

立法會

Legislative Council

LC Paper No. CB(2)2575/04-05

(These minutes have been
seen by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

Minutes of meeting held on Tuesday, 21 June 2005 at 9:30 am in the Chamber of the Legislative Council Building

Members present : Hon Tommy CHEUNG Yu-yan, JP (Chairman)
Hon TAM Heung-man (Deputy Chairman)
Hon Albert HO Chun-yan
Hon James TO Kun-sun
Hon WONG Yung-kan, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon Albert CHAN Wai-yip
Hon LI Kwok-ying, MH
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Patrick LAU Sau-shing, SBS, JP

Members attending : Hon CHAN Yuen-han, JP
Hon Abraham SHEK Lai-him, JP
Hon LEUNG Kwok-hung
Hon Ronny TONG Ka-wah, SC

Members absent : Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Wong-fat, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Daniel LAM Wai-keung, BBS, JP

Public Officers attending : Items III to V

Mr Stephen FISHER
Deputy Secretary for Home Affairs (1)

Mr John DEAN
Principal Assistant Secretary for Home Affairs (4)

Miss Amy YEUNG
Assistant Secretary for Home Affairs (4)

Attendance by invitation : Item IV

Equal Opportunities Commission

Mr Raymond TANG
Chairperson

Mr Ferrick CHU
Head, Policy & Research

Society for Community Organization

Miss SZE Lai-shan
Community Organizer

New Immigrants' Mutual Aid Association

Ms LEE Mei-oi
Chairperson

Ms YAU Yik-yung
Spokesperson, Concern Group on New Immigrant
Women's Right

Hong Kong Human Rights Commission

Miss Annie LIN
Representative

Mr Jean-Paul
Representative

Hong Kong Human Rights Monitor

Mr LAW Yuk-kai
Director

Hong Kong Bar Association

Mr Ivan WONG
Barrister-at-Law

Hong Kong Parents Association of Fighting for
Children's Right of Abode

Mr LIN Tao-cheng
Chairman

Mr Mark DALY
Lawyer

Hong Kong Council of Social Service

Mr CHUA Hoi-wai
Business Director, Policy Advocacy and International
Networks

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)2

Staff in attendance : Ms Joanne MAK
Senior Council Secretary (2)2

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I. Confirmation of minutes

[LC Paper No. CB(2)1917/04-05]

The minutes of the meeting on 13 May 2005 were confirmed.

II. Information papers issued since the last meeting

[LC Paper Nos. CB(2)1534/04-05(01), CB(2)1954/04-05 and CB(2)1997/04-05(01)]

2. Members noted that the following papers had been issued since the last

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regular meeting –

- (a) extract from the minutes of the meeting between Legislative Council (LegCo) Members and Wong Tai Sin District Council (DC) members on 6 January 2005 concerning building management;
- (b) extract from the minutes of the meeting between LegCo Members and Islands DC (ISDC) members on 3 February 2005 and relevant papers submitted by an ISDC member concerning difficulties encountered by owners of house developments in Discovery Bay in forming an owners' corporation; and
- (c) information paper entitled "Policy Statement on Community Development" provided by the Administration.

III. Items for discussion at the next meeting

[Appendixes I and II to LC Paper No. CB(2)1950/04-05]

3. Members agreed to discuss the following items at the next regular meeting to be held on Friday, 8 July 2005 at 10:45 am –

- (a) public consultation on legislating against racial discrimination; and
- (b) review of advisory and statutory bodies.

Proposed arrangements for co-hosting the Olympic Equestrian Event

4. Ms Emily LAU suggested that the Panel should discuss the arrangements to be made by the Administration in the event of Hong Kong staging the equestrian events for the 2008 Olympic Games. She expressed concern as to whether the Administration was able to make adequate preparations for co-hosting the equestrian events, if they were to be held in Hong Kong. She added that the sports sector was also very concerned about the arrangements to be made and their impact on local athletes.

5. The Chairman pointed out that the International Olympic Committee (IOC) had yet to take a decision on whether Hong Kong would be co-hosting the equestrian events for the 2008 Olympic Games. Ms Emily LAU considered that even though a decision had yet to be made by IOC, it was necessary for the Panel to look at the arrangements planned by the Administration and listen to the concerns of the sports sector to ensure that adequate preparations would be made for the equestrian events and that the concerns of the sports sector would be adequately addressed in the Administration's plan.

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6. Mr Patrick LAU proposed that the Administration should be asked to confirm whether it had a plan to relocate the Hong Kong Sports Institute (HKSI) and relevant details. He agreed that the Panel should discuss the subject at the next regular meeting, if there was enough time for discussion.

7. Mr Albert CHAN also considered that the Panel should discuss the subject at the next regular meeting, as he noted that many local athletes were very concerned about the impact of the relocation of HKSI and other necessary arrangements on their training and on Hong Kong's sports development. Mr James TO took the view that to address the concern of the sports sector, the Panel should discuss the Administration's planned arrangements, the necessary commitments and whether HKSI would be affected, if Hong Kong was to stage the equestrian events for the 2008 Olympic Games. Mr Andrew CHENG echoed the views of Mr TO and further suggested that the Panel should take the opportunity to discuss as well the long-term policy on sports development in Hong Kong, such as the long-term development of HKSI and elite sports training.

8. The Chairman said that since deputations would be invited to give views on the subject if it was to be discussed and that the next regular meeting had already included two other important items for discussion, there would not be adequate time for discussion of the long-term policy on the sports development.

9. In response to the Chairman, Deputy Secretary for Home Affairs (1) (DSHA(1)) said that it was not known when IOC would announce its decision. However, if the Panel decided to discuss the subject at the next regular meeting, the Administration would provide information on the planned arrangements as far as possible.

10. After discussion, members agreed to include the item "Government's proposed arrangements for co-hosting the Olympiad Equestrian Event" on the agenda for the next regular meeting, and to extend the meeting to end at 2:00 pm in order to allow adequate time for discussion.

[Post-meeting note: at the request of the Administration and with the concurrence of the Chairman, discussion of the item "Government's proposed arrangements for co-hosting the Olympiad Equestrian Event" was subsequently deferred to the special meeting scheduled for 20 July 2005 at 9:30 am.]

Survey on public attitudes towards sexual minorities

11. Ms Emily LAU said that there was concern about the progress made with regard to the above survey as well as the sexual orientations of the three members of the advisory group to advice on the questionnaire design for the

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survey.

12. DSHA(1) responded that the advisory group had already provided the draft version of the questionnaire to the Sexual Minorities Forum and concern groups, such as the Society for Truth and Light, for comments, and had arranged to meet their representatives in June/July 2005. The representatives would also be invited to provide written comments on the draft questionnaire to the advisory group for consideration.

13. Mr James TO considered that while individual Panel members could have his/her own judgment on whether the three members of the advisory group were open-minded persons, it was inappropriate to request the three members to declare their sexual orientations. Ms Emily LAU pointed out that there were queries as to why the Administration had not appointed member(s) of sexual minority groups to the advisory group. She added that there was concern that the sexual orientations of the three persons might affect the objectivity of the advisory group. As proposed by Ms Emily LAU, the Chairman requested the Administration to keep the Panel posted of any new developments.

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Construction of a multi-purpose stadium complex in South East Kowloon

14. Mr Albert CHAN proposed to discuss the above project. The Chairman said that the Panel on Planning, Lands and Works was following up the South East Kowloon Redevelopment which had covered the project.

[*Post-meeting note* : the Panel on Planning, Lands and Works discussed the item “South East Kowloon Redevelopment” at its meeting on 28 June 2005. According to the Administration’s paper (LC Paper No. CB(1)1875/04-05(05)) provided, the above multi-purpose stadium complex was one of the major development components proposed in the approved Kai Tak Outline Zoning Plans. The Panel would follow up the progress of the Kai Tak Planning Review, including the development of above stadium project.]

IV. Hearing of the United Nations Committee on Economic, Social and Cultural Rights on the Second Report of the Hong Kong Special Administrative Region under the International Covenant on Economic, Social and Cultural Rights and Concluding Observations Adopted by the Committee on the Report

[LC Paper No. CB(2)3063/03-04, CB(2)1634/04-05(01), CB(2)1950/04-05(01), CB(2)1998/04-05(01) and Second Report of the Hong Kong Special Administrative Region under the International Covenant on Economic, Social and Cultural Rights]

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15. The Chairman welcomed the deputations to the meeting.

Meeting with deputations

Equal Opportunities Commission
[LC Paper No. CB(2)1998/04-05(02)]

16. Mr Raymond TANG, Chairperson of the Equal Opportunities Commission (EOC), presented the views of EOC as detailed in its submission. He said that in response to the concluding observations made by the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR), EOC recommended that –

- (a) a Mental Health Council should be established to coordinate policy formulation, programme delivery, research and public education in the area of mental health, and to safeguard the rights of people with mental illness;
- (b) more active measures should be taken by the Administration to resolve the language barrier problem faced by ethnic minority children in schools and help their integration into mainstream schools; and
- (c) the Administration should, in the longer term, consider establishing a human rights commission with a broad mandate.

New Immigrants' Mutual Aid Association
[LC Paper No. CB(2)1981/04-05(02)]

17. Ms LEE Mei-oi, Chairperson of New Immigrants' Mutual Aid Association (the Association), presented the views of the Association as detailed in its submission. Ms LEE invited members to note that UNCESCR, in its concluding observations, had expressed disagreement with the Government's latest position that the protection afforded by the proposed racial discrimination law would not cover migrants from the Mainland. She said that the Association considered that discrimination against new arrivals from the Mainland by local Chinese on the basis of their origin was serious and, taking female migrants from the Mainland as an example, their employment rate was less than 40% and their average income was only \$5,800, compared with that of local female workers which was \$8,000. The Association urged the Administration to extend the scope of the proposed legislation to cover discrimination against new arrivals from the Mainland.

18. Ms YAU Yik-yung supplemented that the Administration should address the problem that women who were homemakers, persons with disabilities, and elderly persons were not covered by the Mandatory Provident

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Fund (MPF) Scheme. She further said that reductions in the standard payment rate under the Comprehensive Social Security Assistance (CSSA) Scheme, coupled with the trend of inflation, had put great pressure on the poor. She added that while the Administration had required single parent CSSA recipients to work, it had not provided adequate support measures (e.g. child care facilities) and, in fact, the wages earned by many single parents could not even meet child care fees.

Society for Community Organisation

[LC Paper Nos. CB(2)1981/04-05(01) & (02) and CB(2)2020/04-05(01)]

19. Miss SZE Lai-shan, Community Organiser of the Society for Community Organisation (SoCo), presented the views of SoCo as detailed in its submission. She said that SoCo urged the Administration to follow up the following concerns and recommendations raised by UNCESCR in its concluding observations -

- (a) the concern that the proposed racial discrimination law would not cover migrants from the Mainland despite the widespread discrimination against them on the basis of their origin;
- (b) the recommendation that a human rights institution with a broad mandate should be established;
- (c) the recommendation that the Administration should do away all bed space apartments, or caged homes, and ensure that cubicle accommodation was properly regulated;
- (d) the concern about certain groups of people (e.g. the elderly persons and housewives) not being covered by the MPF Scheme, the absence of an official poverty line adopted by the Administration, the sufficiency of the present levels of benefit provided to recipients under the CSSA Scheme, ineligibility of some new arrivals for CSSA due to the 7-year residence requirement imposed in addition to the means test, and the impact on the low income patients and the chronically ill due to changes in the medical fee charging policy; and
- (e) the recommendation that the Government should reconsider its position regarding the extension of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol to its territorial jurisdictions.

20. Miss SZE further said that the Home Affairs Bureau (HAB) should disseminate copies of the concluding observations to various policy bureaux as well as members of the Executive Council, and ensure that a mechanism for the

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implementation of the recommendations set out in the concluding observations was put in place.

Hong Kong Human Rights Commission

[LC Paper Nos. CB(2)1981/04-05(01) and CB(2)2020/04-05(01)]

21. Ms Annie LIN, representative of Hong Kong Human Rights Commission (HKHRC), presented the views of HKHRC as detailed in its submission. Ms LIN said that HKHRC urged the Administration to follow up the recommendation made by UNCESCR in its concluding observations that the Government should formulate a clear and coherent asylum policy. She highlighted that while China and Macao had already ratified the 1951 Convention Relating to the Status of Refugees, which at present already had 145 State Parties, the Convention had not yet been extended to Hong Kong.

22. Ms LIN further said that the lack of any policies to deal with the various problems met by asylum seekers had left them unable to obtain any support in Hong Kong. Many asylum seekers were homeless, living on the street. At present, there were about 735 asylum seekers in Hong Kong but only 76 (pregnant women, children and people with severe medical problems) were able to get assistance from the United Nations High Commissioner for Refugees (UNHCR) and the rest of them could not get any assistance from the Administration. They were also living in fear of being detained by the Police as they had no Hong Kong Identity Cards. Mr Jean-Paul said that he was an asylum seeker and told the Panel his experience of getting no assistance from the Administration.

23. Ms LIN further said that HKHRC was of the view that the proposed racial discrimination legislation was very conservative and limited which offered no effective remedies to major problems encountered by the ethnic minorities in employment, education and in gaining access to Government services.

The Hong Kong Council of Social Service

24. Mr CHUA Hoi-wai, Business Director (Policy Advocacy and International Networks) of the Hong Kong Council of Social Service (HKCSS), urged the Administration to take active measures to address the problem of poverty, which was also a subject of concern raised by UNCESCR in its concluding observations published in 2001. He said that HKCSS was concerned that little progress seemed to have been made by the Commission on Poverty. HKCSS was also concerned that following the announcement made in the 2005 Policy Address that the Administration would take measures to help the poor and alleviate poverty, no concrete proposals had been put forward for that purpose. HKCSS urged the Administration to take active measures to address the needs of children in poor families, as well as the poverty problem

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among the elderly and other social problems associated with the rapidly ageing society of Hong Kong.

Mr Mark DALY

[LC Paper No. CB(2)2053/04-05(01)]

25. Mr Mark DALY presented his views as detailed in his submission. He suggested that the next time when the Panel discussed issues relating to refugees, asylum seekers or torture claimants, UNHCR should be invited to provide their views. He said that UNHCR had called for the Government to enact legislation governing the treatment of asylum seekers and he supported the suggestion.

26. Mr DALY said that the UN Committee Against Torture had already stated in its conclusions and recommendations of 9 May 2000 that it “noted with concern that practices in Hong Kong Special Administrative Region (HKSAR) relating to refugees may not be in full conformity with Article 3 of the Convention”. He highlighted that now UNCESCR had also criticised, in paragraph 80 of its concluding observations, Hong Kong’s procedure with regard to refugees and the lack of a clear asylum policy in Hong Kong. Referring to paragraph 7 of his submission, Mr DALY said that it was unacceptable that during the screening process for claimants under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Administration did not assist the CAT claimants (asylum seekers/refugees) with accommodation, food or education for children, and had left the problem to non-governmental organizations (NGOs). He further said that under CAT, the Administration had implemented screening procedures for CAT claimants on a “discretionary” basis, and the procedures were non-statutory and there was no provision for legal representation.

27. Mr DALY further said that persons fleeing persecution and torture should not be expected to have valid travel documents, and international refugee law had provided that in general such persons should not be prosecuted for immigration offences. He pointed out that Hong Kong, however, still prosecuted such persons even for offences like “overstaying” and he considered that this was a waste of judicial resources.

Hong Kong Parents Association of Fighting for Children’s Right of Abode

28. Mr LIN Tao-cheng, Chairman of Hong Kong Parents Association of Fighting for Children’s Right of Abode (ROA), appealed to members for their support for allowing all ROA claimants to become permanent residents of Hong Kong in order to enable the families concerned to reunite.

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*Hong Kong Human Rights Monitor
[LC Paper No. CB(2)2053/04-05(03)]*

29. Mr LAW Yuk-kai, Director of Hong Kong Human Rights Monitor (HKHRM), said that HKHRM had jointly made a submission with Asian Human Rights Commission and Amnesty International Hong Kong, which was tabled at the meeting. He presented the concerns of HKHRM, as detailed in the submission, which had set out eight questions relating to problems arising from the lack of an asylum policy in Hong Kong. He said that HKHRM urged the Administration to seek for extension of the Refugee Convention to Hong Kong, provide protection and necessary support for refugees and asylum seekers in Hong Kong, and ensure fairness in its screening procedures for CAT claimants.

30. Mr LAW said that HKHRM was also concerned about the unfairness and problems created to foreign domestic helpers under the “two-week rule” upon expiration of their employment contracts.

Other submission received

31. Members noted that the Civil Human Rights Front had also provided a submission [LC Paper No. CB(2)2053/04-05(02)] to the Panel for members’ reference.

The Administration’s response and preparation of the Second Report and the related hearing

32. DSHA(1) said that some of the issues raised by the deputations at this meeting required more in-depth study before the Administration could provide a detailed response. He said that the second report of HKSAR under the International Covenant on Economic, Social and Cultural Rights (ICESCR) had included responses to the concerns and recommendations raised in UNCESCR’s concluding observations of 11 May 2001. He said that in 2004, UNCESCR had also issued a series of written questions on the report, and HKSAR had provided detailed replies to those questions. He said that the questions were also raised during the hearing.

33. DSHA(1) said that before drafting of that report, the Administration had issued an outline of the topics to be covered in the report setting out the broad subject headings and individual topics to be covered in the report. It was also an invitation to members of the public to submit their views on the implementation of ICESCR in respect of those topics, and to suggest any additional topics that they considered the Administration should include. He said that in line with the established practice, all submissions received by the Administration in connection with the submission of the second report had been sent to UNCESCR to ensure that the Committee had access to the full, original texts. DSHA(1) added that like before, the Administration had invited

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the chairperson of UNCESCR to visit Hong Kong, prior to their hearing of HKSAR's second report under ICESCR, to gain a better understanding of the implementation of ICESCR in Hong Kong and meet local human rights NGOs, Government officials, Legislative Council (LegCo) Members, and other members of the public.

34. DSHA(1) said that UNCESCR considered the initial report of the People's Republic of China (including HKSAR and the Macau Special Administrative Region) on 27 (afternoon session), 28 and 29 April 2005 in Geneva, Switzerland. The hearing on the Report submitted by HKSAR under ICESCR, which took place on 29 April 2005, lasted for half a day. The Hong Kong team was part of the Chinese delegation.

35. DSHA(1) said that the present concluding observations of UNCESCR were issued on 13 May 2005. HAB had distributed copies of the concluding observations to all Government bureaux. He said that the Administration was considering UNCESCR's concerns and recommendations. However, some of them seemed to be based on misinformation and factual inaccuracy, and on which the Administration would provide clarifications as far as possible. He said that Hong Kong would give UNCESCR a detailed response in its third report, which was due for submission by 30 June 2010 as part of the China's second report under ICESCR. It was also anticipated that UNCESCR would again issue a series of questions, before conducting hearing on the HKSAR's third report, for Hong Kong to respond. DSHA(1) added that the UN human rights reporting mechanism served to provide good opportunities for monitoring the implementation of various UN human rights treaties in HKSAR and was conducive to promoting this area of work.

Discussion

Timetable for the implementation of recommendations of UNCESCR set out in its concluding observations

36. Dr Fernando CHEUNG said that UNCESCR had raised many concerns and recommendations concerning Hong Kong in its concluding observations of May 2001, and some of the recommendations had yet to be implemented. He said that this year, UNCESCR had also raised many recommendations and concerns many of which were related to poverty. He requested the Administration to provide a timetable for the implementation of the recommendations.

37. DSHA(1) responded that while the Government of HKSAR was obliged to immediately consider how to take forward the recommendations of UNCESCR, there was no such obligation imposed on the Government that it had to immediately implement the recommendations. He said that as UNCESCR agreed, it depended on whether the actual circumstances of the

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State Party and the region concerned were right for the implementation of the relevant recommendations of UNCESCR. He said that the Administration was unable to provide a timetable for the implementation of the recommendations set out in the present concluding observations.

38. DSHA(1) further said that a large majority of the 13 recommendations contained in the present concluding observations were being implemented already. He stressed that in relation to the HKSAR Report, UNCESCR had identified several positive aspects, including the establishment of the Commission on Poverty and the Sexual Minorities Forum, and raising the age of criminal responsibility, etc.

39. Dr Fernando CHEUNG said that UNCESCR had also expressed concern about several issues, such as that the proposed racial discrimination law did not cover discrimination against new arrivals from the Mainland, insufficient information was provided on the extent of poverty and social exclusion in HKSAR, reports of increasing poverty among the elderly persons in HKSAR, and the levels of benefit under the CSSA Scheme were not sufficient to guarantee a decent standard of living. Dr CHEUNG criticised the Administration for making little progress in dealing with these problems. With regard to the concern about insufficient information provided on the extent of poverty in HKSAR, he suggested that the Administration should conduct a study on the basic needs of living to assess the poverty situation in Hong Kong. He added that the Commission on Poverty should be provided with a copy of the concluding observations for it to take necessary actions to follow up those concerns and recommendations relating to poverty.

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40. Mr LEUNG Kwok-hung also expressed dissatisfaction with slow progress made by the Administration in tackling problems relating to poverty as referred to by Dr Fernando CHEUNG. DSHA(1) responded that as the Commission on Poverty had only been established for several months, it should be allowed more time to tackle problems relating to poverty. He explained that under the UN human rights reporting mechanism, HKSAR was required to respond in detail to the recommendations of UNCESCR in its next report.

Establishment of a human rights institution

41. Mr Ronny TONG said that the Administration was obliged to protect human rights and should not rely on public opinions, i.e. based on the majority view, in considering the need for enacting legislation to prohibit discrimination and protect human rights. He further said that it was of utmost importance for the Administration to set up a human rights institution with a broad mandate to promote and uphold human rights. He added that, in fact, UNCESCR had repeatedly urged HKSAR to set up such an institution since 2001. He requested the Administration to explain what the major difficulties were to set up the proposed human rights institution.

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42. DSHA(1) responded that the Administration would not consider the need for legislation merely based on the results of public opinion surveys. He explained that however, the support of the community was necessary for the introduction of legislation with wide-ranging social implications. He said that as regards the suggestion of setting up a human rights institution, the Administration in principle had agreed that it should explore in this direction. He said that at present, EOC, the Ombudsman and the Office of the Privacy Commissioner for Personal Data were statutory bodies formed to investigate and report on grievances relating to human rights protection. He added that it would be necessary for the Administration to introduce certain reforms if it decided to set up a human rights institution which conformed to the Paris Principles.

43. Ms Emily LAU recalled that during the UN hearing in April 2005, the Administration had explained that it was necessary for it to first enact anti-discrimination legislation in certain areas before a human rights institution could be set up. She requested the EOC Chairperson and representative of HKHRM to comment on the need for establishing such an institution and the reasons given by the Administration for not able to set up the institution at the present stage.

44. Mr Raymond TANG, EOC Chairperson, said that speaking from his experience as the EOC Chairperson, he felt that the expectations of the community about EOC in human rights work had already gone beyond the ambit of EOC and there was a misnomer. He considered that this had reflected that it was the community's expectation that there should be an organisation with a broad mandate to deal with human rights work which fell outside the scope of the existing three anti-discrimination ordinances. He said that since the Administration had all along expressed support for the proposal to set up an independent human rights institution with a broad mandate and since the issue had been discussed for quite some time, EOC considered that the Administration should provide a clear direction as to how it was going to take forward the proposal and on the delineation in responsibilities between EOC and the proposed human rights institution.

45. Mr LAW Yuk-kai from HKHRM said that there was a pressing need for a human rights institution with a broad mandate to be set up in Hong Kong to promote human rights and oversee the implementation of various international human rights treaties in Hong Kong.

46. Mr Ronny TONG asked whether consideration would be given to expanding the ambit of EOC so that it would become an independent human rights institution. DSHA(1) responded that this would be one of the options since EOC had been handling human rights work which, to a large extent, was part of the work expected to be handled by a human rights institution, if established.

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47. In response to the Deputy Chairman's enquiry, DSHA(1) said that HAB had been handling human rights work including the promotion and launching of public education on human rights, and engaging in dialogue with human rights NGOs through the Human Rights Forum, the Ethnic Minorities Forum and the Sexual Minorities Forum.

48. The Deputy Chairman declared that she was the current member of EOC. She said that despite the release of the Report of the Independent Panel of Inquiry on the Incidents Relating to EOC in February 2005, there were criticisms that the Report lacked credibility. She asked what measures would be taken by the Administration and EOC to restore public confidence in EOC.

49. DSHA(1) responded that the Report submitted by the Independent Panel of Inquiry contained 70 recommendations on enhancing the operations of EOC and restoring its credibility. Apart from these recommendations, there were recommendations for improvements made in two other reports of the internal reviews conducted by EOC. He said that taking all these together, there were a total of some 100 recommendations. He said that the present EOC Chairperson who was appointed in January 2005 was given a five-year term of office so that he could have more time to implement necessary improvements in EOC. He further said that the Administration had made a new round of appointments of members to EOC in May 2005. He added that with all these efforts made, the Administration noted that EOC was already regaining public confidence in its work.

50. Mr Raymond TANG, EOC Chairperson, said that a large majority of the some 100 recommendations were related to internal operations of EOC and were being implemented. He added that a report on the implementation of these recommendations would be made to the new EOC members very soon.

51. The Deputy Chairman and Mr LEUNG Kwok-hung both requested the Administration to provide a timetable for the establishment of a human rights institution in Hong Kong. DSHA(1) reiterated that the Administration would have to conduct a further study and introduce institutional reforms should it decide to set up a human rights institution which conformed to the Paris Principles.

52. Mr WONG Yung-kan and Mr WONG Ting-kwong expressed concern as to whether a human rights institution with a broad mandate, if set up, would overlap with EOC in functions and responsibilities.

53. After discussion, Ms Emily LAU moved the following motion which was seconded by Mr James TO –

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“That this Panel urges the Administration to establish a human rights institution with a broad mandate for the purposes of promoting the protection and education of human rights and monitoring the implementation of the various United Nations human rights treaties.”

54. Mr Ronny TONG, who was a non-Panel member, expressed support for the motion as he considered that the proposed institution, if set up, would be conducive to promoting human rights.

55. The Chairman put the motion to vote. Six members voted in favour of the motion and four members abstained from voting. The Chairman declared that the motion was passed and requested the Administration to follow up.

Admin

The 1951 Convention Relating to the Status of Refugees

56. Mr Albert HO asked why the 1951 Convention Relating to the Status of Refugees (the Convention) had not yet been extended into Hong Kong. In response, DSHA(1) pointed out that Hong Kong was comparatively prosperous due to its rapid economic development whereas some of its neighbouring places were in a relatively unstable state. He explained that if the Convention was extended into Hong Kong against such a background, this might lead to influxes of refugees into Hong Kong. He said that the Government of HKSAR, therefore, had not requested the Central People’s Government to extend the Convention into HKSAR.

57. Mr Albert HO considered that the fact that Hong Kong was more vulnerable to influxes of refugees, as shown in its past experience of being the port of first asylum, had actually proven a greater need for the extension of the Convention to Hong Kong to provide a basis on which measures and policies for handling refugees were to be devised. He stressed that the Administration should not ignore the fundamental right of refugees to seek asylum in Hong Kong.

58. DSHA(1) responded that in view of the great impact of the past influxes of refugees on Hong Kong, it was necessary for the Administration to carefully consider the possible implications of extending the Convention into Hong Kong. He pointed out that every person in Hong Kong was protected in human rights and enjoyed protection by the laws of Hong Kong. He explained that however, the rights that a refugee was now guaranteed under the Hong Kong laws would not be totally the same as those guaranteed under the Convention, if it was extended into Hong Kong. He added that as this issue fell under the purview of the Security Bureau, the Security Bureau would be in a better position to provide a more detailed response.

59. Ms Annie LIN from HKHRC expressed disappointment at the Administration’s response and queried whether it was the Administration’s

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policy to let refugees go back to their countries to be tortured or killed. Mr Mark DALY said that refugees were not protected by the laws of Hong Kong as seen from the case of *Aliyar v Director of Immigration* referred to in footnote no. 3 of his written submission.

Admin

60. Ms Emily LAU requested the Administration to follow up the recommendation of UNCESCR, in paragraph 92 of its concluding observations, urging HKSAR to reconsider its position regarding the extension of the Convention and related issues. She further suggested that the Panel on Security should include the subject for discussion at a future meeting and invite parties concerned to give views on it. Mr James TO, who was the Chairman of the Panel on Security, said that the Panel would follow up the issue and arrange discussion of it at a meeting in early next legislative session.

Admin

61. Mr James TO also urged the Administration to reconsider its position regarding the extension of the Convention and take into consideration the following in its deliberations -

- (a) extension of the Convention into Hong Kong should not give rise to influxes of asylum seekers from the Mainland, given the policy that no Chinese persons were allowed to seek asylum on Chinese soil after the Reunification;
- (b) patrolling of the People's Liberation Army vessels at the sea safeguarded Hong Kong from influxes of asylum seekers from other neighbouring countries;
- (c) there was the immigration regime regulating entry of foreigners, and visitors from unstable places were required to obtain a visa before coming to Hong Kong; and
- (d) there were few places which were not yet signatories to the Convention.

Admin

Mr TO considered that Hong Kong should provide basic protection and support for asylum seekers and refugees and, given the small number of such people staying in Hong Kong, the resources implications should be minimal. He proposed that the Administration should take this issue up with the Mainland authorities.

Problem of language barrier faced by ethnic minority children in their integration into mainstream schools

Clerk

62. Referring to the concern expressed by EOC on the above subject in its submission, Ms Emily LAU proposed that the Panel on Education should be requested to consider discussion of the subject at a future meeting.

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Mental Health Council

Clerk

63. Referring to the concern expressed by EOC on the above subject in its submission, Ms Emily LAU proposed that the Panel on Health Services should be requested to consider discussion of the subject at a future meeting.

V. United Nations hearings of reports submitted by the Hong Kong Special Administrative Region under the International Human Rights Treaties

[LC Paper No. CB(2)1950/04-05(02) and CB(2)2053/04-05(03)]

64. At the Chairman's invitation, DSHA(1) briefed members on the salient points of the Administration's paper. He highlighted that –

- (a) in April 2005, UNCESCR heard China's initial report under ICESCR, of which the second report of HKSAR formed a part;
- (b) in June 2003, China submitted its third report under the Convention on the Rights of the Child. The initial report of HKSAR formed part of that report. The UN Committee concerned had informed the Administration that the related hearing would take place on 19 September (whole day) and the morning of 20 September 2005;
- (c) in January 2005, China submitted HKSAR's second report in the light of the International Covenant on Civil and Political Rights (ICCPR) to the UN Human Rights Committee. The hearing was tentatively scheduled for March 2006.

65. As proposed by Ms Emily LAU, the Panel agreed to hold a special meeting on 20 July 2005 at 10:45 am to meet with deputations and the Administration on the report of HKSAR under the Convention on the Rights of the Child.

[*Post-meeting note*: with the concurrence of the Chairman, the special meeting scheduled for 20 July 2005 was advanced to start at 9:30 am.]

66. There being no other business, the meeting ended at 11:30 am.