

LCQ21: Comprehensive review of strategy of handling non-refoulement claims

Following is a question by the Hon Jimmy Ng and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (April 3):

Question:

It is learnt that in recent years, a large number of illegal entrants lodged, immediately upon entry into Hong Kong, torture claims or non-refoulement claims (collectively referred to as "claims") under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In this connection, will the Government inform this Council:

(1) in the past five years, of (i) the number of rejected claimants removed from Hong Kong each year and (ii) the five major countries from where such persons came, together with the number of such persons from each of those countries and its percentage in the total number of claimants (set out in a table);

(2) given that a vast majority of claimants are currently released on recognisance in lieu of detention, and the number of person-times of non-ethnic Chinese persons on recognisance (mostly non-refoulement claimants) arrested for committing criminal offences increased by about 40 per cent from 1 113 in 2015 to 1 542 in 2017, whether the Government took any targeted measures last year to combat such offences; if so, of the details; if not, the reasons for that;

(3) as the Government has proposed to amend the Immigration Ordinance (Cap. 115) by tightening the statutory timeframe for a claimant's submission of a claim form from 28 days to 14 days and cancelling the period of 21 additional days currently given to all claimants by administrative measures, whether it has studied the processing time that can be shortened for each claim on average after the amendments concerned have come into force; and

(4) whether it will consider afresh setting up holding centres or closed camps for the claimants; if so, of the details; if not, the reasons for that?

Reply:

President,

The Government has all along been very concerned for issues arising from non-refoulement claimants. In this regard, we commenced a comprehensive review of the strategy of handling non-refoulement claims in 2016. Various

measures implemented so far include preventing claimants from entering Hong Kong as far as possible, expediting the screening of pending claims, shortening the time for screening each claim, increasing the number of members and secretariat staff in the Torture Claims Appeal Board (TCAB), expediting the removal of rejected claimants from Hong Kong, as well as stepping up enforcement against crimes such as unlawful employment.

The Government will also amend the Immigration Ordinance, with a view to improving the screening procedures and plugging existing loopholes, so as to avoid a rebound in the number of claims and processing time, and strengthening the powers of the Immigration Department (ImmD) in respect of enforcement, removal and detention. The Government consulted the Legislative Council (LegCo) Panel on Security on the amendment proposals in July 2018 and January 2019, and aims to introduce the amendment bill to LegCo in the first half of 2019.

At present, the number of new claims and illegal immigrants has dropped significantly by 80 per cent as compared with the peak; the ImmD has largely completed the screening of the once over 10 000 pending claims; and the number of appeals pending handling by the TCAB has started to decrease gradually, with the backlog expected to be cleared in two years at the earliest.

My reply to the various parts of the Hon Ng's question is as follows:

(1) From 2014 to 2018, a total of 9 137 non-refoulement claimants were removed by ImmD (including those with their torture claims rejected, withdrawn or for which no further action could be taken before the implementation of the unified screening mechanism (USM) in March 2014). Among them, 4 593 were rejected claimants.

Among those removed after their claims had been rejected, in terms of the total number of claimants removed over the years, top source countries are Vietnam, India, Pakistan, Indonesia, Bangladesh, the Philippines and Nepal. The breakdown by year is as follows:

Nationality / Year	2014	2015	2016	2017	2018	Total
Vietnamese	3	21	42	305	780	1 151
Indian	52	133	181	255	226	847
Pakistani	56	131	126	261	242	816
Indonesian	32	65	83	145	225	550
Bangladeshi	17	40	61	123	100	341
Filipino	20	23	33	70	81	227
Nepalese	14	51	34	63	59	221
Others	36	61	79	118	146	440

TOTAL	230	525	639	1 340	1 859	4 593
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As at the end of 2018, among the some 22 000 claimants whose claims required processing by the ImmD under USM, about 40 per cent had been removed.

(2) The Government has been monitoring the situation of crimes committed by non-ethnic Chinese (NEC) persons (including non-refoulement claimants) and their taking part in triad activities in Hong Kong. In this regard, the Police have been deploying manpower to step up control according to the crime trends in various districts for prevention and detection of crimes.

To address the related issues in a focused manner, formulate strategies and coordinate enforcement operations, the Police have set up the Crime Wing Working Group on NEC Involvement in Organised Crime and Triad Activities. Its duties cover monitoring the trend of NEC persons taking part in organised crimes and triad activities; developing strategies for the Police Force; co-ordinating enforcement operations; and strengthening the Police's system and process for enhancing the capability in gathering intelligence.

On combatting crimes at the district level, the Organised Crime and Triad Bureau launched new strategies in 2017 to tackle the problem of NEC persons committing crimes, with emphasis placed on four aspects, including training, intelligence gathering and sharing, multi-agency co-operation and enhanced enforcement actions.

Besides, the Police have also maintained liaison with local and overseas law enforcement agencies, consulates in Hong Kong and NEC communities, and will take timely actions against any crimes involving the persons concerned.

In 2018, 1 150 NEC persons on recognisance (mostly non-refoulement claimants) were arrested for crimes, down by 25.4 per cent as compared to 2017. The Police will continue to monitor the relevant crime trends and operational needs, and formulate effective measures and take targeted actions accordingly.

(3) It is imperative and important to address the issues relating to non-refoulement claimants at root in the long run by expediting screening and plugging loopholes prone to procedural abuse through legislative amendments. The Security Bureau earlier consulted the Panel on Security on the amendment proposals, which include tightening the statutory timeframe for submission of claim form from 28 days to 14 days, and ceasing the current administrative arrangement to give claimants another 21 days for doing so. If the proposals are implemented, the time required by ImmD for screening each claim will be further shortened from the current average of 10 weeks to about five weeks.

Separately, we are considering whether there is room to suitably tighten the statutory timeframe for certain appeal procedures, with a view to handling appeals more efficiently while upholding the high standards of

fairness.

With the improvement of the overall screening procedures and plugging of the loopholes to avoid deliberate stalling by certain persons after the legislative amendments, it is expected that decisions on the claims will be made more expeditiously. This will be in the interest of all stakeholders (including the claimants) and the community at large.

(4) Suggestions of setting up reception centres or closed camps involve various issues concerning the law, land, infrastructure, manpower, resources, management and security, etc. The Government has been considering all lawful, practicable and effective measures. Given the complexity of the issues involved, the suggestions must be carefully and thoroughly examined.

Separately, as explained when we earlier consulted the Panel on Security on the legislative proposals, in considering the detention strategies, we are also considering legislative amendments to ensure that ImmD is able to detain claimants lawfully and reasonably at different stages of the screening and removal procedures.