

The following is the official reply of this Service in response to the enquiries on the publication of an article titled “Torture Claimants Let Down by Legal Aid” which appeared on page C2 of the South China Morning Post on 2 July 2013:

Dear Ms. Ng,

I refer to your email dated 29 June 2013 to Mr. Wong Hay Yiu, Council Member of the Duty Lawyer Service.

Mr. Wong has referred your email to me for further handling.

Please be informed of the followings as DLS's response to your kind enquiry.

1. The Panel of Duty Lawyers under the CAT Scheme are practicing barristers and solicitors of at least 3 years standing who have also attended a 4 day training course on this aspect of Constitutional Law organized by the Law Academy. This training course serves only as a supplement to their legal knowledge as they are all fully qualified lawyers with post qualification experience competent enough to handle CAT Scheme cases.

2. Up to 21 June 2013, the CAT Scheme has represented a total of 4,552 claimants in various stages of their claim under the United Nations Convention against Torture since DLS' extension of service to cover torture claim on 24 December 2009. Of the 4,552 claimants, 455 of them had withdrawn their claims.

3. The CAT Scheme has scored five successful CAT claims; three have been accepted by the Immigration Department and two by the Torture Claim Appeal Board.

4. It is totally groundless to allege our duty lawyer discourage appeal and seeking second opinion. Duty lawyers have a duty under their professional code to advise on the merits of the case fearlessly and independently in accordance with the law. So far 250 Petitions have been lodged which is an appeal process out of the 2,780 determinations received from the Immigration Department rejecting the torture claims. Duty lawyers are well aware and are also reminded of seeking a second opinion in all appropriate cases. Seeking second opinion is to ensure that the claimants will be given thorough advice and their appeal fully considered. It is to the

best interest of the claimants.

5. The questionnaires are either prepared by the duty lawyers themselves or if prepared by our officers, all the final drafts have to be approved by the assigned duty lawyer concerned. We regret that Vision First has formed their own bias conclusion by hearing only one sided version from some of the unsuccessful or disgruntled claimants. It is after all not uncommon that unsuccessful litigants always blame it on the lawyers but not on the merit of their own cases.

6. The Duty Lawyer Service has issued circulars to the CAT Scheme duty lawyers drawing their attention to the two recent Court of Appeal judgments of Ubamaka Edward Wilson and Secretary for Security for Secretary for Security (FACV No. 15 of 2011) and C and others and Director of Immigration and Secretary for Security (FACV 18, 19 & 20 of 2011). As a result, a total of 433 letters have been issued to the Immigration Department and Torture Claim Appeal Board requesting for cases to be adjourned pending cruel, intimidating or degrading treatment or punishment (CIDTP) screening and reserving claimants' right to apply CIDTP.

7. The Duty Lawyer Service wants to reassure the Public that each claimant under the Duty Lawyer Service CAT Scheme has been and will continuously be given the best possible legal advice from their duty lawyers who will protect and defend their legal rights and interests at each stage of their screening process to the best of their ability under the Laws of Hong Kong.

8. The Duty Lawyer Service however greatly regrets the constant unfair criticism and inaccurate information which has been heaped upon our CAT duty lawyers and also the unfair and biased conclusion Vision First has drawn on their standard of performance which is incorrect and most regrettable.

Regards,

Grace Wong

Administrator of the Duty Lawyer Service