

**Response to NGOs' submissions to the LegCo Home Affairs Panels  
concerning the Initial Report on the Hong Kong Special  
Administration Region (HKSAR) under the Convention on the  
Elimination of All Forms of Discrimination against Women  
(CEDAW)**

**A. Submission and publication of reports under CEDAW and other human rights treaties**

Information contained in the report

The Initial Report on the HKSAR under CEDAW contains the most updated information on the HKSAR. In fact, it covers development of the HKSAR up to mid-1998.

Separate submission of the report to the United Nations

According to Article 18 of the Convention, State Parties have to submit regular reports to the United Nations (UN). China is a State Party to the Convention and agreement was reached in the Joint Liaison Group in 1996 that the HKSAR's report under the Convention should be submitted as part of China's report to the UN.

Publicizing human rights reports on the HKSAR after submitting to MFA

We believe the HKSAR's reports on human rights treaties should only be published after their submission to the UN in order to comply with international diplomatic protocol.

**B. Recommendations of the UN Treaty Monitoring Bodies**

Recommendations made by the UN Treaties Monitoring Bodies in their concluding observations between 1994-1997

We have incorporated and will continue to incorporate the response and steps to give effect to the recommendations to Hong Kong made by United Nations Treaties Monitoring Bodies in their concluding observations between 1994-1997 in relevant human rights reports. We are in the final stage of compiling the report under the International Covenant on Economic, Social and Cultural Rights (ICESCR). Nevertheless, we have agreed to prepare a list of recommendations of the United Nations Treaties Monitoring Bodies. The list was submitted to the Home Affairs Panel earlier this month (February 1999).

### **C. Reservations and Declarations**

As it was the case before the reunification, we are fully committed to the protection of human rights, including of course women's rights. We are fully committed to discharging the treaty obligations under CEDAW. We are fully aware that these obligations cannot be taken lightly. Yet we are also obliged to assess whether these obligations can be discharged for the moment, having regard to the need and special circumstances of the HKSAR, the Basic Law and the Hong Kong Bill of Rights Ordinance.

Indeed, as the British Nationality Act 1981 is no longer relevant, the reservation to Article 9 has already been removed. The remaining reservations are retained purely on a need basis. They are retained to preserve laws and policies that protect the interests of the community as a whole. These reservations, like laws and policies, have been kept under review to see if they are

- inconsistent with the Basic Law;
- inconsistent with the Hong Kong Bill of Rights Ordinance; and
- serving the interests of the community in the HKSAR as a whole.

There are suggestions that the reservations should be taken out. We welcome those views and we seriously consider them. So far, we are of the view that these reservations are still required. Should changing circumstances suggest that any of them may no longer be necessary or justifiable, we will review the need for their retention.

### **D. Women Commission**

The Government attaches great importance to women policies. However, we consider the establishment of another mechanism for co-ordinating women policy as redundant and a waste of resources. The Secretary for Home Affairs is the policy secretary responsible for women affairs and for co-ordinating with other bureaux and departments on matters related to women affairs. The Policy Groups chaired by the Chief Secretary for Administration and attended by senior representatives of the bureaux concerned already provide the necessary co-ordination among various bureaux. Besides, the Equal Opportunities Commission is already tasked to eliminate discrimination on the grounds of sex and family status.

**E. Activities for women development**

Welfare services are being provided for women. At present, the 19 government-run Group Work Units and 13 subvented NGO-run Community Centres are offering various group activities and skill learning groups, etc. for the local residents, including women and families, to help them to develop personal growth, interpersonal relationship, leadership potential and meeting their welfare needs. To further strengthen the ability of women in tackling family issues, mutual help groups are also formed with the assistance of the social workers to establish an effective supportive network among them. The Family Activity and Resource Centres (FARCs) are set up under the Group Work Units and subvented NGO-run Community Centres to promote family life and identify families at risk. Women and their families are encouraged to drop in for advice, information and mutual help programmes. The Social Welfare Department (SWD) has also assisted some non-subvented NGOs, such as the Hong Kong Federation of Women's Centre, to secure premises to set up women centres and to give support for their rent and rates subsidies application.

**F. Women's participation in economic activities**

The Government employs various measures to increase the competitiveness of women in employment. Retraining is one of the major tools employed. Around 81% of retrainees are female. The average placement rate for women retrainees over the years is around 70%.

**Retraining programmes**

The Employment Retraining Board (ERB) has already relaxed the age limit for enrolment into the training scheme. Since 1 April 1998, eligible employees below the age of 30 are considered for enrolment in full-time retraining courses in the event they meet employment difficulties.

Since its inception in 1992, the Employees Retraining Scheme (ERS) has offered training for over 240,000 retrainees, of whom over 200,000 (or some 81%) are female, showing that women retrainees are the major clients of the ERS. Indeed, all eligible employees, regardless of sex, will have equal access to retraining which cover a great variety of full-time and part-time programmes for various trade and industries. The

target group of the ERS is primarily those who are 30 years of age or above with no more than lower secondary education. In other words, the ERS aims to help these less educated middle-aged people who are the 'hard-core' of the unemployed to re-enter the labour market by acquiring new or enhanced skills. Statistics reveal that some three-quarters of the women retrainees are between 30 and 50 years of age. Plentiful retraining opportunities are in fact available for middle-aged women.

### Child care services

We will continue to expand our child-care services. The government has secured resources to provide an additional 3, 197 aided day nursery places by 1999/00.

Low income families with a social need to place their children in day care services can apply for financial assistance under the child care centres fee assistance scheme which is means-tested. The level of assistance is based on a sliding scale with parents' contribution worked out according to the family income and household size.

Apart from regular day care services, occasional child care service and extended hour services are also provided by some child care centres. The establishment of informal mutual help child care facilities is also encouraged.

## **G. Domestic violence**

### Working Group on Battered Spouses

The Working Group on Battered Spouses, chaired by the Social Welfare Department (SWD), was set up in April 1995 to examine the measures to tackle the problem of battered spouse and to strengthen co-ordination amongst Government departments and the non-governmental organizations in handling the cases. The Working Group has pursued various measures to educate the public on the destructive forces of family violence and to encourage families at risk to seek early professional advice. Public education and publicity measures include broadcasting of announcements of public interest in the electronic media and television episodes, and distribution of information packs and posters on spouse battering. In 1998/99, district programmes will be organised in districts with higher number of battered spouse cases. The programmes will be more focused on educating the public to adopt both preventive

and remedial measures to tackle the problem of violence against women.

### Refuges for battered spouses

The average utilization rate of these refuges in 1997/98 was about 66%. As such, the existing provision of refuge service is considered capable of meeting the demand of women in need of refuge service.

### Services provided for battered spouses

The 65 Family Services Centres (FSCs) operated by SWD and NGOs, which are conveniently located, provide family counselling and casework assistance, and refer the battered spouses to receive other welfare assistance, such as temporary refuge, housing assistance, etc., where necessary. Like other Hong Kong residents who have demonstrated service need, the battered women could receive assistance from the FSC nearest to their residence, join the supportive groups organised by SWD's Group Work Units and subvented Children and Youth Centres. In fact, some battered women have been assisted to form mutual help groups under the auspices of subvented agencies.

### Hotline services

The SWD and a number of NGOs run hotline services for victims requiring immediate counselling or information. The SWD's departmental hotline service can provide information on services available to battered spouses by recorded voice message or by fax. The social worker on duty will also handle the enquiries and refer cases requiring immediate help to receive the necessary assistance.

## **H. Sex violence**

### Medical treatment for victims of sex violence

Public hospital services are provided on a clinical specialty basis by a team of multidisciplinary staff including doctors, nurses and allied health professionals. Where a patient, including victims of sexual assault, requires the care of more than one clinical specialty, the services would be provided through a coordinated approach. As an illustration, rape victims with gynaecological injuries requiring hospitalised treatment would be admitted to the Gynaecology Ward and be cared for by the attending gynaecologists in the first instance. The attending

gynaecologist would then coordinate the care for the rape victim by involving other carers, such as clinical psychologist, psychiatrist, medical social worker etc as and when required. This multidisciplinary and interdisciplinary approach should be able to cater for the holistic needs of all patients, including victims of sexual assault.

Guidelines to ensure proper management of rape victims have been issued to hospital staff. The hospital staff will actively utilize the services provided by medical social workers and clinical psychologists, including psychological and counselling support, to help rape victims.

If a rape victim is admitted to hospital after office hours, the victim's more critical conditions e.g. gynaecological injuries will first be treated. The victim will be referred to receiving other necessary support services and after care arrangements as soon as possible.

Currently, as all doctors of Forensic Pathology Service (FPS) trained in examining rape victims are male, the victims could not choose to be examined by female doctors. This is a reflection on the personal choice of doctors to specialise in forensic pathology and is by no means due to sexual discrimination in the recruitment process of forensic pathologists. Nevertheless, a female chaperone will be present during the examination by doctors in order to reduce embarrassment of the victims.

#### Sexual assault unit

Hospital services are usually organised on a functional basis. Patients will be managed according to their holistic need. If necessary, patients will be cared for by a multidisciplinary team approach which involves many different health care professionals with different expertise. As Hospital Authority's (HA's) hospitals are organised on a clinical specialty basis, rather than on a particular clinical condition basis, we do not think it would be appropriate or cost-effective to form special sexual assault units in HA hospitals.

#### Second forensic treatment

A sexual assault victim, like other patients, is examined by a medical professional at the Accident and Emergency (A & E) Department when first admitted to a hospital. In some cases, if the victim is not brought in by the Police, a medical examination will be conducted by a doctor at the A & E Department for medical treatment purpose. After initial

examination, if the victim is willing to report the incident to the Police, a forensic examination will be conducted by a forensic pathologist to ensure proper evidence documentation of her clinical condition for subsequent prosecution of the alleged perpetrator.

#### Services provided to victims after office hours

The FPS provides a 24-hour service to victims of sexual assaults upon requests by Police. Doctors of FPS are responsible for performing medico-legal examinations on victims in order to obtain medical and forensic evidence for police investigations and subsequent criminal proceedings, if any.

The Police may contact SWD's respective Regional Officers after office hours to send caseworkers/clinical psychologist to provide immediate counselling to victims, if there is such an urgent need.

#### Marital Rape

According to Article 8 of the Basic Law, the common law shall be maintained in the HKSAR except for any that contravene the Basic Law. In the past, as a general common law rule, a man could not be guilty of rape upon his wife, for the wife was in general unable to retract the consent to sexual intercourse which was a part of the contract of marriage. However, this common law rule has been abolished by the House of Lord in the case R v R (rape: marital exemption) [1991]4 All ER 481, HL. A husband can now be committed of raping his wife.

#### Revision of rape legislation

According to common law, "sexual intercourse" in the context refers to "vaginal penetration". Anal penetration without consent between a man and a women would be covered by non-consensual buggery under Section 118A of the Crimes Ordinance (Cap. 200). Other non-consensual sexual acts, e.g. oral sex, would be covered by indecent assault under Section 122 of the same Ordinance.

The maximum penalty for rape and buggery is life imprisonment, whereas that for indecent assault is 10 years' imprisonment. As such, there are adequate laws in place to deal with cases whereby victims are forced to perform sexual acts.

### Taking of statement from victims of sex violence

The taking of statements at victim's home is allowed, while the police stations also provide a comfortable atmosphere in the report room for the victim. The victim will be accompanied by an experienced female officer pending the arrival of the specially trained female officer.

The Criminal Procedure (Amendment) Ordinance and the Evidence (Amendment) Ordinance were enacted in 1995 to provide protection for vulnerable witnesses including children, mentally handicapped persons and witnesses in fear by empowering the court to accept video-recorded statements made by them and permitting the primary account of the victim of the abuse to be given by means of a video recording instead of orally.

### Prosecution for sexual offenses

In deciding whether or not to prosecute, it is our prosecution policy to consider the sufficiency of the evidence and then the public interest criteria. Under principle 5 the Victim's Charter, the victim shall, without prejudice to the progress or the outcome, be kept informed of the progress of the case. If a decision is taken not to prosecute, the victim shall be told of that decision. Where the prosecution is proceeding, the victim shall be told about the progress of the investigation, the date and place of the hearing of the criminal proceedings, the role of the victim as a witness in the prosecution and the disposal of the case.

A prosecuting counsel shall not interview the victim prior to a trial to avoid allegations of coaching. However, principle 5 of the Victim's Charter provides that the prosecutor is required to introduce himself/herself to the victim and explain the prosecutor's role.

### Questions on previous sexual history

Section 154(1) of the Crimes Ordinance provides that in cases of rape and indecent assault, no questions may be asked about the previous sexual experience of the alleged victim except with the leave of the court. Hence, as a norm such questions are prohibited. In addition, Hong Kong legislation has extended protection to alleged victims of indecent assault whilst in England, for example, prohibition of embarrassing questions would extend to cases of rape only. Section 154(2) further stipulates that leave shall be given if and only if it would be unfair to the defendant

to refuse leave. So the statutory test is fairness.

For practical application, Hong Kong courts generally follow the practice in other common law jurisdiction, including the English court. Generally, the English court would not allow questioning if it merely leads to proof of previous sexual experience. However, if questioning leads to proof of previous sexual relationship between the victim and the defendant, that is obviously relevant and must be allowed. In *R. v LEE Wing-on*, Criminal Appeal No 102 of 1993, our Court of Appeal came to the view that the test is whether the questions relating to the previous sexual experience of the alleged victim would be relevant in the sense that the jury may take a different view of other material evidence in the case when they have the answers from the alleged victim to those questions.

#### Protection of the victims of rape in the trial

Under Section 79A(2) of the Criminal Procedure Ordinance (Cap.221), the offence of rape falls within the definition of "offences of sexual abuse". If the victim is a child, the prosecutor can request the use of a video recorded interview and /or the use of CCTV system, as provided for under Sections 79B & 79C of the same Ordinance.

Prosecuting counsel in rape trials are normally experienced counsel. On some occasions, counsel of our vulnerable witnesses team have conducted those trials.

#### Studies on the issues of rape

Research staff may undertake research studies on rape-related issues in relation to their individual research interests such as social work, sociology, humanities etc. Institutions are supportive of any academic who might propose research in this area.

### **I. Access to health facilities**

#### Women Health Centres

The three Woman Health Centres provide health promotion and disease prevention services to women aged between 45 and 64. Regular health talks, support groups, individual counselling on health problems and regular physical check-ups including breast and pelvic examination are

provided. Though curative service such as hormone replacement is not provided, referral will be made for treatment if the condition of the client warrants.

We will look into the effectiveness of Women Health Centres. As far as we understand, research indicates that this provision meets women's demand. We will also consider lowering the age-limit for the service and to incorporate into service provision of Maternal and Child Health Centres.

#### Maternal and Child Health Centres (MCHCs)

A wide range of services are provided by the MCHCs, including:

- antenatal and postnatal check-up services. These services are offered free of charge to all women who can attend services without any referral. Women presenting with antenatal complications will be referred to the obstetric units in nearby public hospitals through the antenatal shared care programmes established between them
- regular health talks and workshops for expectant mothers and their spouses. These services help the clients to prepare for various physiological and psychological changes during both the antenatal and postnatal period, including postpartum depression. Parents of all new-borns are invited to attend services offered in their nearby MCHCs. Those attending mothers who are suspected to have symptoms of postpartum depression are taken care of by trained health personnel. They are individually counselled and followed-up regularly at the Centres, and home visits are made if necessary. The attending doctor will refer patients with symptoms of postpartum depression to the psychiatric units in local public hospitals if necessary
- family planning advice. Females are educated on the practice of correct contraceptive methods to avoid unplanned pregnancies. Emergency contraception is also available for those who have unprotected sexual intercourse
- basic advice and counselling on infertility. Those who have infertility problems will be referred to gynaecological units in public hospital for further investigation and management
- screening for cervical cancer is provided to women attending family planning service in all MCHCs. The same service is also available in 6

designated MCHCs for females who do not require family planning service

- clinical breast examination is provided to all women attending MCHCs for family planning services

#### Health care for women not at the age of rearing children

The Maternal and Child Health Centres provide services including antenatal, postnatal, family planning and cervical cancer screening services to women, irrespective of their marital status and whether they have had children. The Women Health Centres offered health promotion and disease prevention programme for women aged 45 - 64 who require special care during their perimenopausal and postmenopausal period. Apart from the Government, other subvented organizations such as the Hong Kong Family Planning Association also provides services to women.

#### Health Education

MCHCs and Women Health Centres provide general health education to women. General publicity on woman health is provided by the Department of Health and NGOs.

#### Sexually transmissible diseases

The Social Hygiene Service of Department of Health offers free service to all women who suspect they may have acquired sexually transmissible diseases (STD). Referral is not needed and there are equal number of female and male social hygiene clinics to cater for the female and male STD sufferers. At present, there are 2 female STD clinics in Kowloon (Yung Fung Shee & Yaumatei), 3 female STD clinics in Hong Kong Island (Chaiwan, Tang Shiu Kin and Western), 3 female STD clinics in New Territories (South Kwai Chung, Tuen Mun and Lek Yuen). All these clinics provide free treatment, counselling and education service for prevention of STD to female patients.

### Combat breast cancer

Clinical breast examination is provided to all women attending MCHCs for family planning services. A health promotion and disease prevention programme including clinical breast examination and screening mammography is also provided to women (aged 45 to 64) at three Woman Health Centres under the Department of Health.

## **J. Sex Education**

### Making sex education an independent subject

We encourage schools to offer a broad and balanced curriculum through the selection of a number of subjects complemented by cross-curricular studies. Our present school curriculum is already an overcrowded one with various subjects competing for curriculum time. Making sex education an independent subject will not be an effective way to secure the necessary “school hours”, as schools may simply opt not to offer such a subject. In the Report of the Survey on the Implementation of Sex Education in Secondary School 1993/94, it was revealed that only 28% of the schools responded that they would offer sex education as an independent subject at the junior secondary level and 18% at the senior secondary level.

### Guidelines on Sex Education in Schools, 1997 (Guidelines)

The Guidelines advocated a school-based approach to sex education. In short, in formulating the strategy for the implementation of sex education, schools should take into consideration of:

- the school goals
- the background of the school
- the abilities, needs and interests of the students
- the readiness (i.e. the attitude, support, training) of the staff etc.

in order to determine the content, the teaching methods and learning activities - should they be in the form of formal/informal curriculum.

The Guidelines suggested a number of ways to implement sex education other than putting it as an independent subject. Through the formal curriculum:

- there are a number of subjects in the formal curriculum which include topics that are related to sex education, e.g. General Studies at primary level; Social Studies, Biology, Science, Home Economics and Liberal Studies at secondary level
- under the coordination of a sex education coordinating committee formed by relevant subject teachers, necessary attitude, skills and knowledge on sex education can be inculcated through the formal curriculum

Through the informal curriculum:

- to hold activities such as talks, exhibitions, letterbox, surveys, etc. on sex education
- the counselling group and the ethics/moral education group can work in collaboration with the sex education committee to promote sex education
- schools may choose to integrate sex education, moral education, environmental education, health education and civic education to develop a cross-curricular programme to be implemented in the Form-teacher period, or to integrate them into a personal and social education programme (PSE)

Some kinds of PSE programme in schools will have a better effect in the long run to strengthen the moral values, healthy attitudes and enhancing the life skills of the younger generation, with this in mind, sex education should not be singled out or delineated from this direction.

The formal curriculum offers students the basic knowledge for sex education, while the necessary skills, positive attitude and a healthy system of values towards sexuality can only be formulated through action learning promoted by the informal curriculum.

Sex education is a shared responsibility of the schools, the parents, the media and the community at large. It is always a mistake to regard sex education in schools being a panacea for all sexual ills of society. Making sex education an independent subject alone will not help to alleviate the situation - re-establishing positive values and attitudes towards sex among the younger generations really depends on the concerted efforts of all parties concerned.

The Guidelines centres on attitudes, skills and knowledge in achieving

the aims and objectives of sex education. One of the 5 dimensions for sex education as laid down in the Guidelines, is Interpersonal Relationships, which stresses a lot on basic values, personal skills (life skills including communication skills), and encourages the exploration of attitudes with students under the guidance of teachers. Dating (including prevention of date rape), prevention of sexual harassment, abuse and violence, and rights of refusals are mentioned, and included in the key concepts to be acquired by students from pre-primary up to senior secondary level.

#### Sex Education Resources Centre

The Sex Education Resources Centre, which is operated by the Education Department, was opened in 1986 to provide sex education resources support to teachers. Furthermore, 6 teaching kits on sex education pitched at students at the secondary level and 1 for students at the primary level have been produced and distributed to schools. Since 1983, over 4,000 secondary and 2,000 primary school principals and teachers have attended in-service sex education courses organised or commissioned by the Education Department. In response to the extension of sex education to the pre-primary level, 462 kindergartens heads and teachers received a 12-hour course on sex education commissioned by the Education Department and operated by NGOs in January and February 1998.

#### Eliminate gender specific school uniform

Schools have full discretion to decide on their school uniforms for their students or staff members. There is no set government policy on this issue. Very often, schools will seek views from parents before changing the design of the school uniform.

### **K. Promotion of gender awareness in education**

#### Promote gender balance in curriculum

Topics which encourage gender balance such as “life in the social groups” in General Studies at primary level and “self-awareness and self-esteem - the significance of sex differences” in Liberal Studies at secondary level are provided.

In the Revised Guidelines on Sex Education in Schools and Guidelines

on Civic Education in Schools, schools are encouraged to discuss with students topics such as “sex identity and orientation”, “gender roles” and “equality and discrimination” to instil in students a willingness to accept members of the opposite sex as equals in social, economic and political affairs.

#### Gender awareness programmes in training educational professionals

Hong Kong Institute of Education is aware of the need for teachers being encouraged to develop healthy attitude to members of the opposite sex as a model for their students, colleagues and members of the community. In all its pre-service teacher education programmes (including Certificate in Primary Education, Certificate in Secondary Education and BEd(Honours)(Primary)) and some in-service programmes (e.g. Advanced Course of Teacher Education and Course for Teachers of Children with Special Educational Needs), sex and gender education issues are incorporated in the curriculum.

#### The concept of gender equality in tertiary education

Institutions have devoted much effort to ensure gender equality through various means, e.g.

- one has set up an Equal Opportunities Committee which assures equal opportunity for members of the University and for candidates for admission and appointment, regardless of sex
- another has introduced a Policy Statement on Equal Opportunities in which non-discrimination towards sex and gender identity are explicitly included
- a third has set up Equal Opportunities Policy Working Group which promote the awareness of sex discrimination and is formulating a Sex Discrimination Policy for staff and students to promote positive gender relationships and define mechanisms for prevention of untoward incidents
- it is stated in the governing ordinance of one of the universities that “No person shall be excluded from being a member of the University by reason by sex, race or religion”

- gender equality is strictly observed in student admissions
- as regards enrolment, students are in general admitted on the basis of their academic performance (e.g. Hong Kong Advanced Level Examination scores etc.) and/or other non-academic aspects performance (e.g. music, arts, sports etc.)

### Women's studies programmes and gender-related research

In general, research funding is allocated on the merits of individual research proposals, and one of the local education institutions has set up a Women's Studies Research Centre which, for example, examines the means of introducing and incorporating gender perspectives into more degree courses currently offered at the institution.

### Civic Education

The concept of human rights, which includes equal opportunities, is continuously being conveyed to the community. The Committee on the Promotion of Civic Education (CPCE) considers promotion on human rights as an integral part of civic education. The CPCE incorporates the concept of human rights, including equal opportunities, in various projects and programmes.

## **L. Women in political and public life**

### Women in statutory and advisory bodies

Appointments to these bodies are based on the merits (expertise, experience and commitment to community services) of the individuals concerned. If the number of women to be appointed to these bodies are pre-determined, the above meritorious principle will be undermined. This may lead to the undesirable situation whereby the relevant bureaux and departments would not be able to appoint the best persons capable of meeting the specific requirements of the relevant bodies. In such cases, the purpose for these advisory and statutory bodies will not be fulfilled.

### Women in Rural Election

Home Affairs Bureau and Home Affairs Department of the HKSARG have advised Heung Yee Kuk of the Government's position on fair and open elections and equal voting rights for men and women. After lengthy

discussion, the Kuk agreed to implement the model rules for Village Representatives elections starting from August 1994. To date, more than 95% (663 out of 693) of the villages have elected their VR under the model rules and the current round of VR elections, expected to be completed by March 1999, will all be held under the model rules. In accordance with the Sex Discrimination Ordinance, the Government will not recognise the status of any village representatives who are not elected under the one-person-one-vote rule. Consequently, they will not be eligible to take part in the Rural Committee and the Heung Yee Kuk elections.

## **M. Social Security**

### Universal retirement scheme

The proposal of universal retirement scheme, such as that of old age pension, could provide protection for those who are already retired, and those without earning (e.g. housewives). However, we also recognize the shortcoming of the scheme. First, the 'pay-as-you-go' systems are the dominant form of old age security, it would constitute a disincentive effect to personal saving as there is an increased expectation of and reliance on the State pension; second, the costs of such systems make it difficult for governments to finance important public goods which leads to a "growth inhibiting consequence"; and ultimately, the costs might become too large to bear. When the public pillar fails to deliver on its promises, old people who depend on it exclusively have nowhere else to turn. Thus a dominant public pillar in a single pillar system increases the risks for the elderly.

In fact, in 1994 the Government issued a public consultation document on a proposal for an old age pension scheme. More than 6,000 written submissions were received. But there was no consensus in support of the proposal. In the absence of unequivocal support, the Government did not consider that it had a mandate to proceed.

Currently, people without regular income such as housewives are protected by the Comprehensive Social Security Scheme and the Old Age Allowance.

**N. Attachment of Income Order (AIO)**

We have studied the experience of Child Support Agencies in the UK, New Zealand and Australia and found that the effectiveness and efficiency of intermediary bodies for collecting maintenance payments for divorced spouses (such as the Child Support Agencies in the UK, New Zealand and Australia) are questionable. Despite the existence of such intermediary bodies, a high proportion of maintenance payers in those countries do not pay on time or do not pay at all.

In the HKSAR, the Government is already providing assistance to those divorcees who do not receive the maintenance payments. First, they may receive legal assistance from the Legal Aid Department, provided they pass a means test and a merits test, in order to institute legal proceedings to recover the arrears. Second, in case they experience financial hardship, they can apply to the Social Welfare Department for Comprehensive Social Security Assistance.

In addition to the existing legal proceedings for recovering arrears (such as applications for judgement summons to summon the maintenance payer to appear in court), new legislation was enacted in June 1997 to empower the court to issue AIO. Such an order may be made where a maintenance payer has failed to pay without reasonable excuse. The Order requires an Income Source (who may be an employer, a tenant from whom the maintenance payer receives rent, a company paying dividends to the maintenance payer etc.) to deduct from the income and pay the money direct to the maintenance payee.

We will conduct a review in 1999 to see what improvement, if any, should be made to our existing administrative machinery and legislative provisions.

**Collection of maintenance payment from self-employed persons**

Even where a person is self-employed, an AIO can be issued if he has income from, for example, rents received by him in respect of his property or dividends received by him from a company.

However, it is true that where there is no such an Income Source (e.g. where the maintenance payer is a taxi-driver who receives his income direct from his customers), no AIO can be issued. However, this is not

to say that these people can get away without paying.

The AIO is an additional device to help the maintenance payees. Even where no AIO can be issued, the maintenance payees, when failing to receive the maintenance due to them, can use the existing legal proceedings to recover the arrears.

The most common way is for them to apply for a judgement summons to summon the maintenance payer to appear in court to explain why he did not pay. If the court is satisfied that the payer has means to pay but deliberately refuses to do so, the court may make a Committal Order to commit the person to prison. The court may also issue a Prohibition Order to prohibit a person from leaving Hong Kong in order to ensure that he cannot leave Hong Kong without paying his debt.

#### Follow-up action for the AIO

If a divorced woman wishes to avoid contact with her ex-husband in collecting maintenance payment, she can request the court to order the payment to be made through bank transfer.

### **O. Immigrant women from the Mainland**

New arrivals from the Mainland are entitled to use the full range of welfare services available to residents of Hong Kong, including:

To facilitate the smooth integration of the new arrivals into the local community, SWD has been subventing the International Social Service Hong Kong (ISS-HK) since 1972. Post-migration services provided by ISS-HK for new arrivals includes enquiry and information service at the Travellers' Aid Desk at Hung Hom Railway Station and at Tsim Sha Tsui Office of the Immigration Department, as well as orientation, and adaptation programmes, Cantonese class, short-term counselling and social/supportive group services for new arrivals offered at the ISS-HK post-migration centres in Wanchai, Shamshuipo and Pak Tin to help them establish a mutual support network. In 1998/99, three additional social workers have been provided to ISS-HK for strengthening the post-migration service.

With \$2.5 million grant from Standard Chartered Community Foundation, SWD has launched a batch of 186 projects, targeted for new arrival children and their families from 1997 to 1999.

### Mechanism for co-ordination

A Coordinating Committee, chaired by the Director of Home Affairs and comprising representatives from policy bureaux and departments concerned, has been set up since December 1995 to monitor and assess the services for new arrivals. The Coordinating Committee identifies and discusses problems encountered by new arrivals and recommends measures for the relevant departments to pursue. The Hong Kong Council of Social Service has been invited to be a full member of the Co-ordinating Committee since September 1998. Other NGOs providing services for new arrivals are invited to Coordinating Committee meetings to present proposals for additional services, and to explore avenues for funding. The Coordinating Committee's work is complemented by a similar inter-departmental committee at the district-level.

A new Steering Committee on New Arrival Services chaired by the Secretary for Home Affairs and comprising relevant Policy Secretaries has recently been set up to oversee the work of the Coordinating Committee and to ensure that the delivery of services for new arrivals by Government bureaux, departments and NGOs is backed up by sufficient funding.

### Information directory

We have also published and regularly update an information directory which covers all the services available to new arrivals. It is written in simplified Chinese characters and is distributed free of charge at the Lo Wu checkpoint, various outlets operated by Government and voluntary agencies. Over 450,000 copies of the first three editions have been distributed. We are considering the increasing requests for producing the service handbook in traditional Chinese characters and English.

### Employment services

The Employees Retraining Ordinance was amended in January 1997 to enable the enrolment of new arrivals in the Employees Retraining Scheme. Up to 31 December 1998, a total of 124 classes of tailor-made Job Search Skills course were offered to 1,670 new arrivals. Moreover, another 6,587 new arrivals had completed the various job-specific skills and general skills retraining courses during the period.

Apart from this, the Labour Department has opened an employment and guidance centre in Shaueiwan to provide a comprehensive range of employment and guidance services tailor-made for new arrivals, including the provision of labour market information, employment counselling, briefing on practices and conditions of work in Hong Kong, career guidance, intensive job matching and job referrals. Another centre will start operating in Mongkok in early 1999. These services are designed to enable new arrivals to have a better understanding of the local job market, make suitable preparation in their job search and adapt quickly to their new jobs.

### Housing

The Government has taken into account the housing needs of new arrivals from the Mainland in its calculation of overall flat production requirements. The Housing Department will continue to encourage new arrivals who have housing difficulties to register on the public housing Waiting List so that their applications can be processed once they have met the seven-year residence rule.

Many new arrivals join families already living in private flats. In cases where new arrivals face real difficulties in accommodation, they may temporarily be accommodated in transit centres until they can make their own housing arrangements. New arrivals who are dependants of existing tenants in public rental housing and interim housing are allowed to join their families. Where this results in overcrowded living conditions, these households can apply for re-allocation to larger flats. Moreover, for new arrivals and their families who have genuine housing needs on medical or social grounds, the Housing Department may, upon recommendation of SWD, offer rehousing on a compassionate basis. New arrivals can also join their families in purchasing Home Ownership Scheme/Private Sector Participation Scheme flats if their families fulfill the requisite criteria.

### Services provided by NGOs to new arrivals

Apart from the Government, NGOs also provide both general and specific services to new arrivals. These include:-

- employment services
- employees retraining courses
- skill development programmes
- induction programmes
- school children adaptation courses
- support/mutual-aid/liaison/sharing groups
- language/educational courses
- library and study room services
- enquiry hotlines
- family life education
- family planning services
- counselling and social work services
- publication
- social policies concern group
- interest groups, recreational and social activities
- civic education and briefing on Government services
- medical services
- research/surveys
- after school care services
- child care services
- symposia and outings to enable new arrivals to know Hong Kong

### **P. Legislation on Stalking**

The Privacy sub-committee of the Law Reform Commission issued a Consultation Paper on Stalking in May 1998. The Sub-committee recommends in the Paper the creation of a tort and a criminal offence, constituted by a person knowingly pursuing a course of conduct which amounts to harassment of another. It is hoped that the LRC Report on Stalking could be published in 1999. The Report containing the final recommendations of the Commission will be passed to the Administration for consideration.

**Q. Gender specific researches and analysis**

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 is always included as a basic variable. Subsequent publications of the survey results will include tables using gender as a classifying variable where appropriate. More in-depth analysis of the issue is 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.

Home Affairs Bureau  
February 1999