

LCQ1: Immigration Department steps up enforcement to combating bogus marriages

Following is a question by the Hon Gary Fan and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (May 9):

Question:

A feature article published by the Census and Statistics Department in January this year pointed out that the number of divorces in Hong Kong had increased continuously in recent years, with the number of divorce decrees granted by the Court in 2016 standing at 17 196, which nearly tripled that in 1991. Meanwhile, the media have reported on numerous occasions that some cross-boundary bogus marriage syndicates provide one-stop services. Apart from arranging bogus marriages for their clients to facilitate their application for Permits for Proceeding to Hong Kong and Macao (commonly known as One-way Permits (OWPs)), such syndicates can also take care of the divorce procedure on behalf of their clients after they come to settle in Hong Kong. In this connection, will the Government inform this Council:

(1) of the respective numbers of cases in each of the past three years in which people who had come to Hong Kong for settlement on OWPs for two years or below, three to four years and five to six years, or their spouses, applied for divorce in Hong Kong;

(2) whether the Immigration Department (ImmD) has taken the initiative to investigate the divorce cases mentioned in (1), so as to ascertain whether the people concerned have committed the crime of bogus marriage; if ImmD has, of the number of cases investigated, as well as the respective numbers of persons prosecuted and convicted for bogus marriage; and

(3) whether ImmD has plans to discuss with the mainland authorities if the Department may play a more active role in the process of vetting and approval of OWPs, such as working with the mainland authorities to draw up more stringent vetting and approval procedure in order to identify cases of bogus marriage; whether, in the long term, the Government will reconsider discussing with the mainland authorities ImmD taking over the responsibility of the vetting and approval of OWPs?

Reply:

President,

The Government has always been concerned about bogus marriages. The Immigration Department (ImmD) set up a special task force in 2006 to step up

enforcement actions to combat such offences to prevent persons seeking entry into Hong Kong by means of bogus marriages and intermediaries aiding others to seek entry into Hong Kong through such means. When suspected bogus marriage cases are identified, ImmD will conduct in-depth investigations on parties alleged to arrange and participate in bogus marriages, collect evidence and initiate prosecution.

Any persons who make use of bogus marriage to obtain the requisite documents for the purpose of entering Hong Kong, or any persons who facilitate others to achieve such purpose through arranging bogus marriages for them, shall be guilty of an offence. In the course of contracting bogus marriages, and applying for entries into Hong Kong through such marriages, the persons involved may have committed offences such as conspiracy to defraud, making false representation to ImmD officers, making a false oath, giving false declaration, bigamy, etc., and are liable on conviction to imprisonment for up to 14 years.

The reply to the questions raised by the Hon Fan is as follows:

(1) To get a divorce in Hong Kong, one should file a petition or an application for divorce to the court, and it does not need to be processed by marriage registries under ImmD. In relation to the feature article published by the Census and Statistics Department (C&SD) in January 2018 and the statistics raised in the question, we have consulted the Judiciary and the C&SD. It is noted that they do not maintain the statistics mentioned in the question. ImmD also does not have relevant figures.

(2) ImmD has been strengthening enforcement via different channels to combat bogus marriages with a multi-pronged and all-rounded approach, and is not limited to investigating suspicious cases in which the subjects have entered into Hong Kong with One-way Permits (OWPs). Various measures include:

To step up immigration examination on arrivals

When conducting immigration examinations on arriving passengers, ImmD will critically scrutinise doubtful visitors coming to visit their spouses in Hong Kong on the strength of "exit endorsement for visiting relatives" and refuse their entries if their purposes of visit are in doubt. In case any persons are found to have violated the laws of Hong Kong, such as making false representation to ImmD officers, enforcement officers of ImmD will carry out in-depth investigations and handle the cases in accordance with the law.

To combat illegal workers

Since those entering Hong Kong by means of bogus marriages mainly aim to take up illegal employment in Hong Kong, ImmD will pay particular attention to Mainland residents holding "exit endorsement for visiting relatives" during anti-illegal worker operations. In-depth investigations will be mounted against any suspected cases of obtaining "exit endorsement for visiting relatives" via bogus marriages and the cases will be handled in

accordance with the law.

To step up operations against intermediaries

Many bogus marriage cases in the past involved intermediaries arranging Mainland residents to contract bogus marriages with Hong Kong residents and then apply for the requisite documents to enter Hong Kong. ImmD has always kept an eye on and conducted investigations into doubtful intermediaries. It also cooperates with the Mainland authorities by exchanging intelligence with a view to combating intermediaries and bogus marriage syndicates involved in cross-border crimes.

Besides, ImmD is also aware that criminal syndicates publish advertisements with wordings such as "making quick cash" and "intermediary for Mainland-Hong Kong marriages" to allure people to engage in bogus marriage on social networking and instant messaging mobile applications, as well as newspapers and web pages. Taking into account the individual circumstances of each case, ImmD will deploy officers in decoy operations to collect evidence to combat illegal activities of bogus marriage intermediaries.

To step up checking of doubtful marriage registration cases

To facilitate effective identification of suspected cases of contracting bigamous marriages on the Mainland and in Hong Kong, ImmD's Enforcement Division established in 2008 a standing checking mechanism with a checking company, which is the only one authorised by the Ministry of Justice of the Mainland to set up in Hong Kong, against suspected bigamy cases. Besides, marriage registries have stepped up examination on suspicious marriage registrations by checking information with the authorised checking company. In handling suspicious marriage cases, the registries will conduct immediate assessment and expedite the checking procedure, and pass the information to the Enforcement Division for analysis at the same time. In addition, suspicious cases identified by the registries will also be referred to the Enforcement Division for intelligence analysis and follow-up actions.

To exchange intelligence and cooperate with Mainland authorities

ImmD will notify Mainland authorities of information on Mainland residents who have committed offences relating to bogus marriage, enabling strict scrutiny of their applications for exit endorsements in future. Mainland residents who have been convicted of offences related to bogus marriage in Hong Kong will normally be barred by the Mainland authorities, upon receipt of ImmD's notification, from obtaining exit endorsements and travel documents for a period of two to five years, depending on the circumstances. This prevents them from revisiting Hong Kong for illegal activities. Mainland authorities will also refer cases of suspected bogus marriage to ImmD for follow-up actions. Mainland and Hong Kong authorities will conduct joint enforcement operations as necessary.

To prevent people from giving birth in Hong Kong through bogus marriage

ImmD set up a task force in November 2012 to collect the delivery booking records of Mainland pregnant women from private hospitals for analysis and investigation, with a view to deterring them from attempting to give birth in Hong Kong by obtaining the Confirmation Certificate on Delivery Booking through bogus marriage. As in March 2018, a total of 49 persons were successfully prosecuted. Among them, there were 15 Mainland pregnant women, 28 Hong Kong resident husbands and 6 intermediaries. The task force also forwards information of suspected cases to immigration control points for reference, so that the relevant pregnant women will be closely scrutinised when they arrive in Hong Kong.

To step up publicity

To remind members of the public, including young people, of the possible consequences of participating in bogus marriages and the serious implications of committing related offences, ImmD has from time to time disseminated information on crackdowns on bogus marriage syndicates and successful prosecutions of intermediaries and participants through press conferences, press releases, media interviews, etc. In addition, ImmD will continue to disseminate information from different and popular publicity channels. For example, a video clip was produced and uploaded to the Hong Kong Immigration Department YouTube channel last year.

With an array of measures against bogus marriage, Mainland residents' applications to come to Hong Kong by way of bogus marriage will be handled seriously and investigated thoroughly by ImmD. Prosecution will be initiated when there is sufficient evidence. For persons who are found to have obtained their residence in Hong Kong by fraudulent means, regardless of whether they are holders of Hong Kong Permanent Identity Card or Hong Kong Identity Card, ImmD will have their identity cards or residence status invalidated according to the laws. They will also be subject to removal to their places of origin.

In 2015, 2016 and 2017, ImmD investigated a total of 1 542 suspected bogus marriage cases and arrested 3 010 persons, among them 296 were successfully prosecuted and convicted. Those successfully prosecuted include intermediaries and parties to bogus marriages. Apart from individual cases where the convicted were sentenced to Community Service Orders of 80 hours or above, the majority of the convicted were sentenced to imprisonment from 4 to 24 months. The head of a syndicate was sentenced to imprisonment for 48 months in a past case.

(3) ImmD has maintained close liaison with the Mainland authorities to combat crimes related to bogus marriages. In the processing of OWP applications by the Mainland authorities, ImmD facilitates at case level, including rendering assistance in verifying the supporting documents submitted by the applicants and their claimed relationship with relatives in Hong Kong (e.g. husband and wife, parent and child, etc.) when necessary. Where a case is found to be suspicious or when factual discrepancies are identified, ImmD will inform the Mainland authorities and will request the applicant to provide further documentary proof.

In processing OWP applications under the category of “reunion with spouses” and in case the husband-and-wife relationship is in doubt, the Mainland authorities will pass the particulars of the applicants and their spouses in Hong Kong to ImmD for verification of the personal particulars of the Hong Kong residents, their certificates of registration of marriage in Hong Kong or other relevant records. ImmD will initiate follow-up actions and notify the Mainland authorities of the verification results.

ImmD has an established mechanism for handling cases of obtaining OWPs by fraudulent means. ImmD will also initiate investigation into doubtful marriages, receive intelligence and collects evidence from various sources and through different channels in order to investigate thoroughly the parties to suspected bogus marriage cases and the intermediaries involved. The relevant persons will be prosecuted when there is sufficient evidence. Once a case is substantiated, ImmD can declare the invalidation of a person's Hong Kong Identity Card, regardless of whether that person is a holder of Hong Kong Permanent Identity Card. In addition, regardless of his years of residence in Hong Kong, ImmD has the authority to remove him from Hong Kong.

OWPs are documents issued by relevant authorities in the Mainland. The application, approval and issuance of OWPs fall within the remit of the Mainland authorities. According to Article 22 of the Basic Law and the interpretation by the Standing Committee of the National People's Congress in 1999, Mainland residents who wish to enter Hong Kong for whatever reason must apply to the relevant authorities of their residential districts for approval in accordance with the relevant national laws and administrative regulations, and must hold valid documents issued by the relevant authorities. The HKSAR Government does not deem it necessary and justifiable to change the existing OWP system and relevant approval practice.