

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1501/06-07  
(These minutes have been  
seen by the Administration)

Ref : CB2/PL/HA

**Panel on Home Affairs**

**Minutes of meeting**  
**held on Friday, 9 February 2007, at 9:30 am**  
**in the Chamber of the Legislative Council Building**

- Members present** : Hon CHOY So-yuk, JP (Chairman)  
Hon Albert HO Chun-yan (Deputy Chairman)  
Hon James TIEN Pei-chun, GBS, JP  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon Emily LAU Wai-hing, JP  
Hon Andrew CHENG Kar-foo  
Hon Albert CHAN Wai-yip  
Hon LI Kwok-ying, MH, JP  
Dr Hon Joseph LEE Kok-long, JP  
Hon Daniel LAM Wai-keung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon CHEUNG Hok-ming, SBS, JP  
Hon WONG Ting-kwong, BBS  
Hon TAM Heung-man
- Members attending** : Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon SIN Chung-kai, JP
- Members absent** : Dr Hon Philip WONG Yu-hong, GBS  
Hon LAU Wong-fat, GBM, GBS, JP  
Hon Timothy FOK Tsun-ting, GBS, JP  
Prof Hon Patrick LAU Sau-shing, SBS, JP

**Public Officers** : Item IV  
**attending**

Mr Donald TONG  
Deputy Secretary for Home Affairs (1)

Miss Joanna CHOI  
Principal Assistant Secretary for Home Affairs (2)

Item V

Mr Donald TONG  
Deputy Secretary for Home Affairs (1)

Mr Victor NG  
Principal Assistant Secretary for Home Affairs (4)

Miss Amy YEUNG  
Assistant Secretary for Home Affairs (4) 1

Item VI

Miss Eliza LEE  
Deputy Secretary for Health, Welfare and Food  
(Family and Women)

Miss Hanny LAM  
Principal Assistant Secretary for Health, Welfare  
and Food (Women)

Ms Sophia KAO  
Chairperson, Women's Commission

Mrs Anna MAK  
Assistant Director (Family and Child Welfare)  
Social Welfare Department

Miss Diane WONG  
Principal Assistant Secretary (Planning & Lands)1

Mr Anthony LI  
Principal Assistant Secretary  
(Home Affairs) (3)

Mr Ivanhoe CHANG  
Principal Assistant Secretary  
(Constitutional Affairs) 4

Mrs DO PANG Wai-yee  
Assistant Commissioner (Policy Support and Strategic  
Planning), Labour Department

Mr Alan LO  
Principal Assistant Secretary (Security) C

**Attendance by invitation** : Item IV

Professor John BACON-SHONE  
Former chairman of the Law Reform Commission  
Sub-committee on Privacy

Dr Don BRECH  
Former member of the Law Reform Commission  
Sub-committee on Privacy

Item VI

Hong Kong Association for the Survivors of Women  
Abuse (Kwan Fook)

Ms LIU Ngan-fung  
Chairperson

Hong Kong Women's Coalition on Equal Opportunities

Ms CHUNG Yuen-yi  
Coordinator

Action for Reach Out

Miss YIM Kit-sum  
Executive Director

Miss CHANG Kam-ying  
Programme Officer

The Democratic Party

Ms CHAN Shu-ying  
Central Committee member of the Democratic Party

Association Concerning Sexual Violence Against Women

Ms Eleanor LAM  
Board Member

Association for the Advancement of Feminism

Ms AU Mei-po  
Organizer

Ms TAM Ka-ying  
Vice-chairperson

Civic Party

Miss Linda WONG  
Member

Indonesian Migrant Workers Union

Ms Eni YUNIARTI  
Secretary General

The Hong Kong Coalition of Indonesian Migrant Workers Organization

Ms SUMIATI  
Program Officer

Far East Overseas Nepalese Association

Mr Prem Candra RAI  
Coordinator

The Coalition for Migrants Rights

Ms Nurul QOIRIAH  
Program Coordinator

Asian Domestic Workers Union

Ms Aster SUGUITAN  
Chairperson

Hong Kong Federation of Women's Centres

Ms FONG Man-ying  
Director

Mr TAM Wai-pang  
Education Officer

Women Affairs Committee, Hong Kong Confederation  
of Trade Unions

Ms CHEUNG Lai-ha  
Chairperson

Ms IP Pui-yu  
Organizing Secretary

Hong Kong Women Workers' Association

Ms Meilin WU  
Coordinator

Amnesty International Hong Kong Section

Miss TAN Kong-sau  
Chairperson

Asian Migrant Coordinating Body

Ms Dolores BALLADARES  
Spokesperson

Hong Kong Human Rights Monitor

Mr LAW Yuk-kai  
Director

**Clerk in  
attendance** : Miss Flora TAI  
Chief Council Secretary (2)2

**Staff in attendance** : Ms Joanne MAK  
Senior Council Secretary (2)2

Ms Anna CHEUNG  
Legislative Assistant (2)2

Ms Elyssa WONG }  
Deputy Head (Research & Library Services) }  
} For  
Mr Jackie WU } Item V  
Research Officer 1 } only  
}  
Mr CHAU Pak-kwan }  
Research Officer 5 }

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**I. Confirmation of minutes**  
[LC Paper No. CB(2)1012/06-07]

The minutes of the meeting held on 12 January 2007 were confirmed.

**II. Information paper(s) issued since the last meeting**

2. Members noted that no information papers had been issued since the last meeting.

**III. Items for discussion at the next meeting**  
[Appendices I and II to LC Paper No. CB(2)1014/06-07]

Next regular meeting

3. Members agreed to discuss the issue of built heritage conservation at the next regular meeting scheduled for Friday, 9 March 2007, at 10:45 am. Ms Emily LAU requested that, in order to facilitate members' discussion at the next regular meeting, relevant parts on heritage conservation of the Report of the delegation of the Panel on Planning, Lands and Works to study the experiences on town planning, urban renewal and heritage preservation in Singapore, Berlin and London, which was submitted to the House Committee in April 2003 [CB(1)1402/02-03], should be issued to members for reference.

4. The Chairman informed members that the Research and Library Services Division (RLSD) of the Legislative Council (LegCo) Secretariat had proposed to conduct a study on the relevant policy in the United Kingdom

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(UK), Singapore and Macau with a view to facilitating future discussion of the Panel. The proposed research outline would be issued to members for endorsement at the next regular meeting. Members raised no objection.

Special meeting in March/April 2007

5. At the suggestion of Ms Emily LAU, members agreed that, after discussion on built heritage conservation with the Administration at the next regular meeting, the Panel should hold a special meeting around March or April 2007 to receive views from the public and concern organisations on the subject. The Clerk would explore the appropriate date in consultation with the Chairman.

**IV. Protection of privacy**

[LC Paper No. CB(2)1014/06-07(01) and (02)]

Briefing by the Administration

6. Deputy Secretary for Home Affairs (1) (DSHA(1)) briefed members on the salient points of the Administration's paper. The Administration noted that different organisations and groups had expressed diverse views on the recommendations made by the Law Reform Commission (LRC) on the protection of privacy. For example, women's groups were supportive of introduction of legislation to protect personal privacy whereas media organisations had expressed grave reservations over the proposal. The Administration also noted that, when the issue of protection of privacy was previously discussed by the Panel and during the motion debate on introducing legislation to regulate clandestine photo-taking at the Council meeting on 18 October 2006, diverse opinions had been expressed by LegCo Members.

7. DSHA(1) informed members that different approaches had been adopted in overseas jurisdictions for tackling problems of invasion of personal privacy as outlined in paragraph 14 of its paper. The Administration considered it necessary to draw reference from overseas experience in legislative and non-legislative means in dealing with this matter so as to come up with feasible options for discussion in Hong Kong. In this connection, the Administration planned to collect relevant information and submit papers on specific areas including overseas experience and their relevant legislation to the Panel for discussion.

8. DSHA(1) stressed that the Administration was fully aware of the need to strike a good balance between upholding press freedom and protection of individual privacy rights in mapping out the best way forward. The Administration intended to gauge the views of the public and stakeholders on additional measures to safeguard privacy while at the same time not interfering with press freedom. He said that consideration could also be given to

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achieving the same goal by alternative measures e.g. a mechanism to encourage the media to exercise more self-discipline in their news reporting work. He further said that if legislation was to be introduced, it would be necessary to consider how to safeguard privacy without compromising the press freedom in Hong Kong, such as the need for providing a defence provision under the relevant legislation for news-gathering activities. DSHA(1) added that the Administration hoped that a consensus on the balance between press freedom and protection of privacy could be reached, through concrete discussion over the issue by the public and relevant organisations, to provide a basis for the Government to put forward proposals to LegCo for consideration.

Views of the former chairman of LRC Subcommittee on Privacy

9. Professor John BACON-SHONE, former chairman of LRC Subcommittee on Privacy, said that he was pleased with the Administration's suggestion of empowering the Privacy Commissioner to provide assistance to aggrieved individuals in respect of proceedings under the Personal Data (Privacy) Ordinance (PDPO). He was also pleased with the passage of the Interception of Communications and Surveillance Ordinance by LegCo in August 2006. Referring to paragraph 7 of the Administration's paper, Professor BACON-SHONE clarified that a total of six reports on privacy had been issued by LRC since 1995. He pointed out that the report on stalking, which had not been mentioned in the Administration's paper, had been issued for six years but the Administration had yet to come up with any recommendation on how to address the issue.

10. Professor BACON-SHONE further said that, although media intrusion was an acute problem, the Administration had not yet implemented any effective measure to address the problem and privacy issues that the Administration had not yet addressed were broader than media intrusion. Referring to paragraph 14 of the Administration's paper, he said that although Australia and UK did not have a civil tort of privacy, it was arguably agreed that privacy was protected at common law in these two jurisdictions. He further said that press freedom, though important, should not be used as an excuse to abuse individuals' right to privacy. He urged the Administration to address the outstanding recommendations of LRC, including civil liability for invasion of privacy, stalking, interception and covert surveillance, which were all important areas that had to be addressed. He added that as the LRC reports had been published for a number of years, he considered that it was time for the Administration to take action.

Discussion

11. Referring to paragraph 17 of the Administration's paper, Ms Emily LAU said that she agreed that the recommendations put forward by LRC should be properly dealt with. She had no objection to the Administration's suggestion that the Panel should hold meetings with deputations to discuss selected aspects



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of the LRC recommendations with a view to coming up with a consensus.

12. The Chairman, however, expressed disagreement with the Administration's suggestion. She considered that it was wrong in principle for the Administration to make use of the Panel meetings as a forum for conducting its own public consultation work. The Chairman expressed concern that, if the Panel agreed to the suggestion, it would become a precedent for the Administration to make the same request to the Panel again over other issues to be considered by the Panel. She pointed out that the suggestion would also have serious staffing implications on the LegCo Secretariat. The Chairman also queried whether the Administration would really act on the recommendations even if a consensus was reached.

13. DSHA(1) said that the Administration could not easily map out the way forward on the LRC recommendations, as the issues involved were very complicated and controversial, and it also needed to make reference to overseas experience. He said that the relevant departments (e.g. Department of Justice (DoJ)) would be invited to assist in collecting information on the latest developments in overseas jurisdictions in addressing these issues. In order to facilitate discussions, the Administration would submit papers, supported by research findings, on specific areas of the LRC recommendations for discussion by the Panel.

14. The Deputy Chairman criticised the Administration for failing to follow up on many of the reports published by LRC. He pointed out that, apart from the reports on privacy, LRC had also published a number of reports on child protection and the Administration had not taken any action on these reports. The Deputy Chairman shared the Chairman's concern. He asked whether the Administration would give an undertaking that, if Panel had reached a consensus on the recommendations, the Administration would act accordingly. The Deputy Chairman was also concerned that, as the issues involved were very controversial, it was unlikely that a consensus could be reached even after discussion at Panel meetings. The Administration could then use that as an excuse not to take any action on the LRC's recommendations. The Deputy Chairman pointed out that LRC members had spent a lot of time on their work which had already included extensive research study on overseas experience. He considered that the Administration's failure to address the LRC recommendations was unfair to their members who had spent so much time in the study.

15. DSHA(1) informed members that the Administration was studying the LRC proposal on stalking and would come up with recommendations later. He stressed that the Administration deeply appreciated the valuable contributions made by LRC members, and it would continue to seriously study the various LRC recommendations in consultation with stakeholders, regardless of whether or not the Panel would receive views from deputations. He reiterated that the mixed response and divergent views from various stakeholders and LegCo

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Members over the LRC recommendations on protection against intrusion of privacy had prompted the need for conducting further consultations to ascertain their views, especially LegCo Members' views which would be very important to the Administration's consideration in deciding whether legislating would be the appropriate approach.

16. The Deputy Chairman suggested that the Administration should devise a work plan with timeframe on how it would follow up with the recommendations in the six LRC reports on privacy, including the Administration's preliminary position and the reasons for its position on the recommendations, specific areas of comments the Administration would like to consult the Panel, as well as information which would be provided to the Panel for consideration.

17. DSHA(1) suggested that it would facilitate the Administration's preparation of such a work plan if the Panel could set the priorities for taking forward the various LRC reports relating to privacy. The Chairman invited Professor John BACON-SHONE to give suggestions on the priorities.

18. Professor John BACON-SHONE said that he felt strongly that the Administration should address the LRC recommendation on stalking since it had been submitted to the Government for more than six years. The second priority should be criminal offences for the most extreme form of covert surveillance and interception by private individuals, which he considered were complementary to the Interception of Communications and Surveillance Ordinance passed in 2006. He said that the third priority should be given to the recommendation of setting up a statutory self-regulatory body for the media, and the fourth one should be the civil liability for invasion of privacy.

19. Ms Emily LAU considered that the Administration should first provide a work plan on how to take forward the LRC Reports on privacy, taking into consideration the suggestions of Professor John BACON-SHONE regarding the priorities. The Panel could then consider the way forward.

Admin

20. DSHA(1) said that the Administration would work out a plan on how to proceed with its work and submit it to the Panel for consideration. He added that the Administration would, at the same time, commence its research study on overseas experience.

**V. Examination of the existing human rights protection mechanism**

[LC Paper No. CB(2)1014/06-07(03), (04) and (05), IN04/06-07, IN05/06-07 and IN06/06-07]

21. Members noted that, in addition to the Administration's paper, the following papers/report had been provided for members' reference -

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- (a) an information note entitled "Whether the recommendations of the United Nations Human Rights Treaty Bodies are binding on their member states" prepared by RLSD [LC Paper No. IN04/06-07];
- (b) an information note entitled "Principles and requirements for establishing a Human Rights Commission in selected jurisdictions" prepared by RLSD [LC Paper No. IN05/06-07] ;
- (c) an information note entitled "Academics' views on the existing human rights framework in Hong Kong" prepared by RLSD [LC Paper No. IN06/06-07];
- (d) a research report on the establishment of a human rights commission in Hong Kong provided by Hong Kong Human Rights Monitor [LC Paper No. CB(2)1069/06-07(01)]; and
- (e) a background brief prepared by the LegCo Secretariat [LC Paper No. CB(2)1014/06-07(05)].

22. DSHA(1) briefed members on the salient points of the Administration's paper. He highlighted that the Administration's position that it did not see an obvious need for establishing a human rights institution to supersede existing mechanisms and had no plans or timetable for the establishment of such in the immediate future.

23. At the Chairman's request, Deputy Head (Research & Library Services) presented the information note on "Academics' views on the existing human rights framework in Hong Kong".

Discussion

24. The Deputy Chairman was of the view that the existing arrangements and mechanism for protection of human rights in Hong Kong with the following shortcomings were far from adequate -

- (a) there was no central mechanism in compliance with the Paris Principles to examine the overall human rights situation in Hong Kong, coordinate policies which might have human rights implications under the purview of various bureaux, monitor the implementation of the United Nations (UN) human rights treaties applicable to Hong Kong, and examine any inconsistency between local legislation/administrative decisions and treaty obligations;
- (b) under the existing institutional arrangement, the Home Affairs Bureau only played the role of coordinating with relevant

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bureaux the reporting work required under the respective human rights treaties and the attendance of their representatives at meetings of this Panel for discussion on reports submitted under various UN treaties; and

- (c) the power of the existing human rights statutory bodies was limited in scope.

25. The Deputy Chairman considered that either the Chief Executive (CE) or the Chief Secretary for the Administration (CS) should be responsible for overseeing policy coordination in human rights protection. In addition, an independent body should be set up to oversee and coordinate the existing statutory bodies for the protection of human rights and the implementation of the UN human rights treaties in Hong Kong, and to adopt proactive measures to promote human rights.

26. DSHA(1) responded that the existing arrangements and mechanisms for protection of human rights had already provided the necessary safeguards as follows -

- (a) all legislative proposals would be vetted by the Human Rights Unit of DoJ to ensure that they were in conformity with the Basic Law, including the provisions concerning human rights, before they were introduced into LegCo;
- (b) any change in policies or launching of a new policy would need to be endorsed by the Policy Committee chaired by CS;
- (c) CE had already assumed the role of overseeing policy coordination, as various bureaux and departments were accountable to CE through respective policy secretaries; and
- (d) implementation of the UN human rights treaties was monitored through the UN reporting process during which the treaty monitoring bodies would carry out their assessment of the reports submitted by governments, non-governmental organisations (NGOs), and other bodies.

27. The Deputy Chairman, however, pointed out that the role of the Human Rights Unit of DoJ was rather passive which only provided advice when it was consulted, and the Secretary for Justice had no power to require bureaux to enact any specific legislation or to take specific measures for implementation of provisions of the UN human rights treaties applicable to Hong Kong. He was dissatisfied with the Administration's stance that the recommendations made by UN's treaty monitoring bodies were not legally-binding. He also criticised the Administration's delay in introducing the Race Discrimination Bill, given that the Administration had been repeatedly criticised by relevant

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UN's treaty monitoring bodies for failure to do so.

28. The Deputy Chairman said that the Administration should not have relied on the efforts of NGOs, which were limited in resources, in human rights protection. He pointed out that the credibility of the HKSAR Government would be at stake if its policies continued to be criticised by UN's treaty monitoring bodies for breaching its international treaty obligations, or if the Government lost again in any future legal challenge against any government policy being inconsistent with a particular international treaty obligation.

29. DSHA(1) invited members to note that SHA had elaborated the reasons of why the Administration considered that the recommendations made by UN's treaty monitoring bodies were of an advisory nature rather than legally-binding during the motion debate in respect of implementing the recommendations made by the UN Human Rights Committee (UNHRC).at the Council Meeting on 1 March 2006.

30. Ms Emily LAU expressed appreciation of the detailed research report compiled by Hong Kong Human Rights Monitor and the information notes prepared by RLSD. She said that, as shown in the information note compiled by RLSD, the large majority of the academics who had responded to RLSD's survey considered that the existing statutory bodies and institutions for protection of human rights were not in compliance with the Paris Principles. Ms LAU was concerned that the development of Hong Kong on this aspect would fail to dovetail with the development of human rights protection mechanisms in overseas countries. She sought the Administration's response to those views.

31. DSHA(1) responded that the Paris Principles were not legally-binding, and the Administration had decided not to set up a human rights institution after careful consideration of its implications and the need for such an institution in Hong Kong. Ms LAU disagreed with the Administration that the existing mechanism had achieved the same objectives that a human rights commission, if established in compliance with the Paris Principles, could attain. She pointed out that the controversy surrounding EOC had given rise to serious doubt about its independence and credibility. Moreover, the existing statutory bodies for protection of human rights had limited mandate and powers, and Hong Kong was lack of a central mechanism to promote and protect human rights comprehensively.

32. Dr Fernando CHEUNG pointed out that UNHRC and other treaty monitoring bodies had repeatedly called on the Government to set up a human rights commission with a broad mandate in Hong Kong to protect human rights in different areas and to fully implement the various international human rights treaties applicable to Hong Kong.

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33. DSHA(1) clarified that such recommendations were not mandatory and did not constitute part of Government's obligation under the international treaties. He reiterated the Administration's duty to consider the recommendation on the basis of its own merits and in light of local circumstances. The Administration would take up the recommendation if warranted, such as the recommendation of establishing the Independent Police Complaints Council as a statutory body.

34. Miss TAM Heung-man queried how the existing human rights protection mechanisms, e.g. The Ombudsman, which were not in compliance with the Paris Principles, could serve the objective of monitoring the implementation of the international human rights treaties applicable to Hong Kong. DSHA(1) responded that, as The Ombudsman had earlier reported to the Panel, The Ombudsman would consider as part of her Office's jurisdictional review its role in human rights matters in Hong Kong. Miss TAM considered that the Administration sought to adopt a delaying tactic over the issue of setting up a human rights commission.

35. Mr James TO asked whether it was SHA's or CE's decision regarding the Administration's position of not setting up a human rights commission. He considered that such decision was not conducive to the development of human rights in Hong Kong. DSHA(1) said that this was the Administration's decision. He reiterated that the Administration had failed to see any obvious need for establishing a human rights institution and therefore had no timetable for the establishment. He added that the SHA's speech given during the motion debate at the Council meeting on 1 March 2006 had already elaborated clearly the Government's view on this matter.

36. Mr TO was strongly of the view that it was of paramount importance for the Administration to make clear whether the decision of not setting up a human rights commission was made at the level of CE or SHA as the one who made the ultimate decision should be held responsible. He requested DSHA(1) to provide the information after the meeting.

Admin

37. After discussion, Ms Emily LAU moved the following motion which was seconded by Miss TAM Heung-man and Dr Fernando CHEUNG –

"The Panel on Home Affairs sets up under it a Subcommittee on Human Rights Protection Mechanisms with the following Terms of Reference:

- (a) to monitor and examine the operation and effectiveness of existing institutional framework for promotion and protection of human rights in Hong Kong;
- (b) to examine possible means for enhancement of the effectiveness of the institutional framework of human rights promotion and

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protection in Hong Kong, including the setting up of a statutory Hong Kong Human Rights Commission; and

- (c) to monitor and examine the implementation of the Concluding Observations or Concluding Comments in respect of Hong Kong issued by United Nations human rights treaty bodies."

Clerk

38. The Chairman put the motion to vote. Seven members voted in favour of the motion and two members voted against it. The Chairman declared that the motion was passed. She said that the Clerk would issue a circular to inform members of the formation of the new Subcommittee and invite them to sign up as its members.

**VI. Concluding comments adopted by the United Nations Committee on the second report of the Hong Kong Special Administrative Region (HKSAR) under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**

[LC Paper Nos. CB(2)1014/06-07(06) to (12), (15) to (16), (18) to (19) and CB(2)1080/06-07(01)]

Meeting with deputations

*Democratic Party*

[LC Paper No. CB(2)1014/06-07(11)]

39. Ms CHAN Shu-ying highlighted the following views of the Party on the United Nations Committee on the Elimination of Discrimination against Women (UNCEDAW)'s recommendations for Hong Kong as set out in its submission -

- (a) the Women's Commission, which was only set up under the Health, Welfare and Food Bureau (HWFB), fell short of the expectation that it should be a central mechanism which adopted an inter-disciplinary approach for addressing women's issues, and it was noted that the Women's Commission's major functions were just to provide publicity and training services;
- (b) for protection of women's health, the Administration should step up regulatory measures against malpractices involving cosmetic treatments/surgeries; and
- (c) the Administration should take into account the recommendation of UNCEDAW and review the Small House Policy which contained provisions that were discriminatory against indigenous women.

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She supplemented that the ratio of public toilet compartments for males to females should be 1:3 for planning purposes.

*Hong Kong Association for the Survivors of Women Abuse (Kwan Fook)*  
[LC Paper No. CB(2)1014/06-07(08)]

40. Ms LIU Ngan-fung presented the views of Kwan Fook as detailed in its submission. She said that the \$1.3 billion allocated to combat *inter alia* domestic and sexual violence should be distributed evenly among various disciplines/services as domestic violence (DV) was a multi-disciplinary problem and adequate resources should be set aside for inter-disciplinary preventive measures. Citing two cases in their submission which revealed the need for law enforcement officers to exercise greater sensitivity in handling DV cases, she urged the Administration to strengthen gender-sensitivity training of frontline officers, and consider setting up a specialised team to help victims seek legal protection.

*Hong Kong Women's Coalition on Equal Opportunities*  
[LC Paper No. CB(2)1014/06-07(09)]

41. Ms CHUNG Yuen-yi presented the following views of the Coalition as given in its submission -

- (a) the Coalition welcomed UNCEDAW's recommendations on functional constituency (FC) elections; and expressed disappointment at the Administration's non-recognition of the discrimination against women allegedly inherent in such elections. She called upon the Administration to abolish FC elections and introduce the "one person one vote" system;
- (b) the Coalition hoped that the Central People's Government (CPG) would consider ratifying the Optional Protocol to CEDAW so that it could be extended to Hong Kong. Until its ratification, victims of DV in Hong Kong could not seek redress from UN; and
- (c) she suggested the Administration to provide a precise figure for DV out of the \$1.3 billion allocated for a wide spectrum of social welfare services.

*Action for Reach Out*  
[LC Paper No. CB(2)1014/06-07(10)]

42. Miss YIM Kit-sum highlighted the views of the group as detailed in its submission. Referring to the comments of UNCEDAW on the need to assist sex workers to improve their livelihood, she urged the Administration to look into unfair treatment of women (suspected of) engaging in prostitution by law enforcement officers, and the grounds for arresting/detaining/deporting these



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women (e.g. possession of condoms) to ensure their lawful, humanitarian treatment.

*Association Concerning Sexual Violence Against Women*  
[LC Paper No. CB(2)1014/06-07(12)]

43. Ms Eleanor LAM summarised the views of the Association as set out in its submission. The Association shared the view of UNCEDAW in advocating a specialised service in anonymity for victims of sexual violence. The Association was also disappointed at the Administration's failure to address the concerns of non-governmental organisations (NGOs) at a recent meeting of the Panel on Welfare Services, that while the new Multi-purpose Crisis Intervention and Support Centre could offer integrated services to clients of various ages, races or genders, the services were not equivalent to a "one-stop service". She urged the Administration to publicise statistics on sexual violence to enable the public to gauge the seriousness of the problem.

*Association for the Advancement of Feminism*

44. Ms TAM Ka-ying presented the views of the Association as follows -

- (a) the Administration's commitment in setting up a central, independent mechanism to promote gender equality and develop women-focused policies was questioned, given the establishment of the Women's Commission under the aegis of HWFB and the possible restrictions on its financial and decision-making autonomy and accountability;
- (b) the Equal Opportunities Commission should review its mission to incorporate a more holistic approach to women's issues beyond the scope of the three anti-discrimination ordinances; and
- (c) in dealing with issues on gender equality, the Administration should include marginalised women such as sex workers and same-sex partners, and set up a central task force to coordinate gender mainstreaming initiatives for government departments and policies.

*Civic Party*

45. Miss Linda WONG of the Civic Party said that NGOs had expressed concerns over the low prosecution rates (about 10%) and conviction rates (less than 5%) for DV cases in recent years. Since conviction could effectively deter perpetrators of DV, the Party suggested that -

- (a) the Police should monitor compliance of the requirements of the Emergency Referral Questionnaire and Action Checklist by

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frontline officers; and impose disciplinary sanctions for non-compliance; and

- (b) the Administration should review the Domestic Violence Ordinance (DVO)(Cap.189) to -
  - (i) broaden the definition of "domestic violence", the scope of relationships covered and the types of protection orders;
  - (ii) set up a specialised domestic violence court; and
  - (iii) introduce a court-ordered Batterer Intervention Programme.

*Indonesian Migrant Workers Union*  
[LC Paper No. CB(2)1014/06-07(16)]

46. Presenting the Union's views on problems of widespread underpayment and excessive agency fees as detailed in the joint submission, Ms Eni YUNIARTI of the Union called upon the Administration to combat underpayment problem of foreign domestic helpers (FDHs) arising from severe over-charging of agency fees, through enforcement action against relevant agencies/employers with the concerted efforts of NGOs and FDH unions.

*Hong Kong Coalition of Indonesian Migrant Workers Organisation*  
[LC Paper No. CB(2)1014/06-07(16)]

47. Presenting on the section "Widespread abuses; oppressive working and living conditions" of the joint submission, Ms SUMIATI of the Coalition urged the Administration to fulfill its international obligations of ensuring fair pay and working conditions of FDHs, and review the "Two-week Rule" which required FDHs to leave Hong Kong within two weeks of contract expiration/termination, and other restrictive conditions of stay applicable to FDHs. She considered that a number of FDHs had to accept substandard compensation for abuse or abandon their claim as a result of such conditions.

*Far East Overseas Nepalese Association*  
[LC Paper No. CB(2)1014/06-07(16)]

48. Presenting on the section "Discriminatory policies" of the joint submission, Mr Prem Candra RAI of the Association called upon the Administration to -

- (a) abolish the new condition of stay which denied FDHs the right to change job categories and the right of abode as well as the "Two-week Rule"; and the visa ban applicable to Nepalese Migrant Workers; and

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- (b) adopt the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and Conventions of UN and the International Labour Organisation (ILO) on basic rights for policies affecting FDHs.

*Coalition for Migrants' Rights*  
[LC Paper No. CB(2)1014/06-07(16)]

49. Presenting on the section "Low wages; erosion of wages, benefits and protection of FDHs" of the joint submission, Ms Nurul Qoiriah of the Coalition said that despite the significant economic contribution by FDHs, a number of FDHs were subjected to contract violation, discrimination and abuse. The Coalition urged the Administration to -

- (a) restore the minimum allowable wage for FDHs to \$3,860 (1998 level) and introduce a statutory minimum wage for local domestic helpers; and
- (b) adopt CEDAW and other UN Conventions including that of ILO on core human rights as standards for FDH policies.

*Asian Domestic Workers Union*  
[LC Paper No. CB(2)1014/06-07(16)]

50. Referring to the section "No social security or retirement protection for FDHs" of the joint submission, Ms Aster SUGUITAN of the Union said that when FDHs retired to return to their home country, they had difficulty securing employment. The Union considered the exclusion of FDHs from the Mandatory Provident Fund Scheme as a form of discrimination against marginalised women. She called upon the Administration to broaden the scope of the social security system to include FDHs and implement a universal retirement scheme.

*Hong Kong Federation of Women's Centres*  
[LC Paper No. CB(2)1014/06-07(18)]

51. Ms FONG Man-ying highlighted the views of the Federation as detailed in its submission. In line with UNCEDAW's recommendation for the Administration to take measures in accordance with article 4, paragraph 1 of CEDAW to increase women's representation in politics, she urged the Administration to -

- (a) abolish FC elections and pave the way for universal suffrage; and
- (b) adopt article 4, paragraph 1 of CEDAW, and the Beijing Declaration and Platform for Action.

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In order to address the problem of feminisation of poverty, she called upon the Administration to introduce a universal retirement plan which would include elderly/low-income/unemployed women; and enact legislation on the minimum wage and against age discrimination.

*Women's Affairs Committee, Hong Kong Confederation of Trade Unions  
[LC Paper No. CB(2)1014/06-07(19)]*

52. Ms CHEUNG Lai-ha presented the Committee's views as given in their submission. She pointed out that in 2006 the median wage of women was 70% of that of men and 80% of the low-income group were women. She urged the Administration to enact legislation in the following areas -

- (a) equal pay for work of equal value;
- (b) the minimum wage; and
- (c) the regulation of working hours.

She cited the example of airline cabin crew not being allowed to continue service beyond the age of 35 and considered that age discrimination in employment was not confined to the grassroots level. She further called upon the Administration to enact legislation against age discrimination and review labour legislation to eliminate discrimination against pregnant employees.

53. Ms IP Pui-yu of the Committee pointed out that the Employment Ordinance (Cap.57) stipulated that employees were entitled to benefits such as rest days and paid annual leave if they were employed under a continuous contract of employment (four weeks or more with at least 18 hours worked in each week). Employers could evade the obligation to provide such benefits by limiting an employment period below the stipulated minimum. The Committee urged the Administration to remove the four-week 18-hour minimum requirement to enhance employment protection for casual workers.

*Hong Kong Women Workers' Association*

54. Ms WU Mei-lin of the Association expressed disappointment that the Administration had sought NGOs' views just on the outline of topics covered by HKSAR's reports submitted to UN under CEDAW, and that no financial support was provided for their representatives to attend the 2006 UNCEDAW meeting in New York. She asked whether members of UNCEDAW had been invited to visit Hong Kong to exchange views with women groups and the Administration. She further suggested that the Administration should put the objective "equal pay for work of equal value" back on its policy agenda.

*Amnesty International Hong Kong (AIHK)  
[LC Paper No. CB(2)1080/06-07(01)]*

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55. Miss TAN Kong-sau presented the views of AIHK as detailed in their submission. She said that the Administration had the obligation under CEDAW to fully realise women's rights by adopting appropriate legislative, administrative, judicial and budgetary measures. The Administration should ensure adequate protection against DV by incorporating into DVO provisions that -

- (a) offered protection to same-sex partners;
- (b) ensured timely and adequate reparation for victims of DV; and
- (c) broadened the scope of and simplify application procedures for injunction orders.

AIHK hoped that CPG would adopt the 1951 UN Convention Relating to the Status of Refugees and extend it to Hong Kong to safeguard the protection of asylum-seekers and refugees.

*Asian Migrant Coordinating Body*  
*[LC Paper No. CB(2)1014/06-07(15)]*

56. Ms Dolores BALLADARES presented the recommendations of the group as set out in their submission, and urged the Administration to -

- (a) abolish the discriminatory "Two-week Rule" as it penalised FDHs regardless of the reasons for premature contract termination;
- (b) abolish the employer's levy which was widely perceived as an indirect tax imposed on FDHs;
- (c) increase the minimum allowable wage of FDHs;
- (d) abolish the "live-in requirement" and enact laws to set the maximum number of working hours for FDHs;
- (e) enact effective legislation against racial discrimination. The group considered that the exclusions/exemptions proposed in the Race Discrimination Bill would render it ineffective in protecting the rights of FDHs; and
- (f) grant the right of abode to FDHs upon their fulfilment of the requisite residency requirements.

*Hong Kong Human Rights Monitor*

57. Mr LAW Yuk-kai of HKHRM said that the central mechanism for the

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advancement of women and protection of women's rights should be enhanced further in collaboration with NGOs. The Administration could also consider setting up a Human Rights Commission to coordinate human rights initiatives. HKHRM denounced the exploitation and overcharging of fees of FDHs by agencies and said that such malpractices amounted to "modern day slavery". HKHRM advocated the ratification of the Optional Protocol and adoption of the 1951 UN Convention Relating to the Status of Refugees by the State Party and hoped that the Protocol and the Convention could be eventually extended to Hong Kong.

Administration's response to concerns raised by deputations

58. Deputy Secretary for Health, Welfare and Food (Family and Women) (DSHWF(F&W)) responded to the views of deputations as follows -

- (a) up to 2006-2007, over 2000 civil servants at various grades and ranks had received training in gender mainstreaming. In 2007-08, such efforts would continue and focus would be put on the gender-sensitivity training for the disciplinary forces;
- (b) the Government attached great importance in tackling domestic violence and a total of \$1.3 billion was allocated to the Social Welfare Department in 2006-2007 to provide a range of preventive, supportive and specialized services for DV victims and families in need. This amount had not included the provision for services or measures by other Government departments, such as the Police, the Housing Department etc;
- (c) the Women's Commission was a high-level, central mechanism tasked to advise the Government on long-term policy and strategies on women's issues. Its members were appointed by CE. It was supported by the Women's Division of HWFB and sufficient recurrent funding had been made available to fund the Commission's work;
- (d) extension of the Optional Protocol to Hong Kong would be subject to its ratification by CPG which had yet to make a decision on the matter;
- (e) the Chairman of UNCEDAW was invited to visit Hong Kong in mid-2006 to meet with Government/NGO representatives but the invitation was declined. In anticipation of the submission of the next HKSAR Report on the implementation of CEDAW, a similar invitation could be made; and
- (f) since 2004, the ratio adopted by the Food and Environmental Hygiene Department for the planning of public toilet

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compartments for males to females was 1:2.

59. Ms Sophia KAO, Chairperson of the Women's Commission, said that the Government had rendered its full support to the Women's Commission as the central mechanism on the promotion of women's interests and well-being in Hong Kong. She had briefed Ms Rosario Manalo, Chairperson of UNCEDAW, on the work of the Commission since its establishment in 2001 at the 2006 UNCEDAW meeting in New York. The Commission used a three-pronged approach to promote the well-being and interests of women in Hong Kong as follows -

- (a) creating an enabling environment for the development of women;
- (b) empowering women; and
- (c) publicity and public education.

The Commission hoped to continue its close partnership with NGOs to achieve its mission and set work priorities to address their concerns.

Issues raised by members

*Handling of DV cases*

60. In response to Dr Fernando CHEUNG, DSHWF(F&W) said that in 2006, there were 1 800 DV cases which had been classified by the Police as criminal cases and 2 900 other cases classified as miscellaneous cases. Dr CHEUNG considered that the large number of DV cases was inconsistent with the Administration's "zero-tolerance" policy on DV and that the Administration should not tolerate those 2 900 non-criminal DV cases.

61. Miss TAM Heung-man asked whether the enhanced measures to combat DV had been fully adopted by frontline officers. DSHWF(F&W) responded that the Police would refer all reported DV cases to the Social Welfare Department (SWD) for follow-up. The more serious cases would be dealt with by the Family and Child Protective Services Units of SWD. Resources for SWD had been enhanced continuously. With the emphasis on early identification/intervention of DV, prevention, education and outreach through various service platforms, people in Hong Kong had become more aware of DV and the need to report such cases.

*Sexual violence*

62. Dr Fernando CHEUNG criticised that while the Administration had stated its determination in meeting its international obligations under CEDAW, it failed to respond to a number of UNCEDAW's specific recommendations, including the provision of a specialised one-stop service to victims of sexual

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violence. The Deputy Chairman added that the new Multi-purpose Crisis Intervention and Support Centre had a mixed clientele. The Panel on Welfare Services had voiced concerns over the inadequacies of the Centre as a replacement of the valuable, specialised services provided by the pilot scheme "RainLily". Ms Emily LAU also expressed concern over the inadequacies of the Centre.

63. Assistant Director (Family and Child Welfare) of the Social Welfare Department said that apart from the 24-hour service to be offered to victims of sexual/domestic violence as confirmed by DSHWF(F&W), the Administration acknowledged the need to provide a one-stop service and sensitivity in service-delivery to victims of sexual violence, the main target group of the Centre. The Centre was just one of the many facets of the client-oriented services offered. Outreach services could be delivered flexibly at various locations to accommodate the needs of clients.

64. Ms Eleanor LAM of the Association Concerning Sexual Violence Against Women, however, pointed out that the concept of the one-stop service envisaged by NGOs differed from that of the Administration, which was offering an "integrated" service only. Given the wide spectrum of services offered on a 24-hour basis by various providers, there was concern over whether the services could be provided in a coordinated manner in the interests of clients.

65. The Deputy Chairman reiterated his disappointment at the Administration's insistence on adopting the new service model for victims of sexual violence, which had deviated from the aspirations of the community/concerned women groups and the recommendations of UNCEDAW. He also expressed grave concern over the Police's handling of sex workers/persons suspected of engaging in prostitution, and called for a comprehensive review of the code of practice governing the conduct of such investigations and arrests.

*Treatment of FDHs*

66. Ms Emily LAU said that the protection of women's rights in Hong Kong was clearly inadequate and expressed concern about the exploitative/discriminatory treatment of FDHs by agents/employers. Assistant Commissioner (Policy Support and Strategic Planning) of the Labour Department responded that FDHs enjoyed the same rights and benefits provided under labour laws as local workers. FDHs were further protected by a standard employment contract and minimum allowable wage. Employment agencies, including those placing FDHs, would be liable to prosecution and revocation of licenses for overcharging of placement fee. The Labour Department conducted regular inspections of employment agencies and liaison with relevant consulates to combat these agencies' malpractices. Principal Assistant Secretary (Security)C supplemented that in administering the "Two-



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week Rule", under exceptional circumstances such as termination of the employment contract due to emigration or financial difficulties of the employer, the Immigration Department might allow FDHs to change employer without requiring them to return to their home countries before commencing new contracts in Hong Kong. FDHs seeking redress might apply to the Immigration Department for extension of stay. In 2006, out of some 6 800 such applications, some 4 700 cases had been approved for extension of stay while some 1 300 cases had been rejected with a number of the remaining cases withdrawn.

67. Dr Fernando CHEUNG also urged the Administration to adopt UNCEDAW's recommendation that the Government should provide simple complaint/redress mechanism for FDHs and enhance FDHs' awareness of their legal rights.

*Women's political representation and participation in public affairs*

68. Miss TAM Heung-man asked whether the Administration would consider raising the working target of 25% as a gender benchmark for appointments to advisory and statutory bodies (ASBs) and taking more proactive steps to facilitate women's participation in the work of ASBs. Principal Assistant Secretary (Home Affairs)<sup>3</sup> responded that appointments to ASBs were made on the basis of the merit of the individual concerned, taking into account the candidate's ability, expertise, experience, integrity and commitment to public service etc, and having regard to the nature of work of the board or committee concerned. Ms Sophia KAO of the Women's Commission added that through the concerted efforts of the Administration and the Commission, the benchmark had been increased from about 20% in 2001 to over 25% at present. The Commission had recommended that the Administration should consider increasing the target to 30% in line with international standard.

69. There being no other business, the meeting ended at 12:58 pm.