

4 August 2020

Ka-wang Au
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OPEN LETTER

Dear Director Au:

RE: INHUMANE CONDITIONS AT CASTLE PEAK BAY IMMIGRATION CENTRE NOT IN LINE WITH INTERNATIONAL LAWS AND STANDARDS

I am writing to express my grave concern regarding the indefinite periods of detention and appalling conditions at the Castle Peak Bay Immigration Centre (CIC) in Hong Kong. According to information provided by detainees, as well as investigations by lawmakers and civil society organizations, immigration detainees at CIC face indefinite detention periods, serious health risks and treatment that may amount to a violation of the prohibition of torture and other ill-treatment according to international human rights law.

I am extremely worried about the at least 28 detainees who, facing the dire conditions of their confinement, have been on hunger strike since 29 June 2020. Prior to this hunger strike, detainees at CIC had gone on multiple hunger strikes to protest against longstanding problems of indefinite periods of detention and very poor conditions at CIC. These issues are compounded due to the COVID-19 pandemic.

According to a [written reply](#) from Secretary for Security John Lee to Legislative Council member Shiu Ka-chun, new arrivals from overseas and mainland China at CIC are currently subject to 14-day quarantine before admission to CIC. However, according to information collected by Amnesty International and other civil society organizations, new arrivals at CIC had not been subject to 14-day quarantine before admission. Also, detainees said the CIC had not implemented any social distancing measures to mitigate the impact of COVID-19.

I am also dismayed by reports pointing to appalling hygiene conditions at CIC, including an infestation of rats and malfunctioning toilets. Detainees also complained of overcrowded wards. The seriously detrimental impacts of overcrowding and inadequate sanitation on detainee health are especially concerning in the context of the COVID-19 pandemic. Malfunctioning toilets or any other inadequacy in the sanitation services mean that many more detainees have to share washing and sanitation facilities, which would make it easier for the infection to spread among the detainee population.

Secretary Lee also stated that each day detainees at CIC are provided with a surgical mask and have their body temperature taken. He claimed that if any detainees are found to have a fever or other COVID-19-related symptoms, healthcare personnel of CIC will promptly conduct a medical examination and refer the unwell detainees to a public hospital for further treatment.

Reports collected by Amnesty International however, shows inconsistencies with such statements.

There are multiple reports that detainees are not provided with masks at all, and are being denied access to medication and specialist treatment for chronic illness, resulting in rapid deterioration of detainees' health. Some detainees complained that CIC only provided painkillers for their chronic illnesses and refused to send unwell detainees to public hospitals for essential medical treatment. In at least one case officers even allegedly coerced unwell detainees to sign letters stating that they did not need medication. In response to questions about a case of a woman detainee being strip-searched in the presence of a male doctor, the representative of the Immigration Department said in a meeting with lawmakers on 28 July that they would hire a woman doctor in two years' time. Currently, there is no woman duty medical officer at CIC.

The failure to provide adequate health care to detainees may violate the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, including under Article 7 of the International Covenant on Civil and Political Rights, which is binding on and constitutionally enshrined in Hong Kong.

When immigration detainees' right to health cannot be upheld or when deportations cannot be carried out swiftly, detainees should be released and state authorities must act to ensure people's access to essential services, care and safety, including adequate accommodation and healthcare is free from discrimination.

Many detainees at CIC held in detention indefinitely said they were not notified of the durations of their detention. Some individuals are detained indefinitely because they are waiting for their travel documents, others waiting for the result of their non-refoulement protection claim. Some detainees said they were not even notified the reasons behind their detention. When they asked officers about their cases, the officers often gave vague answers or even refused to provide any information. According to the Immigration Department, some individuals are detained simply because they are perceived by the authorities to be likely to break the law.

Some individuals are detained at CIC because they are in the process of seeking non-refoulement protection in Hong Kong. Currently, the Immigration Ordinance (Cap 115) Section 37ZK is used to justify prolonged detention of protection claimants with no judicial oversight. Amnesty International opposes migration-related detention for the sole purpose of determining the elements on which an individual's claim to asylum is based. Existing alternative non-custodial measures, such as reporting requirements, should always be explicitly considered before resorting to the immigration detention of migrants.

International human rights law stipulates that the right to liberty can only be restricted in specific and the most exceptional of circumstances. Migrants and asylum-seekers, like anyone else, must benefit from a legal presumption of liberty, and, as a consequence, any deprivation of their liberty must be clearly prescribed by law, strictly justified, non-arbitrary and as minimally restrictive as

possible. The UN Committee against Torture has repeatedly stated that indefinite detention without charge constitutes a violation of the Convention against Torture.

I therefore call on the Hong Kong authorities to immediately stop denying detainees access to adequate health care and where specialist or any other treatment is not available within CIC, ensure that detainees are transferred to specialized institutions or hospitals; immediately hire a woman doctor; take urgent steps to address overcrowding and poor sanitation and hygiene conditions within CIC; and cease the use of indefinite detention without charge or trial for individuals.

I look forward to your reply and would appreciate receiving your response on this matter.

Yours sincerely,

[Insert NAME & SIGNATURE of SECTION/NATIONAL OFFICE]