

立法會
Legislative Council

LC Paper No. CB(2)139/13-14
(These minutes have been
seen by the Administration)

Ref : CB2/PL/WS

Panel on Welfare Services

**Minutes of special meeting
held on Monday, 22 July 2013, at 3:00 pm
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon CHAN Yuen-han, SBS, JP (Chairman)
Hon Albert HO Chun-yan
Hon LEUNG Yiu-chung
Hon TAM Yiu-chung, GBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Ronny TONG Ka-wah, SC
Dr Hon LEUNG Ka-lau
Hon LEUNG Kwok-hung
Hon Frankie YICK Chi-ming
Hon CHAN Chi-chuen
Hon Alice MAK Mei-kuen, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon POON Siu-ping, BBS, MH

Members absent : Hon CHEUNG Kwok-che (Deputy Chairman)
Hon Alan LEONG Kah-kit, SC
Hon CHAN Han-pan
Hon LEUNG Che-cheung, BBS, MH, JP
Hon TANG Ka-piu

Members attending : Hon Emily LAU Wai-hing, JP
Hon Dennis KWOK

**Public Officers : Item I
attending**

Mr Billy WOO
Principal Assistant Secretary (Security) D
Security Bureau

Mrs Anna MAK
Deputy Director of Social Welfare (Services)
Social Welfare Department

Mr FUNG Man-chung
Assistant Director of Social Welfare (Family & Child
Welfare)
Social Welfare Department

**Attendance by : Item I
invitation**

International Social Service Hong Kong Branch

Ms Adrielle M. Panares
Programme Director, Migrants Programme

The Hong Kong Refugee Advice Centre

Miss Aleta Miller
Executive Director

Labour Party

Mr KWOK Wing-kin
Vice General Secretary

VF Pakistani Community

Mr Mehmood Tariq
Spokesperson

VF Sri Lankan Community

Mrs Budgama Mudiyanseelage Shayama Perera
Spokesperson

Vision First

Mr Cosmo Beatson
Executive Director

VF Bangladeshi Community

Mr Nazmul Huda
Spokesperson

VF African Community

Mr Suleiman Mohammed Bashiru
Spokesperson

VF Women Community

Mrs Mirembe Lillian Dorothy
Spokesperson

Christian Action

Miss Julee Allen
Manager

Daly & Associates

Ms Patricia Ann Ho
Associate

The Vine Church

Pastor Tony Read
Justice Advocate

Society for Community Organization

Miss Annie LIN
Community Organizer

Voices of the Rights of Refugees and Asylum Seekers

Mr Peter
Representative

United Nations High Commissioner for Refugees

Mr Philip KARANI
Head of Office

The Centre for Comparative and Public Law, The
University of Hong Kong

Professor Simon YOUNG

Centre on Behavioral Health, The University of Hong
Kong

Ms Malabika Das
Honorary Clinical Associate

Clerk in attendance : Mr Colin CHUI
Chief Council Secretary (2) 4

Staff in attendance : Ms Rita LAI
Senior Council Secretary (2) 1

Miss Karen LAI
Council Secretary (2) 4

Miss Maggie CHIU
Legislative Assistant (2) 4

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- I. Ways to improve situation of refugees, torture claimants and asylum seekers in Hong Kong**
[LC Paper Nos. CB(2)1509/12-13(01), CB(2)1630/12-13 (01) to (08) and CB(2)1633/12-13(01)]

At the invitation of the Chairman, Principal Assistant Secretary (Security)D ("PAS(S)D") advised members that the humanitarian assistance for torture claimants, asylum seekers and mandated refugees in Hong Kong (hereinafter referred to as "protection claimants"), including the policy considerations, relevant details and recent development, were set out in the Administration's paper. In considering how the humanitarian assistance provided for the protection claimants could be further enhanced,

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the Administration would take into account the views of members and deputations.

2. Mr TAM Yiu-chung declared that he was a member of the Advisory Committee of the International Social Service Hong Kong Branch ("ISS-HK").

Views of deputations

3. At the invitation of the Chairman, 17 deputations presented their views on the subject. A summary of their views and concerns is in the **Appendix**.

Discussion

4. In response to the views of deputations, PAS(S)D advised that –

- (a) the Administration was aware of the concerns on the operation and current levels of humanitarian assistance for the protection claimants. Due consideration would be given to the views of members and deputations when making both short-term and long-term improvements where necessary;
- (b) the Government policy towards protection claimants, be they illegal immigrants or overstayers, aimed at processing their claims in an efficient manner. While non-refoulement protection would be provided for claimants of substantiated claims, claimants of unsubstantiated claims would be removed or deported as soon as practicable. Having regard to the basic needs of the protection claimants while awaiting determination of their claims in Hong Kong, the Social Welfare Department ("SWD") had since 2006 commissioned ISS-HK to provide in-kind assistance services to them. Its objective was to provide support which was considered sufficient to prevent them from becoming destitute; and
- (c) regarding applications for permission to take employment by claimants of substantiated claims, the Director of Immigration would consider each case on its merits and might exercise his discretion in granting permission to work.

5. Deputy Director of Social Welfare (Services) ("DDSW(S)") made the following points –

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- (a) while the provision of humanitarian assistance to the protection claimants could be further refined, taking into consideration the views of deputations, it was imperative that a balance could be maintained between preventing them from becoming destitute and at the same time not creating a magnet effect which could have serious implications on the sustainability of the current support systems;
- (b) as regards the alleged undesirable accommodation of some protection claimants at Ping Che, who used to live there prior to approaching ISS-HK for assistance, staff of ISS-HK would be prepared to offer assistance in identifying other accommodation upon request of the protection claimants concerned; and
- (c) the current rental allowance of \$1,200 for singletons, which had been adjusted since 2006, served only as a reference. The assistance level was being reviewed with reference to the trend of the rental market prices and adjustment would be made as appropriate. Service users who wanted to request for a rental allowance higher than the amount in the grid could raise their request to ISS-HK for consideration by providing justification with supporting documents. ISS-HK would consider each and every application on individual case merits. As regards the media reports on the discrepancies between the actual addresses of some protection claimants and those on the rental agreements, ISS-HK had been requested to look into the matter and report its findings to SWD. Should there be a breach of the law, action would be taken as appropriate.

6. The representative of Daly & Associates, however, informed members that only in rare cases in which service users with valid medical certificates would be granted rental allowance higher than the amount in the grid.

7. In response to a follow-up enquiry of the representative of Daly & Associates about the action to be taken in cases involving the use of false addresses, PAS(S)D clarified where provision of false information on rental allowance arrangements to SWD and ISS-HK was detected, the cases would be referred to law enforcement agencies concerned for follow-up as appropriate.

8. Dr Fernando CHEUNG and Miss Alice MAK were appreciative of

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the representation of the protection claimants at the meeting and their voicing out the inadequacies of the assistance rendered to them during their presence in Hong Kong. Miss MAK further expressed disappointment that the Administration had in essence made no improvement in the provision of humanitarian assistance to protection claimants over the years regardless of the increase in the allocation of resources. She called on the Administration to re-examine the assistance programme and make improvement where necessary.

Accommodation

9. Expressing grave concern about the comments on the appalling accommodation of the protection claimants by the international media, Ms Emily LAU considered it detrimental to the reputation and status of Hong Kong as an international city. She urged the Administration to address the problem as soon as possible. Mr Albert HO shared a similar concern. He understood the difficulties encountered by protection claimants in seeking proper accommodation with a monthly rental allowance at \$1,200 per person.

10. In support of Ms Emily LAU's suggestion of conducting a visit to the accommodation of the protection claimants at Ping Che for Panel members to better understand their living conditions, Dr Fernando CHEUNG further proposed that the Administration be invited to participate in the visit. He informed members that he had paid a number of visits there and learnt that the protection claimants were living in destitution.

11. PAS(S)D advised that ISS-HK had been providing assistance to the protection claimants residing at Ping Che by offering to identify other suitable residence should they agree to move out. He stressed that the Administration had put in place a mechanism whereby other protection claimants could raise similar requests during their monthly meeting with the ISS-HK staff.

12. The representative of Daly & Associates, however, expressed disappointment that ISS-HK had actually offered no practical help to assist the protection claimants to move out from Ping Che. Prior to seeking help from ISS-HK for removal, the protection claimants had to look for other accommodation by themselves.

13. In response, PAS(S)D clarified that if service users could not identify suitable premises on their own, they could live in abodes arranged by ISS-HK or enlist assistance from ISS-HK in securing a suitable

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accommodation.

14. In the light of the difficulties experienced by the protection claimants in securing proper residence with the rental allowance so provided, Dr Helena WONG asked whether the Administration would consider studying the viability of accommodating protection claimants on school premises vacated by the primary or secondary schools which had ceased to operate.

Food

15. Ms Emily LAU was concerned that protection claimants had not been provided with sufficient food, pending resettlement in or removal to other states/places. The representative of Daly & Associates raised a similar concern and stressed that the whole community of protection claimants, instead of individual claimants, complained about the inadequate supply of food.

16. DDSW(S) responded that service users were provided with a variety of food items catering for nutritious, cultural, religious and other specific needs of individual service users, from which they could make their own choice. While the types of food would be increased as necessary, the provision quantity should be able to satisfy the needs of adults and children. On the frequency of collecting food items at the food supplier shops, it would be adjusted in accordance with individual circumstances. In some cases of genuine travelling needs such as carrying bulk items of food while taking care of children, taxi fare would be provided by ISS-HK as necessary.

17. Mr Albert HO, however, raised query on such an arrangement since it had been specified that service users were provided with petty cash to cover the travelling expenses by the cheapest means of transportation available.

Education arrangement

18. Ms Emily LAU and Mr Albert HO were gravely concerned about the education arrangement for protection claimants who were minors. Mr HO requested the Administration to provide information on the number of minor claimants who had been denied access to schooling during their stay in Hong Kong.

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19. PAS(S)D responded that the Education Bureau would handle schooling applications from minors of protection claimants according to

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individual circumstances, upon consultation with the Immigration Department that their removal from Hong Kong would be unlikely in the near future. Depending on case details, including the age, vacancies for placement and educational background of the minor, arrangement for schooling would be made accordingly.

Permission to take employment

20. Mr Albert HO noted with concern that pending assessment of claims, protection claimants in Hong Kong were prohibited from taking employment while their counterparts in some other countries were allowed to work. Mr HO enquired about the rationale for such policy. In his view, it would be beneficial to protection claimants if they were granted permission to work to sustain their own living.

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21. Dr Helena WONG requested the Administration to provide information on –

- (a) the average processing time for determination of a claim lodged by a protection claimant and whether it could be shortened; and
- (b) a detailed breakdown of the expenditure, including the administration fee, for provision of humanitarian assistance to protection claimants through ISS-HK, which amounted to \$203 million in 2012-2013.

22. Noting that the meeting could not be extended as it would be followed immediately by a joint meeting of the Panel on Welfare Services and Panel on Home Affairs, Ms Emily LAU said that another meeting should be held to allow continuation of discussion on the subject. Miss Alice MAK considered that a joint meeting of the Panel on Welfare Services ("WS Panel") and Panel on Security should be held as status determination of protection claimants, which was under the purview of the latter Panel, had a bearing on the issue of improving their situation in Hong Kong. Members noted that the motion put forward by Dr Fernando CHEUNG could be dealt with at that meeting.

Chairman
Secretariat

23. In conclusion, the Chairman said that with the assistance by the Secretariat she would explore whether: (a) a joint meeting of the WS Panel and Panel on Security or a special meeting of the WS Panel could be held to further discuss the issue; and (b) a visit could be arranged to the accommodation of the protection claimants at Ping Che.

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II. Any other business

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

Council Business Division 2
Legislative Council Secretariat
25 October 2013

Panel on Welfare Services

Special meeting on Monday, 22 July 2013 at 3:00 pm

Ways to improve situation of refugees, torture claimants and asylum seekers in Hong Kong

Summary of views and concerns expressed by deputations

No.	Name of deputation	Major views and concerns
1.	International Social Service Hong Kong Branch ("ISS-HK") [LC Paper No. CB(2)1646/12-13(01)]	<ul style="list-style-type: none"> ● Since 2006, ISS-HK had been designated by the Government through a tendering process as the implementing agency of the Social Welfare Department ("SWD") to provide in-kind assistance to refugees, torture claimants and asylum seekers in Hong Kong (hereinafter referred to as "protection claimants"). The policies and guidelines, eligibility criteria, appropriated amount per assistance, monitoring and reporting accountability, scope and limitations of assistance were outlined in very specific details in the contract agreement between ISS-HK and SWD. ● Instead of offering the in-kind assistance to the protection claimants as a package, these service clients had to undergo interview process and would be subject to assessment of their eligibility criteria as designed by SWD. ● The allowable assistance was the same across the entire territory whereas differences in the levels of assistance were based on the service clients' vulnerabilities. Assistance was formally monitored by caseworkers of ISS-HK at least once a month and/or adjusted according to the needs and circumstances of the clients during the required monthly contract agreement renewal with ISS-HK. ● ISS-HK was open to suggestions and discussion among the stakeholders and serving organizations regarding whether the provision of assistance to the protection claimants was sufficient.
2.	The Hong Kong Refugee Advice Centre [LC Paper No. CB(2)1630/12-13(03)]	<ul style="list-style-type: none"> ● It was disappointing that the current government policy only aimed at preventing destitution of the protection claimants. The Government had the international legal obligations to respect,

No.	Name of deputation	Major views and concerns
		<p>protect and fulfill basic human rights for the protection claimants, including the rights to adequate standard of living, irrespective of their immigration status.</p> <ul style="list-style-type: none"> ● A considerable number of protection claimants were suffering from destitution while awaiting determination results of their claims in Hong Kong. Without permission to take up employment, the protection claimants could hardly support their families and use their time meaningfully and productively to contribute to the society. ● The Government should conduct a comprehensive review of the current assistance package for the protection claimants and involve participation of the claimants themselves, who were the target beneficiaries, and organizations serving them. It should move away from providing assistance and preventing destitution to respecting rights of the protection claimants and ensuring their security and dignity and promoting their self-reliance.
3.	Labour Party [LC Paper No. CB(2)1646/12-13(02)]	<ul style="list-style-type: none"> ● Given Hong Kong as a member of the developed international community, the Government had the responsibility and capability to provide protection for the basic rights of the protection claimants stranded in Hong Kong. The screening process for protection claimants should be expedited so that these people could be arranged either for resettlement in a third country or repatriation to their countries of origin. ● The Labour Party raised queries as to the effectiveness of providing humanitarian assistance to the protection claimants through ISS-HK. Notwithstanding the earmarking of more than \$200 million by the Administration for such purpose, the living conditions of some of these protection claimants, e.g. those living at Ping Che, were abominable and extremely unhygienic as reported by the media. In addition, there were problems such as the use of false addresses in the rental agreements. ● While supporting the Government to provide humanitarian assistance to the protection claimants, the Labour Party held the view that a comprehensive review of the scope of assistance should be conducted, including accommodation, food, medical services and education arrangement.
4.	VF Pakistani Community	<ul style="list-style-type: none"> ● The representative of the deputation encountered difficulties in seeking accommodation, mainly because of inability to make a deposit for renting a place to live.

No.	Name of deputation	Major views and concerns
		<ul style="list-style-type: none"> • The representative queried about the arrangement to require protection claimants to collect food items six times a month at the food supplier shops.
5.	VF Sri Lankan Community	<ul style="list-style-type: none"> • The representative of the deputation had difficulties in paying the rental for the residence where her family lived. While a total of \$6,000 was provided for her family of five members as rental allowance each month, there was still a shortfall of \$700. • The food given to her family was insufficient and they had no choice of food items. Likewise, the transportation allowance was not adequately provided to cover their travelling expenses for various purposes.
6.	Vision First [LC Paper No. CB(2)1630/12-13(04)]	<ul style="list-style-type: none"> • Referring to the judgment in <i>HKSAR v Usman Butt & Anor</i> (HCMA 2010), Vision First held the view that the Government had failed to fulfill its international obligations to provide for the basic needs of the protection claimants in Hong Kong. • With the aid of powerpoint presentation, the representative of Vision First highlighted the appalling and intolerable living conditions of some protection claimants at Ping Che, and how these people had been deprived of basic human rights, pending assessment of their claims. • Without the provision of rental deposit, it had been difficult for the protection claimants to secure proper accommodation. Furthermore, given the soaring inflation and the drastic increase in rental in these few years, it had been difficult for protection claimants to find proper accommodation with the rental allowance of \$1,200 for singletons which had not been adjusted since 2010.
7.	VF Bangladeshi Community	<ul style="list-style-type: none"> • As protection claimants were not provided with deposit for accommodation and the rental allowance at \$1,200 a month, it had been difficult for them to rent a proper place. The living conditions of most of them were very poor. • The food items provided were neither appropriate for them nor good for their health. Some protection claimants suffered from starvation. • Protection claimants sometimes could not receive proper medical services. For instance, they

No.	Name of deputation	Major views and concerns
		were not able to pay for the operation expense.
8.	VF African Community	<p>The representative of the VF African Community, who was a teacher and used to receive salary for teaching in his home country, had stayed in Hong Kong for eight years without being allowed to work while his claim was being processed. He was frustrated and troubled by a sense of futility and thought that time had been wasted. Should protection claimants be disallowed to take up employment, he suggested that they be given the opportunity to do something constructive and to keep them occupied. For instance, attending courses which might be useful to them in the places to which they would be relocated.</p>
9.	VF Women Community	<ul style="list-style-type: none"> • The deputation called on the Administration to provide sufficient assistance when protection claimants awaited decision on their claims. They faced various subsistence problems that needed to be addressed. • The current rental allowance of \$1,200 for singletons of protection claimants was not adequate to rent a proper place. As they were not allowed to work to earn an income, it had been difficult for them to meet the increasing rental every six months. • Apart from inadequate provision of food, they were denied access to public specialist medical services regardless of the recommendation for one-off waiver of medical expenses at public clinics or hospitals. In addition, difficulties had been experienced in arranging schooling for minors claimants.
10.	Christian Action [LC Paper No. CB(2)1630/12-13(03)]	<ul style="list-style-type: none"> • While seeking protection and awaiting resettlement, the deputation stressed that protection claimants should receive sufficient assistance for a dignified stay in Hong Kong. However, having served protection claimants for several decades, the deputation remarked that protection claimants were presently struggling for survival in Hong Kong. • Referring to the results of a survey on protection claimants conducted by Refugee Concern Network that 70% of the respondents had reported on receiving insufficient amount of food, the deputation proposed to adopt a voucher or cash reimbursement system in place of collecting food items at food supplier shops. In its view, it could help save money for the Government in the long run and provide protection claimants with choice of food.

No.	Name of deputation	Major views and concerns
11.	Daly & Associates [LC Paper No. CB(2)1630/12-13(05)]	<ul style="list-style-type: none"> ● It was surprising that the Government's policy of providing support for protection claimants to prevent them from becoming destitute had remained unchanged for years and no improvement had been made. The deputation considered it unacceptable that the kind of assistance offered to the protection claimants had been used to discourage protection claimants coming to Hong Kong. ● Queries were raised as to the resources allocated for providing public-funded legal assistance for protection claimants. A serious scrutiny should be conducted in this respect. ● Given the great discrepancies between the provision of assistance by the Government according to the Administration's paper and that in the submission of deputations and voiced out by the representatives of the protection claimants at the meeting, an examination on the disparity should be conducted in a serious manner.
12.	The Vine Church	<ul style="list-style-type: none"> ● The Government had moral obligations to provide protection for the vulnerable community of protection claimants. The current Government policy towards these people was designed to serve the security purpose for Hong Kong only but had not catered for the needs of the protection claimants, including their livelihood and mental health. ● The current policy on protection claimants, which was characterized by inconvenience, inhumanity, degradation, indignity and suffering, was in effect designed to discourage protection claimants to come over to Hong Kong. ● The Government should develop a policy of respecting the rights of protection claimants and reflecting the reputation of Hong Kong in a developed world for justice and fairness.
13.	Society for Community Organization ("SOCO") [LC Paper No. CB(2)1633/12-13(01)]	<ul style="list-style-type: none"> ● SOCO understood that most of the protection claimants desired to work and contribute to the society. However, the current policy of prohibiting them from taking up employment had given rise to many family problems as well as mental health problems. Drawing reference to other countries, including Australia, the United Kingdom and the United States of America, where protection claimants were allowed to work, SOCO urged the Administration to consider granting permission for the protection claimants to work after they had stayed in Hong Kong for a certain period of time. In its view, it would enable protection claimants to sustain their own living and would also be beneficial to their mental health. There were cases in which

No.	Name of deputation	Major views and concerns
		<p>male protection claimants suffered from mental health problem because they were not given permission to take up employment and henceforth needed to receive medication and counselling.</p> <ul style="list-style-type: none"> ● The Government should consider providing vocational training for young protection claimants, i.e. elder teenagers and people in their early twenties who were not eligible to attend primary or secondary schools in Hong Kong. Given that the Vocational Training Council's current policy was to prepare people for local employment, application for enrolment in vocational training courses by these young protection claimants had been unsuccessful. By equipping these young protection claimants with some basic skills, it could assist them in securing a brighter future instead of wasting their potential.
14.	Voices of the Rights of Refugees and Asylum Seekers	<ul style="list-style-type: none"> ● Being a protection claimant, the representative of the deputation had stayed in Hong Kong for eight years without permission to work. To his knowledge, many protection claimants, like him, held a college degree and had knowledge and working experience. He appealed to the Government to consider letting them take up employment so that they could sustain their living and become self-reliant and simultaneously contribute to the society. ● The Government should also consider providing training for protection claimants to prepare them to live on their own when they were resettled in another place in future.
15.	United Nations High Commissioner for Refugees ("UNHCR") [LC Paper No. CB(2)1630/12-13(06)]	<ul style="list-style-type: none"> ● UNHCR was of the view that there were inadequacies in the in-kind humanitarian assistance programme run by ISS-HK for protection claimants. Given the high property prices in Hong Kong, it was extremely difficult for protection claimants to find safe and hygienic residence with the limited rental allowance. UNHCR suggested that the level of accommodation assistance, including rental deposit, be reviewed every six months to ensure that it was realistic. ● The Government should re-examine the current in-kind food assistance in the light of different concerns expressed by protection claimants, including the quantity and quality as well as the frequency of collection of food items. It was suggested that a coupon system be introduced to replace the existing form of food assistance, which would enable protection claimants to make their food choices with a given budget.

No.	Name of deputation	Major views and concerns
16.	The Centre for Comparative and Public Law, The University of Hong Kong ("CCPL") [LC Paper No. CB(2)1630/12-13(07)]	<ul style="list-style-type: none"> ● CCPL was concerned that Hong Kong had lagged far behind the international standard in providing humanitarian assistance to protection claimants. The Government should commission a comprehensive comparative study of the basic medical, social economic benefits/entitlements provided to protection claimants in other countries and make improvement where necessary. ● It was believed that such a study would bring in new ideas and promote more proactive policy-making for providing humanitarian assistance to protection claimants, e.g., delivery of service through more than one contracted agency and making reference to the relevant policy development in other places which were similar to Hong Kong.
17.	Centre on Behavioral Health, The University of Hong Kong ("CBH")	<ul style="list-style-type: none"> ● Based on the experience of working with the community of protection claimants, CBH found that many of them were traumatized and displayed various post-traumatic symptoms, including high rate of depression, stress, anxiety, violence and suicidal ideation. ● CBH urged the Government to give due regard to providing psychosocial support for this group of protection claimants to ensure their well-being and mental health. Training for relevant professional and medical staff, including social workers, counselors, psychologists and psychiatrists, to cater for the special needs of these protection claimants was important. ● CBH advocated adoption of a holistic approach to provide assistance to individual protection claimants as well as the community as a whole. To this end, there was a need for collaboration in the community to provide the necessary social support for them.