

立法會
Legislative Council

LC Paper No. CB(2)1101/11-12
(These minutes have been seen
by the Administration)

Ref : CB2/BC/9/10

Bills Committee on Immigration (Amendment) Bill 2011

Minutes of meeting
held on Friday, 16 December 2011, at 10:45 am
in Conference Room 3 of the Legislative Council Complex

Members present : Hon LAU Kong-wah, JP (Chairman)
Hon James TO Kun-sun
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Hon WONG Kwok-kin, BBS
Hon Paul TSE Wai-chun, JP

Members absent : Dr Hon Margaret NG
Dr Hon PAN Pey-chyou

Public Officers attending : Item I

Mr NGAI Wing-chit
Deputy Secretary for Security 3

Mr CHOW Wing-hang
Principal Assistant Secretary for Security D

Mr LEUNG Kwok-hung, IMSM
Assistant Director
(Enforcement and Torture Claim Assessment)
Immigration Department

Ms Fanny IP
Senior Assistant Law Draftsman
Department of Justice

Mr Henry CHAN
Government Counsel
Department of Justice

Mr Billy WOO
Assistant Secretary for Security D1

Mr FUNG Ming-keung
Principal Immigration Officer
(Torture Claim Assessment)
Immigration Department

Clerk in attendance : Mr Raymond LAM
Chief Council Secretary (2) 1

Staff in attendance : Ms Connie FUNG
Senior Assistant Legal Adviser 1

Ms Rita LAI
Senior Council Secretary (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

Action

I. Meeting with the Administration

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

2. The Administration was requested to provide information on the following -

- (a) the factors to be taken into account in the determination of torture claims with reference to Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

Action

- (b) the number of torture claimants arrested for taking up illegal employment among some 6 500 outstanding claims;
- (c) the expenses involved in the provision of legal assistance for torture claimants; and
- (d) the determined cases with breakdown on those repatriated to the country of origin of the torture claimants (including information on the time required) and those staying in Hong Kong.

II. Date of next meeting

- 3. Members noted that the next meeting had been scheduled for 5 January 2012.
- 4. The being no other business, the meeting ended at 12:45 pm.

Council Business Division 2
Legislative Council Secretariat
15 February 2012

**Proceedings of meeting of the
Bills Committee on Immigration (Amendment) Bill 2011
held on Friday, 16 December 2011, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action Required
000000 - 000759	Chairman	Opening remarks	
000800 - 001428	Admin	Briefing on LC Paper No. CB(2)517/11-12(01) Consideration in deciding torture claims	
001429 - 001651	Chairman Admin	Briefing on LC Paper No. CB(2)598/11-12(01) Sample cases of determined torture claims	
001652 - 002302	Hon WONG Yung-kan Admin Chairman	Details of torture claims by domestic helpers, including nationality, number of claims, substantiated cases, processing time and the expenses involved in providing humanitarian and legal assistance	
002303 - 003658	Hon Emily LAU SALA1 Admin Chairman	The Administration's response to SALA1's recommendation that factors for determination of torture claims be set out in the Bill Factors taken into account by the Immigration Department in considering individual cases - not falling within the definition of "Torture" in the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT")	The Administration to provide information on the factors to be taken into account in the determination of torture claims with reference to Article 3 of CAT
003659 - 003959	Hon WONG Kwok-kin Admin Chairman	Information on torture claimants who took up employment illegally, including the number of claimants involved and whether it was a common phenomenon	The Administration to provide information on the number of torture claimants arrested for taking up illegal employment among some 6 500 outstanding claims

Time marker	Speaker(s)	Subject(s)	Action Required
004000 - 005003	Hon Paul TSE Admin Chairman	<p>Whether different weightings were given to the different categories listed under "Not falling within the definition of "Torture" in CAT;</p> <p>Whether there were criteria for ensuring the objectivity, fairness and transparency in the determination of claims; whether more resources or time was required in the process of consideration of all relevant factors</p> <p>Torture claims raised by foreign domestic helpers from the Philippines and Indonesia upon expiry of their contracts and pre-mature termination of contracts</p>	
005004 - 005550	Hon WONG Yung-kan Admin Chairman	The trend of torture claims raised by domestic helpers and concerns about the abuse of the system; expedited process for handling such cases	
005551 - 010002	Hon Emily LAU Admin Chairman	<p>Claims not involving public officials or other persons acting in an official capacity</p> <p>How claims involving acts inflicting severe pain or suffering but not involving public officials or other persons acting in an official capacity to be handled</p> <p>Procedures and consideration for determination of claims</p> <p>Expenses involved in the provision of legal assistance for torture claimants</p>	The Administration to provide information on the expenses involved in the provision of legal assistance for torture claimants
010003 - 010257	Chairman Admin Hon Emily LAU	Consideration of all factors listed in paragraph 14(a) of LC Paper No. CB(2)517/11-12(01) in the determination of torture claims	

Time marker	Speaker(s)	Subject(s)	Action Required
010258 - 010553	Chairman Admin	Screening of refugee status, claimant of substantiated claim to take employment, humanitarian assistance and expediting processing of claims	
010554 - 011345	Hon Paul TSE Admin Chairman	Whether the process for handling torture claims could be streamlined so as to increase the efficiency and better use of resources, for example conducting briefings for a number of claimants instead of handling individual cases	
011346 - 011709	Hon CHAN Hak-kan Admin Chairman	Whether personalized one-to-one service would be offered in the handling of subsequent torture claims Expenses involved in legal assistance for torture claimants who raised subsequent claims	
011710 - 012624	Hon Emily LAU Admin Chairman	Consideration to be given to allow torture claimants to take up employment which could help reduce the need for humanitarian assistance	
012625 - 013413	Hon Paul TSE Admin	Measures to be taken by the Administration to prevent abuse of the system while maintaining fairness, including humanitarian assistance Whether consideration would be given to better use of the legal assistance provided to the torture claimants under the Duty Lawyer Service	
013414 - 014203	Chairman Hon WONG Yung-kan Admin	Statistics on persons lodging both torture claims and refugee claims and details on the handling of these cases, including the expenses involved and the time required for processing Repatriation to be activated upon completion of the determination of the claims Whether the raising of subsequent claims would involve abuse of the system	

Time marker	Speaker(s)	Subject(s)	Action Required
014204 - 015125	Hon Cyd HO Admin Chairman	Procedures involved in repatriation of torture claimants to countries or places other than the Mainland Collaboration with United Nations High Commissioner for Refugees in handling refugee claims	The Administration to provide information on the determined cases with breakdown on those repatriated to the country of origin of the torture claimants (including information on the time required) and those staying in Hong Kong
015126 - 015850	Hon Emily LAU Admin Chairman	Difference between screening of torture claims and refugee status and the possible abuse of the systems	
015851 - 015929	Chairman Hon Emily LAU	Closing remarks	

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