

**Legislative Council Bills Committee on
Immigration (Amendment) Bill 2011
Follow-up to the Sixth Meeting on 5 January 2012**

Purpose

This paper mainly sets out the Administration's response to issues raised by Members at the sixth meeting of the Bills Committee on Immigration (Amendment) Bill 2011 ("the Bill") on 5 January 2012.

Staff Cost

2. We have provided information on the cost of the provision of humanitarian assistance and legal assistance. The staff cost for handling torture claims, mainly by the Immigration Department (ImmD) and the Security Bureau, is as follows –

Year	ImmD (HK\$ '000)	Security Bureau (HK\$ '000)
2009-2010	11,000	1,000
2010-2011	50,000	5,300
2011-2012 (Estimated expenditure)	75,000	6,700

Schooling Arrangements

3. If it is expected that minor claimants will not be removed in the near future, the Education Bureau (EDB) will handle each case according to its individual circumstances, and will consult the ImmD upon receiving the schooling application. As at the end of December 2011, a total of 130 claimants have applied to the EDB for schooling and no objection was raised by the ImmD.

4. The EDB will, as the case warrants, arrange for applicants'

admission to primary or secondary schools, or the six-month full-time Initiation Programme designed for newly arrived non-Chinese speaking children. In 2010-11 school year, respectively 36, 52 and 15 refugees or torture claimants received grants from the Student Financial Assistance Agency to attend kindergartens, primary schools and secondary schools.

Credibility of Claimants

5. Further to the four torture claims presented earlier on in response to Members' request, information on three other claims involving behaviour to conceal information, to mislead and to obstruct or delay the handling of claims is provided at Annex.

Non-refoulement Protection in other Regions

6. Members requested for information on the handling of torture claims in the Mainland China, Macao, Thailand and Bangladesh. China is a signatory state of both the Refugee Convention and the Convention Against Torture (CAT), and the relevant departments under the Central People's Government have been working together with the United Nations High Commissioner for Refugees (UNHCR) Regional Representation in China in handling relevant claims. In Macao, the Refugee Committee was established and legislation was drawn up for the assessment of refugees and torture claims. The Refugee Convention does not apply to Thailand and Bangladesh where refugee situations are handled with the assistance of the UNHCR.

Security Bureau
January 2012

Cases involving the credibility of claimants

Case 1 (concealing of information)

- An Indian female entered Hong Kong as a visitor in November 2009. She lodged a torture claim in April 2010 after being arrested for overstaying. The claimant said that she participated in political activities in her place of origin. Since 2004, she has been arrested and tortured many times by the police and hence she hid herself everywhere.
- When filling in the questionnaire, a claimant has to state all the facts and events related to his/her claim. However, the claimant withheld the fact that she returned to her home country to renew her passport in 2006. After inspecting the travel document of the claimant, the Administration found that the claimant had returned to her home country and stayed for about a month, during which she was not tortured.

Case 2 (making misleading claims)

- A Nigerian male entered Hong Kong as a visitor in August 2004. He lodged a torture claim in October the same year after being arrested for overstaying. He said that he was wanted by the police for participating in political activities in his place of origin.
- The claimant provided a photocopy of a newspaper article in his place of origin, on which there were photo of the claimant and coverage of a dispute between the political party of the claimant and a rival political party. After verification with the publisher, the Immigration Department found that the photocopy of the newspaper article provided by the claimant was a forgery.

Case 3 (obstruct or delay the handling or determination of the claim)

- In November 2010, a Pakistani male lodged a torture claim after being refused entry upon immigration examination in Hong Kong. The claim was lodged on the ground that he had worked for a certain political party and hence worried that he would be killed by the party upon returning to his home country.
- The claimant was served with a notice and a questionnaire in respect of the torture claim in November 2010 and was referred to the Duty Lawyer Service the same day. He was released on recognizance in January 2011. Between January and August 2011, the ImmD contacted the duty lawyer concerned in writing on six occasions. In response, the duty lawyer indicated that he had failed to get into contact with the claimant. Subsequently, the ImmD sent a final notice to the claimant's reported address, but the notice was returned. In June 2011, the claimant was arrested by the police for possession of dangerous drugs. In August 2011, a warrant of arrest was issued by the court as the claimant had failed to attend trial. In September 2011, the claim was determined as unsubstantiated by the ImmD based on the information available.