

**Second Report of the Hong Kong Special Administrative Region
in the light of the International Covenant on Civil and Political Rights**

**Meeting of Legislative Council
Panel on Home Affairs on 10 March 2006**

— Submission from the Equal Opportunities Commission —

Introduction

1. Before the Second Report on the Hong Kong Special Administrative Region (HKSAR) of People's Republic of China in the light of the International Covenant on Civil and Political Rights is to be considered by the relevant United Nations (UN) Committee in March 2006, the Equal Opportunities Commission (EOC) would like to submit the following comments to the Panel on Home Affairs for Members information.

Annual Progress Report on the Covenant

2. Formerly reports under the Covenant were required every five years but this was changed to a "case by case basis" in 1999. The HKSAR's first report under the Covenant was submitted to the UN in early 1999 and was heard by the UN Human Rights Committee in November that year. The HKSAR's second report under the Covenant was submitted to the UN in January 2005 and the related hearing will not be held until March 2006, i.e. six years after the hearing of the first report.

3. Given the long reporting cycle, the EOC proposes that the Government systematically monitors the measures it has adopted to implement the rights under the Covenant and reports on its progress on an annual basis for consideration and discussion by the Legislative Council, non-governmental organisations (NGOs) and the wider public.

Review of the Sex Discrimination Ordinance (Article 3 of the Covenant)

4. In 1999, the EOC completed a review of the Sex Discrimination Ordinance (SDO) and submitted a report to the Government. The report proposed 14 amendments to -

- (a) clarify the application of certain provisions;
- (b) 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) remove certain exceptions;
- (d) provide the EOC with additional powers and means to handle discrimination; and
- (e) amend certain headings and some parts of the Chinese text.

5. In its second report under the International Covenant on Economic, Social and Cultural Rights (ICESCR) submitted to the UN in early 2005, the Government said it had accepted many of the EOC's proposals for the amendment of the SDO

and were actively considering how to take them forward. No progress, however, is made so far in relation to these proposed amendments. The EOC strongly urges the Government to introduce the proposed amendments as soon as possible.

Provision of Accessible Polling Stations (Article 25 of the Covenant)

6. During the Legislative Council elections held in September 2004, it was revealed that only 287 (57%) out of the 501 polling stations set up for the elections were accessible to mobility impaired persons. It is provided in the electoral legislation that if a person with a disability is allocated to a polling station unsuitable for his/her use, he/she may make a request, not later than five days before the polling day, to the Registration and Electoral Office (REO) for relocation to a special polling station in his/her constituency.

7. The EOC takes the view that the Government has an obligation to ensure polling stations are accessible to voters who are mobility impaired. The current arrangement of making a request to the REO not later than five days before the polling day for relocation to a special polling station is an additional requirement that imposes on mobility impaired voters only. If a mobility impaired voter for some reason fail to note in time the “five-day requirement”, which is specified on the map attached to the poll card, or if the location or characteristics of the voting venue to which the voter has been allocated do not come to the knowledge of the voter in time, it may result in them being unable to exercise their voting right. Voters who become mobility impaired less than five days before the polling day (e.g. due to accident) could also be denied of their voting right due to this additional requirement.

8. The EOC urges the Government to identify more venues accessible to mobility impaired persons for use as polling stations in future. Accessibility to

disabled persons should as far as possible be a standard criteria in the selection of polling stations. For those “inaccessible” polling stations, special facilities such as temporary ramps or stair climbing devices should be provided by the REO, and the nature of the “inaccessibility” should also be stated on the poll card to facilitate the disabled voter in making personal arrangements to attend to the exercise of his/her civic duty in an election.

Family-friendly Employment Policies and Practices (Article 26 of the Covenant)

9. It is generally recognised that Hong Kong is a high stress city. The effect of working in a stressful environment gives rise to adverse social impact, which in turn generates demand on societal resources to address those impacts. In the past few years, there is growing concern in Hong Kong over the lack of work-life balance and calls have increased for a more family friendly working environment. In a written submission to the Panel on Home Affairs meeting held in April 2003, the EOC urged the Government to set example by developing family-friendly employment policies and practices (FEPP) within the Civil Service and to actively encourage private sector employers to follow.

10. It is encouraging to note the Government is now actively considering the introduction of five-day workweek to the Civil Service. The EOC supports the initiative. For Members information, in January 2006 the EOC and the Women’s Commission (WoC) have jointly commissioned a study on FEPPs in Hong Kong. The study aims to investigate the prevalence of FEPPs in Hong Kong; examine the gap between what are provided by employers currently and what are expected by employees; and how to bridge these gaps. The study is targeted to complete in mid 2006 and findings and recommendations of the study would be released for public’s information and discussion.

Proposed Race Discrimination Legislation (Article 26 of the Covenant)

11. According to an information paper provided by the Administration to the Legislative Council recently (LC Paper No. CB(2)1003/05-06(01), a number of new exceptions and exemptions, in addition to the ones provided for under the three existing anti-discrimination legislations, would be introduced under the proposed race discrimination law. Whilst acknowledging that implementation of the proposed legislation would have an effect (in some cases, significant effect) on certain existing policies and practices of affected parties and institutions, the EOC considers that, as far as possible, the use of exceptions or exemptions in dealing with such policies and practices should be limited. The EOC believes that the integrity of the anti-discrimination principle enshrined in the proposed legislation should be the primary and guiding objective in the exercise.

12. The EOC considers that extensive use of exceptions is inconsistent with the spirit of non-discrimination and the original intent of eliminating all forms of racial discrimination.

Anti-discrimination Laws to cover Age and Sexual Orientation (Article 26 of the Covenant)

13. Currently, there is no law in Hong Kong that deals with discrimination on the grounds of age and sexual orientation. The EOC reiterates its proposal to the Government to legislate against discrimination on the grounds of age and sexual orientation in order to meet its international obligations.

Need for a Mental Health Council (Article 26 of the Covenant)

14. Latest World Health Organisation estimates of the global burden of disease

indicate that mental health and behavioural disorders represent five of the top ten leading disease burdens. The economic and social impact of this burden on society is tremendous. Health and social service costs and loss of production due to high unemployment rates among people with mental illnesses and their families, are some of the more obvious and measurable costs. All too frequently, however, mental illnesses are not given appropriate priority considering the burden they cause and the fact that affordable, effective treatments exist. To improve the mental health of our population, it is essential that the Government formulates and invests in a coherent and comprehensive strategy.

15. EOC's previous proposal to set up a Mental Health Council to coordinate policy formulation, programme delivery, research and public education in the area of mental health was considered by the Government. The position of the Government is that the Department of Health, the Health, Welfare and Food Bureau and the Hospital Authority (HA) work closely together to provide the necessary services and support for the treatment and rehabilitation for persons with mental illness. It considers the present system works effectively and sees no strong need for the establishment of a Mental Health Council.

16. A quick review reveal of the chapter entitled "Services for Mentally Ill Persons" of the "Rehabilitation Programme Plan (1998-99 to 2002-03)", the only policy document available at present outlining Government's policy and strategy on mental health services, revealed that it only covers five major topics, namely definition, prevalence, estimated number of mentally ill persons, description of types of services available and issues of concern. Other areas for action such as financing, intersectoral collaboration, advocacy, information systems, research and evaluation of policies and services, quality improvement, human resources and training, human rights etc are not addressed in the document. Given the Government's position that there is no strong need for the establishment of a Mental

Health Council, EOC strongly urges the Government to formulate a more comprehensive strategy on mental health in consultation with users and stakeholders under the current Review of Hong Kong Rehabilitation Programme Plan.

Equal Opportunities Commission

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