

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

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

— **Submission from the EOC Concern Group** —

I. Our comments to the HKSAR Second Report are as follows:

1. We reproduce below an extract of the HKSAR government's report. At page 13 of Part II under the heading Report on Implementation of Parts I, II and III and Article 40 of the Covenant, it is stated that:

Review of the Equal Opportunities Commission (EOC)

22. The EOC's functions are as explained in paragraph 23 of the initial report, in relation to Article 2 of the Covenant. In order to perform its functions more efficiently and effectively, the EOC commissioned consultants to review its complaint handling procedures, organisational structure and other related matters. The review was completed in 2002 and the EOC has taken its recommendations forward 5. In so doing, it has tightened its investigation and conciliation procedures with a view to greater efficiency."

2. We wish to point out that as a human rights body accountable to the public, the EOC has persistently failed to respond to calls from members of the Legislative Council to make public two internal review reports into the problems of the EOC for the sake of transparency and accountability. Please see below extract from the minutes of meeting of the Home Affairs Panel of the Legislative Council of 13 January 2006.

"51. Ms Emily LAU, Dr Fernando CHEUNG and Mr LEUNG Kwok-hung considered that the two reports should be released for the sake of transparency and accountability.

53. Mr LEUNG Kwok-hung expressed dissatisfaction that he had requested EOC to release the reports almost a year ago and it was only until the previous day that he had received a reply letter from C/EOC refusing his request. Mr LEUNG considered that EOC's decision was a complete disrespect for LegCo and it had deprived LegCo Members of their right to read the two reports. He queried why EOC had classified the two reports as confidential documents and whether EOC had anything to conceal in deciding not to release the two reports."

3. The refusal is unreasonable and goes against the Seven Principles of Public Life on “Accountability” and “Openness” .¹ We wish to say that the HKSAR Government had acted with openness and transparency in dealing with the problems at the EOC. It revealed in full the contents of the “Report of the Independent Panel of Inquiry on the Incidents relating to the Equal Opportunities Commission (EOC)” .
4. We are astounded to find out that the EOC took one year to respond to a request by a Legislative Council member for information from the EOC, for which we demand an explanation and an investigation by the Ombudsman.

II. Our comments to the EOC's Submissions are as follows:

1. We reproduce below an extract of the EOC's submissions. At page 3 of its submissions, it is stated that:

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, (inter alia), provide the EOC with additional powers and means to handle discrimination.”

2. We are indeed surprised to learn that the EOC requested for additional powers and means to handle discrimination. In the three ordinances enforced by the EOC, there is power for the EOC to prescribe forms for questioning the respondent to help aggrieved persons². So far, we have not seen these forms being used or prescribed by the EOC. The EOC has sufficient powers already but is not using them. Giving additional powers is undesirable in the EOC's case because there is no effective and independent appeal or review body to monitor how EOC exercises its powers at the moment.

¹ **"Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.”

"Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.”

² **Help for persons suffering discrimination, harassment or vilification:**

(1) With a view to helping a person ("the person aggrieved") who considers he may have been discriminated against or harassed in contravention of this Ordinance, or the subject of an unlawful act under section 46 or 47, to decide whether to institute proceedings and, if he does so, to formulate and present his case in the most effective manner, the Commission may prescribe-

(a) forms by which the person aggrieved may question the respondent on his reasons for doing any relevant act, or on any other matter which is or may be relevant;

(b) forms by which the respondent may if he so wishes reply to any questions.

3. We extract below the EOC's submissions. At page 6, it is stated that:

16. A quick review reveal (our underline) 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."

4. We do not understand the words underlined in the above paragraph. We guess that it is a typo mistake but we cannot be sure. This is such an important document as it is tendered before Honorable Members of the Legislative Council. We hope the EOC proof-reads important documents such as this beforehand. The EOC must remember that it spends public revenue and its standard of work must meet basic requirement.
5. In the past, the EOC was criticized for bad English in a legal document. Please see attached documents. It has obviously not learned from its mistakes, which is a great shame.[↖]

The newspaper cuttings attached to this submission have previously been issued to members vide LC Paper No. CB(2)2216/04-05(01) on 7 July 2005 [a submission provided by the EOC Concern Group for the Panel meeting on 8 July 2005].

The EOC Concern Group
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