

立法會

Legislative Council

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Report of the Panel on Home Affairs for submission to the Legislative Council 2002-2003

Purpose

This report gives an account of the work of the Panel on Home Affairs during the 2002-2003 Legislative Council (LegCo) session. It will be tabled at the Council meeting on 2 July 2003 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 and 9 October 2002 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 21 members, with Hon Andrew CHENG Kar-foo and Hon IP Kwok-him, JP elected as Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

Major Work

Human rights

5. The Panel monitored the submission of reports to the United Nations (UN) under various international human rights treaties by the Hong Kong Special Administrative Region (HKSAR) Government and its progress in following up the recommendations made by the UN Treaty Monitoring Bodies concerned in respect of these reports.

6. Some members expressed dissatisfaction that the Administration had only published broad outline of the report to be prepared under the respective international human rights treaties for consultation. They pointed out that the outline contained too little information for non-governmental organizations (NGOs) and the public to give their views. These members noted that some countries had released the final draft of their report for public consultation before submission to UN. They considered that the Administration should follow such a good practice and conduct another round of consultation when the report had been drafted. The Administration explained that it considered more desirable to consult NGOs and the public when the report was being drafted, and there would not be sufficient time to conduct another round of public consultation. The Administration also pointed out that a State Party was not required to do so according to the requirements prescribed by the Human Rights Committee in the UN Manual on Human Rights Reporting.

7. Some members expressed concern that the HKSAR Government had not submitted reports under international human rights treaties to UN on time. They considered that the HKSAR Government should make arrangements with the Central People's Government (CPG) so that the HKSAR Government could submit its report to UN directly if the China's metropolitan report would not be submitted on time. The Administration explained that the HKSAR Government would initiate the drafting process of the report when CPG called for its contribution and the report of HKSAR would form a part of the China's metropolitan report. As Hong Kong was not a State Party to the human rights treaties, there was no question of the HKSAR Government submitting reports in its own right.

8. Some members expressed disappointment that the HKSAR Government had made little progress in following up the recommendations made by the UN Treaty Monitoring Bodies concerned. These members reiterated that the Administration should introduce legislation against racial discrimination in the private sector without further delay, given that the HKSAR Government was required to fulfil its obligation to do so under the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Economic, Social and Cultural Rights. The Administration assured members that the Secretary for Home Affairs (SHA) was actively considering the issue and would take a decision as soon as possible.

9. When the Panel received a briefing by SHA on the Chief Executive (CE)'s Policy Address 2003, some members urged that the Government should make a decision on the issue of legislation against racial discrimination. SHA stressed that human rights in Hong Kong were protected through various means such as an independent judiciary, the legal aid system, the Hong Kong Bill of Rights Ordinance, the Basic Law and various international human rights treaties. The Government would investigate the need for other forms of protection of human rights when considering the issue of legislation against

racial discrimination. The Panel had requested the Administration to provide a progress report on the Government's deliberation on the issue.

10. The Panel discussed the issue of establishing an effective monitoring mechanism for the implementation of human rights treaties in Hong Kong with concern organizations and the Administration. Members were of the view that in order to enhance the role of LegCo in monitoring the implementation of human rights treaties in Hong Kong, the Administration should submit annual reports to LegCo on the implementation progress. The Administration agreed to provide reports on annual overviews of developments relating to the various human rights treaties applicable to Hong Kong.

11. Some members expressed dissatisfaction that the HKSAR Government had continued to ignore the recommendations of relevant UN Treaty Monitoring Bodies and refuse to establish a human rights commission. These members considered that in the absence of such an institution, it would not be possible to monitor effectively the implementation of human rights treaties in Hong Kong, since the progress of Government's efforts in this respect was discussed only when the HKSAR Government prepared its reports to UN. The Administration reiterated its view that non of the treaties contained provisions which required the State Parties to establish such a monitoring body. However, the Administration would examine thoroughly the role and functions of the recommended human rights commission in the light of local situations so as to determine the suitability for establishing such an institution in Hong Kong. The Panel had requested the Research and Library Services Division of the LegCo Secretariat to conduct a research study on the establishment of a human rights commission as well as the monitoring mechanism in the implementation of human rights treaties in other places. The Panel would further discuss the issue when the research study was completed.

12. The Panel also received a briefing on the progress of work of the Equal Opportunities Commission (EOC). Members noted that EOC would undertake litigation in significant cases on behalf of victims in areas where clarity in legal issues was required; where there was persistent discrimination; where a large number of people was involved; or where public interests were affected. They expressed concern that the budget constraints of EOC had limited its litigation role and EOC had to turn away some meritorious cases. EOC pointed out that it would discuss with Government financial allocation for litigation and also explore additional legal assistance that could be provided.

Arts, culture, recreation and sport

13. During the session, the Panel continued to monitor the provision of arts, cultural, sports and recreation facilities. The Panel received a briefing on the consultancy study on the provision of regional/district cultural and performance facilities in Hong Kong. Members pointed out that some works projects recommended in the consultancy study had already been included in the

implementation schedule of the former municipal councils, and the districts concerned had been waiting for a very long time for the new facilities. They expressed concern that the Administration would further delay the implementation given the current budgetary constraints.

14. The Panel discussed the priority of the provision of sports, recreational and cultural facilities under the current budgetary constraints with SHA. SHA informed the Panel that the Administration had been examining the possibility of involving the private sector in the development of public facilities in order to speed up some works projects under plan. While some members were in support of implementing the Private Sector Involvement scheme, some other members expressed concern that it might lead to a substantial increase in charges for leisure and cultural services facilities, and commercial considerations might override the importance of cultural development in the provision of these facilities. SHA assured members that even if leisure and cultural services facilities might be privately built and managed, the Government would monitor the quality of services provided and also ensure that the charges for these facilities would be affordable to the general public.

15. The Panel received a briefing on the consultancy study on the future development of public libraries. Members expressed concern that corporatization of public libraries would lead to reduction in Government subvention, and the work prospects of existing staff would be adversely affected. The Administration assured members that Government subvention would continue to be provided and comprehensive staff consultation on the institutional arrangements would be conducted, if it was decided that corporatization would be the direction for future provision of library services. The Panel also discussed the recommendations of the consultancy study on the mode of governance of Hong Kong's public museums and Hong Kong Film Archive. Some members were of the view that there should be community participation if museums would be placed under one Museums Board, and District Councils should have a role to play in the future governance structure of public museums. They also expressed concern whether there would be objective criteria for appointing members to the Board.

16. When SHA briefed the Panel on the CE's Policy Address 2003, some members expressed concern that sports organizations did not have adequate venues for training programmes and activities. They requested that the Home Affairs Bureau (HAB) should expedite the development of the stadium complex and sports facilities in South East Kowloon. SHA informed the Panel that the feasibility study on the technical and financial aspects of constructing a multi-purpose stadium in South East Kowloon was expected to be completed by mid 2003, and he would provide the Panel with the detailed recommendations once they were available.

17. The development of culture had also been a major area of concern to the Panel. The Panel discussed the Culture and Heritage Commission

Consultation Paper 2002 with the Commission Chairman and held a special meeting to receive views from organizations concerned on the Paper. While members were supportive of the fundamental notions put forward by the Commission for the long-term cultural development of Hong Kong, some members expressed reservations about the proposed institutional reorganization. Some members pointed out that as a government-appointed Culture Foundation under the proposed institutional framework would take up the responsibility of the Leisure and Cultural Services Department and the Arts Development Council in funding allocation, it would be easier for the Government to control the cultural development of Hong Kong and such a single source funding mechanism would undermine the pluralistic development of the arts.

Football betting

18. Following the decision of CE in Council that an authorized and regulated outlet for football betting should be provided and that the Hong Kong Jockey Club (HKJC) should be licensed to operate football betting in Hong Kong for an initial period of five years, the Panel had discussed with the Administration at three meetings the proposed operational and regulatory framework for the authorization of football betting, the Administration's proposals to amend the Betting Duty Ordinance to give effect to the authorization of football betting in Hong Kong and the major licensing conditions for conducting football betting. The Administration had also briefed the Panel on the progress of its discussion with HKJC in respect of the details of the operational and regulatory framework for authorized football betting at one of these meetings.

19. Members opposing to authorization of football betting expressed concern that as football was popular among young people and with more publicity work on football betting after authorization, young people would easily be attracted to football betting and would resort to placing bets with illegal bookmakers, hence resulting in an increase in triad activities at schools. These members also considered that authorization of football betting would lead to an increase in pathological gamblers, in view of the prevalent passion for gambling among the Chinese people. Some other members were supportive of authorization of football betting. They opined that according to the experience drawn from betting on horse racing, authorization of football betting might not necessarily result in an increase in triad activities at school or lead to pathological gambling.

20. The Administration explained that authorization would restrict football betting to a few authorized outlets only. Authorization of football betting would also reduce illegal football betting activities and in turn the associated triad activities. Moreover, effective measures such as prohibition of credit and underage betting and restriction on promotion and advertising, etc. would be introduced after authorization of football betting to help minimize the adverse effect on young people.

21. Some members expressed concern that the \$24 million contribution from HKJC to the dedicated fund for financing activities to deal with problem and pathological gambling might not be sufficient. The Administration assured members that the contribution of \$24 million for the first two years, and \$12 million to \$15 million annually thereafter would be sufficient for implementing the programmes planned for the first five years after the commencement of authorized football betting in mid 2003. A review would be conducted in due course to see whether additional funding was required.

22. Some members queried whether the Administration was seeking to bypass LegCo's scrutiny of the licensing conditions, as it had proposed that the licensing conditions for football betting would be stipulated by administrative arrangements. These members requested that the licensing conditions should be stipulated by way of subsidiary legislation subject to positive vetting by LegCo. The Administration explained that smooth implementation of authorized football betting would require flexibility and the Administration needed to be given some discretion in regulating football betting. The Administration therefore considered it more desirable to stipulate the licensing conditions by administrative means rather than in statutory provisions.

Building management

23. The Panel had set up a subcommittee to discuss review of the Building Management Ordinance (BMO) with the Administration. The Subcommittee continued to discuss various proposals on how BMO could be amended to achieve a better management of private buildings.

24. The Subcommittee had discussed the Administration's proposals to amend BMO relating to appointment of a management committee (MC) of an owners' corporation (OC), procedural requirements regarding procurement of supplies, goods and services, and rights of owners to obtain copies of certain building management document.

25. The Subcommittee in general expressed support for the Administration's proposals. The Administration proposed to specify in the Second Schedule to BMO that members and holders of office of the MC would be appointed by a resolution passed by a majority of the votes of the owners at the same owners' meeting for the appointment of a MC, provided that there was a quorum of 10% owners at that meeting. The Subcommittee considered that the proposal could overcome the difficulties of obtaining a resolution of owners holding not less than 30% of the shares for the appointment of individual members and holders of office of a MC. However, the Subcommittee had expressed reservations on the punitive clause for non-compliance with the proposed procedural requirements regarding procurement of supplies, goods and services. A Subcommittee member had expressed reservation that criminalization of the contravention of such requirement would discourage owners from serving on

MCs. Some other Subcommittee members considered that there might be a need for the punitive clause. However, they suggested that the onus of proof should lie on the prosecution instead of members of a MC so that no prosecution would be brought against a particular member of the MC unless the prosecution could prove that the offence was committed with the member's consent.

26. As a result of the discussions at previous meetings of the Subcommittee, the Administration had also agreed to introduce legislative proposals to amend BMO relating to personal liabilities of members of a MC for the decisions of an OC, termination of appointment of the Deeds of Mutual Covenant manager by an OC, and appointment procedures of a MC and its members.

27. The Administration had issued a paper on the proposed amendments to BMO for public consultation in May 2003 and the consultation period would end on 31 July 2003. The Subcommittee would hold discussions with the Administration after completion of the consultation exercise.

28. The Panel discussed the support from the Home Affairs Department (HAD) in the formation of OCs. Members expressed concern that there were many problems and disputes arising from the formation and operation of OCs, particularly in Tenants Purchase Scheme (TPS) estates, but HAD had not rendered adequate support to owners in resolving these problems and disputes. Members were of the view that HAD should be more proactive in offering services to owners of TPS estates and increasing their awareness to take up the responsibilities in building management. The Administration assured members that staff of HAD would visit OCs in TPS estates to help them resolve any problems these OCs encountered, and the Administration would consider arranging special training programmes for TPS owners, as suggested by members. Some members considered that BMO should empower HAD to monitor the operation of OCs and investigate into complaints and possible non-compliance with the legislation. The Administration explained that representatives of HAD would attend OC meetings on invitation, and notify the OCs concerned once possible non-compliance with the legislation was detected, and would offer advice as appropriate.

Creative industries and local community economy

29. When SHA briefed the Panel on the CE's Policy Address 2003, members discussed the Government's policy in the promotion of creative industries and local community economy. The Panel also received a briefing from the Administration on the strategies and key initiatives of HAB in promoting creative industries and the development of local community economy.

30. Some members considered that the Government's effort in promoting creative industries and the development of local community economy was a

good start but the implementation schedule should be expedited. Some other members, however, expressed dissatisfaction that the Administration had not put in place an open mechanism for the community to participate. These members were of the view that promoting creative industries and developing local community economy should be community-led and proceeded with a minimum of bureaucracy. Some members also criticised that the existing licensing procedure for alfresco dining was too complicated since too many government departments were involved. They pointed out that in order to promote local community economy, HAB should co-ordinate with the departments concerned to streamline and expedite the licensing procedure.

31. The Administration explained that it was also the Government's position that promoting creative industries and developing local community economy should be community-led. The Government's role in promoting the development of local community economy was to provide "facilitation measures" such as suitably relaxing Government rules and regulations, and enhancing co-ordination among departments. The Government looked mainly to the private sector to come up with initiatives, make the necessary investment and operate them.

Advisory and statutory bodies

32. The Panel discussed the findings of the research report on the system of advisory committees in some overseas places prepared by the Research and Library Services Division of the LegCo Secretariat with the Administration. Members were of the view that the Administration should make reference to the good practices in these places under study with a view to increasing the operational transparency and ensuring a balance of representation in the system of advisory and statutory bodies in Hong Kong.

33. The Administration informed the Panel that HAB is conducting an initial review of the existing system of advisory and statutory bodies to identify issues and problems, and that a set of guiding principles would be recommended for individual bureaux to conduct an in-depth review of the advisory and statutory bodies under their purview. The Panel would discuss the issue with the Administration upon completion of the initial review.

Meetings held

34. The Panel held a total of 13 meetings between October 2002 and June 2003.

**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 IP Kwok-him, JP

Members Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan
Hon NG Leung-sing, JP
Hon James TO Kun-sun
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon LAU Wong-fat, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Timothy FOK Tsun-ting, SBS, JP
Dr Hon TANG Siu-tong, JP
Hon Henry WU King-cheong, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Dr Hon LO Wing-lok
Hon WONG Sing-chi
Hon MA Fung-kwok, JP

(Total : 21 Members)

Clerk Miss Flora TAI Yin-ping

Legal Adviser Mr Stephen LAM Ping-man

Date 10 October 2002