

# 立法會 *Legislative Council*

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## **Panel on Home Affairs**

### **Background brief prepared by Legislative Council Secretariat for the meeting on 9 June 2006**

#### **Convention on the Elimination of All Forms of Discrimination against Women**

#### **Purpose**

This paper gives an account of the discussions of the Panel on Home Affairs on the reports submitted by the Hong Kong Special Administrative Region (HKSAR) to the United Nations (UN) under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

#### **Background**

2. The Government of the United Kingdom extended CEDAW to Hong Kong in 1996. The People's Republic of China is a State Party to CEDAW. The Government of the People's Republic of China notified the Secretary-General of UN that the Convention would apply to the HKSAR with effect from 1 July 1997 with a number of reservations and declarations. Apart from the reservation against paragraph 1 of Article 29 of the Convention which relates to arbitration of disputes among States Parties by the International Court of Justice, the declarations and reservations applicable to the HKSAR are substantially the same as those applicable to Hong Kong prior to 1 July 1997. These reservations and declarations include, among other things, the following –

- (a) laws, regulations, customs or practices that treat women more favourably do not constitute discrimination against women within the meaning of Article 1 of the Convention;
- (b) reservation of the right to continue to apply law enabling male indigenous villagers in the New Territories to exercise certain rights over property and to enjoy certain privileges in respect of land and property;

- (c) reservation of the right to discriminate against women in legislation relating to pensions and retirement and similar benefits; and
- (d) reservation of the right to apply any non-discriminatory requirement for a qualifying period of employment for women in respect of the application of provisions in Article 11(2) of the Convention.

3. CEDAW follows a four-year reporting cycle. The HKSAR's first report under the Convention was submitted to UN in 1998 as part of China's combined third and fourth reports. After consideration of the first report, the UN Committee on the Elimination of Discrimination against Women (the UN Committee) issued its Concluding Comments on 3 February 1999. The Administration provided a paper to the Panel on Home Affairs in June 2000 setting out the progress of implementing the recommendations in the Concluding Comments, a copy of which is in **Appendix I**.

4. The responsibility of drafting HKSAR's reports under CEDAW was transferred from the Home Affairs Bureau (HAB) to the Health, Welfare and Food Bureau (HWFB) in May 2000. The HKSAR's second report was submitted to UN as part of China's combined fifth and sixth reports in 2004. The second report will be heard at the 36<sup>th</sup> session of the UN Committee scheduled for 7 to 25 August 2006.

## **Panel discussions on the first report of the HKSAR under CEDAW**

### First report submitted in 1998

5. The Panel on Home Affairs discussed the first report of the HKSAR submitted to UN under CEDAW with deputations and the Administration at its meetings on 9 November and 7 December 1998. The major issues raised by members at these meetings are summarised in paragraphs 6 to 11 below.

### Major issues raised by members

#### *Incorporation of a gender impact assessment in the public policy-making and legislative process*

6. Some members were supportive of the suggestion of incorporating a gender impact assessment in the public policy-making and legislative process. Mr James TO expressed the view that as the policy bureau concerned might not have the expertise to make the assessment, it would be appropriate to assign the task to an agency such as the Equal Opportunities Commission (EOC) or HAB. The Administration undertook that HAB would consult the relevant bureaux and departments on the feasibility of the suggestion.

#### *Data and statistics on gender issues*

7. Miss Christine LOH expressed dissatisfaction that the Administration had neglected the importance of collecting and publishing sufficient data on gender issues.

She was of the view that the Census and Statistics Department (C&SD) should start to compile and publish annual statistics on gender issues. The Administration informed the Panel that in the household surveys (e.g. the General Household Survey and the population censuses/by-censuses) and in some of the establishment surveys (e.g. the Labour Earnings Survey), the gender of the respondents was always included as a basic variable. Subsequent publications of the survey results would include tables using gender as a classifying variable where appropriate. More in-depth analysis of the issue was also undertaken from time to time. For example, "A Profile of Females in Hong Kong, 1996" was published in the July 1998 issue of the Hong Kong Monthly Digest of Statistics.

#### *Women representation on advisory and statutory bodies*

8. Some members were of the view that the Administration should ensure a representative number of women serving on advisory and statutory bodies. They were concerned about the absence of women representatives on certain important advisory bodies. The Administration explained that it was not in favour of fixing a percentage of women for serving on these bodies as it might constitute a kind of affirmative action. The primary consideration should be suitability, rather than gender, of the appointees. These members were of the view that HAB should take a more proactive approach to encourage women to participate in public service and identify suitable women candidates for serving on these bodies.

#### *Establishment of a Women's Commission*

9. Some members considered that the Administration should not dismiss the suggestion of establishing a Women's Commission as neither necessary nor desirable in the first report on the grounds that the policy groups chaired by the Chief Secretary for Administration (CS) had already provided the necessary coordination among various bureaux for the provision of women services. They pointed out that many organisations including EOC were not even aware of such coordination by CS. These members expressed support for the establishment of a Women's Commission which should report to CS in the coordination of women services among the Administration and non-governmental organisations (NGOs). They considered that the proposed Commission would play a more effective coordinating role, if given high-level decision-making powers.

10. The Administration responded that as the concerns of women had an impact on a wide range of policy areas, the existing mechanism was that the CS's Office would coordinate the efforts and suggestions of the relevant policy bureaux. The proposed Women's Commission would only add one more tier above HAB or the policy groups led by CS.

#### *Coordination of services for rape victims*

11. Ms Emily LAU expressed concern about the lack of coordination among government departments in dealing with rape victims. The Administration informed the Panel that increased efforts had been made by the Police and relevant departments

in rendering services to victims of sex violence. The Police, in particular, had taken the following measures –

- (a) induction training and refresher courses of police officers had included skills to deal with victims of sex violence and frontline police officers were trained to handle rape victims with sensitivity and sympathy;
- (b) special training was given to over 100 female officers which were deployed to police stations to provide early assistance and support to rape victims;
- (c) legislative amendments had been made to the Criminal Procedure Ordinance and the Evidence Ordinance enabling evidence to be taken in the form of live television link or video recorded interviews which were admissible evidence in the court; and
- (d) rape victims would be referred to the Social Welfare Department (SWD) for counselling and other services where necessary.

#### Concluding Comments issued by the UN Committee on the first report

12. The Panel on Home Affairs discussed the Concluding Comments issued by the UN Committee of the first report with the Administration at its meeting on 8 March 1999. The Panel further discussed with the Administration at its meeting on 2 June 2000 the progress in implementing the recommendations made by the UN Committee. The major issues raised by members at these meetings are summarised in paragraphs 13 to 24 below.

#### Major issues raised by members

*A high-level central mechanism for development and coordination of a women-focused policy*

13. Some members expressed support for the recommendation of the UN Committee to set up a high-level central mechanism to develop and coordinate a women-focused policy (e.g. a Women's Commission). The Administration reiterated that women's issues impinged on a wide range of policy areas, and HAB was responsible for the coordination on women issues. In addition, there were Policy Groups chaired by CS and attended by senior representatives of the relevant bureaux. It was therefore not necessary to set up a new high-level mechanism for women matters, particularly when the Government was streamlining its structure and cutting expenditure. These members queried the Administration's argument for not setting up a Women's Commission, since there was a Commission on the Elderly to oversee elderly matters. They also expressed doubts about whether the Policy Groups had ever studied various policies from the perspective of women. Some of these members suggested that CS should explain what had been done to address women's

needs and the Administration should provide the Panel with records of the relevant meetings of these Policy Groups at which women's issues or policies were discussed.

14 The Administration explained that the Policy Groups adopted an equal opportunity perspective in policy deliberations, and because of the wide areas of concerns of the Policy Groups, the women perspective was not highlighted unless women issues were discussed. As regards formulation of a women-focused policy, the Administration had all along been upholding the principle of equal opportunities for both sexes. HAB was the policy bureau responsible for women matters<sup>1</sup>. The Administration aimed to provide a discrimination-free environment for the development of women's full potential in political, social, economic and cultural areas. A wide range of services for women including social welfare, education and employment, etc is being provided to ensure a level-playing field for women and men.

15. The Administration subsequently informed the Panel that a Women's Commission would be set up in 2000 to promote the well-being and interests of women. The Women's Commission would be a central body to oversee women's needs and to specifically address matters of concern to women in a comprehensive and systematic manner and would assume four main roles, i.e. advisory, liaison, research, and educational/promotional.

16. Ms Cyd HO pointed out that many Legislative Council (LegCo) Members had already expressed the view during the Motion Debate on Women's Commission at the Council meeting on 31 May 2000 that the Women's Commission to be set up under the then Health and Welfare Bureau should not be accorded with the status of a central mechanism as recommended by the UN Committee.

#### *Small house policy*

17. Miss Christine LOH enquired about the timetable for the review of small house policy. Referring to the press release which stated that the Administration would review the need for the retention of small house policy if changing circumstances suggested that the policy might no longer be necessary, she sought clarification as to whether the Administration had deviated from its previous undertaking to replace the small house policy. The Administration informed members that the review was being conducted by Secretary for Planning, Environment and Lands. It would hopefully be completed by the end of 1999. The review committee on small house policy aimed at examining how to eliminate or reduce any discrimination against women. Miss LOH pointed out that according to the speech delivered by the then Secretary for Home Affairs during the Resumption of the Second Reading debate on the Sex and Disability Discrimination (Miscellaneous Provisions) Bill 1996 at the Council sitting on 11 June 1997, the review committee was to examine how best to replace the existing small house policy.

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<sup>1</sup> The policy responsibility had been transferred to HWFB in 2000.

*Women in advisory and statutory bodies*

18. Ms Emily LAU was strongly of the view that the Administration's statement that adopting affirmative action (e.g. quota system) for appointment of women to advisory and statutory bodies would go against the principle of appointment based on individual merits was an insult to women, as it implied that appointing a pre-determined number of women for advisory and statutory bodies could lead to appointment of incapable persons to these bodies. Ms LAU pointed out that developed countries such as Norway had set a 40% quota of either sex for such bodies.

19. The Administration reiterated that pre-determination of the number of either sex might not be appropriate to the situation of the HKSAR. Moreover, the proposal would deviate from the normal practice of appointing the best persons capable of meeting the specific requirements of the relevant bodies. Members may wish to note that the Administration informed the Panel in March 2003 that while no target or quota would be set for participation of women in advisory and statutory bodies, at least 25% of either gender had been suggested for the purpose of benchmarking.

*Child care services*

20. Miss CHAN Yuen-han expressed concern about the shortfall in the provision of child care facilities and queried what significant improvement had been made by the Administration in past years. The Administration responded that SWD had noted the demand for more child care facilities. Apart from meeting the short fall according to planning ratio, SWD had been liaising with voluntary child care bodies on the proposal of extending their service hours and increasing the number of such child care centres by 10 in addition to the five existing centres. In this connection, consideration was being given to re-deployment of resources from the occasional child care services which were currently under-utilised so as to increase support for extended hour service.

*Equal Pay for Work of Equal Value*

21. Members noted that EOC had set up a task force with the objective of promoting the principle of equal pay for work of equal value. Mr Albert HO enquired whether Administration would play any active role in the implementation of the principle of equal pay for work of equal value as recommended by the UN Committee. The Administration responded that the Education and Manpower Bureau was working closely with EOC on the matter. The Task Force on Equal Pay for Work of Equal Value had an implementation plan which would be divided into three phases. The civil service and public bodies would be included in the first phase, large companies with over 200 employees in the second, and small companies would be included in the last phase. Each phase would take one or two years to complete but the work of the Task Force would be expedited where possible.

### *Reservations and declarations*

22. Members noted that the UN Committee had encouraged the HKSAR Government to review regularly the reservations entered to CEDAW. Mr Albert HO asked whether the Administration had a timetable to review the applicability of various reservations and declarations to the HKSAR. The Administration informed the Panel that it might be possible to amend some of the reservations to the Convention and would consider further with relevant bureaux and departments. The Administration would also need to consult the Women's Commission. Since the circumstances of each reservation varied, the Administration could not provide a definite timeframe on the exercise. However, the Administration would take the issue forward as a matter of priority.

### *Gender statistics*

23. Ms Cyd HO expressed concern about the lack of gender statistics. She asked whether the Government had conducted any gender studies itself apart from the \$32 million allocated to academic institutions for the conduct of gender studies over the past three years. She pointed out that the census to be conducted by C&SD in 2001 was a good opportunity to collect gender data for future reference by a central mechanism on women's issues.

24. The Administration responded that the Administration acknowledged the need to conduct more gender studies and to collect relevant data. One of the tasks of the Women's Commission would be to initiate surveys and research studies on women's issues. The Administration would discuss with C&SD to ensure that the right kinds of data was collected.

## **Panel discussions on the second report of the HKSAR under CEDAW**

### Outline of topics to be covered in the second report

25. The Panel on Home Affairs discussed the outline of topics to be covered in the second report of the HKSAR for submission to UN under CEDAW with deputations and the Administration at its meeting on 8 November 2002. The major issues raised by members at that meeting are summarised in paragraphs 26 to 32 below.

### Status of the Women's Commission

26. To address the concerns about the status of the Women's Commission, the Administration stressed that the Commission had been placed very high in the government structure, in line with the other major commissions and advisory bodies. Members of the Commission were appointed by the Chief Executive. There were also no restrictions on the policy areas the Commission could work on, and the Commission had advised the Administration on a wide range of issues that were of concern to women.

### Participation of NGOs in the implementation of CEDAW

27. Ms Cyd HO was of the view that the Administration should enhance NGOs' understanding of CEDAW and form partnership with them in publicising the Convention among members of the public and in the implementation of the Convention. She opined that the Government had not provided sufficient assistance to NGOs in this respect.

### Gender mainstreaming

28. Ms Cyd HO considered that gender mainstreaming should apply to the formulation, implementation and evaluation of the policy address and budgeting of the Government since Government policies and programmes had a significant impact on women's well being. The Administration explained that gender mainstreaming would be introduced to different policy areas on an incremental basis. It would be difficult to apply it to policy address and budgeting when gender mainstreaming had not been introduced in most policy areas.

### Feminisation of poverty

29. Mr NG Leung-sing queried whether poverty of women was caused by an overall decrease in family income. EOC explained that there was a world trend of feminisation of women. 80% of employed persons who earned less than half of the median monthly earnings were women, and that the biggest increase in recipients of Comprehensive Social Security Assistance (CSSA) during the period from 1996 to 2001 was found in female recipients. Further, of single parent families who were CSSA recipients, 61% were headed by women, a situation unchanged since 1996. The adverse economic climate during the late 1990's and early 2000's had affected women tremendously and the Administration should adopt the concepts of gender mainstreaming and gender budgeting to ensure that Government policies and programmes would meet the needs of women and that relevant data would be available for assessing the effectiveness of these policies and programmes in this respect.

### Consultation process on the second report to be prepared

30. Some members were of the view that the Administration should release the initial draft of the second report for another round of consultation. Mr Andrew WONG held a different view. He said that the second report to be submitted by the HKSAR under CEDAW was a government report, and there was no need for that report to incorporate all the views expressed by concern organisations.

31. The Administration explained to the Panel that HWFB had involved LegCo and NGOs in the report preparation process by inviting views on the implementation of the Convention and the draft outline of the report. HWFB would try to address and incorporate the comments and suggestions made in the report as appropriate. Although it might not be able to reflect each and every concern expressed in the text of the report, in accordance with established practice, HWFB would send full copies

of each written submission to the UN Committee after the second report had been submitted. Furthermore, any organisation could forward its comments directly to the UN Committee. The Administration considered that such arrangements would obviate the need for a further round of consultation, which would unduly prolong the report preparation process.

32. The Administration further explained that HWFB would consult the Women's Commission on the draft report before submitting it to the Chief Executive's Office for approval. The report would then be submitted to CPG for incorporation into the China's report. After the China's report was submitted to UN, the HKSAR's second report would be released through the media and uploaded onto the websites of HWFB and the Women's Commission.

### **Relevant motions and questions moved/raised at Council meetings**

33. Ms Emily LAU moved a motion for debate at the Council meeting on 21 April 1999 urging the Administration to implement expeditiously the recommendations made by the UN Committee after consideration of the initial report submitted by the HKSAR under CEDAW. The motion was carried.

34. Ms Cyd HO moved a motion for debate on the setting up of the Women's Commission at the Council meeting on 31 May 2000. The motion urged the Government, among others, to set up a central mechanism to examine various government policies, public finance and legislative proposals from the angle of safeguarding equality for both sexes, and to entrust the Women's Commission with the responsibility for overseeing the operation of the central mechanism and include women representatives from the grassroots in the Commission's membership. The motion was negated.

35. Miss Christine LOH raised a written question on the initiatives taken to eliminate discrimination against women at the Council meeting on 26 January 2000. Ms Cyd HO raised a written question on the second report of the HKSAR under CEDAW at the Council meeting on 11 February 2004.

### **Relevant papers**

36. A list of relevant papers, minutes of meetings and reports in **Appendix II**. Soft copies of these documents are also available on the LegCo website.

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For discussion on  
2 June 2000

## **Progress Report for the LegCo Panel on Home Affairs**

### **Follow-up on concluding comments of the United Nations Committee on the Elimination of Discrimination against Women on the initial report on the HKSAR under the Convention on the Elimination of Discrimination against Women (CEDAW)**

#### **Introduction**

The Convention on the Elimination of Discrimination against Women (CEDAW) was extended to Hong Kong in October 1996. In accordance to Article 18 of the Convention, the initial report on the HKSAR under CEDAW was submitted to the United Nations as part of China's report in August 1998. The United Nations Committee on the Elimination of Discrimination against Women ( "the Committee") issued its concluding comments (at Annex A) after the hearing on the initial report which was held in February 1999. This paper set out the progress of implementing the recommendations in the concluding comments.

#### **A. The adoption of a constitutional definition of discrimination**

2. The Committee recommended 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.

3. As Article 8 of the Basic Law already provides that the laws previously in force in Hong Kong shall be maintained, the Hong Kong Bill of Rights Ordinance, apart from the provisions which were declared to be inconsistent with the Basic Law, continues to be in force in Hong Kong, including Article 1 which provides for the equal rights of men and women to the enjoyment of all rights set out in the Hong Kong Bill of

Rights. Besides, Article 3 of the International Covenant on Civil and Political Rights, on which Article 1 of the Hong Kong Bill of Rights is based, is entrenched in our constitutional document by virtue of Article 39 of the Basic Law.

## **B. Central mechanism on women**

4. The Government's announcement on 6 May 2000 of setting up a Women's Commission in 2000 to promote the well-being and interests of women is our commitment to implement the Committee's recommendation to set up a central mechanism on women. The Women's Commission will be a central body to oversee women's needs and to specifically address matters of concern to women in a comprehensive and systematic manner and will assume four main roles, i.e. advisory, liaison, research, and educational/promotional. The proposed terms of reference of the Commission is at Annex B.

5. The Commission will develop a long-term vision and improved strategy to deal with women issues. The Commission will promote improved co-operation and co-ordination in the delivery of women services. The Commission will also maintain close liaison with local women's groups and service agencies, and will provide non-officials (and non-governmental organizations) with a formal and high level forum for direct communication with the Government.

## **C. Women's right to participation in public life**

6. Regarding the Committee's concerns on women's participation in public life, we have all along pursued the principle of equal opportunities for both sexes on relevant issues. The electoral system does not contain any structural obstacles to women's political participation. Both genders enjoy the same right to vote and to stand for election. A person's gender is not a criterion, either directly or indirectly, to qualify a person as an elector or as a candidate in elections to District Councils and the Legislative Council.

7. The general conduct of elections to Rural Committees is governed by their constitutions. The right to vote by women set out in

these constitutions is not subject to restrictions or conditions that do not apply to men or have a disproportionate impact on women. When overseeing the elections to the Rural Committees, District Officers, as the returning officers for these elections, help to ensure that the procedure for conducting such elections does not contravene the principle of equal opportunities between women and men in rural elections. Nevertheless, if the District Officer finds that members of the executive committee of a certain Rural Committee have been returned by a procedure in which women have not been able to participate on equal terms with men, the District Officer will, in accordance with the Sex Discrimination Ordinance, not issue a certificate recognising that body as a Rural Committee.

8. On appointment to Government advisory and statutory bodies, the Government's objective is to ensure that the most suitable candidates available are appointed. In considering appointments to these bodies, the Administration takes into account relevant factors relating to the need and the business of the bodies concerned, including personal abilities, expertise, experience, integrity and commitment to public service of the prospective candidates. Gender is not a relevant factor.

9. We will continue with our efforts to facilitate members of the community, irrespective of gender, to have equal opportunities to be appointed to these bodies. For example, we have uploaded the Curriculum Vitae Form onto the relevant homepage to facilitate those who are interested in serving on these bodies to indicate their interests. We have also actively invited members of various organizations in the community, including women's organizations, to indicate their interests in serving on these bodies.

#### **D. Women's right to participation in high levels of decision-making**

10. On the Committee's concerns on women's participation in high levels of decision making, the Government always seeks to ensure that appointment to the civil service is free of discrimination. In recruitment exercises, all candidates who meet the basic entry requirements are considered on an equal basis. Promotion is decided on the basis of performance, ability, experience, character and any qualifications prescribed for the promotion rank. Promotion exercises are

conducted on a fair basis, irrespective of the gender of eligible officers. In this regard, we do not consider that there is a need to institute any quota system for appointment to the civil service. To do so would in fact go against the principle of selecting the best person for the job, irrespective of gender.

11. The same principle is also adopted for judicial appointments. The qualification for such appointment is stipulated in law. Candidates are assessed on the basis of their professional competence in the law, judicial temperament and personal conduct. Gender is not a factor for consideration.

### **E. Domestic Violence**

12. Efforts have been made to enhance services for victims of domestic violence and access to a wide range of social welfare and medical services is available. Prompt medical treatment at A&E Departments of public hospitals is available to victims of abuse. The 65 Family Service Centres operated by the Social Welfare Department and non-governmental organizations (NGOs) provide counselling and referral services. Other support services available include telephone hotlines, compassionate rehousing and child care services. There are at present 3 refuges for victims of domestic violence which provide 120 places for battered spouses and children in need. Those in need of financial assistance can apply for Comprehensive Social Security Assistance (CSSA) and charitable trust funds. Legal aid is available to eligible applicants to seek court injunctions under the Domestic Violence Ordinance, as well as for applying for divorce, child custody and maintenance payments.

13. A number of improvement measures on services for battered spouses have been implemented by the Working Group on Battered Spouse, which was established in 1995 to strengthen co-ordination amongst Government departments and NGOs in handling the problem of spouse battering. These include speedier processing of conditional tenancy cases by the Housing Department and the Social Welfare Department, conducting multi-disciplinary seminars for relevant professionals, stepping up training for front-line Social Welfare

Department staff and the Police in handling battered spouse cases, and issue of internal guidelines (such as Checklist for Good Practice on Compassionate Rehousing) to equip staff with the knowledge and skills to handle battered spouse cases.

14. The Working Group has recently produced a set of Multi-disciplinary Guidelines on Handling of Battered Spouse Cases which have been designed to streamline handling procedures. It has also set up a Central Information System on Battered Spouse Cases to collect basic statistics on battered spouse cases to facilitate service planning. A series of public education activities has also been launched to arouse public awareness on the battered spouse problem.

15. Other improvements implemented in response to the needs of the battered spouses include the provision of a temporary relief service in one centre, and the introduction of 24-hour admission in all three refuges. The Social Welfare Department is also expanding its the Child Protective Services Unit into 5 “Family and Child Protective Services Units” (one in each Social Welfare Department region) to provide strengthened and co-ordinated services to victims of domestic violence. We will seek funding from the Finance Committee shortly to increase manpower in these units as well as those in each refuge, under the Promoting Self-reliance Strategy.

## **F. Marital rape**

16. The Committee expressed concern over the issue of marital rape. Under section 118 of the Crimes Ordinance, a man commits rape if he has unlawful sexual intercourse with a women who at the time of the intercourse does not consent to it. The Department of Justice has advised that a husband may be guilty of raping his wife, if on the evidence of the case, his wife does not consent to the sexual intercourse. All front-line police officers are instructed to handle marital rape cases according to the law.

17. However, since some commentators consider that the law is not entirely clear on this point, the Government is currently examining whether a legislative amendment should be introduced to put the matter

beyond doubt. The Administration is in no doubt that marital rape should be punished. We will also take various measures, in cooperation with NGOs and concerned parties, to promote public understanding that marital rape is covered under existing law.

### **G. Women sex workers**

18. Legislation is in place and enforced to protect women sex workers. While prostitution itself is not an offence in Hong Kong, our law aims to tackle those who organize and exploit prostitution but not the prostitutes themselves.

19. There are specific provisions prohibiting criminal activities related to the sex trade under the Crimes Ordinance. These criminal activities include, among other things, trafficking in persons to or from Hong Kong, control over persons for the purpose of unlawful sexual intercourse or prostitution, causing prostitution, living on the earnings of prostitution, keeping a vice establishment, and soliciting for an immoral purpose. The Police enforce the law fairly without discrimination against women.

20. On the links between the presence of migrant women, a regulatory approach to prostitution and trafficking in women, migrant workers are subject to strict immigration control. The Police and Immigration Department take joint enforcement action against trafficking in women for prostitution. In addition, under section 129(1) of the Crimes Ordinance, a person who takes part in bringing another person into, or taking another person out of Hong Kong for the purpose of prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.

21. For women sex workers, free treatment and counselling service for sexually transmitted diseases (STDs) and HIV infection are also provided. Through outreach teams of the Anti-Venereal Disease Office and social networks of attending sex workers, they are encouraged to seek treatment or advice from STD/HIV clinics where they are given priority over other clients for consultation. Condoms are also freely distributed. In case of need, recommendations for other services such as

social work counselling and methadone treatment will be given. In addition, the Government supports non-governmental organizations (such as Action for Reachout) through funding, training and technical support to provide an outreach AIDS prevention and education service.

#### **H. Women migrant workers**

22. Women migrant workers enjoy the same rights, benefits and protection under labour legislation as local employees. They also enjoy safeguards against abuse and violence like other workers in the HKSAR in accordance with the law. Foreign domestic helpers, who are mostly women and form the majority of foreign workers, are entitled to a minimum allowable monthly wage as well as free food, accommodation, medical treatment and passage on top of their statutory benefits. They are also informed of the channels of complaint against their employers.

#### **I. Educational specialization of women and men**

23. The Committee also expressed concern about the degree of segregation on the educational specialization of women and men. At the tertiary level, there is no discrimination on grounds of gender in the enjoyment of the right to tertiary education and training. The eight University Grants Committee (UGC)-funded institutions admit students on the basis of their performance in academic and non-academic areas, including sports, music, public service, etc.. Admission is based on personal choice and individual merit.

#### **J. Women in the higher level of teaching professions**

24. All tertiary institutions in Hong Kong aim at appointing the best qualified persons available to their academic posts. To achieve this objective, academic staff of UGC-funded institutions are recruited and promoted on the basis of their academic achievements, performance in teaching and teaching-related activities, research and scholarship. They adhere strictly to the principles of equal opportunities and non-discrimination and gender has never been, and will never be, a consideration by the institutions in the appointment and promotion of academic staff.

### **K. Gender stereotypes**

25. It has always been Government's policy to provide equal educational opportunities to students of both sexes and we disagree with any practice which reinforces gender stereotyping. From time to time, the Education Department issues circulars and organizes workshops reminding schools to ensure that all students are afforded equal learning opportunities. When conducting school inspections or visits, officers of the Department, will see if any discrimination exists in the schools arrangements for curriculum planning and streaming of students. If discrimination is found, the Department will urge schools to rectify the situation.

### **L. Gender studies programme**

26. UGC-funded institutions regard gender studies (including women studies) as an integral part of academic research, and have conducted many studies in this area. It is estimated that about \$32m has been allocated to these projects over the past three years. Some examples of these studies include: climacteric in Chinese women: symptoms, hormone replacement therapy and osteoporosis; gender in the Hong Kong Civil Service; and “Are Gender Differences in Academic Achievements of Hong Kong Students Disappearing?”

27. In addition, the University of Hong Kong established a Women's Studies Research Centre in 1995. The Chinese University of Hong Kong launched a Gender Research Programme in 1985 and established a Gender Studies Programme in 1997. The former Lingnan College also hosted an International Conference on Feminist Studies in Modern Literature in Chinese in 1996.

### **M. Wage discrepancies between men and women**

28. While we recognise the Committee's concerns that earnings of women are generally lower than men and that women occupy comparatively a larger proportion of the lower income bracket, we note that the problems are not due to insufficient job opportunities for women

as compared with men nor the lack of a statutory minimum wage. The income disparity between men and women may have been caused by multiple factors such as differences in education attainment levels, qualifications, nature of jobs taken as well as socio-cultural factors such as family commitments and career aspiration.

29. The unemployment rates and underemployment rates of women have generally been lower than those of men in recent years. Under the Sex Discrimination Ordinance, it is unlawful for an employer to discriminate against women in recruitment and on employment terms. An aggrieved employee may apply to the Court for damages in respect of any discriminatory act. Moreover, the Labour Department has been promoting equal opportunities in employment actively through a number of activities. These include highlighting the principle of equal opportunities in employment and equal pay for equal work in the "Guide to Good People Management Practices" distributed by the Labour Department to employers, employers' associations, employees and trade unions. Employers who register vacancy orders with Labour Department's Job Centres are not allowed to specify any restrictive requirements including sex, age or family status.

30. Remuneration for local employees is determined by individual agreements between employers and the employees and are subject to the market forces of labour supply and demand. The current wage-setting mechanism has served the economy well and the Government does not consider it appropriate to introduce any form of statutory minimum wage in the HKSAR.

#### **N. Equal pay for work of equal value**

31. The principle of equal pay for work of equal value is a relatively new concept in Hong Kong. While we support proposals that enable the realization of equality, we recognize that compliance with this principle might incur contrived requirement which should be examined carefully and critically. We are aware of difficulties some employers might face in realizing this principle, which include the development of job evaluation methodology, job classification and wage fixing system. Therefore, in considering the way forward in implementing the principle,

we must carefully examine its implications and assess whether employers are provided with the necessary guidance.

32. In March 2000, the Equal Opportunities Commission (EOC) organised a Conference on Equal Pay for Work of Equal Value to tap the views and experiences of specialists, academics and concerned parties on the concept of equal pay for work of equal value and to promote public awareness on this issue. Subsequently, a Task Force on Equal Pay for Work of Equal Value has been established with the objective of promoting this principle and recommending ways to progressively implement this principle in the HKSAR. The Task Force comprises representatives from the EOC, government bureaux and departments, academics and professionals. We are supportive of the EOC's efforts to encourage implementation of this principle.

### **O. Reservations and Declarations**

33. As the reservations and declarations to the Convention touch on a wide range of policy areas, we are continued carefully considering and reviewing their applicability to the HKSAR.

Health and Welfare Bureau  
May 2000

**Relevant documents on the Convention on the Elimination  
of All Forms of Discrimination against Women**

<b>Date of meeting</b>	<b>Meeting</b>	<b>Minutes/Paper</b>	<b>LC Paper No.</b>
9.11.98	Panel on Home Affairs	Minutes of meeting	CB(2)853/98-99 <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/minutes/ha091198.htm">http://www.legco.gov.hk/yr98-99/english/panels/ha/minutes/ha091198.htm</a>
		Initial report on the Hong Kong Special Administrative Region (HKSAR) under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	CB(2)405/98-99 <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/ha0911.htm">http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/ha0911.htm</a>
		Submission from the Association for the Advancement of Feminism and the Hong Kong Women Christian Council	CB(2)810/98-99(01) (Chinese version only)
		Submission from the Hong Kong Women Workers' Association	CB(2)810/98-99(02) (Chinese version only)
		Submission from the Hong Kong Association for the Survivors of Women Abuse	CB(2)810/98-99(03) (Chinese version only)
		Submission from the Zi Teng	CB(2)810/98-99(04) (Chinese version only)
		Submission from the Centre for Comparative and Public Law of the University of Hong Kong	CB(2)578/98-99 (Chinese version only)
7.12.98	Panel on Home Affairs	Minutes of meeting	CB(2)1404/98-99 <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/minutes/ha071298.htm">http://www.legco.gov.hk/yr98-99/english/panels/ha/minutes/ha071298.htm</a>

<b>Date of meeting</b>	<b>Meeting</b>	<b>Minutes/Paper</b>	<b>LC Paper No.</b>
		Administration's response to submissions to the Panel on Home Affairs concerning the initial report on the HKSAR under the CEDAW	CB(2)1364/98-99(01) <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p1364e01.pdf">http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p1364e01.pdf</a>
		Submission from Equal Opportunities Commission	CB(2)754/98-99(01) <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p754e01.pdf">http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p754e01.pdf</a>
		Submission from Hong Kong Council of Social Service	CB(2)754/98-99(02) <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p754e02.pdf">http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p754e02.pdf</a>
		Submission from Hong Kong Women Development Association	CB(2)754/98-99(03) <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p754e03.pdf">http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p754e03.pdf</a>
		Submission from Hong Kong Federation of Women	CB(2)754/98-99(04) <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p754e04.pdf">http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p754e04.pdf</a>
		Submission from Hong Kong Family Planning Association	CB(2)754/98-99(05) <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p754e05.pdf">http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p754e05.pdf</a>
		Submission from Hong Kong Federation of Women's Centre	CB(2)754/98-99(06)
		Submission from Dr Philip BEH, Faculty of Medicine University of Hong Kong	CB(2)754/98-99(07) <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p754e07.pdf">http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p754e07.pdf</a>

<b>Date of meeting</b>	<b>Meeting</b>	<b>Minutes/Paper</b>	<b>LC Paper No.</b>
		Submission from the Hong Kong Federation of Women's Centre	CB(2)797/98-99(01) <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p797e01.pdf">http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p797e01.pdf</a>
		Submission from the Harmony House	CB(2)797/98-99(02) <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p797e01.pdf">http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p797e01.pdf</a>
		Submission from Hong Kong Association of Business and Professional Women	CB(2)797/98-99(03) <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p797e03.pdf">http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p797e03.pdf</a>
		Submission from the Women Affairs Group of the Democratic Party	CB(2)832/98-99(01) (Chinese version only)
		Submission from the Citizens Party	CB(2)832/98-99(02) <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p832e02.pdf">http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p832e02.pdf</a>
8.3.99	Panel on Home Affairs	Minutes of meeting	CB(2)1650/98-99 <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/minutes/ha080399.htm">http://www.legco.gov.hk/yr98-99/english/panels/ha/minutes/ha080399.htm</a>
		Administration's paper on "Hearing of the United Nations (UN) Committee on the Elimination of Discrimination against Women on the initial report on the HKSAR under Article 18 of the CEDAW"	CB(2)1429/98-99(02) <a href="http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p1429e2.pdf">http://www.legco.gov.hk/yr98-99/english/panels/ha/papers/p1429e2.pdf</a>

<b>Date of meeting</b>	<b>Meeting</b>	<b>Minutes/Paper</b>	<b>LC Paper No.</b>
		Concluding comments of the UN Committee on the Initial Report on the HKSAR under the CEDAW	CB(2)122/99-00 <a href="http://www.legco.gov.hk/yr99-00/english/panels/ha/papers/122e.pdf">http://www.legco.gov.hk/yr99-00/english/panels/ha/papers/122e.pdf</a>
2.6.00	Panel on Home Affairs	Minutes of meeting	CB(2)2574/99-00 <a href="http://www.legco.gov.hk/yr99-00/english/panels/ha/minutes/ha020600.pdf">http://www.legco.gov.hk/yr99-00/english/panels/ha/minutes/ha020600.pdf</a>
		Progress report by the Administration on "Follow-up on concluding comments of the UN Committee on the Elimination of Discrimination against Women on the initial report on the HKSAR under CEDAW	CB(2)2159/99-00(02) <a href="http://www.legco.gov.hk/yr99-00/english/panels/ha/papers/b2159e02.pdf">http://www.legco.gov.hk/yr99-00/english/panels/ha/papers/b2159e02.pdf</a>
8.11.02	Panel on Home Affairs	Minutes of meeting	CB(2)590/02-03 <a href="http://www.legco.gov.hk/yr02-03/english/panels/ha/minutes/ha021108.pdf">http://www.legco.gov.hk/yr02-03/english/panels/ha/minutes/ha021108.pdf</a>
		Administration's paper on "A draft outline of the topics to be covered in the second report on the HKSAR under the CEDAW"	CB(2)2812/01-02(01) <a href="http://www.legco.gov.hk/yr01-02/english/panels/ha/papers/ha_cb2-2812-1e.pdf">http://www.legco.gov.hk/yr01-02/english/panels/ha/papers/ha_cb2-2812-1e.pdf</a>
		Administration's paper on "Second report under CEDAW"	CB(2)244/02-03(01) <a href="http://www.legco.gov.hk/yr02-03/english/panels/ha/papers/ha1108cb2-244-1e.pdf">http://www.legco.gov.hk/yr02-03/english/panels/ha/papers/ha1108cb2-244-1e.pdf</a>

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
		Administration's response dated 27 February 2003 on second report under the CEDAW	CB(2)1341/02-03(01) <a href="http://www.legco.gov.hk/yr02-03/english/panels/ha/papers/ha1108cb2-1341-1e.pdf">http://www.legco.gov.hk/yr02-03/english/panels/ha/papers/ha1108cb2-1341-1e.pdf</a>
		Submission from Harmony House	CB(2)268/02-03(01) <a href="http://www.legco.gov.hk/yr02-03/english/panels/ha/papers/ha1108cb2-268-1e.pdf">http://www.legco.gov.hk/yr02-03/english/panels/ha/papers/ha1108cb2-268-1e.pdf</a>
		Submission from Hong Kong Women Development Association	CB(2)268/02-03(02) <a href="http://www.legco.gov.hk/yr02-03/english/panels/ha/papers/ha1108cb2-268-2e.pdf">http://www.legco.gov.hk/yr02-03/english/panels/ha/papers/ha1108cb2-268-2e.pdf</a>
		Submission from Hong Kong Council of Social Service	CB(2)289/02-03(01) (Chinese version only)
		Submission from Equal Opportunities Commission	CB(2)297/02-03(01) <a href="http://www.legco.gov.hk/yr02-03/english/panels/ha/papers/ha1108cb2-297-1e.pdf">http://www.legco.gov.hk/yr02-03/english/panels/ha/papers/ha1108cb2-297-1e.pdf</a>
		Submission from Democratic Party	CB(2)297/02-03(02) (Chinese version only)
		Submission from Hong Kong Women's Coalition of Equal Opportunities	CB(2)327/02-03(01) (Chinese version only)
		Submission from Hong Kong Human Rights Monitor	CB(2)327/02-03(02) (Chinese version only)