

立法會
Legislative Council

LC Paper No. CB(2)1516/11-12
(These minutes have been seen
by the Administration)

Ref : CB2/BC/9/10

Bills Committee on Immigration (Amendment) Bill 2011

Minutes of meeting
held on Thursday, 5 January 2012, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex

Members present : Hon LAU Kong-wah, JP (Chairman)
Hon James TO Kun-sun
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Cyd HO Sau-lan

Members absent : Dr Hon Margaret NG
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon CHAN Hak-kan
Hon WONG Kwok-kin, BBS
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun, JP

Public Officers attending : Item I

Mr NGAI Wing-chit
Deputy Secretary for Security 3

Mr CHOW Wing-hang
Principal Assistant Secretary for Security D

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

Ms Fanny IP
Senior Assistant Law Draftsman
Department of Justice

Mr Henry CHAN
Government Counsel
Department of Justice

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

Clerk in attendance : Mrs Sharon TONG
Principal Council Secretary (2)

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

Ms Rita LAI
Senior Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

I. Meeting with the Administration

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

2. The Administration was requested -

- (a) to provide information on the mechanism and procedures to address the problems of screening interviews when the relevant section (37ZI(2)) was examined;
- (b) to provide information on the time required for claimants to obtain supporting documents from their places of origin with case samples and the categories of documents so obtained;
- (c) to consider the suggestion of setting out clearly in the torture claim form a claimant's right to provide supplementary documents at a later stage;

Action

- (d) to provide details on the schooling arrangement for minor claimants;
- (e) to provide a detailed breakdown of the expenditure for the provision of humanitarian and legal assistance to torture claimants;
- (f) to provide case samples involving claimants' credibility; and
- (g) to consider introducing measures to prevent torture claims by foreign domestic helpers upon entry to Hong Kong or renewal of contracts.

3. Ms Cyd HO was of the view that the Government of the Hong Kong Special Administrative Region had a responsibility to amend other legislation to implement Articles 13 and 14 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

II. Date of next meeting

- 4. Members noted that the next meeting had been scheduled for 16 January 2012.
- 5. The meeting ended at 4:30 pm.

Council Business Division 2
Legislative Council Secretariat
26 March 2012

**Proceedings of meeting of the
Bills Committee on Immigration (Amendment) Bill 2011
held on Thursday, 5 January 2012, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action Required
000000 - 000739	Chairman	Opening remarks	
000740 - 001450	Admin	Briefing on LC Paper No. CB(2)598/11-12(01) Timeframe for submission of torture claim forms, screening interviews, time required for processing claims, other issues (including detention of claimants, claimants subject or liable to removal, humanitarian assistance and schooling arrangements) and case samples	
001451 - 002829	Chairman Ms Emily LAU Admin	Paragraph 9 of LC Paper No. CB(2)517/11-12(01) Problems of screening interviews - failure to attend the interviews and incomplete screening interviews because of different reasons raised by claimants during the interview (including claimants feeling ill); Consequences of claimants not attending the screening interviews; and The need for a fair and just mechanism and clear procedures to address the problems	The Administration to provide information on the mechanism and procedures to address the problems of screening interviews when the relevant section (37ZI(2)) was examined
002830 - 004154	Chairman Ms Cyd HO Admin	Annex 1 to LC Paper No. CB(2)598/11-12(01) <u>Case 4</u> Reasons for the prolonged period of time for processing the torture claim; prevention of possible abuse of the system (including liaison between the Government and the United Nations High Commissioner for Refugees) and limitation of subsequent claims	

Time marker	Speaker(s)	Subject(s)	Action Required
		<p>(proposed section 37ZM); and handling of cases with likelihood of abscondance; and</p> <p><u>Case 3</u> Sample for smooth processing of torture claim (reasonable time for determination and repatriation of claimant concerned)</p>	
004155 - 004835	Chairman Mr James TO Admin	<p>Given the typical case samples, whether the processing of the torture claims could be expedited and the backlog to be cleared; and</p> <p>Possible abuse of the system</p>	
004836 - 005859	Chairman Ms Emily LAU Admin Ms Cyd HO	<p>LC Paper No. CB(2)517/11-12(01)</p> <p>Query about the purpose of conducting medical examinations for claimants and the settlement of dispute about their physical or mental condition (which was relevant to the consideration of the torture claim) if the disclosure of results would be subject to the consent of the claimants;</p> <p>Impact on credibility of claimants if results of the medical examination were not disclosed; and</p> <p>How repeated requests for medical examination were handled</p>	
005900 - 010255	Chairman Ms Emily LAU Admin	<p>How the delay in processing torture claims caused by the following factors was handled : claimants' unexplained absence from interviews, losing contact with the Immigration Department and duty lawyers; and</p> <p>Duties of claimant (proposed section 37ZA); decision on torture claim if the claimant failed to attend the interview (proposed section 37ZI(2)); and factors affecting the credibility of claimant (proposed section 37ZD)</p>	

Time marker	Speaker(s)	Subject(s)	Action Required
010256 - 011611	Chairman Ms Cyd HO Admin	<p>Whether the time limit of 28 days was sufficient for submission of completed torture claim forms, in particular if supporting documents needed to be collected from claimants' countries of origin for genuine cases;</p> <p>Whether extension of a further period of time for return of completed form would be subject to discretion of immigration officers;</p> <p>Suggestion of extending the time limit for submission of torture claim forms by four weeks; and</p> <p>Suggestion of setting out clearly in the torture claim form a claimant's right to provide supplementary documents at a later stage</p>	<p>The Administration to</p> <p>(a) provide information on the time required for claimants to obtain supporting documents from their places of origin with case samples and the categories of documents so obtained; and</p> <p>(b) consider the suggestion of setting out clearly in the torture claim form a claimant's right to provide supplementary documents at a later stage</p>
011612 - 012209	Chairman Ms Emily LAU Admin	Schooling arrangements for minor claimants	The Administration to provide details on the schooling arrangement for minor claimants
012210 - 012627	Chairman Admin	<p>LC Paper No. CB(2)710/11-12(01)</p> <p>Briefing on factors for consideration of torture claims, expenditure for provision of humanitarian assistance and legal assistance, illegal working and repatriation of claimants</p>	
012628 - 012838	Chairman Ms Emily LAU Admin	Expenditure for provision of humanitarian and legal assistance to torture claimants	The Administration to provide a detailed breakdown of the expenditure for the provision of humanitarian and legal assistance to torture claimants

Time marker	Speaker(s)	Subject(s)	Action Required
012839 - 013528	Chairman Mr James TO Admin	LC Paper No. CB(2)517/11-12(01) Claimants' credibility - self-contradictory reason and evidence, concealing information, and misleading the processing of the claim; and Request for case samples	The Administration to provide case samples involving claimants' credibility
013529 - 013958	Chairman Ms Cyd HO Admin	LC Paper No. CB(2)710/11-12(01) Difference between the implementation of Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Convention") and the Convention; and Responsibility of the Hong Kong Special Administrative Region Government to amend other legislation to implement Articles 13 and 14 of the Convention	
013959 - 015201	Chairman Ms Emily LAU Admin	Mechanism to deal with illegal employment undertaken by claimants; Repatriation of claimants; Number of total torture claim cases and possible abuse of immigration control; and Provision of adequate manpower resources to the Immigration Department	
015202 - 015754	Chairman Mr James TO Admin	LC Paper No. CB(2)710/11-12(01) Whether the country profile needed to be taken into consideration as a factor for provision of the protection of non-refoulement	

Time marker	Speaker(s)	Subject(s)	Action Required
015755 - 015950	Chairman Ms Cyd HO Admin	Criminal records of foreign domestic helpers	The Administration to consider introducing measures to prevent torture claims by foreign domestic helpers upon entry to Hong Kong or renewal of contracts
015951 - 020031	Chairman Ms Emily LAU Admin	Closing remarks	

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Legislative Council Secretariat
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