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Subcommittee to Study Issues Relating to Mainland-HKSAR Families

Minutes of the 13th meeting
held on Tuesday, 29 June 2010, at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon LEE Cheuk-yan (Chairman)
Hon LEUNG Yiu-chung (Deputy Chairman)
Hon Albert HO Chun-yan
Hon TAM Yiu-chung, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon WONG Yuk-man

Members absent : Hon Miriam LAU Kin-ye, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon CHAN Hak-kan

Public Officers attending : Item I

Home Affairs Bureau

Mr Jacky LUM Kwok-keung
Deputy Secretary for Home Affairs (Atg.)

Security Bureau

Mr Alan LO
Principal Assistant Secretary (Security) C

Immigration Department

Mr CHAN Man-lang
Assistant Director of Immigration (Visa & Policies)

Attendance by invitation : Item I

Association for Family Reunions Ltd.

Mr CHEN Jian-wen
Chairman

Justice and Peace Commission of the Hong Kong
Catholic Diocese

Miss Jackie HUNG
Project Officer

爭取居港權家長協會

Mr LIM Tao-shing
Chairman

Ms HUI Suk-chung
Member

Right of Abode University

Miss YU Siu-ching
Member

同根同天空

Ms YANG Yuan-liu
Member

New Women Arrivals League

Ms YEUNG Mei
Executive Director

關注中港家庭權利聯席

Mr TSANG Koon-wing
Member

Mainland-Hong Kong Families Rights Association

Ms LIANG Caili
Member

中港家庭權益會——姊妹網絡

Mr CHAN Wai-hung
Member

Ms FAN Fei-quan
Member

Coalition of Population Policy Concerned Group

Miss Crystal CHOW
Member

Clerk in Attendance : Miss Betty MA
Chief Council Secretary (2) 4

Staff in Attendance : Ms Yvonne YU
Senior Council Secretary (2) 5

Miss Maggie CHIU
Legislative Assistant (2) 4

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- I. Immigration arrangements relating to Mainland-HKSAR families**
[LC Paper Nos. CB(2)1884/09-10(01) to (02) and CB(2)1962/09-10(01) to (03)]

The Subcommittee deliberated (index of proceedings attached at **Annex**).

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2. The Subcommittee received views from nine deputations on the immigration arrangements relating to Mainland-HKSAR families. Major views of the deputations are summarized as follows -

- (a) it was disappointing to learn that the Administration was still in discussion with the Mainland authorities on the implementation arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for One Way Permit ("OWP") for settlement in Hong Kong, notwithstanding that the Administration had since November 2009 advised that the Central Government had already made clear that the arrangements to cater for Mainland "overage children" of Macao residents to settle in Macao Special Administrative Region ("MSAR") would also be applicable to Hong Kong. To facilitate family reunion, the deputations urged the Administration to expedite the discussion and provide a concrete timetable on the implementation details as early as practicable;
- (b) the Administration should reconsider the proposal of setting up of a "joint liaison working group" comprising representatives from the Mainland authorities and HKSAR Government or other viable options for the purpose of reviewing the immigration arrangements and dealing with complaints and appeals relating to the OWP and Two Way Permit ("TWP") arrangements;
- (c) the Administration should follow up with the relevant Mainland authorities on the proposal to open a channel for Mainland single mothers to apply for OWP for settlement in Hong Kong on compassionate ground;
- (d) apart from reflecting to the Mainland immigration authorities the exceptional circumstances of individual cases concerning OWP applicant whose Hong Kong spouse was deceased and had young children, the Administration should also reflect to the Mainland immigration authorities the exceptional circumstances of those cases concerning OWP applicant who was divorced, or whose Hong Kong spouse was missing or in prison;
- (e) the Administration should actively reflect to the Mainland relevant authorities the difficulties faced by Mainland single mothers in the course of applying for "one-year multiple" exit endorsement for visiting relatives to take care of their young children in Hong Kong; and

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- (f) the Administration should assess the implications of a rising trend of Mainland parents giving birth in Hong Kong, in particular the well-being of the children who had obtained the Hong Kong permanent residents status upon birth in Hong Kong.

3. Pointing out that the Administration had since November 2009 advised the Subcommittee that the Central Government had made clear that the arrangements to cater for Mainland "overage children" of Macao residents to settle in MSAR would also be applicable to Hong Kong, members expressed grave concern about the slow progress made in respect of the implementation arrangements. Members took a strong view that it was the HKSAR Government's responsibility to honour and implement the Central Government's policy. The Administration should actively follow up the matter with the Mainland authorities and make available the new arrangements as early as practicable.

4. Members were gravely concerned about the discussion with the Mainland authorities on whether and how to allow Mainland residents who did not meet the eligibility criteria for "reunion with spouses" but had young children in Hong Kong to apply for OWP. In the light of imminent needs of parental care of Hong Kong children of Mainland single-parent families, members strongly urged the Administration to actively follow up the proposal of opening a channel for Mainland spouses of Hong Kong residents who had applied for OWPs but became ineligible due to the passing away of their spouses (who were Hong Kong residents) or divorce. Ms Audrey EU, Mr Albert HO and Mr LEUNG Yiu-chung were dissatisfied that the Administration had not collated statistics concerning the number of Mainland single mothers concerned.

5. Given that the OWP Scheme had been in place for more than a decade, Mr Ronny TONG enquired whether the Administration would discuss with the Mainland authorities the plan to review and refine the OWP arrangement. To expedite the reunion of Mainland-HKSAR families, consideration should be given to increasing the daily 150 OWP quota. To facilitate further deliberations on the issue, Mr TONG requested the Administration to provide information on the background and rationale for setting the daily OWP quota as 150 when it was introduced. Mr TONG further requested the Administration to provide the latest statistics on the number of new arrivals of OWP holders.

6. Mr WONG Sing-chi considered that the Family Council, which was chaired by the Chief Secretary for Administration, should be invited to consider and review the existing government policy and arrangements for cross-boundary families from the family reunion perspective, in particular whether the arrangements for Mainland single mothers with Hong Kong resident children were departed from the objective of promoting the formulation of family-friendly policy.

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7. Principal Assistant Secretary for Security ("PAS(S)C") responded that the Central Government had made clear that the arrangements to cater for Mainland "overage children" of Macao residents to settle in MSAR would generally also be applicable to Hong Kong. However, given that tens of thousands of Mainland adult children of Hong Kong residents were involved, both the HKSAR Government and the Mainland authorities had to work out the arrangements to help ensure their orderly arrival. Currently, the Administration was still in active discussion with the Mainland authorities. Once further developments were available, the Administration would promptly inform the Subcommittee and make public announcement.

8. As regards the proposal of setting up of a "joint liaison working group" to review the OWP and TWP arrangements, PAS(S) stressed that as required under the Basic Law, the assessment of applications for and the issue of OWP fell outside the remit of the HKSAR Government. Nevertheless, the HKSAR Government would continue to exchange views with the Mainland authorities and, where appropriate, reflect to the latter the views of various sectors in Hong Kong. Assistant Director of Immigration (Visa & Policies) ("AD/ImmD") advised that the Immigration Department ("ImmD") had reflected to the Mainland immigration authorities the exceptional circumstances of individual cases, such as OWP applicant whose Hong Kong spouse was deceased and had young children, along with the relevant case details and background for their consideration. To his knowledge, some applications from Mainland single mothers for "one-year multiple" exit endorsement for visiting relatives in Hong Kong had been approved, and some applications were being processed. AD/ImmD assured members that ImmD would continue to reflect to the Mainland authorities the exceptional circumstances of individual cases for their active consideration.

9. Ms Cyd HO was concerned about the well-being and rights of Hong Kong children born to Mainland single mothers who entered Hong Kong on the strengthen of TWP. Ms HO was particularly concerned about the housing needs of these families having regard to the fact that none of the family members met the eligibility criteria for public rental housing ("PRH") application. In the light of the imminent housing needs of these families, the Administration should consider allowing these children to make advance PRH applications with a person who acted as a "surrogate" of their mother.

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10. The Administration was requested to provide the following information –

- (a) the number of Mainland single mothers who did not meet the eligibility criteria for "reunion with spouses" but had young children in Hong Kong, if available;

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- (b) the specific problems faced by the cross-boundary families especially those comprised single Mainland parents with young Hong Kong children and the assistance and support services rendered to them by different bureaux and departments; and
- (c) the latest statistics on the utilisation of the overall daily OWP places and the background for setting the 150 daily OWP quota, if available.

Members also requested the Administration to convey the Subcommittee's views to the Family Council for considering the existing government policies and arrangements relating to cross-boundary families from the family reunion perspective, in particular the arrangements for Mainland single mothers with Hong Kong resident children.

11. In concluding the discussion, the Chairman suggested and members agreed that the Subcommittee should write to the Secretary for Security ("S for S") urging the Administration to expedite the discussion with the relevant Mainland authorities and make public announcement on the implementation arrangements of the new policy initiative to cater for Mainland adult children of Hong Kong residents to settle in Hong Kong. Members further agreed that S for S should be requested to provide a concrete implementation timetable by the end of July 2010.

II. Any other business

12. Members agreed to discuss the following items at the next meeting to be held on 13 July 2010 at 8:30 am -

- (a) Use of subsidised obstetric services by Mainland women whose spouses are Hong Kong residents; and
- (b) Public housing support services for families with members holding Two Way Permits.

13. There being no other business, the meeting ended at 4:32 pm.

**Proceedings of the 13th meeting of the
Subcommittee to Study Issues Relating to Mainland-HKSAR Families
on Tuesday, 29 June 2010, at 2:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Immigration arrangements relating to Mainland-HKSAR families</i>			
000000 - 000628	Chairman Mr LEUNG Yiu-chung	Date and discussion items of the next meeting	
000629 - 001223	Chairman Administration	The Administration's responses to issues raised at the meeting on 26 April 2010 [LC Paper No. CB(2)1884/09-10(01)]	
001224 - 001631	Chairman Association for Family Reunions Ltd.	Request for the Administration to actively discuss with the relevant Mainland authorities - (a) the arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for One Way Permit ("OWP") for settlement in Hong Kong so as to facilitate family reunion as early as practicable; (b) allowing more than one Mainland adult children to apply for OWP to settle in Hong Kong to take care of their Hong Kong parents with special difficulties; and (c) allowing Mainland adult children to apply for OWP to settle in Hong Kong to take care of their Hong Kong parents who aged below 60; such as disabilities who were incapable of living independently or were unsupported in Hong Kong	
001632 - 001939	Justice and Peace Commission of the Hong Kong Catholic Diocese	Issues raised by the deputation - (a) the slow progress in respect of the discussion with the Mainland authorities on the arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for OWP for settlement in Hong Kong and request for a concrete implementation table; (b) the rationale why the proposal of setting up of a "joint liaison working group" to review the OWP and Two Way Permit ("TWP") arrangements contravened the Basic Law; (c) the arrangements for those children (whose both parents were Mainlanders) had obtained the Hong Kong permanent residents status upon birth in Hong Kong to settle in Hong Kong; and (d) whether OWP applicant whose Hong Kong spouse was missing or in prison, or who was divorced fell within the meaning of exceptional circumstances of individual cases as referred to in paragraph 5 of the Administration's paper	

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001940 - 002411	爭取居港權家長協會	The Administration should make public announcement on how the Macao arrangements would be applicable to Hong Kong and the concrete implementation timetable and details	
002412 - 002502	Right of Abode University	Under the Macao arrangements, certain adult Mainland children of Macao residents were not eligible for applying for OWP for settlement in Macao, the Administration should take this into account when discussing with the Mainland authorities the eligible criteria for OWP application and the implementation arrangements. The Administration should also make available the concrete implementation timetable expeditiously	
002503 - 002756	同根同天空	Concern about the slow progress in respect of the proposal to open a channel for Mainland single mothers to apply for OWPs for settlement in Hong Kong on compassionate ground to take care of their young Hong Kong children	
002757 - 003128	New Women Arrivals League	<p>Presentation of views as detailed in the submission [LC Paper No. CB(2)1962/09-10(01)]</p> <p>Concern about the negative impacts of "one-year multiple" exit endorsement for visiting relatives on the limits of stay of TWP holders, i.e. being shortened from three months to 14 days. This imposed great hardship on those single-parent families with Hong Kong children born to Mainland single mothers</p> <p>Concern about the rising trend of Mainland parents giving birth in Hong Kong so as to escape from the one-child policy in the Mainland. The Administration should step up publicity in the Mainland on the problems faced by cross-boundary families so as to encourage these families to plan ahead before using the obstetric services in Hong Kong</p>	
003129 - 003449	關注中港家庭權利聯席	<p>Presentation of views as detailed in the submission [LC Paper No. CB(2)1962/09-10(02)]</p> <p>Issues raised by the deputation -</p> <p>(a) the Administration should expedite the discussion with the Mainland authorities on the implementation arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for OWPs;</p> <p>(b) the Administration should actively discuss with the relevant Mainland authorities the proposal to open a channel for Mainland single mothers to apply for OWPs for settlement in Hong Kong;</p> <p>(c) the Administration should actively follow up the difficulties faced by Mainland single mothers in applying for "one-year multiple" exit endorsement for visiting relatives to take care of their young children in Hong Kong;</p>	

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		<p>(d) whether and how the Administration would follow up with the Mainland authorities on the putting in place a mechanism to review the immigration arrangements and handle complaints and appeals relating to the OWP and TWP arrangements; and</p> <p>(e) the Administration should study the policy implications of an increasing number of Mainland parents giving birth in Hong Kong</p>	
003450 - 003922	Mainland-Hong Kong Families Rights Association	<p>Presentation of views as detailed in the submission [LC Paper No. CB(2)1962/09-10(03)]</p> <p>Concern about the difficulties faced by Mainland single mothers in taking care of their children in both Hong Kong and the Mainland</p>	
003923 - 004311	中港家庭權益會——姊妹網絡	<p>Presentation of views as detailed in the submission [LC Paper No. CB(2)1962/09-10(03)]</p> <p>Concern about the difficulties faced by the Mainland single mothers who were not eligible for OWP application because their spouses (who were Hong Kong residents) were either deceased or divorced, and the financial burden faced by these families if the Hong Kong born children were to be raised in the Mainland</p>	
004312 - 005144	Chairman Mr WONG Kwok-hing Administration	<p>Mr WONG Kwok-hing's concern about -</p> <p>(a) the slow progress in the discussion between the HKSAR Government and the relevant Mainland authorities on the arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for OWP for settlement in Hong Kong, notwithstanding that the new arrangements in Macao came into operation in December 2009; and</p> <p>(b) the Administration's response to the proposal of opening a channel for Mainland women who did not meet the eligibility criteria for OWP application due to the passing away of their spouses (who were Hong Kong residents) or divorce, but having imminent needs to stay in Hong Kong to take care of their young Hong Kong children</p> <p>The Administration's responses -</p> <p>(a) while it was unable to reveal details of the discussions underway, the Central Government had made clear that the arrangements to cater for Mainland "overage children" of Macao residents to settle in Macao Special Administrative Region would generally also be applicable to Hong Kong. Once further developments were available, the Administration would promptly inform the Subcommittee and make public announcement; and</p> <p>(b) the Immigration Department ("ImmD") had reflected/would continue to reflect to the Mainland authorities the exceptional circumstances of</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>individual cases, such as OWP applicant whose Hong Kong spouse was deceased and had young children, together with the relevant case details and background for their consideration. It was understood that some applications for "one-year multiple" exit endorsement for visiting relatives from Mainland single mothers had been approved, and some applications were being processed</p>	
005145 - 010212	<p>Ms Audrey EU Mainland-Hong Kong Families Rights Association 中港家庭權益會—— 姊妹網絡 Chairman Administration</p>	<p>Ms Audrey EU's enquiry about the negative impacts on the waiting time of those currently eligible for the application of OWP if Mainland residents who did not meet the eligibility criteria for "reunion with spouses" but had young children in Hong Kong were allowed to apply for OWP, and the number of such families and children in question</p> <p>The Administration responses -</p> <p>(a) The Administration did not have statistics concerning the number of Mainland single mothers who did not meet the eligibility criteria for OWP application because their ex-spouses (who were Hong Kong residents) were either deceased or divorced. On the basis that the current OWP quotas would likely almost be used up after the implementation of the OWP application from Mainland overage children, there would be little room to cater for additional categories of applicants or to further shorten the waiting time of applicants; and</p> <p>(b) should Mainland residents who did not meet the eligibility criteria for "reunion with spouses" but with young children in Hong Kong be allowed to apply for OWP, this could, by the same token, give rise to the question on whether Mainland parents of Hong Kong born children would be eligible for OWP application on ground of family reunion</p> <p>Ms Audrey EU's reiteration that priority should be given to allowing Mainland single parents to settle in Hong Kong in the light of the imminent needs of parental care of their young children in Hong Kong</p>	
010213 - 011147	<p>Chairman Mr Albert HO Administration</p>	<p>Mr Albert HO's dissatisfaction at the Administration's failure to provide information concerning Mainland single parents who did not meet the eligibility criteria for OWP application. His request for the Administration to collate the relevant information and consider refining the policy having regard to its negative impacts on the upbringing of the children of these families</p>	

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011148 - 012119	Mr LEUNG Yiu-chung Chairman Administration Ms Audrey EU	<p>Mr LEUNG Yiu-chung's view that it was Government's responsibility to uphold the principle of public justice in introducing government policy, and thereby the Administration should give due regard to the problems faced by Mainland single parents who did not meet the eligibility criteria for OWP application</p> <p>The Administration would consider collating the following information from the relevant departments and provide to the Subcommittee by September 2010 as far as practicable -</p> <p>(a) the number of Mainland single mothers who did not meet the eligibility criteria for "reunion with spouses" but had young children in Hong Kong; and</p> <p>(b) the specific problems faced by cross-boundary families comprising single Mainland parents with young Hong Kong children and the assistance so rendered to them by different bureaux/departments</p>	Admin
012120 - 012945	Ms Cyd HO Chairman Administration	<p>Ms Cyd HO's concern about the discussions with the Mainland authorities on the proposal of allowing more than one Mainland adult children of Hong Kong residents to apply for OWP to settle in Hong Kong to take care of their Hong Kong unsupported parents if the first eligible Mainland adult child was not capable of taking care of his parents after settlement in Hong Kong</p> <p>Ms Cyd HO's concern about the rights of those Hong Kong resident children whose single mothers were Mainlanders. Specifically, such single parent families were not eligible for public rental housing ("PRH") application. The Administration should consider allowing these children to make advance PRH applications with a person who acted as a "surrogate" of their mother</p> <p>The Administration's response that HKSAR Government was still in active discussions with the Mainland authorities on the arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for OWP for settlement in Hong Kong, under which there was no prescribed limit on the number of eligible overage children of each Hong Kong parent. It would keep exchanging views with the Mainland authorities and reflect to the latter the views of various sectors in Hong Kong, including the proposal of allowing one more adult children to apply for OWPs to take care of unsupported parents</p> <p>The Administration's advice that issues relating to the eligibility of public housing applications of families with members from the Mainland would be discussed at the next meeting. The Home Affairs Bureau would coordinate and prepare a consolidated paper on the support services rendered by different bureaux and departments to Hong Kong children born to Mainland single mothers</p>	Admin

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012946 - 013803	Mr Ronny TONG Chairman Administration	<p>Mr Ronny TONG's enquiry about the latest statistics concerning the number of new arrivals of OWP holders</p> <p>Mr Ronny TONG's view that the Administration should discuss with the relevant Mainland authorities the OWP arrangement, such as the viability of increasing the daily OWP quota from 150 to 200 so as to expedite the family reunion</p> <p>The Administration's advice that the introduction of OWP Scheme aimed to facilitate the reunion of Mainland residents with their families in Hong Kong in an orderly manner. It would provide (a) the latest statistics on the utilisation of the overall daily OWP places; and (b) information outlining the background for setting the 150 daily OWP quota, if available</p>	Admin
013804 - 014317	Mr WONG Yuk-man Chairman	Dissatisfaction at the Administration's lack of humane consideration in formulating policy to alleviate the stress and difficulties faced by the cross-boundary families headed by Mainland single mothers who did not meet the eligibility for OWP application because their spouses (who were Hong Kong residents) were either deceased or divorced	
014318 - 014946	Mr WONG Sing-chi Administration Chairman	Mr WONG Sing-chi's view that the Family Council, which was chaired by the Chief Secretary for Administration, should be invited to consider and review the existing government policy and arrangements for cross-boundary families from the family reunion perspective, in particular whether the arrangements for Mainland single mothers with Hong Kong resident children were departed from the objective of promoting the formulation of family-friendly policy	
014947 - 015533	Chairman Mr CHEUNG Kwok-che	<p>Views of the Chairman that -</p> <p>(a) the Administration should convey members' views to the Family Council for considering whether the existing government policy and arrangements for cross-boundary families were not conducive to family reunion, in particular the arrangements for Mainland single mothers whose children were Hong Kong residents; and</p> <p>(b) the Subcommittee should write to the Secretary for Security expressing its disappointment with the slow progress in the implementation of the arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for OWP for settlement in Hong Kong and requesting for providing a concrete implementation timetable by the end of July 2010</p>	Admin Clerk
015534 - 015615	Chairman Justice and Peace Commission of the Hong Kong Catholic Diocese	Call for a concrete response from the Administration on the implementation details by the end of July 2010	

Time marker	Speaker(s)	Subject(s)	Action required
015616 - 015734	關注中港家庭權利聯席	Reiteration of its request for (a) expediting the discussion with the relevant Mainland authorities and make public announcement on the implementation arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for OWP for settlement in Hong Kong; and (b) reflecting continuously to the Mainland authorities the proposal of opening of a channel to allow Mainland single mothers who did not meet the eligibility criteria for "reunion with spouses" but had young children in Hong Kong to apply for OWP	
015735 - 015808	Chairman Administration	The Administration's reiteration that it was still in active discussion with the Mainland authorities and once further developments were available, it would promptly inform the Subcommittee and make public announcement	
015809 - 020126	中港家庭權益會—— 姊妹網絡 Chairman Administration	Request for assistance to handle individual cases of OWP application under the category of "exceptional circumstances" The Administration's advice that it would reflect to the Mainland authorities the exceptional circumstances of individual cases concerning OWP applicants	
020127 - 020223	Chairman Administration	Date and discussion items of the next meeting	