

**IMPLEMENTATION OF  
THE INTERNATIONAL COVENANT ON ECONOMIC,  
SOCIAL AND CULTURAL RIGHTS**

List of issues to be taken up in connection with the consideration of the initial report of China: the Special Administrative Region of Hong Kong concerning the rights covered by articles 1-15 of the International Covenant on Economic, Social and Cultural Rights

I. GENERAL LEGAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED:

**1. Paragraph 101 of the Core Document, states that although treaties that apply to Hong Kong do not have the force of law in the domestic legal system, the courts will construe domestic law in such a way as to avoid incompatibility with Hong Kong's international obligations. Please discuss specific cases in this regard.**

**Reply:** Hong Kong Law on this subject is based on common law principles. English authorities are therefore frequently relied upon. In *Salomon v Customs and Excise Comrs* [1967] 2 QB 116, the Court held that “there was a prima facie presumption that Parliament did not intend to act in breach of international law, including therein specific treaty obligations; and if one of the meanings that could reasonably be attributed to the legislation was consonant with the treaty obligations and another or others were not, the meaning which was so consonant was to be preferred.”

The English Court of Appeal in *Corocraft Ltd v Pan American Airways Inc* [1968] 3 WLR 1273 held that “the Warsaw Convention was an international convention which was binding in international law on all the countries who had ratified it; and it was the duty of these courts to construe our legislation

so as to be in conformity with international law and not in conflict with it.”

The same approach has been adopted in Hong Kong. In *The Queen v Sin Yau-ming* [1992] 1 HK CLR, 127, Silke, V-P of the Court of Appeal said in his judgment in relation to the Hong Kong Bill of Rights, and its provision for the presumption of innocence, which in Hong Kong domesticates the ICCPR, “It is accepted by both sides before us that there exists a well established principle of common law relating to the construction of statutes which are intended by the legislature to domesticate an international treaty to which the state - here the United Kingdom in the name of Hong Kong - is a party. The words of the statute should be interpreted by the court as being intended to carry out the state’s international treaty obligations and not in any manner inconsistent therewith provided the words of the statute are reasonably capable of bearing such meaning. (*Garland v British Rail* [1983] 2 AC 751 (H.L.) and the words of Lord Diplock at page 771 A-C).”

In *Yin Xiang-jiang and ors v Director of Immigration* [1994] 2 HKLR 101, an argument was raised on the application of the Convention on the Status of Stateless Persons. The Court of Appeal held that “it was not to be assumed that Hong Kong had no respect at all for its treaty obligations, especially those pertaining to fundamental human rights of an international dimension. It was at least potentially arguable that where Hong Kong had a treaty obligation not to expel stateless persons except on grounds of national security or public order, then, even though that obligation had not been incorporated into our domestic law, it was nevertheless a factor which our immigration authorities ought to take into account when exercising a discretion whether or not, in all the circumstances, to insist upon the departure from this territory of any stateless person even though his departure was not required by national security or public order.”

Another example can be found in a more recent case *Chan Mei Yee v*

*Director of Immigration HCAL 77/1999*. The question before the court was whether a removal order should be made against an illegal overstayer. The effect of the application of three international covenants, namely, the ICCPR, the ICESCR and the Convention on the Rights of the Child was discussed. The Court held that “a husband and a child who were Hong Kong permanent residents clearly had the legitimate expectation that when the Government was to remove their wife or mother, it should take into account the international covenants on the importance of family and welfare of the children. Otherwise the adoption of the international covenants would be a case of window-dressing only.”

The ICESCR and the UNCRC have consistently been referred to, considered and applied by our courts in the right of abode cases which concern the entitlement to permanent residence in Hong Kong under the Basic Law. In *Xie Xiaoyi & others v Director of Immigration [2000] 2 HKLRD 161*, the Court had to consider whether the relevant article in the Basic Law conferred the right of abode in children born outside Hong Kong, who had been adopted by a Hong Kong permanent resident. The Court of Appeal considered the protection of family life provisions of the ICCPR, the ICESCR and the UNCRC. The Court concluded that the covenants relied on by the applicants did not oblige the Government to unite families which were split or to allow those with no right of abode to enter to establish a family or to give a right of permanent residence to a child adopted outside the territory. We would emphasize that, although the principle referred to in this question is helpful, it is clearly preferable that the laws of the Hong Kong SAR should unequivocally comply with the Covenant. As our Report explains, the usual method of giving effect in local law to treaty obligations (when these require some change in existing laws or practice) is to enact specific new legislation.

When legislation is being prepared, or government policies are being formulated, the Human Rights Unit of the Department of Justice advises the relevant government bureau or department on its compatibility with the Covenant. When giving such advice, the Human Rights Unit finds that the General Comments made by the Committee on Economic, Social and Cultural Rights to be very valuable source materials.

**2. Please explain the necessity of maintaining reservations to articles 1, 6, 7, and 8 of the Covenant. Please provide the timeframe within which the Hong Kong Special Administrative Region (HKSAR) plans to withdraw these reservations.**

**Reply:** According to the provisions of the Sino-British Joint Declaration and the Basic Law, the provisions of the Covenant as applied to Hong Kong shall remain in force. In this context, “the provisions of the Covenant as applied to Hong Kong” means that the applicability of the Covenant is limited by the declarations, reservations and interpretations lodged by the Government of the United Kingdom on Hong Kong's behalf when it extended the application of the Covenant to Hong Kong before 1 July 1997. The Central People's Government will inform the Committee as to whether these reservations should be maintained.

**3. Please describe in detail, the progressive measures undertaken to include the provisions of the Covenant into domestic law of the HKSAR, which would have the effect of giving the International Covenant on Economic, Social and Cultural Rights equal status to that of the International Covenant on Civil and Political Rights, in accordance with the principles of indivisibility and interdependence of all human rights.**

**Reply:** Both the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant of Civil and Political Rights

(ICCPR) are entrenched at the constitutional level by virtue of Article 39 of Basic Law. Article 39 provides that –

“The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region...”

The measures undertaken to include the provisions of the Covenant into the domestic law of the HKSAR are listed in [Annex A](#).

I. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT

(Articles 1 - 5)

**Article 2(2) - Non-discrimination**

**4. Please provide detailed information on the studies and consultations conducted in relation to legislation against discrimination on the grounds of race and sexual orientation as mentioned in paragraph 13 of the report. Please include information on the methodology used, the sampling method, as well as the number and classification of respondents.**

**Reply:** The studies and consultation exercises are best explained by direct reference to the consultation documents. These are attached to this response at [Annexes B and C](#). The documents include the requested information on methodology.

Turning to the question of numbers -

(a) **sexual orientation:** we received 10,014 submissions. Of these, 9,829 were on pre-printed opinion forms; 185 were submitted in writing. Some 85% (about 8,500) were against legislation;

(b) **racial discrimination:** a total of 238 submissions were received. Of these, 97 were on pre-printed forms; 141 were written submissions. A total of 197 were against legislation.

**5. What laws and measures are in place for the protection of migrant workers, immigrants from mainland China, and foreign domestic helpers against discrimination?**

**Reply:** Article 25 of the Basic Law provides that all Hong Kong residents shall be equal before the law. Pursuant to Article 26 of the ICCPR, all

persons are equal before the law and are entitled without discrimination to the equal protection of the law. The Hong Kong Bill of Rights (“HKBOR”) which is embodied in the Hong Kong Bill of Rights Ordinance (“HKBORO”) gives effect in local law to the relevant provisions of the ICCPR as applied to Hong Kong. Article 22 of the HKBOR gives domestic legal effect to Article 26 of the ICCPR. Section 6 of the HKBORO further provides that a court or tribunal may in an action for breach of the Ordinance grant such remedy or relief, or make such order, in respect of such a breach, violation or threatened violation as it has power to grant or make in those proceedings and as it considered appropriate and just in the circumstances. In this regard, the HKBORO provides remedies against any discriminatory act of the Government, public authorities or any person acting on their behalf.

Imported workers and domestic workers enjoy the same rights and benefits as local workers under labour legislation. These include the protections afforded by the Employment Ordinance (Chapter 57) and the Employees’ Compensation Ordinance (Chapter 282).

The Employment Ordinance provides minimum standards for employees in respect of such things as rest days, statutory holidays, paid annual leave, sickness allowance, maternity protection, wage severance payment, long service payment, termination of employment contract, protection against anti-union discrimination and protection against unreasonable or unlawful dismissal. The Ordinance further provides that any term of a contract of employment that purports to extinguish or reduce any right, benefit or protection conferred upon the employee by the Ordinance shall be void.

The Employees Compensation Ordinance prescribes the rights and obligations of employers and employees in respect of injuries or death caused by accidents arising out of and in the course of employment, or by specified occupational diseases.

There are also laws that provide for the protection of the occupational health, safety and welfare of workers including imported workers and foreign domestic helpers without distinction as to race, colour, or national or ethnic origin.

For instance, the Factories and Industrial Undertakings Ordinance (Chapter 59) and its subsidiary regulations regulate activities in industrial undertakings including factories, mines, quarries, shipbuilding, construction and catering establishments. It prescribes requirements for the prevention of accidents and diseases, including detailed rules for certain trades and work processes. The Occupational Safety and Health Ordinance (Chapter 509) protects the employees of almost all economic sectors, industrial or non-industrial and prescribes minimum safety and health standards in places of work.

To assist newly arrivals from Mainland China, the Employees Retraining Ordinance (Chapter 423) was amended in January 1997 to enable them to take full advantage of the retraining programmes. These would help them to acquire new skills and to seek employment more effectively.

**Article 3: Equality between men and women**

**6. Please discuss the conclusions of the review committee that examined the New Territories Small House Policy, with a view to amending the sections discriminating against female indigenous villagers. (Paragraph 87 of the HKSAR recent report CCPR/C/HKSAR/99/1 to the Human Rights Committee)**

**Reply:** The review is still in progress.

**7. Please discuss the results of the review, begun in December 1997, of the Sex Discrimination Ordinance by the Equal Opportunities Commission (EOC), mentioned in paragraph 73 of the HKSAR report to**

**the Human Rights Committee.**

**Reply:** the EOC completed its review in 1999 and submitted a report to the Government. The report contained 14 proposals for the amendment of the Sex Discrimination Ordinance (SDO). The proposals sought -

- (a) to clarify the application of certain provisions;
- (b) to extend the provisions against sexual harassment to additional areas. These include, for example, sexual harassment of tenants/sub-tenants by other tenants/sub-tenants, and harassment of providers of goods, services and facilities by customers;
- (c) to remove certain exceptions;
- (d) additional powers and means to handle discrimination; and
- (e) to amend certain headings and some parts of the Chinese text.

We have completed the review and informed the EOC of our response, which the Commission welcomed. Together, we will discuss how best to take the proposals forward.

### III. ISSUES RELATING TO SPECIFIC RIGHTS RECOGNIZED IN THE COVENANT

(Articles 6-15)

#### **Article 6: Right to work**

**8. Please describe the measures undertaken to address the problem of unemployment among middle-aged unskilled women.**

**Reply:** There is no statistical indication that the unemployment problems of women are more serious than those of men. The statistics at [Annex D](#) demonstrate that, in the third quarter of 2000, the overall unemployment rate for women (4.2%) was lower than that for men (5.5%). They also demonstrate that middle-aged women in various age brackets do not necessarily have higher unemployment rates than younger women.

Unemployment reached its maximum of 6.3% in early 1999. Thereafter, the rate began to stabilise, falling to 4.6% in the period September-November 2000. But the Government remains concerned about the problem and has proactively sought to address it through training and retraining, employment services and job creation. Specifically -

(a) **training and retraining:** in paragraphs 58 to 60 of our report, in relation to Article 6, we described the functions of the Employment Retraining Board and the Employment Retraining Scheme ('the scheme') that it administers to help the unemployed and potentially unemployed acquire the skills required in a changing labour market. In 1999-2000, 94% of persons retrained under the scheme were aged 30 or above; over 50% of that 94% were aged 40 or above. Since the ERB's inception in 1992, some 80% of all its retrainees have been women. The placement rate for female retrainees has consistently been in the range of 72% to

75%;

(b) **promoting employment:** there have been three major initiatives in this area -

- (i) in mid-1998, as explained in paragraph 67 of our report in relation to Article 6 of the Covenant, we formed a Task Force on Employment to investigate the problem and to explore ways of promoting employment. In the two years since then, the Task Force has implemented over 40 measures to that specific purpose. These include advancing Government projects, strengthening employment services, enhancing vocational training and employees' retraining, and tightening measures to combat illegal employment;
- (ii) in the year 2000, over 80 000 jobs were created by as a result of key Government infrastructural projects and policy measures; and
- (iii) in his Policy Address of October 2000, the Chief Executive announced measures to create 7,000 job opportunities. Many of the newly created jobs are in the field of social and community services and do not require special skills and will benefit the unemployed. Many of them entail flexible working hours and will therefore be particularly attractive to middle-aged, unskilled women; and

(c) **employment services:** in recent years, the Labour Department has introduced reforms with special relevance for middle-aged, unskilled women. These include, inter alia, a telephone referral service for job seekers; direct applications for vacancies identified by the Department<sup>1</sup>;

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<sup>1</sup> Previously, applicants seeking jobs through the Department had to do so through a Labour Officer. This created long queues and correspondingly long waiting times. Now, having selected job offers identified by the Department have the option of applying to the employers direct, so reducing waiting time.

and employment services for prospective domestic helpers (see below). These innovations have significantly reduced waiting times and improved convenience of access. During the first nine months of 2000, the Labour Department secured 132,211 job vacancies and found jobs for 44,820 job-seekers: respectively up 27.7% and 40.2% over the same period in 1999. From January to September 2000, 49.3% of the 125,997 job seekers registered with the Labour Department were female. So too were 53.8% of the 26,797 persons directly placed by the Department.

At the sectoral level, market demand for domestic helpers is high and offers employment opportunities for low-skilled middle-aged women. To take advantage of this, the ERB has expanded its training capacity for domestic helpers and established a Course Steering Group to improve standards and to secure employer recognition for the courses. The Board has also introduced a one-stop service to register vacancies notified by employers, to answer enquiries about retraining, and to match retrainees and vacancies. The placement service includes 'job packages' that enable retrainees to take on several part time jobs in households in easy reach of each other, so earning the equivalent of a full-time wage. Additionally, Labour Department proactively solicits vacancies for domestic helpers. And its 11 district Job Centres help job seekers find such jobs in their own neighbourhoods.

These measures have yielded encouraging results. Between April 1999 and March 2000, a total of 859 retrainees completed the ERB training course for domestic helpers, up 90% over the same period in 1998-99. In the first nine months of 2000, the Labour Department found places for 1,320 persons seeking work as domestic helpers. In 1998-99 and 1999-2000, the placement rate for retrainees who have completed the courses has remained steady at about 79%. In January 2001, the Department will

launch a dedicated website on domestic employment for the benefit of both job seekers and prospective employers.

**9. In paragraph 76 of the report the Government states that it is committed to the elimination of all forms of discrimination in employment. Please describe the progress made in connection with the results of the public education measures taken in an effort to eliminate racial and age discrimination in employment. In addition, please indicate the difficulties and obstacles that still need to be addressed.**

**Reply:** Our efforts have focused on public education, most visibly in the form of the Announcements of Public Interest (APIs) that are broadcast on radio and television. These are complemented by less high profile but equally effective measures such as promotional literature, codes of practice and story books for school children of different ages. APIs, often with complementary poster campaigns, have addressed such specific areas as discrimination on the grounds of age, race and sex. Codes of Practice have addressed discrimination on all those grounds plus sexual orientation. So, too, have the materials (storybooks, cartoons, and teaching kits) aimed at school children. The focus on employers and schools reflects our view that the workplace is the area where discrimination is potentially most harmful in that it may directly affect peoples' livelihoods. And we consider it important to reach children at the earliest possible stage of their moral and intellectual development so that negative attitudes can be changed or pre-empted before they are formed. That approach, we believe, offers the greatest hope for the future.

Codes of Practice in this area include 'Practical Guidelines for Employers on Eliminating Age Discrimination in Employment' which is a booklet aimed at employers and employees. The Guidelines explain the issue of age

discrimination in employment and provides specific recommendations for its elimination in such areas as recruitment, conditions of employment, promotion, dismissal and retirement. Some 100,000 were issued in 1999 and we are publishing another 14,000. Other publications that promulgate equal employment opportunities in this area include the Labour Department's 'Guide to Good People Management Practices'. Since 1998, some 220,000 copies have been widely distributed to employers, employees and human resources managers. We have also published codes of practice in relation to discrimination on the grounds of race and sexual orientation.

Other approaches to discrimination in these areas have included such things as seminars, training courses, and exhibitions. Since September 1999, the Labour Department has organised four public exhibitions, attracting 7,000 visitors. And, in 1999, it organised a "Good People Management Award" competition among employers, one of the selection criteria being adherence to equal opportunities in employment. Building on the success of the event, the Department organised the Award again in 2000.

On a more concrete level, the Labour Department has taken practical steps to forestall discrimination against job seekers and employees. Vacancy notices placed with its employment services must not include restrictions based on age or race. Also, since October 1997, its voluntary conciliation services have been extended to handle complaints in relation to age discrimination in employment.

The Equal Opportunities Commission's complaints and enquiries statistics do not indicate any increase in the numbers of people who consider that they have experienced discrimination on this ground. We believe that the perception that there is a problem of age discrimination arose initially from the economic restructuring of the 1980s and 1990s. This entailed the relocation of many older industries - such as textiles, dyeing, garments and

low-end electronics - to Mainland China and elsewhere, where land was plentiful and operational costs lower, than in Hong Kong. The relocations led to factory closures in Hong Kong with inevitable job losses among workers in those industries, particularly among the low-skilled and semi-skilled, many being women in their thirties and forties. This was compounded by the economic recession, described in paragraph 45 of the report, which led to shrinking demand for labour, with unemployment reaching a peak of 6.3% in early 1999. In these circumstances, unsuccessful job seekers may understandably have attributed their inability to secure employment to discrimination on one ground or other, including age or gender. Fortunately, the economy is gradually recovering and the unemployment rate fell to 4.6% during the third quarter of 2000. While this is still high in historical terms, we envisage that job seekers of all ages, genders and races will find it easier to find work.

Public education is a long-term measure and, as experience has demonstrated elsewhere, it takes time to change entrenched attitudes. Nevertheless, we are confident that persistence will be rewarded and we will sustain our efforts for as long as may be necessary.

**10. Please indicate the extent to which workers imported to HKSAR under the Supplementary Labour Scheme, and the Special Labour Importation Scheme for the New Airport and related projects, mentioned in paragraph 65 of the report, enjoy legal protection with regard to the rights under article 6 of the Covenant.**

**Reply:** The implementation of Article 6 in the HKSAR must be considered in the context of our declaration under that article. The declaration reserves the right to interpret this Article as not precluding the imposition of restrictions, based on place of birth or residence qualifications, or on the taking of

employment for the purpose of safeguarding the employment opportunities of workers in the HKSAR. Thus, the object of the controls that we impose on the admission for employment of workers from outside Hong Kong is to safeguard the employment opportunities of local people. The Supplementary Labour Scheme (SLS) permits employers in different economic sectors to import workers only when, having given priority of employment to local workers, they remain unable to fill specific vacancies locally<sup>2</sup>.

Procedural requirements imposed on the importation of labour ensure imported workers of a free and informed choice when considering job offers from Hong Kong employers. The procedures require that - before departing for Hong Kong - would-be imported workers must first sign standard employment contracts with their prospective employers then apply for their visas/work permits. The contracts clearly prescribe their terms and conditions (nature and title of the position, wage rates, period of employment, normal hours of work, accommodation standards, and so forth). On entry into Hong Kong (that is, at the entry points) the workers must present their contracts for scrutiny by immigration officers.

Imported workers may work only for the employers - and in the positions - to whom and for which they are contracted, unless the Immigration Department grants them permission to do otherwise. This condition exists both to protect them from abuse and to safeguard the interests of local workers.

The period for which imported workers are employed is stipulated in their contracts and is subject to a maximum period of two years. On completion of their contracts, they may renew them with their current employers. Alternatively, they may secure employment with other employers, provided that the latter have obtained the Government's approval in principle to

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<sup>2</sup> The Special Labour Importation Scheme for the New Airport and related projects ended in March 1999.

employ imported workers.

Imported workers have the right to terminate their contracts before expiry, subject notice - ranging from seven days to one month, depending on the terms of contract - or to paying the employer wages in lieu. But, like local workers, they may terminate their contracts without notice or payment in lieu if, for example their employers mistreat them, or if they reasonably fear physical danger by violence or disease<sup>3</sup>.

Imported workers whose contracts are terminated pre-maturely, are generally permitted to stay in Hong Kong for two weeks from the date of termination of contract. In exceptional circumstances (for example, if they have been dismissed because they have complained of exploitation by their employers), they may remain and seek alternative employment in the HKSAR.

**Article 7: The right to just and favourable conditions of work**

**11. Please discuss the conclusions of the study on equal pay for work of equal value commissioned by the Equal Opportunities Commission referred to in paragraph 81 of the report. Please indicate to what extent the Government seeks a more active role in enforcing this right.**

**Reply:** The study was completed in the 1998/99 financial year, and its findings were submitted to the Commission. The study recommended that that equal pay for work of equal value be promoted through persuasion rather than coercion (legislation). It also recommended that, should such a system be introduced in future –

- (a) companies with fewer than 200 employees should be exempt. This was because the implementation of such a system required more sophisticated human resource management than smaller

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<sup>3</sup> These and other circumstances in which workers may resign without notice or payment in lieu are prescribed in the section 10 of the Employment Ordinance (Chapter 57).

companies could reasonably be expected to possess;

- (b) employers should be advised to conduct surveys of market wage levels, tracking both job and employee characteristics (such as education and experience);
- (c) pay adjustments should be made where systemic pay discrimination was discovered;
- (d) labour market conditions - such as scarce or over-supply - should be a permissible defence for departures from strict evaluations of equal value; and
- (e) legitimate business requirements - such as the need to attract employees of 'the right calibre' - should also be a permissible defence for such departures.

In the light of these recommendations, the Commission agreed to disseminate the 'equal pay for work of equal value' message through promotional means in the first instance and to discuss the question further with relevant academic institutions, concern groups and other interested parties. It has also established a task force, comprising representatives from both the public and private sectors, to examine the practicalities of progressively implementing and promoting the principle of equal pay for work of equal value. The first phase of its work will involve an examination of the situation in the public sector and is expected to be completed in 2002

**12. Please discuss the results of the consultation with employees and employers regarding working hours, for which there is no statutory limitations at present (Paragraph 87(b) of the report).**

**Reply:** Paragraph 87(b) of the report discussed both working hours as such and the closely related subject of adequate rest breaks. Our position in regard

to working hours remains as explained in the report. That is, the working hours of adults are part of the conditions of employment that, like wages, are a matter for direct agreement between employers and employees. Those of young workers are regulated by statute. We acknowledged in the report that adequate rest breaks were necessary to safeguard the safety and health of workers and made reference to the consultations then in progress with employers and employees. In the course of those consultations, our interlocutors were the Committee on Occupational Safety and Health (COSH) of the tripartite Labour Advisory Board. The Board supported the principle of providing appropriate rest breaks for employees. But there were divergent views as to how such breaks should be effected. Employees' representatives considered that they should be provided for in law. Most employers' representatives favoured a non-legislative, advisory approach. A consensus has yet to be reached. We will consider the issue further and consult the COSH again.

**13. In the light of the absence of a statutory minimum wage in the HKSAR, how does the Government determine whether average earnings are sufficient to secure an adequate standard of living for the workers and their families?**

**Reply:** As we explained in paragraph 87(b) of the report and in response to question 12 above, we consider wages to be part of the package of terms and conditions of employment that are matters for negotiation between employers and employees. In free markets like Hong Kong, wage and price levels adjust according to market conditions.

However, as we explained in paragraphs 133 to 160 of our report in relation to Article 9 of the Covenant, the social welfare system makes provision for those who are truly in need. Employees and their families who are

financially vulnerable may seek cash assistance through the Comprehensive Social Security Assistance (CSSA) Scheme, subject to a means test. The Scheme provides a safety net for those who for various reasons (such as old age, disability, temporary illness, low income, or unemployment) are unable to meet their basic living needs. CSSA recipients are also entitled to free medical treatment at public hospitals.

**14. The report does not give any information about the extent of the incidence of sexual harassment of women in the workplace. Please provide information about the dimensions of the problem and the measures taken by the Government to curb it.**

**Reply:** Sexual harassment is unlawful under the Sex Discrimination Ordinance (Chapter 480). Section 2(5) distinguishes two kinds of sexual harassment, namely unwelcome sexual conduct and sexually hostile environment. Between 1 January 1997 and 31 October 2000, the EOC received 219 complaints of sexual harassment, of which 189 (86%) related to employment. Conciliation was successful in 52 of those cases, 20 of which involved monetary compensation ranging from HK\$3,000 to HK\$150,000 (US\$385 to US\$19,230). Other settlement terms included letters of apology, introduction of or changes to sexual harassment policies, transfers, disciplinary action against the perpetrators, donations to charity, and so forth. In two cases, the EOC has also given legal assistance to the complainants. The cases were pending court hearings at the time of preparing this response.

The EOC is as concerned with prevention as it is with cure and, with a view to the former, has published a 'Code of Practice on Employment'. This calls on employers to formulate and implement policies to combat sexual harassment and to develop internal complaints handling systems. The Commission has also published a leaflet entitled 'Good Management Practice'

and has developed a training module on the subject. Talks and workshops on sexual harassment are conducted as part of its public education programme. And it will conduct a public campaign for the elimination of sexual harassment in 2001. This will include advertisements in the Mass Transit Railway and in newspapers, and drama performances in secondary schools.

**Article 8: Trade union rights**

**15. Please discuss the extent and importance of the system of voluntary collective bargaining, encouraged and promoted by the Government, as stated in paragraph 130 of the report and its impact on the rights under article 8 of the Covenant.**

**Reply:** We are committed to promoting collective bargaining on a voluntary basis. This approach has served Hong Kong well as is evidenced by the small number of working days lost due to industrial conflicts. In the five years from 1995 to 1999, the loss averaged just 0.44 working days per 1,000 wage earners and salaried employees per year. In 1999, the average was 0.10 days. This is one of the lowest levels in the world.

Our aim is to promote voluntary collective bargaining both in individual enterprises and in various trades and industries. To that end, in April 1998, the Labour Department established the 'Workplace Consultation Promotion Unit' (WCPU). Between then and 30 September 2000, the Unit conducted 638 visits to individual enterprises in major trades and industries, At the same time, it organised 1,269 promotional activities including seminars, workshops, training courses, briefings, competitions and meetings with human resources managers. These attracted 61,800 participants.

At the industry level, the WCPU is actively forming tripartite committees comprising representatives of unions, employers and their organisations, and

the Labour Department. The objective is to foster an environment conducive to the acceptance and introduction of collective bargaining. As at 30 September 2000, the Unit had established eight such committees in the catering, construction, theatre, warehouse and cargo transport, property management, printing, hotel and tourism as well as cement and concrete trades. The committees meet regularly and provide a useful forum for representatives of unions and employers from their respective trades and industries to discuss and industry-specific issues.

These activities serve to promote a partnership between employers and employees and their respective organisations on employment matters.

**16. Paragraph 388 of the HKSAR report to the Human Rights Committee states that article 27 of the Basic Law guarantees the right to strike. However, alternative sources of information claim that contrary to this law employers, can dismiss striking employees for breaking their employment contracts. Please explain.**

**Reply:** Article 27 of the Basic Law guarantees the right and freedom to strike. Indeed, Labour Department records for the last five years indicate that no employee has been summarily dismissed without notice or payment in lieu for taking part in a strike. However, as section 9 of the Employment Ordinance renders an employee liable to be summarily dismissed in specified circumstances, concern has been expressed that the power of summary dismissal could be exercised on the basis that an employee had taken part in a strike. We recognised that the provisions of the Employment Ordinance might not have been entirely clear. With that in mind – and to avoid misunderstandings between employers and employees – section 9 of the Ordinance was recently amended to the effect that an employee's participation in a strike is not itself a lawful ground for the employer to

terminate the contract of employment without notice or payment in lieu. This amendment helps to protect the constitutionally entrenched right to strike.

**17. According to the International Confederation of Free Trade Unions, the right to freedom of association has been limited. Please indicate the number of occasions the Societies Ordinance or the Public Order Ordinance have been invoked to refuse permits to trade union demonstrators, after amendments made in 1997 to both Ordinances to include the concept of national security.**

**Reply:** Hong Kong is a free and open society where the freedoms of expression, assembly and association are guaranteed by law. But taking the two statutes seriatim -

- (a) **Public Order Ordinance:** since 1 July 1997, the Police have objected to just one public procession. The procession involved trade union demonstrators and the objection was on the grounds of public order and safety. This involved a procession of vehicles in busy areas and was intended to raise public awareness of, and to gain public support for, the waste paper recycling industry. In the light of the Police objection, the organisers re-submitted their application, reducing the number of vehicles taking part in the procession and choosing another route where the traffic was not so heavy. Thereafter, the Police had no further objections; and
- (b) **Societies Ordinance:** to date, the Police have not rejected any application by any society - be it a trade union or otherwise - for registration or exemption from registration.

**Article 9: The right to social security**

**18. Please indicate to what extent the rates of assistance paid through the Comprehensive Social Security Assistance (CSSA) Scheme mentioned in paragraph 142 of the report, provide for a decent standard of living for its recipients.**

**Reply:** In 1971, when the Public Assistance Scheme (renamed CSSA in 1993) was set up the basic (now standard) rates were meant to cover only the cost of food. They were considered sufficient to provide an adequate diet based on careful nutritional advice. In 1972, the basic rates were increased to cover additional items of essential household expenditure, which included fuel and light, clothing and footwear, miscellaneous goods, transport and services, and durable goods. This was to ensure that recipients had sufficient means to meet their basic needs.

Since then, there have been periodic adjustments for inflation and payment rates have periodically been increased in real terms. We have also introduced improvements, such as special supplements for specific categories of recipients, the introduction of the 'disregarded earnings' arrangements described in paragraph 142 of the report, and a wide range of special grants. These measures have been effected to take account of social change and to ensure that payments are better tailored to the needs of different categories of recipients.

At present, the estimated average monthly CSSA payments for households of various sizes are higher than the average monthly expenditure of non-CSSA households in the lowest 25% expenditure group. This indicates that CSSA payments do provide the recipients with an acceptable standard of living.

**19. Please indicate the concrete measures the Government is undertaking to ensure a decent standard of living for older persons who depend on SSA (Social Security Allowance) and CSSA assistance.**

**Reply:** The two schemes are themselves concrete measures to ensure an adequate standard of living for persons dependent on them. Both are non-contributory and entirely funded from the general revenue. The CSSA is an income support scheme. It is means-tested and serves to raise the income of needy individuals and families to a prescribed level that is calculated to meet their basic and essential needs. The allowances paid under the SSA are largely non-means-tested<sup>4</sup>. Their purpose is to provide a measure of financial assistance to meet special needs arising from old age or disability, such as the purchase of rehabilitation equipment, care services, and so forth. The answer to question 18 is also relevant.

**20. Please discuss concrete efforts taken by the Government to simplify the application procedure for the CSSA to ensure its accessibility (paragraph 153 of the report).**

**Reply:** We have made application forms and publicity materials more user-friendly and easier to understand. And we arrange home visits to process applications by - or reviews of existing benefits paid to - elderly people who have practical difficulties getting to our social security offices. On average, the Social Welfare Department needs four weeks to process a new CSSA application, irrespective of its nature. But the Department provides cash assistance within one or two working days to applicants in genuine need of urgent assistance.

In October this year, we brought into operation a new computerised system that will expedite assessments, payments, and the processing of investigations.

It will thereby speed up the processing of applications, reduce waiting times and eliminate unnecessary visits to the Social Welfare Department.

**21. Please indicate the measures undertaken to ensure that single-parent families receive sufficient and adequate support for the upbringing of their children.**

**Reply:** Like other CSSA recipients, single parents receive CSSA standard rates to cover their basic needs. In addition, they receive a monthly single parent supplement (currently HK\$255) in recognition of the special difficulties they face in raising their families without the support of a spouse. Where appropriate, they may also receive special grants to cover child-care centre fees, school fees, and other educational expenses.

Our policy is to ensure single parents receiving CSSA the choice of staying at home to take care of their children until their youngest child reaches the age of 15. Additionally, the Social Welfare Department has commissioned NGOs to provide tailor-made programmes to help single parents wishing to rejoin the workforce to find jobs and become self-reliant. The programmes include job counselling, training and job-attachments.

**Article 10: The protection of the family, mothers and children**

**22. Please describe the measures the Government is taking to instil awareness among women about the legal protection and remedies available to them in cases of domestic violence.**

**Reply:** As explained in Annex 19 to the report, there are three refuges that provide temporary shelter for victims of domestic violence. All operate on a 24-hour basis and have places for a total of 120 persons.

Essentially, our efforts to raise awareness are conducted at three levels -

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<sup>4</sup> Persons aged 70 and over need not declare their means. Persons aged 65 to 69 are required to do so.

(a) **central Government:** thematic, territory-wide, publicity is conducted through television, radio, seminars, leaflets, and so forth. In 1999, the campaign theme was “Care for your family”. In 2000, it was 'Enhancing family viability'. Specific matters are also the subject of territory-wide publicity. An example was the major press briefing - held in April 2000 - to publicise the transformation of the former Child Protection Service Unit into the new Family Protection Service Unit. This comprised a package of measures to provide the victims of domestic violence with improved services on a 'one-stop' basis;

(b) **at the district level:** publicity against domestic violence is organised by the Family Life Education Units and the various District Co-ordinating Committees on Family and Child Welfare Services<sup>5</sup>; and

(c) **on the spot:** medical and other social workers, who work with doctors in the treatment of battered spouses, provide counselling services to the victims and offer referrals and other assistance as appropriate.

**23. Please indicate whether marital rape is a criminal offence in Hong Kong.**

**Reply:** It is. Rape is defined in section 118 of the Crimes Ordinance (Chapter 200) which provides that –

- (1) a man who rapes a woman shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life;
- (2) a man who induces a married woman to have sexual intercourse with him by impersonating her husband commits rape;

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<sup>5</sup> The Family Life Education Units organise marital enrichment programmes and parent education to prepare individuals for their family roles and to teach them how to handle stress in relationships. The District Co-ordinating Committees on Family and Child Welfare Services co-ordinate the formulation of district level strategies to meet the needs of families and children. They also organise programmes for preventing domestic violence.

- (3) a man commits rape if –
- (a) he has unlawful sexual intercourse with a woman who at the time of the intercourse does not consent to it; and
  - (b) at that time he knows that she does not consent to the intercourse or he is reckless as to whether she consents to it.

This provision does not expressly deal with marital rape. There were common law authorities to the effect that, on marriage, a woman gave her consent to future sexual intercourse with her husband and so such intercourse could not amount to rape. But those authorities were overturned by the judgement in Reg v R [1991]1 VLR 767, in which the House of Lords ruled that a husband is guilty of raping his wife if she does not consent to sexual intercourse with him. That decision will be followed by the courts in Hong Kong, which is also a common law jurisdiction. All front-line officers have been instructed to handle cases of marital rape accordingly.

Nevertheless, concern has been expressed that the statutory provision itself does not spell out clearly that marital rape is an offence. We are considering whether, and if so how, the law should be amended to make the position clearer.

**24. Please provide more information on the Certificate Entitlement Scheme described in paragraphs 216 to 219 in the report, and why it operates with the One-Way Exit Permit system which is perceived to be contrary to the nature of the right of abode.**

**Reply:** As explained in the report, the purpose of the Certificate of Entitlement (C of E) Scheme is to verify that a Mainland person claiming the right of abode in Hong Kong (under Article 24(2)(3) of the Basic Law) is, in fact, entitled to that right.

As a matter of policy, there are two reasons for the requirement that such claims be verified before claimants enter Hong Kong. The first is to discourage illegal entry into Hong Kong and illegal stay in the SAR in contravention of their conditions of stay. The second reason is that it would be unfair to C of E applicants waiting in the Mainland while their applications are processed were we to allow other applicants to jump the queue.

As a matter of law, the Scheme is provided for in the Immigration (Amendment) (No.3) Ordinance. And its constitutionality was upheld by the Court of Final Appeal in a judgment delivered on 29 January 1999 to the extent that it is directed towards verification of entitlement.

The entry of Mainland residents for settlement is governed by the One-way Permit Scheme<sup>6</sup>, which was in effect long before the re-unification in 1997. The Scheme's continuation beyond 1 July 1997 was consistent with Article 22(4) of the Basic Law, which provides that Mainland residents must obtain exit approval for entry into the HKSAR. The provision applies equally to those who have right of abode under Article 24(2)(3). This was affirmed by the interpretation of the two Articles by the Standing Committee of the National People's Congress on 26 June 1999. In a judgment delivered in December 1999, the Court of Final Appeal held that interpretation to be valid and binding on the courts of the HKSAR. It also held that the Scheme, including the requirement that applicants should hold a valid travel document, was constitutional.

Thus, the link between the C of E Scheme and the One-way Permit Scheme affirms the long-standing system for exit-entry administration between the Mainland and Hong Kong. This arrangement ensures that Mainland residents

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<sup>6</sup> One-way Permits are exit approvals issued by the Mainland authorities to eligible Mainland residents.

come to Hong Kong for settlement in an orderly manner, which is in the general interest of Hong Kong. The Scheme has facilitated speedy and orderly entry of Mainland residents with right of abode in the HKSAR. Since 1 July 1997, over 80 000 Mainland residents have entered Hong Kong under the C of E Scheme: a daily average of about 68.

**25. Paragraph 301 of the report mentions an assessment, conducted by the Elderly Commission and completed in September 1998, of the demand for longer-term housing and residential care services for older persons and a strategy to meet these needs. Please discuss the results of the assessment as well as the details of the formulated strategy, including any action taken to implement it.**

**Reply -**

Recommendations of the Elderly Commission

The Commission recommended measures to reduce waiting time for subsidised residential care services and to encourage private homes to upgrade their service quality. These included -

- increasing the supply of subsidised residential care places;
- an 'Enhanced Bought Place Scheme' to upgrade the service quality of private residential care homes;
- developing a gatekeeping mechanism to assess the care needs of elderly persons;
- a pilot scheme - to be known as "Continuum of Care" - to enable elderly people to age in a familiar environment; and
- the provision of suitable premises for use as residential care homes for both the subsidised and private sectors.

## Strategy and implementation

Our strategy is to provide families with assistance and support in order to encourage them to take care of their elderly members. At the same time, we recognise the need to provide sufficient residential care for elderly persons who cannot be adequately cared for at home. The achievement of these aims entails -

- **additional subsidised residential care places for elderly people in need:** more than 18,200 subsidised residential care places are now available in the public sector: a 28% increase since 1996/97. Over 1,400 places will be added between now and 2002;
- **the Enhanced Bought Place Scheme (EBPS):** private residential care homes play a significant role in the provision of residential care for the elderly. But their service quality varies. The EBPS was introduced in 1998, following a review of the former Bought Place Scheme (BPS). Its purpose was to provide incentives to private operators to provide standards of space and manpower above the minimum levels prescribed in their licensing requirements. Since then, we have purchased about 3,250 beds in some 80 homes, about 2,500 of which in some 50 homes were purchased under the EBPS<sup>7</sup>. We require the homes that benefit from the Scheme to apply the enhanced standards to all beds in their premises. Between now and 2002, we will purchase another 2,200 beds under the EBPS;
- **care need assessment:** we have introduced a mechanism to ensure that the elderly persons whom we provide with residential care services are those who genuinely need them and that the services so provided are those that are actually needed. The mechanism comprises internationally accepted (but locally validated) criteria that ensure both rigour and consistency in the

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<sup>7</sup> The remaining 750 beds were purchased under the former Bought Place Scheme.

assessment process<sup>8</sup>. The 'mechanism' comprises a form that must be completed by all assessors who themselves must be trained and accredited.

- **‘continuum of care’:** the Committee will recall that, in paragraph 321 of the report, we said that we were developing prototype homes equipped to care for elderly people with various degrees of impairment. The first was to open in 1999 and to operate on a pilot basis for two years. The aim was to enable residents to age in place, so minimising the need to move as their health either improved or deteriorated and ensuring a greater sense of belonging and stability. Three homes have joined the pilot scheme. In 2001, an interim review will be conducted to assess the effectiveness of the project;
- **homes in private sector developments:** we are exploring measures to encourage the development of a vigorous private sector offering services of high quality. Inter alia, these include the possibility of providing incentives to developers to incorporate residential care home premises in private residential developments, and making the provision of suitable premises for residential care homes a requirement in land sales where the sites in question are of suitable size and location;
- **home and community care services for elderly people in frail health and family caregivers:** this would enable more elderly people to continue to live at home (where they and their families so wish), even when they become more dependent; and
- **shorter waiting times for assisted rental housing:** currently, elderly people seeking such accommodation must wait several years. We aim to reduce that period to two years by 2008.

The Commission also recommended that the Government should encourage private property developers to provide flats with suitable facilities for lease or

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<sup>8</sup> The form is designed to obtain a spectrum of data - in regard to physical, functional, psychological health,

sale to the elderly. An inter-governmental working group is considering this initiative and will report its recommendations in due course.

**26. Please provide updated information on the incidence of prostitution and on substance, tobacco and alcohol abuse among the youth.**

**Reply:**

Taking the issues seriatim -

**prostitution:** two persons aged between 7 and 15 were convicted of offences relating to prostitution in 1997; one in 1998; none in 1999. All three were aged 15. The corresponding numbers for 16 to 18 year-olds were: 11 in 1997; 29 in 1998 and 16 in 1999. Figures for the year 2000 are not yet available. In Hong Kong, prostitution as such is not a crime. The offences for which the persons in question were convicted included such things as exercising control over women, causing prostitution (procuring), and living on the earnings of women, all of which are offences under the Crimes Ordinance (Chapter 200);

**'substance' (drugs):** according to the Central Registry of Drug Abuse, 50% of the young drug abusers (aged 14 to 25) reported in the first half of 2000 had taken heroin, 38% had taken amphetamines (such as ecstasy and ice), 16.8% had taken cannabis. Compared with that of 1999, the proportion of young psychotropic substance abusers increased from 44% to 55%.

The number of drug abusers aged under 21 remained relatively low. Decrease in the number of young drug abusers per thousand of the population aged 11 to 20 was observed: from 4.7 per thousand in 1995 to 2.8 in 1999. Similarly, the number of newly reported cases aged under 12 decreased from 2 110 in 1995 to 1 346 in 1999.

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environmental considerations and so forth - that permit an objective assessment of applicants' care needs.

Some 69.5% of the 2 049 young abusers aged under 21 reported in the first half of 2000 were male. Average age of these young drug abusers was 17.3. Some 51.5% of them had taken MDMA, 26.1% had taken heroin and 22.6% had taken cannabis. About 38.9% were previously convicted; 37.4% were employed and 18.7% were studying.

The trend for newly reported young abusers have remained much in line with the general trend. In the first half of 2000, some 68.1% of these cases were male. Average age of these abusers was 16.9. MDMA was the most popular drug (abused by 60.1% of the cases), followed by ketamine (24.5%) and cannabis (23.0%). Some 29.5% were previously convicted and 35.2% were employed. Over 97% had received at least secondary education.

A detailed analysis of drug abuse among persons aged 14 to 25 (by type of drug abused) is at [Annex E](#) to this response.

**tobacco:** an enquiry conducted in 1998 indicates that 2.8% of 15 to 19 year-olds were daily smokers. This was encouragingly down on the 3.8% discovered in a 1996 enquiry; and

**alcohol:** we have no information on alcohol abuse.

### **Article 11: The right to an adequate standard of living**

**27. Please indicate whether an official poverty line exists in the HKSAR, and if so, please provide data, disaggregated on the basis of sex, age, national or social origin, on the number of people who are living below this poverty line.**

**Reply:** In Hong Kong, there is no official definition of “poverty” and the Government does not recognise an official poverty line.

Some NGOs define poverty in relative terms, setting the poverty line at, say, half the median wage, or half of the median household income, or some other

similar benchmark. But this approach ensures that even the most affluent societies will always contain a group of people regarded as “poor” and we therefore consider it unsound. Other NGOs have defined poverty in terms of income distribution. But such analyses take no account of intangible income derived from Government spending on housing, health and education, so understating the economic effectiveness of welfare services in improving household income and its distribution.

However, although there is no official “poverty line” in Hong Kong, it has always been Government policy to help people in need and those who have difficulties in earning a living. Indeed, our social security system ensures that no one is denied medical care, food, shelter, or education and a poverty line is not prerequisite to action on behalf of those in need.

In Hong Kong, those recognised as being in need comprise the persons in receipt of support under the CSSA scheme. As at 30 June 2000, 367,000 people (about 5% of the population) were receiving such support. We are unable to disaggregate the figures by national or social origin as we do not take account of those factors in compiling the relevant statistics. But the breakdown by age (as at 30 June 2000) is as follows -

60-plus:	41%
50-59:	7%
40-49:	12%
30-39:	8%
20-29:	3%
10-19:	17%

The gender ratio is consistently in the region of 1:1, with minor fluctuations in either direction at any given time.

**28. Please indicate to what extent hunger and malnutrition exist in the HKSAR. In particular, what is the situation of the vulnerable and disadvantaged groups (including the unemployed, migrant workers,**

**children, disable and older persons)?**

**Reply:** There is no evidence of hunger or malnutrition in Hong Kong. The CSSA Scheme provides a safety net for the financially vulnerable. It does not exclude any category of persons. To be eligible for CSSA, applicants be Hong Kong residents and have resided in Hong Kong for at least one year. The Director of Social Welfare may, at his/her discretion, waive the one-year residence requirement in cases of genuine hardship.

**29. Please provide up-to-date statistics on the number of inadequately housed persons in HKSAR.**

**Reply:** The term 'inadequately housed' refers to persons living in squatter areas, temporary housing, cottage areas<sup>9</sup>, non-self-contained flats, roof-top structures, or in shared private sector accommodation. An estimate made in the first quarter of 2000 indicated that the number of such households had fallen from 170,000 in June 1998 to 132,000.

**30. Please indicate whether the Government has succeeded in phasing out the temporary housing areas (THA), as stated in paragraph 363. Please describe the “interim accommodation” provided to the families which do not qualify for public rental housing.**

**Reply:** In 1997, we pledged to clear all THAs by 2000. Since then, 14 have been cleared. The clearance of the remaining four is in progress. For various reasons, now and in the long-term, some people need - and will continue to need - interim accommodation. Permanent flats in high-rise blocks are used to service this need. These flats are self-contained and, while smaller, are of the same quality as the flats in which their residents will be permanently rehoused. We recently constructed 8,700 interim housing units and another

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<sup>9</sup> Cottage areas comprise mainly single storey structures built of stone or less permanent materials on

4,000 will be completed in early 2001. They are well served by social and community facilities.

**31. Please indicate what legislative measures have been adopted to protect persons or groups against forced or arbitrary evictions. What sanctions have been imposed for violation of such laws?**

**Reply:** Sections 119 and 122 of the Landlord and Tenant (Consolidation) Ordinance (Chapter 7) provides that tenancy shall not be terminated unless the landlord has served notice of termination in writing to the tenant and the notice must be served six months before the date of termination. The tenant has the right to apply to the Lands Tribunal for a new tenancy. The Tribunal will determine whether a new tenancy should be granted. These provisions do not apply to -

- (a) a tenancy of open land;
- (b) a tenancy of agricultural land;
- (c) a tenancy where the landlord is the employer and the tenant is the employee in possession of the premises in accordance with the terms and conditions of his employment where such terms and conditions require him to vacate the accommodation upon ceasing so employed;
- (d) a domestic tenancy, endorsed by the Commissioner of Rating and Valuation, of a fixed term of less than one year or more than five years;
- (e) a non-domestic tenancy for a fixed term of three years or more, the agreement for which contains no provision for earlier determination of the same other than for breach of any of the provisions of the

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hillsides. There are five such areas in Hong Kong housing about 1,370 people. They will be cleared by 2001.

agreement;

(f) a tenancy held from the government; and

(g) other tenancies as stipulated under section 121 of the Ordinance.

Under Section 119V of the Ordinance, acts of harassment committed with the intent to evict the tenant of domestic premises are punishable by fines or imprisonment. A person who commits such an offence is liable to a fine of \$500,000 (about US\$64,000) and - in addition - on subsequent conviction, to imprisonment for 12 months. Furthermore, a court may order the forfeiture of a sum not exceeding the difference between the market value of the premises where vacant possession was given and that of the premises of which the former tenant was still in possession. If it is proved that the tenant's interest is unduly affected, a court may also grant compensation to the tenant.

Under section 119H of the Ordinance, similar penalties will be imposed on landlords who breach the restrictions imposed on repossession orders issued by a court for the purpose of rebuilding or self-occupation.

### **Article 12: The right to physical and mental health**

**32. To what extent do the measures taken by the Government and NGOs described in paragraphs 434-436 satisfy the needs of the mentally disabled residing in HKSAR?**

**Reply:** The aim of the measures described in the report is to reduce the number of relapses and admissions, and to improve patients' quality of life. Ultimately, the goal is to enable patients to return to the community as soon as possible after treatment and rehabilitation, and to live independently as full participating members of the community. To those ends, the services

described in the report are designed to meet the needs of patients at different stages of the treatment/rehabilitation process. Thus -

- the infirmary beds, residential places and day activity centres - referred to in paragraph 434 - meet the needs of patients with severe mental disability;
- the long stay care homes referred to in paragraph 434 meet the needs of patients with chronic mental illness;
- the sheltered workshops and residential places referred to in paragraphs 434 and 436 meet the needs of the moderately mentally ill who are not yet ready for open employment. They also provide supported employment by way of preparation for those who are trying to take up open employment; and
- the halfway houses referred to in paragraphs 434 and 435 provide the necessary training and support services to enable discharged patients to live as far as possible in a normal home environment, so easing their reintegration into the community.

These services help to reduce the adverse effects of inactivity, whether at home or in institutions. They also help patients to develop their social and economic potential and to progress through the various stages of recovery towards full recovery. Current provision meets about 70% of demand. Thus, we have been increasing the number of places and will continue to do so with a view to eventually meeting demand in full.

**33. Please discuss the outcome of the recently completed review of the health care financing system. (Paragraph 456 of the report)**

**Reply:** the review was undertaken on a consultancy basis by the Harvard University School of Public Health. Its purpose was to recommend measures to improve the long-term financial sustainability of Hong Kong's health care

system in view of our ageing population, escalating health care costs, and rising public expectations. Its findings were published in a report that was the subject of public consultations held between April and August 1999.

The report generated considerable debate, attracting about 2,200 written submissions from health care professionals, academics, community organisations, political parties, and the general public. Views on specific proposals were divided. But the general consensus was that there was that there was a need for change to ensure that our health care system can continue to meet the community's medical needs.

On the basis of feedback from the consultations and discussions with the various stakeholders, we recently published a further consultation document on health care reform. The document puts forward strategic proposals for reforming the three main pillars of our health care system, namely service delivery, quality assurance and long term financing arrangements. The consultations will be held over a period of three months.

**34. Please discuss the effects of pollution on the health of the population, and the measures undertaken by the Government to address these negative effects.**

**Reply:** Public concern about air pollution has mounted in Hong Kong following the large number of very high pollution readings in 1999 and the prolonged and record breaking levels of March 2000. Of all the pollutants in the air, respirable suspended particulates and nitrogen oxides are consistently at a high level and pose the greatest threat to the health of the Hong Kong public. We are keenly aware of the severity of the problem and are making every effort to reduce these pollutants.

In the urban area, 75% of the respirable suspended particulates and 80% of nitrogen oxides come from vehicles. Diesel vehicles account for 98% of the

respirable suspended particulates and 80% of all nitrogen oxide emissions from vehicles. We have formulated a comprehensive plan to reduce emissions from diesel vehicles. This requires all newly registered vehicles to comply with the most stringent emission standards whenever technologically practicable and available, and to adopt high quality fuel whenever it can be made available to Hong Kong.

The comprehensive programme to improve air quality includes -

- (a) **Liquefied Petroleum Gas (LPG) Taxi Scheme** : replacing all diesel taxis with LPG taxis would reduce vehicle fleet emissions of respirable suspended particulates and nitrogen oxide by up to 25% and 6% respectively. To encourage the switch, we provide a subsidy of HK\$40,000 (US\$5,000) for each diesel taxi that is replaced by an LPG one. Our target is complete replacement by end-2005;
- (b) **alternative fuel light buses**: we are carrying out a trial of LPG and electric light buses. If the scheme proves successful, we will provide financial incentives for a future replacement programme;
- (c) **particulate traps for light vehicles**: we are providing financial assistance to retrofit particulate traps or catalytic converters all light diesel vehicles that do not comply to Euro-emission requirements. This will reduce their emissions of particulate by at least 20%;
- (d) **catalytic converters for heavy vehicles**: we are conducting a trial of different types of catalytic converters. We will provide financial assistance to retrofit catalytic converters on all heavy diesel vehicles that do not comply with Euro-emission requirements;
- (e) **fixed penalty for smoky vehicles**: on 1 December 2000, we increased the fine on vehicles emitting excessive smoke by more than 100%;
- (f) **Ultra Low Sulphur Diesel (ULSD)**: in July 2000, Hong Kong became

the first city in Asia to introduce ULSD - an environmentally cleaner diesel for use in all diesel vehicles. To encourage a quick switch, we have introduced a concessionary duty on ULSD to make the retail price of this more expensive fuel competitive with that of regular motor diesel. All petrol filling stations have been supplying ULSD since August 2000; and

**other initiatives:** other ideas will be explored further. These include the imposition of controls over idling engines, pedestrianisation, incentives for cleaner fuel vehicles, restraining vehicle numbers and road use and reducing emissions from non-vehicle pollution sources. Air emissions from power generation are also being reduced as new generating capacity uses natural gas rather than coal.

### **Water Pollution**

The greatest threat posed to general health by water pollution is contamination of potable water supplies. In Hong Kong, piped supplies of water are treated to meet WHO standards so this threat effectively does not exist. Other potential threats are posed principally by contamination of recreational waters and marine and freshwater biota used for human consumption.

Hong Kong's inland water quality has improved dramatically in the last 15 years or so with the percentage of river sampling stations graded bad or very bad declining from about 53% in 1987 to about 17% in 1999. Those 17%, however, remain severely polluted, mainly by waste discharges from the livestock industry. We are considering how to deal with this remaining problem.

Beach water quality in Hong Kong is generally good. In 1999, 35 of 41 publicly managed beaches met our objective for water quality (an annual average *E. coli* concentration of no more than 180 per 100mL of seawater).

At this level swimmers face no more than a 1% risk of contracting a minor illness. The equivalent risk at the remaining six beaches stood at no more than 1.5% in 1999. We are working to reduce this further by extending mains sewerage to public beaches in unsewered areas.

The quality of Hong Kong's marine waters remains patchy, with Deep Bay and Victoria Harbour suffering severe pollution. In Deep Bay, the main problems are pollution by domestic sewage from unsewered villages, and waste discharges from livestock farms. We are gradually extending mains sewerage systems to unsewered areas. As indicated above, we are considering how to deal with the livestock waste issue.

The poor water quality in Victoria Harbour is caused by the discharge each day of approximately 1.5m tonnes of domestic and commercial sewage, of which 1.2m tonnes receive only rudimentary treatment. To deal with this, we are constructing a system of deep tunnels that will capture 70% of the sewage for chemical treatment prior to discharge through a deep-tunnelled marine outfall. We are reviewing how best to handle the remaining 30% of the sewage, and whether the treatment level for all sewage should be raised. In addition, we are planning to disinfect all our major sewage discharges.

Threats due to contamination of local biota are very low. Strict controls on the discharge of toxic pollutants are in place. The imposition of these controls and other factors have led to a decline in the quantity of toxic metals discharged into Victoria Harbour from about three tonnes per day in 1995 to less than half a tonne per day in 2000.

**Article 13 - 14: The right to education**

**35. Please indicate whether any special action or policy has been adopted by the Government in an effort to increase the literacy rate, at 90.5% in 1996 according to paragraph 68(d) of the Core document.**

**Reply:** As a matter of law and of policy, all children between the ages of six and 15 receive nine years' universal (that is, free and compulsory in terms of Article 13) education. Additionally, we are raising the overall educational level through adult education courses (which include basic and post-basic literary courses) run by both the Education Department and by subvented non-government organisations.

Gradually, these measures are raising our literacy rate towards 100%. But factors that are largely beyond our control will ensure that full literacy remains elusive for the foreseeable future.

**Government of the Hong Kong Special Administrative Region**

**People's Republic of China**

**January 2001**