Region
(HKSAR) of the People's Republic of China

Hong Kong
Refugee Advice
Centre



Asylum-Seekers and Refugees in Hong Kong

Pre-sessional Working Group, 51st Session, 21-24 May 2013

Hong Kong Refugee Advice Centre | April 2013

Preface

The Hong Kong Refugee Advice Centre (HKRAC) would like to bring to the Committee's attention areas of concern before the pre-sessional working group to draft the list of issues for the forthcoming examination of the Third Report of the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China under the International Covenant on Economic, Social and Cultural Rights. HKRAC would like to provide supplementary information to the Third Report's paragraphs 2.46-2.49 on protection for asylum-seekers and refugees, which HKRAC regrets do not provide details on the levels of material assistance provided to refugees, nor the barriers they face in exercising the rights to work and an adequate standard of living, particularly the rights to food and housing.

In its 2005 Concluding Observations, the Committee expressed concern "that HKSAR lacks a clear asylum policy and that the Convention relating to the Status of Refugees of 1951 and the Protocol thereto of 1967, to which China is a party, are not extended to HKSAR. In particular, the Committee regrets the position of HKSAR that it does not foresee any necessity to have the Convention and the Protocol extended to its territorial jurisdiction." It recommended that HKSAR "reconsider its position regarding the extension of the Convention" and "strengthen cooperation with the UNHCR [United Nations High Commissioner for Refugees], in particular in the formulation of a clear and coherent asylum policy based on the principle of non-discrimination."¹

HKRAC welcomes many of the developments in refugee rights' protection since the last review by the Committee in 2005. For example, in 2012 the government extended the welfare assistance that it gives to asylum-seekers and torture claimants to refugees as well. With the Immigration (Amendment) Ordinance 2012, HKSAR has developed a statutory framework for the screening of torture claimants in order to comply with its obligations under the Convention against Torture,² and there have recently been successful claims³—including the first success on appeal.⁴ On 21 December 2012 the Court of Final Appeal released its judgment that ruled that Hong Kong has an obligation to offer protection to those facing the threat of cruel, inhuman or degrading treatment or punishment (CIDTP).⁵ And on 26 March 2013, the Court of Final Appeal handed down its judgment that calls for the government to independently screen refugee claims, rather than relying exclusively on the UNHCR refugee status determination, in the decision to deport them.⁶

Nevertheless, it is an injustice and contrary to the spirit of the Covenant that a prosperous society such as HKSAR offers so little protection and such minimal levels of humanitarian assistance to

¹ CESCR, Concluding Observations for the People's Republic of China (including Hong Kong and Macao), UN Doc.: E/C.12/1/Add.107, 13 May 2005, at para. 80 and 92

² Government of Hong Kong, Immigration (Amendment) Ordinance 2012, Ord. 23 of 2012. <http://www.immd.gov.hk/pdf/ImmOrd2012.pdf>

³ Man, Joyce, "Hong Kong Grants Torture Claimant Protection; Only the Second Ever", South China Morning Post, 23 March 2013, <http://www.scmp.com/news/hong-kong/article/1197627/hong-kong-grants-torture-claimant-protection-only-second-ever>

⁴ Moy, Patsy, "Sri Lankan First to Win Hong Kong Asylum under New Appeal Process", South China Morning Post, 13 April 2013, <http://www.scmp.com/news/hong-kong/article/1213470/sri-lankan-first-win-hong-kong-asylum-under-new-appeal-process> no.

⁵ *Ubamaka Edward Wilson v. The Secretary for Security and Director of Immigration* (FACV No. 15/2011)

⁶ *C, KMF and BF v Director of Immigration and Secretary for Security* (FACV Nos. 18/19/20 2011)

asylum-seekers and refugees. The number of persons claiming asylum each year—around 700 to 800 per year—is an extremely small figure relative to the global refugee population and the total population in Hong Kong of 7 million. Furthermore, the Hong Kong government recently announced a budget surplus of 64.9 billion HKD (8.37 billion USD) and is predicted to experience economic growth in the coming year.⁷

This comes at a time when the UNHCR, due to the effects of the international financial crisis and competing humanitarian concerns globally, has been forced to make cuts to its budget, with repercussions for the Hong Kong Sub-Office. Beginning in July 2013, the 500 HKD (64.41 USD)/month cash assistance the UNHCR gives to recognized refugees will be discontinued—a vital lifeline for recognized refugees⁸ who must otherwise rely on in-kind forms of assistance and charity.⁹ HKRAC is concerned that the withdrawal of this allowance, without a responsive intervention by the government to address this development, will lead to a significant deterioration in refugees' quality of life. In a city with the highest level of inequality in Asia (with a Gini co-efficient of 0.537),¹⁰ a significant budget surplus and one of the densest concentrations of millionaires in the world,¹¹ HKSAR has the means and resources to do more to meet its obligations under the ICESCR for this vulnerable group.

Asylum seekers and refugees are survivors of some of the most egregious forms of human rights abuses. This population also faces particular vulnerabilities not experienced by other marginalised groups in Hong Kong: they arrive carrying few or no possessions with them, face significant language barriers, and must navigate a new, unfamiliar city. Moreover, they do not have social networks to rely on and frequently experience multiple, intersecting forms of discrimination.

HKRAC urges the Committee members to inquire of HKSAR government: what it is doing to ensure that asylum-seekers and refugees—some of HKSAR's most vulnerable groups—are able to live in dignity while they await the status of their claim and subsequent resettlement. The Committee should request further information than that provided in the State Report on the measures that HKSAR is taking to progressively improve asylum-seeker and refugees' living conditions by providing them with adequate food, housing and other social provisions necessary to enjoy the rights enshrined in the Covenant.

⁷ "CORRECTED-UPDATE 2-Hong Kong posts budget surplus as economy set for stronger growth", Reuters, 27 February 2013, <http://www.reuters.com/article/2013/02/27/hongkong-budget-idUSL4N0BR1SB20130227>

⁸ Asylum-seekers do not qualify for this assistance, which is only given to refugees who have had successful claims with the UNHCR.

⁹ UNHCR Sub-Office Hong Kong, Letter to various CSOs Representing the Refugee Community in Hong Kong, 18 February 2013

¹⁰ Lui, Marco and Boehler, Patrick, "Hong Kong's Wealth Gap Widens Amid Aging Population, Inflation", *Bloomberg Businessweek*, 18 June 2012, <http://www.businessweek.com/news/2012-06-18/hong-kong-s-wealth-gap-widens-amid-aging-population-inflation>

¹¹ Neate, Rupert, "China and India swell ranks of millionaires in global rich list", *The Guardian*, 31 May 2012, <http://www.guardian.co.uk/business/2012/may/31/china-india-millionaires-global-rich-list>

General Legal Framework

Under Hong Kong Basic Law, the HKSAR government has control over immigration matters and the right to develop its own laws and policies. While the People's Republic of China has ratified the Convention Relating to the Status of Refugees, which currently has 145 State Parties, and has extended it to the Macau SAR, it has not yet been extended to HKSAR territory. As such, HKSAR is one of the only wealthy jurisdictions in the world not to be bound by the Refugee Convention.¹²

In its Third Report as well as reports to other human rights treaty bodies, the HKSAR government has defended its position for not having the Refugee Convention extended to its territory by stating that, "Hong Kong is small in size and has a high and dense population. Our unique situation, set against the backdrop of our relative economic prosperity in the region and our liberal visa regime, makes us vulnerable to possible abuses if the abovementioned Convention were to be extended to Hong Kong."¹³

In order to fill the gap, the United Nations Refugee Agency (UNHCR) Sub-Office in Hong Kong conducts refugee status determination for persons claiming asylum. The government runs another parallel, but separate screening mechanism for torture claimants in order to meet its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by which it is bound.¹⁴ Civil society groups, legal experts and the UNHCR Sub-Office itself have advocated for the government to adopt an integrated, government-led screening mechanism for protection in order to increase efficiency, reduce backlogs, avoid duplication, deter abuse and improve procedural fairness, transparency and accountability.¹⁵

The fact that the 1951 Refugee Convention and its 1967 Protocol have not been extended to HKSAR territory and its lack of domestic refugee law has repeatedly been criticized by several treaty bodies—being one of the most frequent and unanimous recommendations made to the State in UN treaty body reviews. Indeed, in its last appearance before the CESCR in 2005, the Committee "regretted the position of HKSAR that it does not foresee any necessity to have the Convention and the Protocol extended to its territorial jurisdiction" which it recommended HKSAR to "reconsider".¹⁶

¹² UNHCR, "States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol", <http://www.unhcr.org/3b73b0d63.html>

¹³ The justifications for the "floodgates" argument is attributable to Hong Kong's experience handling Vietnamese refugees coming by boat from the 1970s to the 1990s, when Hong Kong was the "port of first asylum." However, HKRAC has never come across empirical evidence that supports the argument that extending the 1951 Refugee Convention would create a "magnet effect"

¹⁴ Under Article 3 of the Convention, Hong Kong should not expel, return or extradite a person to another State where there are substantial grounds for believing that he/she would be in danger of being subjected to torture

¹⁵ Karani, Philip. "Adopting refugee convention would not be a slippery slope for Hong Kong". *South China Morning Post*. 27 December 2012, <http://www.scmp.com/comment/insight-opinion/article/1113049/adopting-refugee-convention-would-not-be-slippery-slope-hong>

¹⁶ CESCR, "Concluding observations of the Committee on Economic, Social and Cultural Rights: People's Republic of China (including Hong Kong and Macao)", UN Doc.: E/C.12/1/Add.107, 13 May 2005, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/422/45/PDF/G0542245.pdf?OpenElement>

The Immigration Ordinance does not provide for any differential treatment for asylum-seekers compared to other persons seeking entry to Hong Kong. Those who enter into Hong Kong legally and file for asylum with the UNHCR are treated as “over-stayers” by HKSAR once their visas expire. At this point they may either voluntarily surrender to the Immigration Department or risk arrest for overstay. In either case, once they come to the attention of the Immigration Department, they may be subject to detention before the Director of Immigration, at his discretion, retains their passports and issues “recognizance papers”.¹⁷ Recognizance papers grant the asylum-seeker permission to remain in Hong Kong temporarily until their claim has been decided and/or UNHCR is able to facilitate their resettlement to a third country. The government affirms that it allows asylum-seekers without the right of abode (treated as “illegal immigrants”) to remain in HKSAR on humanitarian grounds at the “discretion” of the Director of Immigration, rather than out of legal obligation.¹⁸

The Third Report by HKSAR notes that “being a refugee or asylum-seeker per se would neither disadvantage nor give immunity to a person in Hong Kong.”¹⁹ However, HKRAC finds that asylum-seekers’ and refugees’ lack of legal status (leaving them without any valid HK Identification Card), and the absence of a comprehensive asylum policy that entrenches refugees’ rights are the primary determinants bearing a negative impact on asylum-seekers and refugees’ unequal enjoyment of economic, social and cultural rights in the territory. Furthermore, language barriers are a significant obstacle for accessing public services, as interpretation is not always provided and there are not always accountability mechanisms in place to regulate the quality of these services.²⁰

Right to Work

Legally treated as visitors/over-stayers, neither asylum-seekers awaiting the outcome of their claim with the UNHCR nor recognized refugees awaiting resettlement to another country are granted the right to work—paid or unpaid.²¹ They are also not entitled to receive tertiary or vocational

¹⁷ “The Director of Immigration may detain illegal immigrants and over-stayers or release them on recognizance under the Immigration Ordinance, having regard to the circumstances of each case, including likelihood of abscondance or committing crimes, prospect of removal within a reasonable time and other personal factors (e.g. medical condition).” HKSAR Government, Legislative Council Bills Committee on Immigration (Amendment) Bill 2011: Follow-up to the Fourth Meeting on 9 December 2011, LC Paper No. CB(2)598/11-12(01), <http://www.legco.gov.hk/yr10-11/english/bc/bc59/papers/bc591216cb2-598-1-e.pdf>

¹⁸ HKSAR Government, Press Release: LCQ3: Immigration Ordinance, 27 October 2010, <http://www.info.gov.hk/gia/general/201010/27/P201010270191.htm>

¹⁹ HKSAR Government, Third Report of the Hong Kong Special Administrative Region of the People’s Republic of China under the International Covenant on Economic, Social and Cultural Rights, at para 2.49

²⁰ Joint Submission from Hong Kong Organisations to the United Nations Committee on the Elimination of Racial Discrimination on the Report by the Government of the Hong Kong Special Administrative Region, 16 July 2009

²¹ Sections 38AA (1)(a) and (b) Immigration Ordinance Cap.115 create an offence for anyone who has entered Hong Kong illegally and remains without proper authority, or has been made the subject of a removal or deportation order, to take up any employment or establish any business here, even though they have released from detention with the approval of the Director of Immigration. HKSAR Government, Legal Aid Department Annual Report 2010, Chapter 3: Cases of Public Interest or Concern

http://www.lad.gov.hk/documents/annual_rpt_2010/en/casepi.htm

training (even if they themselves or a third party are willing to financially sponsor them) nor are they able to engage in volunteering activities. Nevertheless, figures from 2008 show that 97% of refugees are of working age (18-59 years old).²² Extraordinary temporary permission to work may be issued by the Director of Immigration on a discretionary basis, but is rarely granted in practice.²³

As noted by the Committee in its General Comment 18, “the right to work is essential for realizing other human rights and is an inseparable and inherent part of human dignity. The right to work contributes at the same time to the survival of the individual and to that of his/her family, and insofar as work is freely chosen or accepted, to his/her development and recognition within the community.”²⁴

Asylum-seekers and refugees—due to factors out of their control—are forced to wait while their refugee status determination is processed and resettlement is granted, which can take several years due to long processing times in the refugee status determination and resettlement procedures. Not having the opportunity to gain a living by work and occupy their time productively is disempowering and detrimental to their personal autonomy and can have a negative impact on their mental health. For asylum-seekers and refugees in particular, the right to work is a crucial component of avoiding social exclusion and, should their claim be successful, ensuring successful integration into a future host country once they are resettled from HKSAR.

Some asylum-seekers and refugees may be forced to work illegally in the informal economy or turn to negative coping mechanisms for their survival, a situation that offers them no legal protection and puts them at a series of risks. They may be subject to abuse and exploitative, unsafe and unhealthy working conditions propagated by unscrupulous employers who take advantage of their vulnerable position. If they are caught working illegally, they may be subject to a maximum penalty of three years in prison and a 50,000 HKD fine, in addition to potentially jeopardizing the status of their claim and opportunities for resettlement and facing deportation.

It is unfortunate that the Court of Appeal recently reserved judgment in a case, *MA & Ors v Director of Immigration*, which concerned four recognized refugees and a successful CAT claimant, who had been stranded in Hong Kong for between 7 and 12 years.²⁵ The appellants argued that their rights to privacy, to freedom from inhuman and degrading treatment and to work were violated by their being prevented from taking up gainful employment. At the time of this writing, the case is now applying for leave to appeal before the Court of Final Appeal.²⁶

²² Jah Ying Chung, “Struggles in the Shadow: Welfare Challenges for Asylum-Seekers in Hong Kong”, Civic Exchange, September 2009, Figure 2, p. 19, http://www.civic-exchange.org/eng/upload/files/200909_JYChung.pdf

²³ Moy, Patsy, “Immigration Chief Gives Sri Lankan Refugee Temporary Right to Work in HK”, *South China Morning Post*, 16 April, 2013, <http://www.scmp.com/news/hong-kong/article/1215575/immigration-chief-gives-sri-lankan-refugee-temporary-right-work-hk>

²⁴ CESCR, General Comment No. 18: Article 6 (Right to Work) of the International Covenant on Economic, Social and Cultural Rights, UN Doc.: E/C.12/GC/18, 6 February 2006.

²⁵ The first successful CAT claimant under the original scheme and the only one until a second CAT claimant was recognized in 2013.

²⁶ *MA v. Director of Immigration; GA v. Director of Immigration; PA v. Director of Immigration; FI v. Director of Immigration; JA v. Director of Immigration*, HCAL 10/2010 and HCAL 73/2010 and HCAL 75/2010 and HCAL 81/2010 and HCAL 83/2010, Hong Kong: High Court, 6 January 2011

Right to an Adequate Standard of Living

Article 11 recognizes the right of everyone to an adequate standard of living for oneself and their family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. However, the HKSAR government does not adopt a rights-based approach to its assistance schemes for asylum-seekers, refugees and torture claimants, which are inadequate to meet international human rights standards. The HKSAR Social Welfare Department has stated that, “[our] aim is to provide support which is considered sufficient to prevent a person from becoming destitute while at the same time not creating a magnet effect which can have serious implications on the sustainability of our current support system.”²⁷

HOUSING: Through the Assistance in kind to Asylum-Seekers and Torture Claimants (ASTC) Programme,²⁸ asylum-seekers, refugees and torture claimants are eligible for a 1,200 HKD (155 USD)/month per adult and 600 HKD (77 USD/month per child, as in-kind rental allowance, paid directly to the landlord. The value of this allowance is grossly inadequate vis-à-vis the increasing costs of housing in Hong Kong—the most expensive property market in the world, where the average rental price per month/squared meter is 288 HKD (37 USD).²⁹

Moreover, this allowance has not been adjusted periodically to changes in the cost of housing, despite surging property speculation in Hong Kong’s real estate in recent years—meaning that the allowance is losing real value over time. The housing assistance does not cover the totality of housing costs, such as deposits, property agency commission fees and monthly utilities. With this meagre amount, asylum-seekers and refugees are forced to live in accommodation that is often located far from services in the outskirts of town; in buildings that are of low quality, unsafe, overcrowded, unsanitary; and with inadequate infrastructure and often in informal tenancy arrangements.

FOOD: The ASTC Programme also provides food in-kind to asylum-seekers, refugees and torture claimants three times a month worth 1,000 HKD (129 USD) per person/month. Each service recipient is given a list where they are able to choose the types and quantity of food every month,

²⁷ Chiu, Joanna. ‘Refugees at their wits’ end without status in Hong Kong’. *South China Morning Post*. 02 December 2012, <http://www.scmp.com/news/hong-kong/article/1095161/refugees-their-wits-end-without-status-hong-kong?page=all>

²⁸ The Assistance in kind to Asylum Seekers and Torture Claimants Programme is financed by the Social Welfare Department and contracted to the NGO International Social Service Hong Kong Branch, which has been in operation since April 2006. As of January 2012, this in-kind humanitarian assistance programme has been extended to the refugee population. Asylum-seekers are referred by the Social Welfare Department and refugees are referred by the UN Refugee Agency. See: http://www.isshk.org/e/customize/migrants_assistance.asp

²⁹ Calculations are based on the latest recorded rents (for October 2012), taking the average of all territories (Hong Kong, Kowloon and New Territories) for each class, and then taking the average of the four classes A, B, C, D, and E (private domestic residences less than 40 m², private domestic residences 40 m² to 69.9 m², private domestic residences 70 m² to 99.9 m², private domestic residences 100 to 159.9 m² and private domestic residences more than 160 m²). See: Rating and Valuation Department of the Government of Hong Kong, Hong Kong Property Review Monthly Supplement – Table 1.1, March 2013, available at: <http://www.rvd.gov.hk/doc/en/statistics/full.pdf>

which is provided by suppliers and can be collected at pick-up points every 10 days in the form of a bag of food.

However, the freshness of the food has been criticized by recipients as well as the lack of food options to cater to persons with special dietary needs for religious, cultural or medical reasons. The amount of food is insufficient, coming to around 11 HKD (1.42 USD) per meal,³⁰ and because the allocation does not change to adjust to changes in food prices, the real amount of food is susceptible to real decreases in quantity. For recipients who live far from the pick-up locations, transporting 10 days' worth of items is logistically difficult. Furthermore, key items such as refrigerators in order to store food and kitchen utensils to cook it are not covered under the ASTC Programme. Many refugees are simply not able to use of the food due to these barriers, causing civil society groups and charities to fill the protection gaps.

POVERTY: Poverty is both a cause and a consequence of human rights violations. Because asylum-seekers, refugees and torture claimants are not granted the right to work, but at the same time do not receive levels of assistance suitable to enjoy an adequate standard of living, this population group is forced into situations of poverty, deprivation, social exclusion and dependence on charity. In fact, the situation that refugees in Hong Kong experience recalls the multi-dimensional definition of poverty articulated by the Committee as a "human condition characterized by the sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights."³¹

Additionally, the form of support, exclusively as in-kind assistance rather than monetary transfers, does not grant them the basic capabilities to live in dignity in that it does not provide them with the necessary cash liquidity needed for day-to-day expenses.³² This stands in contrast to other vulnerable population groups who receive assistance in Hong Kong, such as those who are recipients of the Comprehensive Social Security Assistance (CSSA) Scheme, which provides financial support,³³ and amounts to higher levels of aid.³⁴ A significant barrier to fully understanding the prevalence of poverty in Hong Kong and monitoring and evaluating progress is

³⁰ assuming 3 meals per day for 30 days in one month

³¹ CESCR, Statement: Poverty and the International Covenant on Economic, Social and Cultural Rights, UN Doc.: E/C.12/2001/10, 10 May 2001, [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.2001.10.En](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/E.C.12.2001.10.En)

³² International Social Service emphasizes that the nature of humanitarian assistance in kind not in cash is a decision of the government and that any alternation to the nature of assistance will be made by the government and is beyond the jurisdiction of ISS-HK. One example of the challenge of not getting a cash grant has to do with transportation expenses. Through the ASTC Programme, refugees and asylum-seekers are reimbursed for transportation fees incurred to attend specific appointments, generally for medical, legal, religious, immigration, or education-related reasons. The ISS-HK will reimburse the cost of the cheapest route. However, beneficiaries will not necessarily be aware of the cheapest route due to language barriers, and are not always able to pay the costs up-front.

³³ para 9.1 and 9.2 of the HKSAR Third Report

³⁴ In a joint parallel report (by Hong Kong Human Rights Commission, Society for Community Organization, New Immigrants' Mutual Aid Association and the Asylum Seekers' and Refugees' Voice) given to the Committee on Racial Discrimination in 2009, it was calculated that "The food assistance provided to adults only amounts to 55% of the standard rate of the social security received by Hong Kong permanent residents while the housing allowance only amounts to 79% of that afforded to residents. As for children, it is even worse. Children only get food worth 23% of the standard rate of the CSSA.

the fact that, up until the time of this writing, there continues to be no official poverty line in HKSAR,³⁵ despite the Committee's recommendations to the government to adopt one in 2005.³⁶

As reiterated in the Guiding Principles on Extreme Poverty and Human Rights,³⁷ eradicating poverty is not only a moral duty but also a legal obligation under existing international human rights law. However, without access to livelihood opportunities or social security and with levels of in-kind assistance insufficient for survival, asylum-seekers and refugees are put in a desperate situation and must fight for their daily survival. They are left without the means to support themselves or their family and forced into the very situation of dependence for which they are often criticized.

³⁵ It is expected that one will be announced later this year by the Commission on Poverty, although there is not clear information on the date that it will be revealed. See: Lee, Colleen, "Officials to have 'rough idea' of Hong Kong poverty line by July", *South China Morning Post*, 22 January 2013, available at: <http://www.scmp.com/news/hong-kong/article/1137804/hong-kong-poverty-line-expected-be-set-within-three-months>. Ho, Lauren Siu, Phila, "Relief measures for the poor after poverty line established: Carrie Lam", *South China Morning Post*, 28 January 2013. Available at: <http://www.scmp.com/news/hong-kong/article/1137384/relief-measures-poor-after-poverty-line-established-carrie-lam>

³⁶ at para. 98

³⁷ UN Human Rights Council, Final draft of the guiding principles on extreme poverty and human rights, submitted by the Special Rapporteur on extreme poverty and human rights, UN Doc.: A/HRC/21/39, 18 July 2012.

Suggested Questions

1. How is HKSAR government planning to implement the recommendations of the recent judgments handed down by the Court of Final Appeal in the *C & Ors v Director of Immigration*³⁸ and the *Ubamaka Edward Wilson v Secretary for Security and Director of Immigration* cases, ensuring the highest standards of fairness in refugee status determination?
2. How is the housing assistance amount calculated and with what periodicity is it updated to adjust to inflation and ensure that asylum-seekers and refugees can exercise their right to housing with the assistance provided? What is HKSAR government doing to combat homelessness and housing insecurity among the asylum-seeker, refugee and torture claimant population?
3. The welfare provisions given to asylum-seekers and refugees are in-kind forms of assistance, yet social security assistance provided to other vulnerable groups in Hong Kong is granted in the form of cash assistance. Have all alternatives been fully explored, and if so, what are the justifications for providing in-kind assistance over other viable options, including cash transfers?
4. When will the government adopt an official poverty line and how will refugee assistance levels be calibrated to ensure that asylum-seekers, refugees and torture claimants do not fall under this line? How will future government studies on the prevalence of poverty include examination of the asylum-seeking and refugee population?
5. Regarding the right to food, how is the government ensuring that the provision of food assistance adopts a rights-based approach by: a) putting in place procedures to ensure that the food stock options are sufficient to adapt to the corresponding cultural and/or religious traditions as well as medical and dietary needs of recipients? b) providing quality control procedures to ensure that food is safe and suitable for consumption, and oversight mechanisms to monitor food distribution and collection, regulate food contractors and supervise the pricing of food?
6. How does HKSAR government ensure that asylum-seekers and refugees affected by decisions are able to meaningfully participate in the design, implementation and evaluation of policies that affect their lives? What formal complaint mechanisms exist under the ASTC Programme for recipients to voice any grievances they may have and how do their concerns inform the programme?
7. Please provide statistical data, disaggregated by gender and country of origin, of the beneficiaries of the food and housing assistance allowances, as well as budgetary information, over time, of the allocation by the Social Welfare Department to the ASTC Programme.
8. Allowing the right to work is beneficial to both refugees as well as host economies. Please provide information on how many asylum-seekers, refugees and torture claimants have applied for permission to work from the Director of Immigration and how many of these requests have been granted. Please elaborate in more detail the government's rationale for refusing to grant this population group the right to work as per Article 6 of the Covenant?

³⁸ which held that when deciding to remove a person, the Director of Immigration cannot simply rely on the outcomes from the UNHCR's refugee status determination, but rather, the government must determine if a claim is well-founded, satisfying the highest standards of fairness