

立法會

Legislative Council

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the Administration)

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Subcommittee to Follow Up Issues Relating to the Unified Screening Mechanism for Non-refoulement Claims

**Minutes of meeting
held on Tuesday, 27 March 2018, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Dr Hon Elizabeth QUAT, BBS, JP (Chairman)
Hon YUNG Hoi-yan (Deputy Chairman)
Hon James TO Kun-sun
Hon CHAN Hak-kan, BBS, JP
Hon Paul TSE Wai-chun, JP
Hon YIU Si-wing, BBS
Hon Charles Peter MOK, JP
Hon Dennis KWOK Wing-hang
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon CHIANG Lai-wan, JP
Hon Alvin YEUNG
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon CHAN Chun-ying
Hon LAU Kwok-fan, MH

Member absent : Hon LUK Chung-hung

Public Officers attending : Item I

Mr Sonny AU Chi-kwong, PDSM, PMSM, JP
Under Secretary for Security

Mr Billy WOO Tak-ying
Principal Assistant Secretary for Security
(Review)

Mr FUNG Ngai-wa
Assistant Director of Immigration
(Removal Assessment and Litigation)

Mr William FUNG Pak-ho
Assistant Director of Immigration (Enforcement)

Mr Cyrus CHEUNG Ho-chi
Assistant Secretary for Security (Review) 1

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 1

Staff in attendance : Ms Gloria TSANG
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

I. An update on the strategy of handling non-refoulement claims

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

2. The Administration was requested to provide the following information:

- (a) number of rejected non-refoulement claimants being removed with breakdown by their country of origin in the past five years;
- (b) expected time required to complete screening of all pending non-refoulement claims;
- (c) crime statistics, with a breakdown of other offences category in Annex C of the Administration's paper, involving

non-ethnic Chinese persons on recognizance in the past five years, and the proportion to the overall crime statistics;

- (d) the channel that non-ethnic Chinese illegal immigrants entering Hong Kong; and
- (e) of the 93 substantiated non-refoulement claims since the implementation of the unified screening mechanism, the current situation and profile of these claimants.

II. Any other business

- 3. The Subcommittee agreed that the next meeting would be scheduled for 24 April 2018 at 2:30 pm.
- 4. There being no other business, the meeting ended at 12:50 pm.

Council Business Division 2
Legislative Council Secretariat
25 April 2018

**Proceedings of meeting of the Subcommittee to Follow Up Issues Relating to
the Unified Screening Mechanism for Non-refoulement Claims
held on Tuesday, 27 March 2018, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s) / Discussion	Action Required
000000 - 000459	Chairman	Opening remarks	
<i>Agenda item I - An update on the strategy of handling non-refoulement claims</i>			
000500 - 002315	Chairman Admin	Briefing by the Administration (LC Paper Nos. CB(2)1110/17-18(01) and CB(2)1130/17-18(01))	
002316 - 002919	Chairman Mr CHAN Hak-kan Admin	Mr CHAN Han-kan's recognition of the effort made by the Administration to handle non-refoulement claims and his enquiry on the reasons why the estimated expenditure on handling such claims kept increasing despite the dropping number of pending claims. The Administration explained that with speedier screening by the Immigration Department ("ImmD"), the number of appeal cases had been increasing and there were currently about 6 300 cases pending appeals. Additional expenditure was mainly earmarked for handling of appeals and the legal assistance provided to the claimants.	
002920 - 003427	Chairman Mr Dennis KWOK Admin	Stating the Civic Party's view on expediting the screening procedures for handling non-refoulement claims effectively and systematically, Mr Dennis KWOK requested the Administration to provide information on the number of rejected claimants being removed with breakdown by their country of origin in the past five years. Mr KWOK's question and the Administration's response on the cooperation between the Administration (in particular the Security Bureau and ImmD) and the Office of the United Nations High Commissioner for Refugees ("UNHCR") in handling non-refoulement claims.	Admin
003428 - 004017	Chairman Dr CHIANG Lai-wan Admin	Dr CHIANG Lai-wan requested the Administration to provide information on the expected time required to complete screening of all the pending claims.	Admin

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		<p>Expressing concern on the crimes committed by non-ethnic Chinese ("NEC") persons, Dr CHIANG asked whether the Administration would consider setting up holding centres to accommodate non-refoulement claimants.</p> <p>The Administration stressed its overall strategy of preventing potential claimants from entering Hong Kong and expediting the screening procedures for pending claims. The option of holding centres was also under study.</p>	
004018 - 004539	Chairman Mr SHIU Ka-fai Admin	<p>Mr SHIU Ka-fai acknowledged the effort made by the Administration to handle non-refoulement claims and considered that more resources should be allocated to expedite the handling of such claims.</p> <p>Mr SHIU further expressed his understanding on the rationale for implementing pre-arrival registration ("PAR") requirement for Indian nationals and his support for the suggestion of setting up holding centres.</p> <p>Mr SHIU's enquiry and the Administration's response regarding the crimes committed by NEC persons. The Administration advised that the Police had always been concerned about the situation of crimes committed by NEC persons and had set up a working group to follow up the issues.</p>	
004540 - 005250	Chairman Dr Fernando CHEUNG Admin	<p>Dr Fernando CHEUNG's regret that the 1951 Refugee Convention and its 1967 Protocols were not applied to Hong Kong and his enquiry on the Administration's overall policy on handling refugees.</p> <p>The Administration stressed that it had a long-established policy of not granting asylum to any non-refoulement claimants nor determining the refugee status of anyone. All non-refoulement claims were screened in accordance with relevant laws and court judgments in Hong Kong. Being a small place with relatively lax immigration policy, Hong Kong had been handling non-refoulement claims with high standards of fairness. Where appropriate, substantiated claimants would be referred to UNHCR for arrangement of resettlement.</p>	

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005251 - 005805	Chairman Deputy Chairman Admin	<p>The Deputy Chairman declared that she was currently on the roster of duty lawyers eligible for handling non-refoulement claims.</p> <p>The Deputy Chairman appreciated the effort made by the Administration to handle non-refoulement claims and her enquiry regarding the detention policy. The Administration advised that it was considering different measures, including making amendments to the Immigration Ordinance to expedite the screening and removal procedures, making available more detention facilities and providing more effective operational support to detention facilities.</p> <p>Responding to the Deputy Chairman's further enquiry, the Administration advised that the supplementary roster of lawyers under the "Pilot Scheme for Provision of Publicly-funded Legal Assistance for Non-refoulement Claimants" had been operating for half a year. The daily number of claims in which the screening procedures could be commenced was increased to 23 cases per day from the original ceiling of 13 cases provided by the Duty Lawyer Service.</p> <p>The Deputy Chairman suggested the Administration to allocate more resources so as to shorten the screening time for non-refoulement claims.</p>	
005806 - 010331	Chairman Mr LAU Kwok-fan Admin	<p>Mr LAU Kwok-fan recognized the effort made by the Administration to handle non-refoulement claims.</p> <p>Mr LAU's enquiry and the Administration's response regarding the crimes committed by NEC persons.</p> <p>Mr LAU considered that setting up holding centres to accommodate non-refoulement claimants could be an option to help distinguish local NEC residents from the claimants.</p>	
010332 - 010842	Chairman Admin	<p>The Chairman appreciated the effort made by the Administration to handle non-refoulement claims.</p> <p>In response to the Chairman's questions, the Administration advised that:</p>	

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		(a) there were 93 substantiated claims since the implementation of the unified screening mechanism ("USM") in 2014; (b) the screening of pending claims was expected to be completed by the first half of 2019; (c) on average, a claimant would lodge a claim around one year after entering Hong Kong; and (d) it required about 14 to 16 weeks to handle an appeal case and it was expected that the pending appeal cases would be completed in 2021.	
010843 - 011741	Chairman Dr Fernando CHEUNG Admin	Dr Fernando CHEUNG requested the Administration to provide the following information: (a) the proportion of the crime statistics involving NEC persons on recognizance to the overall figure; and (b) the channel that NEC illegal immigrants ("NECIIs") entering Hong Kong. Dr CHEUNG's further questions and the Administration's response regarding the details of the substantiated claims. The Chairman also requested the Administration to provide information on the current situation and profile of the substantiated claimants.	Admin Admin
011742 - 012330	Chairman Dr Junius HO Admin	Dr Junius HO's view and the Administration's response on the viability of setting up holding centres. He suggested the Administration to consider providing incentive to encourage non-refoulement claimants leaving Hong Kong.	
012331 - 013657	Chairman Dr CHIANG Lai-wan Admin	In response to Dr CHIANG Lai-wan's questions, the Administration advised that: (a) out of the 93 substantiated claims, 62 were determined by ImmD and the remaining were determined by the Torture Claims Appeal Board ("TCAB");	

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		<p>(b) Hong Kong permanent residents were not included in the crime statistics in Annex C of the Administration's paper (LC Paper No. CB(2)1110/17-18(01);</p> <p>(c) it would not be easy for those rejected claimants who had committed crimes to enter Hong Kong again after being removed;</p> <p>(d) the right not to be subjected to inhuman treatment was absolute and non-derogable under the court's rulings; and</p> <p>(e) the overall strategy of the Administration was to expedite the screening and other procedures for pending claims.</p> <p>Dr CHIANG took a strong view that holding centres should be set up.</p>	
013658 - 014347	Chairman Admin	<p>The Chairman requested the Administration to provide the crime statistics, with a breakdown of other offences category, involving NEC persons on recognizance in the past five years.</p> <p>The Chairman's questions and the Administration's response regarding:</p> <p>(a) the number of judicial review cases lodged by non-refoulement claimants; and</p> <p>(b) any further arrangements to reduce the incentive for NECIs entering Hong Kong and shorten the screening process.</p> <p>The Administration reiterated that it would, after studying members' views and suggestions, put forward legislative proposals with a view to expediting the screening procedures.</p>	Admin
014348 - 014826	Chairman Mr Alvin YEUNG Admin	Mr Alvin YEUNG's question and the Administration's response regarding the cooperation between ImmD and UNHCR.	
014827 - 015519	Chairman Dr Fernando CHEUNG Admin	Dr Fernando opposed to the setting up of holding centres and considered that Hong Kong should honour its international obligation to safeguard rights of the claimants. As less than 1% non-refoulement claims were substantiated, he	

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		<p>cast doubt about the effectiveness of USM and called on the Administration to actively seek assistance from UNHCR to improve the screening.</p> <p>The Administration reiterated that under USM, claimants could lodge appeals to TCAB. Claimants aggrieved about decisions under USM might also seek judicial review if deemed appropriate. Cooperation with UNHCR would also continue.</p>	
015520 - 015552	Chairman Mr Alvin YEUNG	Mr Alvin YEUNG expressed his view that creating new posts in ImmD to expedite screening and enhancing cooperation with UNHCR would be more effective than setting up holding centres.	
015553 - 020107	Chairman Dr Fernando CHEUNG	<p>The Chairman and Dr Fernando CHEUNG's view and discussion on situation of ethnic minorities and non-refoulement claimants in Hong Kong.</p> <p>The Chairman advised that the meeting would be extended for 10 minutes.</p>	
020108 - 020442	Chairman Mr YIU Si-wing Admin	In response to Mr YIU Si-wing's question on reviewing the PAR requirement for Indian nationals, the Administration advised that they would keep the arrangement under review and make adjustment as necessary.	
<i>Agenda item II - Any other business</i>			
020443 - 020754	Chairman Dr Fernando CHEUNG Admin	Meeting arrangement and discussion items of the Subcommittee. Members had no objection to the attached list of discussion items (Chinese version only) which was tabled at the meeting.	

跟進免遣返聲請統一審核機制有關事宜小組委員會

擬議討論事項一覽

討論事項	建議的討論時間
1. 入境前管制 2. 統一審核機制的審核和上訴程序 3. 聲請人在港犯罪的情況及執法 4. 視察青山灣入境事務中心的運作	2018 年 4 月至 7 月
5. 與團體代表/個別人士會面 6. 羈留政策 7. 將聲請被拒者遣返原居地 8. 公費法律支援計劃 9. 人道援助、教育及醫療等	2018 年 10 月至 2019 年初