

Legislative Council Panel on Home Affairs

**Hearing of the United Nations Committee on the Elimination of
Discrimination against Women on the Second Report of the Hong Kong
Special Administrative Region under the Convention on the Elimination of
All Forms of Discrimination against Women**

Introduction

This paper informs the Panel on the Administration's arrangements for the upcoming hearing of the second report of the Hong Kong Special Administrative Region (HKSAR), as part of the report of the People's Republic of China, under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Background

2. The HKSAR submitted its initial report on the CEDAW, as part of China's report, to the United Nations (UN) in August 1998. The report was considered by the UN Committee on the Elimination of Discrimination against Women (the CEDAW Committee) in February 1999, and the concluding observations of the Committee on the HKSAR's report is at **Annex A**. The Administration responded to the concerns and recommendations raised therein in the HKSAR's second report, which was submitted, as part of China's report, to the CEDAW Committee in January 2004. The report is available on the websites of the Health, Welfare and Food Bureau at <http://www.hwfb.gov.hk> and the Women's Commission at www.women.gov.hk.

The Hearing

3. The hearing on the China's report, including the HKSAR's second report, has been scheduled for 10 August 2006 in New York. A HKSAR delegation, as part of the Chinese delegation, will attend the hearing to answer questions by the CEDAW Committee. The HKSAR delegation, to be led by the Permanent Secretary for Health and Welfare, will comprise the Chairperson of the Women's Commission and representatives of relevant bureaux and departments.

4. We understand that the CEDAW Committee will likely focus on the list of issues published in February 2006 (copied at **Annex B**). We have compiled a response to the list which, together with inputs from the Macao SAR, will form part of China's overall reply to the CEDAW Committee. We will make public the HKSAR's response to the list upon confirmation that it has been submitted to the UN Secretariat.

5. Members of the HKSAR delegation will be selected on the basis of their knowledge of the issues that we believe are mostly likely to be of interest to the CEDAW Committee. The aim is to ensure that, as far as practicably possible, we are in a position to respond to the CEDAW Committee's questions on the spot. Should we be unable to answer a particular question on the spot, we will undertake to provide written reply.

6. After the hearing, we will make the CEDAW Committee's concluding observations public as soon as they are available.

Health, Welfare and Food Bureau

June 2006

**Concluding Comments of the Committee on the
Elimination of Discrimination against Women
on the Initial Report on the HKSAR under
the Convention on the Elimination of
All Forms of Discrimination against Women**

**[Extracted from the report of the
Committee on the Elimination of Discrimination against Women
on the Twentieth session (19 January – 5 February 1999)]**

China

251. The Committee considered the combined third and fourth periodic reports of China (CEDAW/C/CHN/3-4 and Corr.1 and Add.1 and 2) at its 419th to 421st meetings, on 1 and 2 February 1999 (see CEDAW/C/SR.419-421). Addendum 2 to the third and fourth periodic reports covered the implementation of the Convention by the Government of the Hong Kong Special Administrative Region, over which the Government of China resumed the exercise of sovereignty on 1 July 1997.

[paragraphs 252-257 deal with the third and fourth periodic report of China]

258. The representative of the Hong Kong Special Administrative Region, in introducing the initial report of the Hong Kong Special Administrative Region (CEDAW/C/CHN/3-4/Add.2), noted that the Government of China had resumed the exercise of sovereignty over Hong Kong, with effect from 1 July 1997, under the principle of “one country, two systems”. The Convention had been extended to Hong Kong on 14 October 1996 and had remained in force since the reunification on 1 July 1997.

259. The representative noted that the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, the constitutional document of the Region, included a list of fundamental rights and freedoms of residents and other persons in the Region, applicable to women and men. The Basic Law also provided for the continuing application of the International Covenant on Civil and

Political Rights and the International Covenant on Economic, Social and Cultural Rights, and the Hong Kong Bill of Rights Ordinance.

260. The representative explained that in the period between 1996 and 1998, a legislative review had been undertaken leading to the enactment of a number of amendments and ordinances to eliminate discriminatory or unfair treatment of women. The rights of women were also protected by legislation that included the Sex Discrimination Ordinance (1995) and the Family Status Discrimination Ordinance (1997). The Equal Opportunities Commission, an independent statutory organization established in 1996, was responsible for the elimination of discrimination and the promotion of equality between women and men, for enforcing the anti-discrimination ordinances and for handling complaints.

261. The Government's Policy Groups, chaired by the Chief Secretary for Administration and attended by senior representatives of the policy bureaux, ensured coordination among the various bureaux on all matters concerning women.

262. The improvement of the position and status of women in Hong Kong was apparent in different areas. In 1997, women accounted for 39 per cent of the total working population and made up 33 per cent of the civil service. Women also occupied two out of the three highest ranking government posts. Almost a third of the members of the Executive Council were women. Women made up between 21 and 36 per cent of the legal, accounting and medical professions.

263. The Government of the Hong Kong Special Administrative Region was committed to providing equal access to and opportunities in education, which included nine years of free and universal basic education. More than half the university graduates in 1997 were women.

264. Women's health remained a government priority, and a range of health-care services was available to women, including with regard to reproductive health. Hong Kong's infant mortality rate was among the lowest in the world, and women's life expectancy was 82.2 years.

265. The representative noted that China had entered seven reservations and declarations in respect of the application of the Convention to Hong Kong. These would be kept under review.

266. In conclusion, the representative welcomed the Committee's views and suggestions in support of the full implementation of the Convention.

Concluding comments by the Committee: China

Introduction

[paragraphs 267-268 deal with the third and fourth periodic report of China]

269. The Committee commends the Government for having sent a high-level and large delegation that included specialists from different departments of the central Government, as well as the Hong Kong Special Administrative Region, headed by the Permanent Representative of China to the United Nations.

[paragraphs 270-307 deal with the third and fourth periodic report of China]

Concluding comments by the Committee: Hong Kong Special Administrative Region

Introduction

308. The Committee expresses its appreciation to the Government of China, Hong Kong Special Administrative Region, for submitting, in a timely manner, an extremely well-structured and informative initial report. It commends the Government on its oral presentation of the report and for the detailed oral and written replies, including statistical information, to the questions posed by the Committee.

309. The Committee notes that there are many non-governmental organizations working actively in Hong Kong for the full implementation of the Convention.

Positive aspects

310. The Committee commends the Government of China for the continuing applicability of the Convention to the Hong Kong Special Administrative Region following resumption of Chinese sovereignty over Hong Kong on 1 July 1997 under the principle of "one country, two systems". It notes that the Government has disseminated the Convention, including through the Internet.

311. The Committee welcomes the guarantee of human rights and fundamental freedoms of women and men, contained in the Hong Kong Basic Law and in the Bill of Rights Ordinance. It also notes the recent adoption and revision of laws to eliminate discrimination against women. The Committee commends, in particular, the Sex Discrimination Ordinance of 1995 and the establishment thereunder of the Equal Opportunities Commission as an independent statutory body and with adequate resources, responsible for addressing complaints on discrimination and promoting gender equality through public education and other means.

312. The Committee welcomes the recent judicial decision which has enforced the right to non-discrimination by recognizing that a non-marital child can claim residence in the Hong Kong Special Administrative Region on the basis of the residence rights of either her mother or father.

313. The Committee expresses satisfaction at the high level of literacy and the universal system of free education.

Factors and difficulties affecting the implementation of the Convention

314. The Committee notes with concern that China has entered seven reservations and declarations in respect of the provisions of the Convention as applied to Hong Kong. Of particular concern is the reservation exemption “the affairs of religious denominations or orders” from the scope of the Convention.

Principal areas of concern and recommendations

315. The Committee expresses concern that the Basic Law does not contain a prohibition of discrimination against women.

316. The Committee recommends the adoption of a constitutional definition of discrimination, both direct and indirect, to complement the prohibition of discrimination in civil law under the Sex Discrimination Ordinance.

317. Notwithstanding the important mandate and valuable work of the Equal Opportunities Commission, the Committee is concerned about the absence of a governmental mechanism for the advancement of women in Hong Kong charged with the pro-active development of policy and long-term strategies on gender equality.

318. The Committee recommends that the Government of the Hong Kong Special Administrative Region establish a high-level central mechanism with appropriate powers and resources to develop and coordinate a women-focused policy and long-term strategy to ensure effective implementation of the Convention.

319. The Committee expresses concern that the electoral system of the Region contains structural obstacles to the equal political participation of women, which is indirect discrimination against women, especially with respect to the functional constituencies.

320. The Committee urges the Government to take all measures necessary to ensure the equal representation of women in all constituencies, including rural committees, on the basis of the principle of universal and equal suffrage, in accordance with the Committee's general recommendation 23.

321. The Committee notes the low representation of women in governmental advisory boards and statutory committees, as well as in the civil service and the judiciary.

322. The Committee recommends that the Government make use of affirmative action and temporary special measures in accordance with article 4, paragraph 1, of the Convention to realize women's right to participation in all areas of public life and particularly at high levels of decision-making. It also recommends that the Government study the experience of other countries in using quotas, timetables for achieving specified goals and databases on women candidates, with a view to applying them in Hong Kong.

323. The Committee is concerned that the Domestic Violence Ordinance applies only to physical abuse in marital relations, and that it does not provide for counselling and treatment of offenders. It also notes with concern that the report does not contain information on rape and that marital rape is not considered a criminal offence in the Hong Kong Special Administrative Region.

324. The Committee recommends that the Government enhance services for survivors of domestic violence, including domestic workers, with a view to their empowerment and rehabilitation, including through psychological counselling, legal aid and temporary shelter and appropriate health services. The Committee also urges

the amendment of existing legislation to include marital rape as a criminal offence. It requests the Government to provide information on sexual crimes, including rape and marital rape, in its next report under article 18 of the Convention.

325. The Committee notes that while prostitution itself is not unlawful, provisions to ensure the health and safety of sex workers are unclear, and there may be discrimination against women in the enforcement of related crimes.

326. The Committee recommends that adequate regulations to protect women sex workers be put in place and enforced. It also recommends that the Government monitor the links between the presence of migrant women, a regulatory approach to prostitution and trafficking in women.

327. The Committee commends efforts to develop a standard labour contract for migrant workers with provision for minimum wages, but it is concerned that these workers can be exposed to abuse and custodial violence.

328. The Committee recommends that the Government monitor and take action to protect women migrant workers from abuse and violence, as well as to prevent such violence.

329. Noting that over 50 per cent of recent university graduates were women, the Committee is nevertheless concerned at the degree of segregation in the educational specialization of women and men and at the low percentage of women in the higher levels of the teaching professions and academia.

330. The Committee recommends the adoption of temporary special measures aimed at increasing de facto equality between women and men within the meaning of article 4, paragraph 1 of the Convention, to increase the number of women in non-traditional areas of education, especially in science, technology and engineering, and to promote women from junior and auxiliary positions in teaching and academia to senior positions. It urges the Government to address the perpetuation of gender stereotypes and to allocate adequate resources for gender studies programmes.

331. Noting the growing participation of women in the formal economy and the low level of unemployment of women, the Committee is nonetheless concerned about the large discrepancies in wages earned by men and women. The Committee is also concerned about the highly disproportionate number of women in the lowest wage

levels, especially given the absence of minimum wages laws. The Committee is also concerned that the contraction of the manufacturing sector affects particularly low-skilled women.

332. The Committee recommends that the principle of equal pay for work of equal value be included in relevant legislation and that criteria be established to determine the measure of equal value in a largely gender-segregated labour market.

333. The Committee encourages the Government to review regularly the reservations entered to the Convention. It urges the Government to amend all laws that are incompatible with the Convention, including those relating to immigration and to pension schemes, with a view to removing the relevant reservations. In particular, it encourages the Government to eliminate discrimination against indigenous women following its review of the small house policy. The Committee also encourages the Government to re-examine the reservation relating to the favourable treatment of women in respect of labour law protection of pregnancy and maternity, which might well be in accordance with articles 4, paragraph 1, and 11, paragraph 2, of the Convention, as well as that regarding religious denominations.

334. The Committee invites the Government to hold public consultations with non-governmental organizations in the process of the implementation of the Convention and when preparing its second periodic report.

335. The Committee requests the Government of China and the Government of the Hong Kong Special Administrative Region to provide information addressing the concerns raised in the present concluding comments in the next periodic report required under article 18 of the Convention.

336. The Committee requests the wide dissemination in China and the Hong Kong Special Administrative Region of the present concluding comments, in order to make the people of China and the Region, and particularly its government administrators, politicians and senior level cadres aware of the steps that had been taken to ensure de jure and de facto equality for women and further steps that are required in that regard. It also requests the Government to continue to disseminate widely, and in particular to women's and human rights organizations, the Convention, the Committee's general recommendations and the Beijing Declaration and Platform for Action.

United Nations

CEDAW/C/CHN/Q/6

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of All Forms of Discrimination
against Women**Distr.: General
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**Committee on the Elimination of Discrimination
against Women**
Pre-session working group
Thirty-fifth session
7-25 August 2006**List of issues and questions with regard to the
consideration of periodic reports****China**

The pre-session working group examined the combined fifth and sixth periodic report of China and its two addenda (CEDAW/C/CHN/5-6 and Add.1 and 2).

Constitution, legislation and status of the Convention

1. The report indicates that there is no definition of discrimination in China's laws (part II, discussion of article 1). What is the impact of this lack of definition on China's compliance with its obligations under the Convention?
2. In its previous concluding comments, the Committee recommended that China enhance the structure, authority and resources of its national machinery.¹ Please provide information on the steps taken in response to that recommendation.
3. Please provide an overview of the content and number of complaints dealt with by courts and tribunals relating to violations of women's rights since the consideration of the previous report, including cases in which reference was made to the Convention.
4. The report refers to the five-year programme and ten-year programme as well as the result of mid-term and end-term evaluations of the implementation of the five-year programme for the development of Chinese women (see part II, discussion of article 3). Please describe the process used for promulgation of these programmes and conducting these evaluations, and what ministries and levels of Government were involved.

¹ *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 38 (A/54/38), Part I, para. 282.*

5. The report describes the implementation of the ten-year programme, including the responsibilities of various levels of Government (see part II, discussion of article 3). It also gives an indication of the monitoring and evaluation system. Please describe the coordination mechanism in place between the central and local levels and mechanisms in place to undertake corrective measures in programme implementation.

Trafficking and exploitation of prostitution

6. In its previous concluding comments, the Committee recommended that the Government investigate reports of local officials' involvement in trafficking and the exploitation of prostitution.² The Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences, has drawn attention to the issue of internal trafficking in women in China (E/CN.4/2003/75/Add.1, para. 964). Please describe in detail the efforts undertaken to address this issue at the national, provincial and municipal levels, including funding allocated.

7. Please provide details about the implementation of the amended Criminal Procedure Law and Criminal Law (see part II, discussion of article 6). In particular, please provide information about the number of cases brought, the number of convictions and the penalties handed down for the various crimes listed. Please also indicate trends in those data over the last five years.

Violence against women

8. The report notes that the new Marriage Law of 2001 explicitly prohibits domestic violence. It also indicates regulations on domestic violence adopted by a number of provinces and municipalities. Kindly provide details about the forms of violence covered in this law and the penalties for such violence, as well as the use, by victims, of this law since its adoption in 2001. Also, please provide information regarding whether the ten-year programme includes plans to combat violence against women.

9. Please provide statistical data on domestic and sexual violence against women in the urban and rural areas of each province.

Participation in political and public life

10. The report gives an overview of women in political decision-making (see table A.6). It is not clear how the information provided on pages 24 and 25 of the report relates to this table. In particular, information about the number of women in senior leadership positions and in core leadership teams is not provided as a percentage in relation to the share of men holding such positions. Please provide such comparative data for senior level decision-making positions at central and provincial levels, as well as trends over the last five years.

11. The report indicates that, with the introduction of direct elections of village committees, the percentage of women serving on village committees decreased slightly and that remedial by-elections had to be held in some villages since no women candidates had been elected (see pp. 26 and 27). What lessons have been

² Ibid., para. 291.

drawn from these results and what systemic changes is the Government contemplating to strengthen women's participation in public life?

Stereotypes and education

12. The Committee, in its previous concluding comments³ recommended that school textbooks and curricula be revised to eliminate gender stereotypes. Please provide an update on the implementation of this recommendation and, in particular, indicate how the principle of equality between women and men has been incorporated in the new curriculum referred to on page 33 of the report.

13. Please indicate whether sex education and health education are included in the school curricula and at which levels.

Employment

14. The report refers to China's transition to a market economy. Please provide information on the extent and conditions of women working in the informal sector and measures in place to support the economic empowerment of this group of women.

15. Please provide information, broken down by sex, on the participation rates of men and women in unemployment, pension and medical insurance schemes (see p. 39). Please also describe any measures undertaken to increase the number of women workers enrolled in these schemes.

16. The report states that "more emphasis is being placed on reforming the wage distribution system within enterprises, so that (...) the principle of equal pay for equal work is applied to both men and women" (see p. 40). Please describe the concrete measures taken to implement this principle in the public and private sectors and include sex-disaggregated data on average wage levels by sector and level of employment.

17. The report describes the establishment of a maternity insurance system (p. 40). It indicates that only 10 per cent of female workers participate in this system. Please describe this system in more detail. In particular, please indicate any plans that might exist, including a timetable, to ensure that all women workers are covered by the system.

18. Describe any laws and/or regulations to prevent and punish sexual harassment in the workplace.

Health

19. In spite of China's recent efforts to combat sex-selective abortions and infanticide of baby girls, the 2000 census in China showed 117 boys born for every 100 girls (report of the Special Rapporteur of the Commission on Human Rights on the right to education, E/CN.4/2004/45/Add.1, para. 23). Please describe the concrete measures in place to ensure full adherence to the Law on Population and Family Planning of 2001, as well as cases brought under the law since 2001 and sanctions imposed on offenders.

³ Ibid., para. 295.

20. Please describe and analyse the most recent trends in the spread of HIV/AIDS among women in China. In particular, please indicate steps taken to address the growing spread of the epidemic among heterosexual women.

21. Please illustrate how the administration of birth registration has been strengthened at the local level (see p. 48). What measures is the Government taking to ensure basic health care and education for unregistered girls?

Rural women

22. The report refers to the decreasing share of agricultural employment, and to the accelerated structural adjustment of the rural economy (see pp. 52 and 53). It also refers to the obstacles and challenges rural women face (see p. 58). Please provide an overview of targeted measures taken in support of women in the most disadvantaged rural areas.

23. The report refers to the 1999-2000 round of land contracting. Please describe in detail the "problem of discrimination against women that has occurred in certain areas" (see p. 52 and 53), and the concrete measures taken by the Government to implement article 30 of the Law on the Protection of Rights and Interests of Women and the 2002 Rural Land Contracting Law.

24. In response to the Committee's recommendation in its previous concluding comments,⁴ please provide detailed sex-disaggregated information on women from ethnic minorities, particularly the Uyghur and Tibetan people.

Optional Protocol

25. Please indicate any progress made with respect to ratification of or accession to the Optional Protocol to the Convention.

Hong Kong⁵

Trafficking and exploitation of prostitution

26. Please provide information on measures taken to combat trafficking in women, as well as the exploitation of prostitution, in particular the enforcement of the Crimes Ordinance.

Employment

27. Please provide the results of the 2001 Government-funded study on equal pay for work of equal value in both public and private sectors (see CEDAW/C/CHN/5-6/Add.1, para. 214).

28. The report indicates difficulty in the application of the principle of equal pay for work of equal value (*ibid.*, para. 212). Please provide information on steps taken to implement the principle, particularly in small and medium-sized enterprises.

⁴ *Ibid.*, para. 305.

⁵ See CEDAW/C/CHN/Add.1.

MACAO⁶

General

29. Please provide information on the process of preparing the report. This information should indicate which Government departments and institutions were involved and the nature and extent of their participation, whether consultations were held with non-governmental organizations and whether the report was presented to the Assembly.

30. Please indicate what mechanisms, such as a national machinery for the advancement of women, are in place in Macao, Special Administrative Region of China, to promote gender equality and the implementation of the Convention?

Violence against women

31. Please provide detailed data on violence against women, including domestic and sexual violence. Please specify, out of the total number of reported incidences, the percentage of cases (a) investigated by the police, (b) brought to Court and (c) having led to a conviction.

Stereotypes and education

32. Please provide detailed information on the measures taken by the Government to modify social and cultural patterns of behaviour that lead to stereotyping and reinforce the idea of the inferiority of women (CEDAW/C/CHN/5-6/Add.2, para. 66). Indicate in particular any strategies in place to eradicate stereotypes through the education system.

Employment

33. The report indicates that public and private sector labour laws are under revision (*ibid.*, para. 63), and that, as regards the reform of labour law in the private sector (*ibid.*, para. 64), the Macao Government has proposed the elimination of the limit of three deliveries and the increase of the number of days of leave. Please provide information on the status of the revision of labour laws.

34. The report indicates that there are still differences regarding salaries between women and men, particularly in unskilled jobs (*ibid.*, para. 190). Please provide information on the measures taken to remedy this situation.

⁶ *Ibid.*, Add.2.