

立法會

Legislative Council

LC Paper No. CB(2)1937/00-01

Ref : CB2/PL/HA

Report of the Panel on Home Affairs for submission to the Legislative Council 2000-2001

Purpose

This report gives an account of the work of the Panel on Home Affairs during the 2000-2001 Legislative Council (LegCo) session. It will be tabled at the LegCo meeting on 27 June 2001 in accordance with Rule 77(14) of the Rules of Procedure.

The Panel

2. The Panel was formed by a resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000 for the purpose of monitoring and examining Government policies and issues of public concern relating to district, community and rural matters, human rights, civic education, data protection, press freedom, building management, youth and women matters, the provision of leisure and cultural services as well as matters relating to development of arts and culture, public entertainment, sport and recreation.
3. The terms of reference of the Panel are in **Appendix I**.
4. The Panel comprises 14 members, with Hon Andrew CHENG Kar-foo and Hon CHOY So-yuk elected as Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

Major Work

Rights of individuals

5. Following the publication of the Hong Kong Special Administrative Region's (HKSAR's) initial report under the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Panel discussed the report with concern organisations and the Administration.

6. Some members expressed disappointment that the Administration had maintained to adopt an incremental approach to achieve the realisation of the rights recognised under the Covenant. They were also dissatisfied with the Administration's slow progress in implementing the recommendations made by the United Nations Committee on Economic, Social and Cultural Rights in its Concluding Observations issued after its hearing on the previous report. Some members were of the view that the Administration should not refuse to legislate for the protection of vulnerable minorities primarily on the basis of findings of public opinion surveys, i.e. the majority view.

7. The Administration assured members that the Administration was mindful of the Committee's recommendations and would review each of them with the relevant policy bureau(x) carefully. As the recommendations invariably involved complex issues with different interests at stake, the Administration had to be cautious in deciding the way forward. The Administration also pointed out that legislation with wide-ranging implications should require the support of the community. However, the Administration would keep an open mind and continue to listen to different views.

8. The Panel took an active interest in discrimination issues. It discussed discrimination on the ground of sexual orientation with concern organisations and the Administration. Some members were of the view that while the prevailing social climate and culture should be taken into account in considering whether legislation on sexual orientation discrimination was necessary, the fundamental rights and interests of homosexual groups as minorities in the community should not be neglected. Some other members considered that as introducing legislation would have far-reaching implications on the prevailing traditions and moral standards in the community, the social consequences of giving legal recognition to homosexual marriages should be studied seriously. The Panel had set up a subcommittee to follow up the issue of discrimination on the ground of sexual orientation.

9. The Panel also discussed a sample survey of the characteristics of the ethnic minorities in Hong Kong with concern organisations and the Administration. Most members agreed with the criticisms of the concern organisations that no reference was made to the special needs of the ethnic minorities in the survey despite the fact that one of its specific objectives was to identify the special needs of the ethnic minorities and the difficulties faced by them. These members also expressed dissatisfaction that the Administration had ignored the core issue of racial discrimination by shying away from asking expressly whether the ethnic minorities had encountered any discrimination in Hong Kong. The Administration explained that the survey was only an attempt to determine the demographic profile of ethnic minorities in Hong Kong and it was not a survey about racial discrimination. Members urged the Administration to conduct a comprehensive survey to ascertain the difficulties and special needs of the ethnic minorities as well as the extent of racial discrimination in Hong Kong.

10. A member pointed out that the survey had not addressed the concern of the United Nations Committee on the Elimination of Racial Discrimination about the absence of specific legislation against racial discrimination. The Administration responded that Article 22 of the Hong Kong Bill of Rights prohibited the Government and all public authorities from engaging in practices that entailed racial discrimination. The Administration did not see the need for the time being to regulate by legislation discriminatory acts on the ground of race occurring in the private sector or between individuals. The Administration stressed that it had not said that there was no racial discrimination in Hong Kong. However, it was the Administration's position that public education and administrative measures were the best means to address the issue of racial discrimination under the prevailing circumstances.

11. The Panel held a special meeting to discuss the Report on Stalking published by the Subcommittee on Privacy of the Law Reform Commission (LRC). Representatives from the Administration, LRC, journalists' associations, press organisations, women groups and other concern organisations attended the meeting. Some members were of the view that although there might be a need to legislate against stalking, anti-stalking legislation would have the effect of hampering legitimate journalist activities. They suggested that instead of having a single piece of anti-stalking legislation, the Administration should consider introducing separate legislative measures to deal with specific problems, such as harassment by ex-spouses, harassment of debtors by debt collection agencies, etc.

12. In view of the controversies over the issue of "evil cult", the Panel held a discussion on the definition of religious bodies with representatives from religious bodies and the Administration. Members shared the view of most of the religious bodies that there were adequate legislation against illegal activities of religious bodies and that the Government did not need to legislate on religion. They urged the Administration not do anything to compromise religious freedom in Hong Kong.

13. The Panel also discussed the Equal Opportunities Commission (EOC)'s proposals to amend the Sex Discrimination Ordinance (SDO) and Disability Discrimination Ordinance. Members noted that EOC had proposed similar amendments to the Family Status Discrimination Ordinance. Members urged the Administration to expedite the necessary legislative work.

Arts, culture, recreation and sport

14. The delivery of arts, cultural, sports and recreation services as well as the development of culture and sport had been a major area of concern to the Panel. Members noted that the Leisure and Cultural Services Department (LCSD) would spend about \$9.6 million for 670 regular free entertainment programmes with 132 000 estimated attendance in 2000-01. Members expressed concern as to whether public money would be well-spent in organising these programmes. The Administration explained that less popular venues and programmes might be replaced by regular

programmes at a number of strategically located venues in order to achieve better value for money in the LCSD's review of the organisation of free entertainment programmes. Members urged that the Administration should also actively provide more performance opportunities and venues for local artists and performing groups.

15. As regards the planning and provision of community facilities, some members expressed dissatisfaction that LCSD had made no progress in planning new community facilities after it had assumed responsibility for the 160 capital work projects concerning leisure and cultural facilities of the former municipal councils. The Administration pointed out that although these 160 outstanding capital work projects were given priority to be handled, the Administration had considered new project requirements in consultation with the District Councils (DCs). The Administration also informed the Panel that these outstanding projects were estimated to cost about \$20 billion. Even the former municipal councils would need about 10 years to complete these projects, given their limit in capital budget.

16. The Panel was very concerned about the delay in the commissioning of the new Hong Kong Central Library. When the Administration briefed the Panel on the progress of the project, members also discussed library policies with the Administration. Members were of the view that the opening hours of public libraries on public holidays should be extended for the convenience of library users. The Administration undertook to conduct a comprehensive review of the opening hours of public libraries as soon as practicable.

17. Following the failure of the HKSAR's bid to host the 2006 Asian Games, the Panel discussed with the Administration the outcome and review of the bid. Members reiterated their support for the Administration's efforts in developing a sports culture and also in planning state-of-the-art sports facilities. They urged the Administration not to change or shelve those planned projects relating to the development of sport because of the unsuccessful bid.

18. The Panel discussed the Administration's plan to upgrade sports facilities. The Panel also received a briefing on the recommendations of a consultancy study on the requirements for major new sports and recreation venues. The Panel noted that the Administration was conducting a sports policy review which would make recommendations on sports development strategies before the end of 2001. Members felt strongly that plans of sports facilities must dovetail with sports policy. The Administration should not make any decision on building major new sports and recreation venues until completion of the policy review. The Administration assured members that the findings of the consultancy study would be considered in the context of the overall sports policy review and wide public consultation on sports development strategies would be conducted.

19. A few members were of the view that Mr GAO Xingjian, the first Chinese-born winner of the Nobel Prize for Literature, should be invited to the forthcoming Hong Kong Literature Festival or to the inauguration ceremony of the new Hong Kong

Central Library. The Panel held a special meeting to discuss the practice and criteria for inviting officiating guests to inauguration ceremonies of facilities and guests to cultural activities. While members expressed no objection to the relevant arrangements and criteria, they considered that the Administration should endeavour to promote free development of arts and culture and should not be influenced by political considerations in drawing up the invitation list.

20. The Panel discussed the Culture and Heritage Commission Consultation Paper with the Commission Chairman. While members generally supported that cultural development should be community-driven, they expressed concern that there would be a reduction in the provision of resources by the Government to support cultural and arts services. Members pointed out that availability of venues was of paramount importance to community organisations for promoting and developing culture and the arts. The Panel also received a briefing on the Consultation Paper on the three-year plan of the Hong Kong Arts Development Council.

21. The Panel held a joint meeting with the Panel on Public Service to discuss the proposed merger of the Amenities Officer and Recreation and Sport Officer Grades with the Administration and staff unions concerned.

22. Members noted that staff unions concerned were divided in their views on the proposed merger. Some members expressed concern about the possible effect of the proposed merger on the development of sport and recreation as well as the interests of the staff concerned. Given the fact that the Home Affairs Bureau was conducting a sports policy review, the result of which would be available by the end of 2001, some members suggested that the Administration should shelve the proposed merger in order to allow more time for further staff consultation. The Administration did not agree to shelve the proposal on the grounds that the merger was essential for efficiency gain, better services to the public and greater flexibility in staff deployment. The Administration also pointed out that staff consultation had already been conducted extensively over a very long period. The Administration could not foresee that it was possible to come up with a merger package which would fully meet the demands of both grades. However, the Administration would continue to maintain a dialogue with the staff.

District and rural affairs

23. In view of the Government's undertaking to enhance the role of DCs and the need for additional support to DC members in discharging their enhanced duties, the Panel discussed the functions of DCs and honorarium and allowance for DC members with the Administration. Members in general expressed disappointment at the Government's failure to transfer some of the functions and powers of the former municipal councils to DCs. Some members expressed the view that DCs should have more direct involvement in district administration in order to assist the Government to manage district affairs. Other members took the view that the role of DCs should not be of an advisory nature after the dissolution of the municipal

councils and DCs should be given executive powers in district administration as far as practicable. The Administration undertook to consider carefully members' views in the overall review of the role and functions of DCs.

24. Members also expressed concern that the practice of revising the rates of DC members' honorarium and accountable allowance (AA) annually with reference to the movement of the Consumer Price Index (CPI) would lead to a reduction in the honorarium and AA, the amount of which was already inadequate for DC members to discharge their duties. The issue of adjustment of the honorarium and AA of DC members was subsequently raised for discussion at meetings of the House Committee. In the light of Members' concerns, the Administration had conducted a focussed review of the annual adjustment mechanism, ahead of the overall DC review.

25. When the Panel received a briefing on the focussed review of annual adjustment mechanism for the honorarium and AA of DC members, most members expressed support for the revised mechanism proposed by the Administration. According to the proposal, the current CPI(C) would be replaced by CPI(A) as the basis for adjusting DC members' honorarium and AA. In addition, the downward adjustment of the ceiling of the AA would be deferred at times of deflation and the deduction would only be effected when there was an upward adjustment of its ceiling in an inflation year.

26. In order not to cause financial difficulties to DC members at times of deflation, some members further suggested that downward adjustment of DC members' honorarium should also be deferred and that the AA should be reimbursed to DC members on production of receipts subject to the previous ceiling. Some members also suggested that the Administration should consider providing offices at fixed locations for DC members so as to reduce their expenses on office rental. The Administration undertook to examine all issues relating to the provision of financial support and other assistance to DC members in the context of the overall review.

27. Following the delivery of the judgment of the Court of Final Appeal (CFA) concerning the right of two non-indigenous inhabitants in village representative (VR) elections, the Panel discussed the implications of the CFA judgment and VR elections with the Administration.

28. Some members were of the view that allowing non-indigenous inhabitants to vote in VR elections might conflict with the original intent of the Heung Yee Kuk (HYK) Ordinance which was enacted in 1959. They considered it necessary to have regard to the legislative intent of the Ordinance in reviewing VR elections. The Administration pointed out that although a great majority of residents in the New Territories (NT) in 1959 were indigenous inhabitants, non-indigenous inhabitants now made up a substantial part of the population of NT. CFA had considered that the literal meaning of the term "people of NT" in the statutory objects of HYK as provided in the Ordinance should include non-indigenous inhabitants.

29. Given the fact that the next round of VR elections would need to be held in late 2002, members requested the Administration to expedite the consultation and legislative process in devising a new system for VR elections which was compatible with the CFA judgment. The Administration assured members that it would endeavour to expedite the process with a view to working out a formulation which would comply with the CFA judgment and protect the lawful traditional rights and interests of indigenous inhabitants. The Panel would follow up the discussion when a preliminary proposal on the new system was available.

Building management

30. The Administration briefed the Panel on the proposed creation of an additional Assistant Director (AD) post in the Home Affairs Department to cope with the department's much broadened scope and complexity of the services and activities, particularly in the area of building management. Members noted that monitoring and co-ordinating the implementation and review of the Building Management Ordinance fell under the purview of the proposed AD post. Members considered that the Ordinance still had a lot of room for improvement and requested that the Administration should conduct a comprehensive review of its operation without delay. Noting that the Administration only undertook to review the Ordinance within one year's time, the Panel had set up a subcommittee to discuss the review with the Administration in order to expedite the process.

31. The Panel discussed with the Administration the proposed Building Management (Insurance) Regulation which specified the detailed requirements of third party liability insurance to be procured by owners' corporations (OCs) under the Building Management Ordinance. Members were of the view that it was highly unsatisfactory that unauthorised building works (UBWs) would not be covered by the Regulation. They considered inclusion of UBWs in the coverage of the Regulation necessary because it was always the UBWs which caused injury or death to a third party. Some members also pointed out that the Regulation would not afford third parties adequate protection as only OCs would be required to procure policy of insurance and only about 20% of the buildings in Hong Kong had set up OCs. The Administration was of the position that insuring UBWs would be incompatible with the policy intention to encourage demolition of UBWs. The Administration also stressed that individual owners of a building would be held liable for any injury or death to a third party if an OC had not been set up.

Other issues

32. The Panel received a briefing on the Gambling (Amendment) Bill 2000 which sought to combat unauthorised gambling activities with an extraterritorial element. Many members noted with concern that proposals in the Bill included the prohibition of television or radio stations to broadcast any odds or tips in relation to any unauthorised horse and dog races within 12 hours before the conduct of such races. They pointed out that the proposal would have adverse implications on the freedom of

access to information and a liberal broadcasting and telecommunication policy. These members also doubted the effectiveness of the Bill in preventing illegal gambling activities.

33. The Administration briefed the Panel on its proposal to create an additional Administrative Officer Staff Grade C post in the Information Services Department to serve as the Press Secretary to the Financial Secretary. There were divided views; some members expressed support for the proposal while other members had strong reservations. Some members questioned the rationale for pitching the proposed post at D2 level. The Panel requested the Administration to provide additional information on the proposal. The Panel also requested the Administration to delay submission of the proposal to the Establishment Subcommittee so that the Panel could further consider the proposal. As the Administration did not agree to delay the submission, the Panel passed a motion objecting to the proposal.

34. The Panel had also received briefings from the Administration on the Chief Executive's 2000 Policy Objectives, proposed creation of new posts in the Health and Welfare Bureau to support the Women's Commission, proposed amendments to the provisions relating to licence fees under the Hotel and Guesthouse Accommodation Ordinance and the provision of a multi-purpose grass pitch on Sai Tso Wan former landfill.

35. The Panel held a total of 16 meetings between October 2000 and June 2001, of which one was a joint meeting held with the Panel on Public Service. Panel members also visited EOC and the cultural facilities of LCSD.

Legislative Council

Panel on Home Affairs

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to district, community and rural matters, human rights, civic education, data protection, press freedom, building management, youth and women matters, the provision of leisure and cultural services as well as matters relating to development of arts and culture, public entertainment, sport and recreation.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

**Legislative Council
Panel on Home Affairs**

Membership list

Chairman Hon Andrew CHENG Kar-foo

Deputy Chairman Hon CHOY So-yuk

Members Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan
Hon James TO Kun-sun
Hon Andrew WONG Wang-fat, JP
Hon LAU Wong-fat, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Dr Hon TANG Siu-tong, JP
Hon Henry WU King-cheong, BBS
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon IP Kwok-him, JP

(Total : 14 Members)

Clerk Miss Flora TAI Yin-ping

Legal Adviser Mr Stephen LAM Ping-man

Date 1 March 2001