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To Legco Panel on Home Affairs:

In accordance with our promise made on 9 November 1998, we submit for your consideration the enclosed Memorandum which outlines the most important function which a national machinery could fulfill: gender policy analysis.

We appreciate your commitment to working with various institutions and organizations to fulfill HKSAR's obligation under CEDAW.

It is our hope that the enclosed Memorandum and materials will both inform and assist you and your staff as you seek to improve the lives of women in HKSAR.

With best regards,

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**IMPLEMENTING THE
CEDAW CONVENTION IN
HONG KONG:**

**GENDER POLICY ANALYSIS:
WHAT IT IS,
AND WHY IT IS IMPORTANT FOR
THE HKSAR**

**Centre for Comparative and Public Law
Faculty of Law
The University of Hong Kong**

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This memorandum was prepared by Moana Erickson, with the assistance of Andrew Byrnes. It draws on material that has been collected through a number of Centre projects, including the Equality and the Law Project and a number of research projects funded by the Committee on Research and Conference Grants of the University of Hong Kong.

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GENDER POLICY ANALYSIS: WHAT IT IS, AND WHY IT IS IMPORTANT FOR THE HKSAR¹

A. INTRODUCTION²

1. This Memorandum makes the argument for national machinery and its primary purpose: gender policy analysis. The following pages contain a description of gender policy analysis; the ways in which it could benefit HKSAR women and macro-economic policy as a whole; and recommendations of the steps the HKSAR government could take to fully honour its internationally binding obligations under CEDAW and ICCPR.

Obligation to establish an effective national machinery to achieve gender policy analysis

2. The sources of international obligation to establish national machinery are found in the following:

- Article 2 (particularly paragraphs (a), (d), and (f), and 3 of the Convention on the Elimination against Women (“the CEDAW Convention”) require States Parties to condemn discrimination against women in the political, social, economic and cultural fields. Most importantly, these provisions require States Parties to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs, and practices which constitute discrimination against women. Articles 2 and 3 (as well as other articles) of the International Covenant on Civil and Political Rights (“the ICCPR”) also requires States Parties to take measures to eliminate discriminatory legislation.

¹ This Memorandum was written by Moana Erickson, with the assistance of Andrew Byrnes.

² For further sources on gender policy analysis, see the list of citations at the end of this Memorandum. The Centre for Comparative and Public Law is grateful for the assistance and materials provided by Professor Diane Elson, University of Manchester, UK.

- The Committee on the Elimination of Discrimination against Women (“the CEDAW Committee”) has in its *General Recommendation No. 6*, exhorted States Parties to establish national machinery institutions to do the following:
 - Advise on the impact on women of all government policies
 - Monitor the situation of women comprehensively
 - Help formulate new policies and effectively carry out strategies and measures to eliminate discrimination.

- The Vienna Declaration and Programme of Action (1993), endorsed by the international community, including China, stressed the importance of the human rights of women. In 1995, the Beijing Declaration and Platform for Action, endorsed by over 180 nations including China, both embodies the government’s solemn undertakings, and represents a detailed elaboration of what effective implementation of the CEDAW Convention requires in respect of national machinery. Although the Platform for Action is a non-binding declaration as a matter of law, it is one to which all nation-states involved formally gave their support.

3. Following its review of the initial report of the Hong Kong SAR under the CEDAW Convention at its 20th session, the CEDAW Committee recommended the establishment of an effective “national” machinery in Hong Kong to implement the Convention. This memorandum outlines the most important function which a national machinery could fulfill: gender policy analysis.

B. IMPLEMENTING THE CONVENTION: NATIONAL MACHINERY AND GENDER POLICY ANALYSIS

Step #1: Recognizing the importance of international legal obligations

4. The right to equality on the basis of sex is at the core of human rights. The CEDAW Convention articulates women's rights to non-discrimination in the "political, economic, social, cultural, civil, and any other field." The Vienna Declaration and Programme of Action (1993), and the Beijing Declaration and Platform for Action (1995), further emphasize the human rights of women. For HKSAR to fully implement the international legal obligations applicable to the HKSAR, the most important institution which would make the principles in the CEDAW Convention and in both Declarations a reality, is a "national machinery",³ either in the form of a Women's Bureau, a Ministry for Women's Affairs, or a Cabinet Minister for Women's Issues.

Step #2: Establishing a national machinery⁴

5. The broad objective of a "national machinery" would be to monitor progress made in anti-discrimination legislation; integrate government objectives with CEDAW goals; execute newly proposed strategies and measures to eliminate discrimination; and disaggregate budgets to expose the causal chain between policy expenditure, intermediary output, and final economic impact.⁵

Step #3: Gender policy analysis

6. The third step would be the introduction of gender-policy analysis at all levels in government decision-making processes to ensure accountability in each government bureau. Accountability is necessary not only in honouring the HKSAR's

³ "National machinery" refers to the machinery within a particular jurisdiction and is used here in relation to the HKSAR as a term of art.

⁴ See the description of the functions and forms of national machinery contained in *Thematic issues before the Commission on the Status of Women, Report of the Secretary-General, Commission on the Status of Women 43rd session, 2-10 March 1999, UN Doc. E/CN.6/1999/4, paras 43-78* (reproduced at the end of this memorandum).

⁵ Diane Elson, "Accounting for Gender in National Budgets." UNIFEM SEMINAR, 4 November 1998, New York.

obligations under CEDAW, but also in encouraging transparency in government programs where the allocation of time, money and resources is often unaccounted for. Such accountability would directly benefit national macroeconomic policy.

C. THE CASE FOR GENDER POLICY ANALYSIS

7. Because law contributes to the construction of discrimination against women, government policies and laws can intentionally, and unintentionally, discriminate against women. If such policies are reviewed using gender analysis methodologies, then unequal access to opportunities necessary for the full development of development of women's potential can be removed.

8. "Gender policy analysis" is a method for ensuring that governments are accountable to the communities they serve. It requires government departments and agencies to analyze both existing and proposed legislation and policies to ensure that they take into account their impact on both women and men. The goal for policy-makers is to pose gender-specific questions in order to identify inequalities in the impact of existing governmental policy, and to develop a process that addresses inequality in future governmental policies.

9. Recognizing that countries vary in their infrastructure, capability and history of governmental policies addressing the needs of women, the primary objective of gender policy analysis is to render existing and proposed legislation and policies more equitable, and more useful and efficient in relation to the private and public sectors. In the long-term, gender policy analysis promotes efficiency because it foresees which, and to what extent, particular sectors of the population are affected by governmental policies. This streamlines governmental policy by targeting budgets and resource allocation to produce desired results.

D. HOW DOES ONE CARRY OUT GENDER POLICY ANALYSIS?

10. While the specifics vary from country to country, gender policy analysis requires the submission of all government policies, initiatives and laws to a set of questions, similar to the following:

I. Defining Outcomes:

- a. What does the government want to achieve with this policy? How might the government's policy objective fit into its stated commitments to social, political and economic equality, and international commitments under the CEDAW Convention and the Beijing Platform for Action?
- b. Who will be affected by this policy? How will the impact of this policy be different for women and men, girls and boys, elderly women and men, or other sub-groups of women?

II. Gathering Information:

- a. What types of data and statistics are available with respect to women?
- b. What other types of gender-specific and sex-disaggregated data are available regarding other designated minority groups: ethnic minorities, persons with disabilities etc.?

III. Research:

- a. How does the objective of the research address the differential experiences of women and men as they relate to the existing or proposed policy?
- b. With respect to proposed governmental policies and research projects, in what ways are gender considerations incorporated into their research designs and methodologies?

IV. Analyzing Policy Options

- a. Analyzing different policy choices means determining how each option might disadvantage or provide advantages for women and girls. In what ways does each option have different consequences on women's and men's social, political and economic situations?
- b. Which policy option has innovative solutions and/or creates opportunities to address gender issues? What policy solutions have already been

identified by NGO's who work directly with women at the grass-roots level?

V. Gender Policy Analysis as a Source of Recommendations for Policy-Makers:

- a. Based upon an analysis of who would be most affected by which policy options, how can recommendations be made to policy-makers to inform them of the potential challenges and positive contributions which a particular policy option might have?
- b. In what ways could such recommendations draw upon the knowledge of the local NGO community, academic institutions and think-tank institutions?

VI. Evaluating the Impact of the Policy:

- a. Have gender equality concerns been incorporated into the policy and evaluation criteria of the policy?
- b. What empirical indicators and other data will be used to measure the effects of the policy on women and men?
- c. Will information about the policy be publicly available and accessible to men and women from diverse communities?
- d. Does the policy incorporate a gender perspective in addressing the social, political and economic *implications* it will have on both women and men?

Identifying specific gender-policy analysis indicators and strategies⁶

11. Needs assessments: Needs assessments attempt to establish what is needed and where it is needed. This strategy is executed by gathering quantitative data on demographic characteristics, income levels, and services available in localities throughout the country and combining these into poverty indicators.

12. Analysis of quality of service indicators: This is executed by constructing a series of quantitative indicators -- e.g. enrolment rates in schools, bed occupancy rates

⁶ The following indicators and strategies are taken from Diane Elson. "Integrating Gender Issues into National Budgetary Policies and Procedures: Some Policy Options." Journal of International Development. Vol.10, November, 1998.

in hospitals, number of connections of households to water and sanitation systems - and disaggregating those indicators by gender.

13. Beneficiary assessments: A beneficiary assessment tries to ascertain the discrepancy between actual and potential beneficiaries, to determine how far service provisions meets beneficiaries' own perceptions of what their needs are. Such assessments are most effectively conducted using qualitative interviewing or focus group methods, to determine whether certain government measures actually do improve the quality of services from beneficiaries' perspectives.

14. Assessment of 'invisible' costs: From a gender perspective it is important to define costs in terms of time as well as money. Every proposal to improve the efficiency of a service should be scrutinized for the real extent of its "cost saving measures." For example, when medical services are re-organized so as to save costs by discharging patients more rapidly from hospitals - does this merely transfer costs of care from paid hospital staff to unpaid women in families? Or is this merely the transfer of a "saving cost" to an "invisible cost"?

15. Assessment of benefits of equal opportunities in service delivery: Public sector employment policies can help to transform gender relations through family- friendly employment practices. A gender-sensitive cost-benefit assessment would see that such policies set standards of equality and promote better practices throughout the economy. A gender-blind assessment may see family-friendly employment practices as "too expensive." Public sector employment with family-friendly employment practices could be a strong example of reducing gender discrimination in the labour market, and enhancing women's ability to invest time in the development of their children, with long-term efficiency results for both the economy and society.

E. SIGNIFICANCE OF GENDER-POLICY ANALYSIS

16. The integration of gender-based analysis into macroeconomic government policies produces both equality and efficiency results; by measuring resource allocations and outcomes, long-term economic decisions are more effective. Understanding the causal chain from expenditure to results is important to national macro-economic policy. By analyzing inputs, (i.e. public expenditure or inputs to specific services), and outputs (i.e. specific services provided in terms of units of service supplied to men and women, boys and girls), results and expected outcomes are more targeted. This kind of focus is useful in determining projections for economic performance as a whole.⁷

17. Gender-policy analysis encourages greater transparency in national budgets, because it assesses what the effect of a proposed legislation or policy might have on a particular group, such as women or ethnic minorities. Greater transparency, in turn, alerts decision-makers to policy problems of inequality, and areas of potential social, political, and economic unrest. In short, the outcomes of gender policy analysis will be useful tools not only for working women and men, but also for the Hong Kong SAR Government as it monitors its mandate to lead in particular policy areas.

18. Gender-policy analysis is useful because it prevents a loss of government output. In many countries, not taking account of gender in planning education expenditure means that more of the expenditure goes to the schooling of boys rather than girls. This expenditure imbalance disadvantages girls, and eventually dampens national economic growth. See paragraph 23.

19. The most important contribution which sex-disaggregated budgets make to national macroeconomic policy is a clear depiction of the causal chain between a policy's expenditure and activities, to the intermediate effects of its outputs, to the final economic consequences which that policy is seeking to achieve. In short, gender policy analysis demands accountability in budget statements, because it requires

⁷ Diane Elson. "Integrating Gender Issues into Public Expenditure: Six Tools." University of Manchester. Graduate School of Social Sciences. Genecon Unit. April 1997.

transparency in the causal links between intended and actual results. For example, the target of income transfers is typically “head of the household” or the “main earner”, regardless of whether the mother or father plays this role. This has a detrimental effect on children, because research has shown that there is a strong tendency for extra income going to the mother to have a more positive impact on the development of children, than extra income going to fathers.⁸

20. Gender-neutral approaches to national budgets distort macroeconomic policies by ignoring women’s economic contribution to the macro-economy in the form of unpaid work in the household, voluntary community work, and subsistence and informal sector employment. Effective budgets use gender-policy analysis as a more comprehensive framework which incorporates gender into the total flow of national income and output, and thereby validates interactions between paid and unpaid activities essential to macro-economic policies. For example, understanding the internal dynamics of the household produces gendered responses to taxes, savings, employment and unemployment⁹, which in the long-term, can lead to more gender- sensitive macro-economic policy options.

21. Furthermore, introducing gender analysis into the design of policy is useful because it ensures efficiency in so far as the use of resources is properly defined. Typically, efficiency is defined only with respect to the use of paid labour in the private and public sectors of the economy. Unpaid labour in families and communities does not have a market price. The overall consequence of failing to take account of unpaid labour is a deterioration of the social framework. Women’s unpaid work in the ‘care economy’ raises productivity in the private commodity economy and the public service economy, sustaining the social framework. Addressing the issue of unpaid labour can have many outcomes. For example, one such outcome might be tax restructuring, because the impact of different taxes affects men and women differently: income tax will have a greater impact on men; VAT a greater impact on basic household consumer goods -- thus a greater impact on women.

⁸ D .Dwyer and J Bruce, A Home Divided, Stanford University Press, 1988.

⁹ Conventional macroeconomic models ignore the unpaid reproductive and care work of households primarily done by women, which assumes that women’s labour supply is infinite.

22. The root causes of discrimination often begin in childhood, in the form of a lack of access to opportunities. While equal opportunity does not necessarily translate into equal results, the objective of an institutionalized national machinery would be to ensure that *access to opportunities*, i.e. healthcare, education, legal aid, decision-making positions in government etc., is equal for all. Seeking to create fair and equal access to opportunities will not diminish the high standards typically associated with government or corporate positions. Most importantly, ensuring fair access to educational and health opportunities will produce dividends which far exceed the initial costs of institutionalizing a national machinery, and employing staff who could generate accurate statistical information about both the challenges and successes of existing opportunities for Hong Kong citizens.

23. The effectiveness of expenditure is conventionally judged in terms of intended results at the lowest possible cost. Gender-policy analysis asks the questions: “Results for whom?” “Costs for whom?” Do the intended results meet the needs of women as well as men? Are the costs equal? Will both women and men be impacted by this policy and if so, would each be equally satisfied? For example, in many countries a lack of gender analysis in planning education expenditure means that more of the expenditure goes to the education of boys rather than girls. Not only does this imbalance suppress the potential of girls, it also hampers national economic growth. Research has proven, that all else being equal, countries in which the ratio of female- to-male enrollment in primary or secondary education is less than 0.75 can expect levels of GNP that are approximately 25% lower than countries in which there is less gender disparity in education.¹⁰

24. A reduction in tax revenue may be a significant, negative consequence of failing to provide adequate health and educational opportunities to women. With government cuts in health and education services, an additional burden is put on women to queue in health clinics, and spend extra time pursuing educational goals at night or on weekends, thereby needing to find substitute child-care. All of this results in a reduction in time available for paid work, leading to a reduction in output, and a

¹⁰ A Hill and E King, ‘Women’s Education and Economic Well Being’, *Feminist Economics*, Vol.1No.2, 1995.

reduction in tax revenue. Most importantly, is the reduction in time available for family life and community activities. Time spent away from family and community life, in the long-term, results in a loss of social cohesion and an increase in public expenditure on police officers, social workers and public officials.

F. EXAMPLES OF THE USE OF GENDER POLICY ANALYSIS

Gender Policy Analysis in Health Care

25. Mainstreaming gender perspectives includes consideration of basic health care as a human right. Applying a gender perspective in health care would require that all health statistics be disaggregated by sex and that a comprehensive women's health profile be constructed. Such a health profile might include eliminating negative cultural practices, reducing violence against women, promoting access to comprehensive health services and education (including that of girls and elderly women), meeting women's non-reproductive health needs (e.g. protection against pesticides, solvents, occupational strain, chronic stress), and addressing the life-cycle choices that affect women involved in a career during peak child-bearing years.¹¹

Gender Policy Analysis Applied in Public Administration

26. In Sao Paulo, Brazil, the 1992 Paulista Convention outlines detailed responsibilities for the State and local Governments to execute gender-policy analysis. In Public Administration, the State and cities must define programmes and services within their jurisdiction; fulfill quotas in multi-annual plans; use sex-disaggregated data for all statistical work; and establish a Woman's Advisory Council composed and directed by women's NGO representatives.¹²

¹¹ For an excellent and detailed analysis of exactly how gender - sensitive indicators can be introduced into the Health Sector, see Diane Elson, "Accounting for Gender in National Budgets", UNIFEM SEMINAR, 4 November 1998, New York.

¹² Ilana Landsberg - Lewis (ed). "Bringing Equality Home: Implementing the Convention on All Forms of Discrimination Against Women." United Nations Development Fund for Women (UNIFEM), January 1999.

Gender-Sensitive, Employment Insurance System

27. A Gender-Sensitive Employment Insurance System is now part of the Canadian government's commitment to incorporate gender analysis into all federal policies, programmes, and legislation as outlined in their Federal Plan for Gender Equality. Specifically, gender policy analysis has prompted the move to an hours- based system of benefit calculation in Ottawa, Ontario. An hours-based system provides a more consistent measure of work effort that will be fairer to women. Of all part-time workers, 69% are women. Some 270,000 women in part-time jobs will have their work insured for the first time. Gender analysis also shows that the new Family Income Supplement will be particularly beneficial to low-income families with children. Two-thirds of the 350,000 claimants in low-income families with children who will receive an average \$30 per week increase to their Employment Insurance check, will be women.

28. Employment Insurance will also help women increase their earned income through a \$50 minimum earnings exemption; by removing the artificial 15 hour ceiling on part-time work; and through Employment Insurance Benefits such as wage subsidies and earnings supplements. Parents out of the labour force will be able to access Employment Insurance Benefits if they have received maternity or parental benefits in the past five years. It is estimated that between 50,000 and 100,000 women may face difficulty re-entering the labour market after staying at home to care for children and thus require employment benefits and services.¹³

Gender-Aware Budget Statement

29. Specific gender-sensitive indicators for a gender-aware budget statement might follow a pattern similar to the following:¹⁴

- i. **Gender Equality Targeted Expenditure:** The share of expenditure targeted explicitly to women, to help to redress past inequality and neglect.

¹³ Press Release: Employment Insurance: Gender Impact Analysis. January 25, 1996, Ottawa, Ontario.

¹⁴ This list is drawn largely from Diane Elson, "Integrating Gender Issues into National Budgetary Policies and Procedures: Some Policy Options." University of Manchester, Graduate School of Social Sciences. Genecon Unit. April 1997.

- ii. **Women's Priority Public Services:** The share of expenditure devoted to public services which have been identified of highest priority in reducing the burdens on women, especially poor women, and reducing gender gaps in health, education, income, and leisure.
- iii. **Gender Equality Advocacy Expenditure:** The share of expenditure devoted to the Women's Ministry or Bureau, Gender Equality Commission, Gender Focal Points in Ministries etc.
- iv. **Women's Priority Income Transfers:** The share of expenditure devoted to income transfers which have been identified as of highest priority in reducing women's income inequality and dependence, for example, child, women's pensions.
- v. **Gender Balance in Public Sector Employment:** For each Government Ministry and/or Bureau, the projected shares of men and women in employment at each grade or level; the average earnings of women as percentage of the average male earnings in each grade.
- vi. **Gender Balance in Business Support:** The projected shares of men and women in expenditure directed to business support in agriculture, manufacturing and services.
- vii. **Gender Balance in Public Sector Contracts:** Shares (by value) of contracts going to male-headed firms and female-headed firms.
- viii. **Integration of gender into appraisal of the composition of public expenditure and taxation:** Different patterns of expenditure have different implications for women and men, and affect their abilities to contribute to the production of the market and the care of families and communities.

G. RECOMMENDATIONS TO THE HONG KONG SAR GOVERNMENT

30. We recommend that the *Government establish national machinery in the form of a Women's Bureau for implementation of the Convention* in order to ensure that the gender impact of policies is identified, evaluated, and incorporated into the formulation of policies.

31. In particular, in order to fulfill its international obligations under the CEDAW Convention and other treaties and to give effect to the guarantees of equality contained in the Basic Law, we urge the HKSAR government to:

- Establish national machinery for the advancement of women in a central policy-coordinating unit inside government.
- Establish as the objective of that national machinery the review of all legislation and policies using various methodologies of gender policy analysis.
- Establish a new precedent that all *existing and proposed policies* presented to the Legislative Council which entail requests for funding be accompanied by *an analysis of the gender impact* of such expenditure.

32. We also recommend that the Government provide a *breakdown of the number of women and men who serve on the various statutory and other advisory boards and undertake an analysis of the procedures for appointing persons to these bodies*, in order to assess how a greater number of women could serve on these bodies.

33. We also recommend that a *Women's Budget Statement* be prepared annually to bring together information on the consequences of government expenditures for women. A Women's Budget Statement is not a separate budget for women. Rather, it attempts to disaggregate expenditure according to its direct impact on women. The trail-blazing example in Australia required participating government departments to identify the impact of their proposed expenditure on women. A Women's Budget Statement was then synthesized by the federal Office of the Status of Women. Producing a Women's Budget Statement thus requires a high degree of co-operation throughout the machinery of government.

34. A Women’s Budget Statement would be a strong beginning to honouring the HKSAR’s obligations under CEDAW. Its strengths include sensitizing departments to the long-term implications of their policies on women; acting as a lever for the synthesis of gender-specific data; creating a window for dialogue and debate with respect to specific budgetary policies; and identifying specific quantifiable measures for improvement overtime.

H. CONCLUSION

35. Gender policy analysis is not an easy or simple process. It requires Government officials to take responsibility for the way in which their Bureau budgets are organized, and an honest recognition of how, and why resources are allocated as they are.

36. Gender inequalities restrict the ability of national budgets to achieve national economic goals because men and women assume such different economic roles and responsibilities. Thus, from both an equity and efficiency perspective, gender-analysis methods can improve budget priorities. To initiate such changes, the systematic use of gender-specific indicators to appraise budgets, and the incorporation of various groups and organizations in the Hong Kong community to contribute to such appraisals, is required.

37. While a short-term view lends itself to persuasive reasons not to provide the additional time and resources that a systematic evaluation of government budgets would require, a long-term view provides limitless reasons. In a dynamic and international city such as Hong Kong, the education, incorporation, and well-being of its female citizenry is critical to the HKSAR’s continued leadership in East and Southeast Asia.

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