

**Tenth to Thirteenth Reports of the
People's Republic of China
under the
International Convention
on the Elimination of All Forms
of Racial Discrimination –**

**Part Two:
Hong Kong
Special Administrative Region**

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Part A

General Profile of the Hong Kong Special Administrative Region

Part A : General Profile of the Hong Kong Special Administrative Region

LAND AND PEOPLE

(a) Population by sex^{1 & 2}

Sex	Mid 1991 (million)	Mid 1996 (million)	Mid 2001 (million)	Mid 2005 (million)	Mid 2006 (million)	End 2006# (million)
Male	2.9	3.2	3.3	3.3	3.3	3.3
Female	2.8	3.2	3.4	3.5	3.6	3.6
Total	5.8	6.4	6.7	6.8	6.9	6.9

(b) Population by age group and sex^{1 & 2}

Age	Sex	Percentage of total population					
		Mid 1991	Mid 1996	Mid 2001	Mid 2005	Mid 2006	End 2006#
Under 15	Male	10.8	9.7	8.5	7.3	7.1	7.0
	Female	10.0	9.0	7.9	6.9	6.6	6.6
15-18	Male	3.0	2.8	2.7	2.6	2.6	2.6
	Female	2.8	2.7	2.6	2.5	2.5	2.5
(0-18)	Male	13.9	12.5	11.2	9.9	9.7	9.6
	Female	12.8	11.7	10.5	9.4	9.1	9.1
19-64	Male	33.4	32.9	32.5	32.4	32.3	32.2
	Female	31.3	32.7	34.6	36.1	36.5	36.6
65 and over	Male	3.9	4.6	5.2	5.6	5.7	5.8
	Female	4.9	5.6	6.0	6.6	6.7	6.7
All age groups	Male	51.1	50.0	48.9	47.9	47.7	47.6
	Female	48.9	50.0	51.1	52.1	52.3	52.4

Provisional figures

¹ The Population By-census conducted in July to August 2006 provides a benchmark for revising the population figures compiled since the 2001 Population Census. In the above table, population figures from mid-2001 to mid-2006 have been revised accordingly.

² Since August 2000, population estimates have been compiled based on "resident population". Formerly, they were based on the "extended de facto" approach, which counted all Hong Kong Permanent and Non-Permanent Residents and visitors at a reference time-point. We have revised the population and related statistics for 1996 onwards on this basis.

(c) **Educational attainment (population aged 15 and above)**³

Educational attainment	Percentage									
	1986		1991		1996		2001		2006	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
No schooling/ kindergarten	7.0	21.6	7.1	18.5	5.1	13.8	4.6	12.0	4.0	9.9
Primary	30.8	27.6	26.1	24.3	22.7	22.6	20.4	20.6	17.6	18.9
Secondary and above	62.2	50.8	66.8	57.2	72.2	63.6	75.0	67.4	78.4	71.1
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

(d) **Literacy rate**⁴ & ⁷

1984 : 85.7%; 1996 : 90.4% ; 2000 : 92.4%; 2001 : 92.7%; 2002 : 93.1%;
2003 : 93.1%; 2004 : 93.2%; 2005 : 93.6%; 2006 : 94.1%

(e) **Percentage of population (excluding mutes) aged five and over by usual language/dialect**

Usual language/dialect	Percentage			
	1991	1996	2001	2006
Cantonese	88.7	88.7	89.2	90.8
Putonghua	1.1	1.1	0.9	0.9
Other Chinese dialects	7.0	5.8	5.5	4.4
English	2.2	3.1	3.2	2.8
Others	1.0	1.3	1.2	1.1
	100.0	100.0	100.0	100.0

³ The figures for 1991 and 2001 are derived from the Population Censuses taken in that year; those for 1986, 1996 and 2006 are derived from the respective Population By-censuses.

⁴ The literacy rate refers to the proportion of persons aged 15 and above with educational attainment at primary or above. The figures are derived from the General Household Survey.

(f) **Crude birth and death rates⁵**

	1991	1996	2001	2004	2005	2006
Crude birth rate (per 1 000 population)	12.0	9.9	7.2	7.3	8.4	9.6
Crude death rate (per 1 000 population)	5.0	5.0	5.0	5.4	5.7	5.4 [#]

(g) **Expectation of life at birth ⁵ (number of years)**

Sex	1991	1996	2001	2004	2005	2006 [#]
Male	75.2	76.7	78.4	79.0	78.8	79.5
Female	80.7	82.7	84.6	84.8	84.6	85.6

(h) **Infant mortality ratio (per 1 000 live births)**

1991	1996	2001	2004	2005	2006 [#]
6.4	4.1	2.6	2.7	2.3	1.8

(i) **Maternal mortality ratio (number of deaths per 100 000 registered live births)**

1991	1996	2001	2004	2005	2006 [#]
5.7	3.1	2.0	4.1	3.5	0.0

[#]Provisional figures

⁵ The Population By-census conducted in July to August 2006 provides a benchmark for revising the population figures compiled since the 2001 Population Census. In the above tables, population-related figures from 2001 to 2005 have been revised accordingly.

(j) **Fertility rate⁵**

	1991	1996	2001	2004 ⁶	2005	2006
General fertility rate (per 1 000 women – excluding foreign domestic helpers – aged 15 - 49)	45.1	37.4	26.8	25.1	26.1	27.0

#Provisional figure

(k) **Percentage of household heads by sex**

Sex	1986	1991	1996	2001	2006@
Male	73.0	74.3	72.8	71.2	61.6
Female	27.0	25.7	27.2	28.8	38.4

@ The figures of 2006 Population By-census included all household heads in 2 226 546 domestic households. Among them, there were 344 591 domestic households reported to have more than one household head.

(l) **Unemployment rate (%)⁷**

1987	1992	1999	2000	2001	2002	2003	2004	2005	2006
1.7	2.0	6.2	4.9	5.1	7.3	7.9	6.8	5.6	4.8

⁶ The drop in general fertility rate over the period 1991 to 2004 was associated with a number of factors like marriage postponement, postponement of low-order live births, curtailment of high-order births and unfavourable economic climate.

⁷ Figures are compiled based on the data obtained from the General Household Surveys for the four quarters of the year.

(m) **Rate of inflation**

(i) Composite Consumer Price Index (CPI)⁸

Year	Annual rate of change in CPI (%)
1996	6.3
1997	5.8
1998	2.8
1999	-4.0
2000	-3.8
2001	-1.6
2002	-3.0
2003	-2.6
2004	-0.4
2005	1.0
2006	2.0

(ii) Implicit price deflators of Gross Domestic Product (GDP)

Year	(2000 = 100)	Annual rate of change (%)
1996	106.3	5.8
1997	112.2	5.6
1998	112.4	0.2
1999	105.9	-5.8
2000	100.0	-5.6
2001	98.2	-1.8
2002	94.8	-3.5
2003	88.7	-6.4
2004	85.5	-3.6
2005	85.2	-0.4
2006	84.9	-0.4

⁸ The Composite CPI is compiled on the basis of the expenditure patterns of about 90% of Hong Kong households with an average monthly expenditure of HK\$4,000 to HK\$59,999 in the base period of October 2004 to September 2005. This approximately corresponds to a monthly expenditure range of HK\$4,100 to HK\$61,500 at 2006 prices.

(n) **Gross Domestic Product**

Year	At current market prices (US\$ Million)	At constant (2000) market prices (US\$ Million) ⁹
1996	158,971	149,589
1997	176,314	157,079
1998	166,916	148,439
1999	163,277	154,115
2000	168,757	168,757
2001	166,536	169,659
2002	163,708	172,778
2003	158,467	178,581
2004	165,822	193,877
2005	177,790	208,754
2006	189,794	223,466

(o) **Per capita income**

(Per capita GDP¹⁰ for 1996-2006)

Year	At current market prices (US\$)	At constant (2000) market prices(US\$)
1996	24,702	23,244
1997	27,170	24,206
1998	25,508	22,684
1999	24,715	23,328
2000	25,320	25,320
2001	24,803	25,268
2002	24,274	25,619
2003	23,544	26,532
2004	24,445	28,581
2005	26,095	30,640
2006	27,678	32,589

⁹ Using the exchange rate of the respective year to convert the GDP at constant (2000) market prices.

¹⁰The Population By-census conducted in July to August 2006 provides a benchmark for revising the population figures compiled since the 2001 Population Census. In the above table, per capita GDP figures for 2001 to 2005 have been revised accordingly.

(p) **External debt:** the HKSAR Government does not incur external debts.

(q) **Ethnic composition of the Hong Kong population**

Population by ethnicity in 2006

Ethnicity	Males (‘000)	Females (‘000)	Both sexes (‘000)	% share in total (%)
Chinese	3 195	3 327	6 522	95.0
Non-Chinese	78	265	342	5.0
<i>Of which:</i>				
Filipino	6	107	112	1.6
Indonesian	1	87	88	1.3
White	24	13	36	0.5
Indian	10	10	20	0.3
Nepalese	8	8	16	0.2
Japanese	7	7	13	0.2
Thai	1	11	12	0.2
Pakistani	6	5	11	0.2
Others	14	19	33	0.5
Total	3 273	3 591	6 864	100.0

GENERAL POLITICAL STRUCTURE

Constitutional document

2. In accordance with the provisions of Article 31 and sub-paragraph 13 of Article 62 of the Constitution of the People’s Republic of China (PRC), and the relevant decisions of the National People’s Congress (NPC) adopted at the Third Session of the Seventh NPC on 4 April 1990, the Hong Kong Special Administrative Region of the People’s Republic of China (HKSAR) was established on 1 July 1997. The Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China (“the Basic Law”)

came into effect on 1 July 1997. Among other things, the Basic Law provides that, under the principle of “One Country, Two Systems”, the socialist system and policies are not practised in the HKSAR and Hong Kong’s previous capitalist system and way of life will remain unchanged for 50 years. A copy of the Basic Law is at **Annex I**.

3. To fully realise the principle of “One Country, Two Systems”, the Basic Law sets out the broad framework of the relationship between the Central Authorities and the HKSAR (Chapter II); the fundamental rights and duties of Hong Kong residents (Chapter III); the political structure of the HKSAR (Chapter IV); the economic, financial and social systems of the HKSAR (Chapters V and VI); the conduct of the HKSAR’s external affairs (Chapter VII); and the interpretation and amendment of the Basic Law (Chapter VIII).

4. Among other matters, the Basic Law provides that -

- (a) other than defence and foreign affairs, the HKSAR shall exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication. The power of final adjudication of the HKSAR shall be vested in the Court of Final Appeal established in the Region;
- (b) the executive authorities and legislature of the HKSAR shall be composed of permanent residents of Hong Kong;
- (c) the laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, except for any that contravenes the Basic Law, and subject to any amendment by the legislature of the HKSAR;
- (d) national laws shall not be applied in the HKSAR except for those listed in Annex III to the Basic Law and that the laws listed therein shall be applied locally by way of promulgation or legislation by the Region. The Standing Committee of the National People’s Congress may add to or delete from the list of laws in Annex III after consulting the Committee for the Basic Law of the HKSAR and the HKSAR Government;
- (e) the HKSAR is authorized to conduct external affairs on its own, and may on its own, using the name “Hong Kong, China”, maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organisations in the appropriate fields, including the economic, trade, financial and

- monetary, shipping, communications, tourism, cultural and sports fields;
- (f) the HKSAR remains a free port, a separate customs territory and an international financial centre. The HKSAR Government shall, on its own, formulate monetary and financial policies, safeguard the free operation of financial business and financial markets, and regulate and supervise them in accordance with law. There shall be free flow of capital. The HKSAR issues and manages its own currency;
 - (g) the HKSAR formulates its own policies on the development of education, science, culture, sports, labour and social services, and Hong Kong residents have the freedom of religious belief;
 - (h) Hong Kong residents enjoy a wide range of freedoms and rights and this will be dealt with under the section of “General Legal Framework Within Which Human Rights Are Protected”; and
 - (i) the provisions of the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the HKSAR.

System of Government

General Structure

5. The Chief Executive of the HKSAR is the head of the Region, and is accountable to the Central People’s Government and the Hong Kong Special Administrative Region in accordance with the provisions of the Basic Law. The Executive Council assists him in policy-making. The Legislative Council of the HKSAR is the legislature of the Region. The HKSAR has also established District Councils which are not organs of political power. The District Councils are consulted on district administration and other affairs. There is an independent judiciary.

Chief Executive

6. The Basic Law provides that the Chief Executive of the HKSAR shall be selected by election or through consultations held locally and be appointed by the Central People’s Government. The method for selecting the Chief Executive shall be specified in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. The

ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.

7. Annex I to the Basic Law further provides that if there is a need to amend the method for selecting the Chief Executive for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive and they shall be reported to the Standing Committee of the National People's Congress for approval.

8. The election for the third term Chief Executive, whose term of office would commence on 1 July 2007, took place on 25 March 2007.

Executive Council

9. The Executive Council assists the Chief Executive in policy-making. Under Article 56 of the Basic Law, except for the appointment, removal and disciplining of officials and the adoption of measures in emergencies, the Chief Executive shall consult the Executive Council before making important policy decisions, introducing bills to the Legislative Council, making subordinate legislation, or dissolving the Legislative Council. The Chief Executive in Council also determines appeals, petitions and objections under those ordinances that confer a statutory right of appeal. If the Chief Executive does not accept a majority opinion of the Executive Council, he shall put the specific reasons on record.

10. The Council normally meets once a week. It is presided over by the Chief Executive. As provided for in Article 55 of the Basic Law, Members of the Executive Council are appointed by the Chief Executive from among the principal officials of the executive authorities, Members of the Legislative Council and public figures. Their term of office shall not extend beyond the expiry of the term of office of the Chief Executive who appoints them.

Legislative Council

11. The powers and functions of the Legislative Council are specified in Article 73 of the Basic Law. These include enacting, amending or repealing laws in accordance with the provisions of the Basic Law and legal procedures; examining and approving budgets introduced by the government; approving taxation and public expenditure; receiving and debating the policy addresses of the Chief Executive; raising questions on the work of the government; debating any issue concerning public interests; endorsing the appointment and removal of

the judges of the Court of Final Appeal and the Chief Judge of the High Court; and receiving and handling complaints from Hong Kong residents.

12. Article 68 of the Basic Law provides that the Legislative Council of the HKSAR shall be constituted by election. The method for its formation shall be specified in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the Legislative Council by universal suffrage. Annex II to the Basic Law and the relevant decision of the National People's Congress at its Third Session on 4 April 1990 prescribe the composition of the Legislative Council during its first three terms as follows –

<u>Membership</u>	<u>First term</u> 1998-2000 (two years)	<u>Second term</u> 2000-2004 (four years)	<u>Third term</u> 2004-2008 (four years)
(a) elected by geographical constituencies through direct elections	20	24	30
(b) elected by functional constituencies	30	30	30
(c) elected by an election committee	10	6	-
Total	60	60	60

13. For the third term Legislative Council, the HKSAR is divided into five geographical constituencies of four to eight seats. 30 seats are returned from 28 functional constituencies, each of which represents an economic, social, or professional group which is substantial and important to the HKSAR.

14. The third Legislative Council Election was held on 12 September 2004. The present (third term) Legislative Council assumed office on 1 October 2004.

15. Annex II of the Basic Law provides that, if there is a need to amend the method for forming the Legislative Council after 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Council and the consent of the Chief Executive and they shall be reported to the National People's Congress for the record.

District Councils

16. Eighteen District Councils were established in the HKSAR to advise the government on district affairs and to promote recreational and cultural activities, and environmental improvements within the districts. A District Council is composed of elected members, appointed members, and, in the case of District Councils in rural areas, the chairmen of Rural Committees as ex-officio members. For the second term District Councils (2004-2007), the HKSAR is divided into 400 constituencies, each returning one elected member. In addition, there are 102 appointed members and 27 ex-officio members.

17. In the light of population increase in two districts, the number of elected seats in the District Councils increased from 400 to 405 for the third term District Councils commencing on 1 January 2008.

The structure of the Administration

18. The Chief Executive is the head of the Government of the HKSAR. If the Chief Executive is not able to discharge his duties for a short period, such duties shall temporarily be assumed by the three Secretaries of Departments, namely the Chief Secretary for Administration, the Financial Secretary, or the Secretary for Justice, in that order of precedence. The Government of the HKSAR comprises a Department of Administration, a Department of Finance, a Department of Justice, and various bureaux, divisions, and commissions.

19. There are currently 12 bureaux, each headed by a Director of Bureau, which collectively form the Government Secretariat. With certain exceptions, the heads of government departments are responsible to the Secretaries of Departments and Directors of Bureaux. The exceptions are the Commissioner of the Independent Commission Against Corruption, the Ombudsman and the Director of Audit, who function independently and are directly accountable to the Chief Executive.

20. Following the implementation of the accountability system on 1 July 2002, the Chief Secretary for Administration, the Financial Secretary, the Secretary for Justice, and the 12 Directors of Bureaux are no longer civil servants. They are political appointees directly responsible to the Chief Executive and are accountable to him for the success or failure of matters falling within their policy portfolios. They are appointed to the Executive Council. Together with the non-official members of the Executive Council, they assist the Chief Executive in policy-making. Under the accountability system, the civil service continues to remain permanent, meritocratic, professional and politically neutral.

The judicial system of the HKSAR

21. The legal system is firmly based on the rule of law and a Judiciary, which is independent of the executive authorities and the legislature.

22. Article 19 of the Basic Law provides that the HKSAR shall be vested with independent judicial power, including that of final adjudication. The courts of the HKSAR shall have jurisdiction over all cases in the Region, except that the restrictions on their jurisdiction imposed by the legal system and principles previously in force in Hong Kong shall be maintained. The courts of the HKSAR shall have no jurisdiction over acts of state such as defence and foreign affairs. The courts of the Region shall obtain a certificate from the Chief Executive on questions of fact concerning acts of state such as defence and foreign affairs whenever such questions arise in the adjudication of cases. This certificate shall be binding on the courts. Before issuing such a certificate, the Chief Executive shall obtain a certifying document from the Central People's Government.

23. The courts of justice comprise the Court of Final Appeal, the High Court (which consists of the Court of Appeal and the Court of First Instance), the District Court, the Magistrates' Courts, the Lands Tribunal, the Labour Tribunal, the Small Claims Tribunal, the Obscene Articles Tribunal and the Coroner's Court. The courts hear and determine all criminal trials and civil disputes, whether between individuals or between individuals and Government of the Region.

24. Article 82 of the Basic Law provides that the power of final adjudication of the HKSAR shall be vested in the Court of Final Appeal of the Region, which may as required invite judges from other common law jurisdictions to sit on the Court of Final Appeal. Article 83 further provides that the structure, powers and functions of the courts of the HKSAR at all levels shall be prescribed by law.

25. All judges and judicial officers must have qualified as legal practitioners in Hong Kong or in a common law jurisdiction and have substantial professional experience. Article 88 of the Basic Law provides that judges of the courts of the HKSAR shall be appointed by the Chief Executive on the recommendation of an independent commission composed of local judges, persons from the legal profession and eminent persons from other sectors.

26. Judges have security of tenure. Article 89 of the Basic Law provides that a judge of a court of the HKSAR may only be removed for inability to discharge his or her duties, or for misbehaviour, by the Chief Executive on the

recommendation of a tribunal appointed by the Chief Justice of the Court of Final Appeal and consisting of not fewer than three local judges. The Chief Justice of the Court of Final Appeal of the HKSAR may be investigated only for inability to discharge his or her duties, or for misbehaviour, by a tribunal appointed by the Chief Executive and consisting of not fewer than five local judges and may be removed by the Chief Executive on the recommendation of the tribunal and in accordance with the procedures prescribed in this Law.

GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

Rule of Law

27. The fundamental basis for the protection of human rights is the rule of law maintained by an independent judiciary (see paragraphs 21 to 26 above). The principles that inform the rule of law are -

- (a) **the supremacy of the law:** no individual is punishable or can lawfully be made to suffer personally or financially except for a breach of law established before the independent courts. Where, under the law, an official or an authority has discretion to make a decision, that discretion must be exercised legally, fairly and reasonably. Where it does not do so, the decision must be capable of successful challenge before the courts. The Basic Law guarantees the right of Hong Kong residents to institute legal proceedings in the courts against the acts of the executive authorities and their personnel; and
- (b) **equality before the law:** Article 25 of the Basic Law provides that all Hong Kong residents shall be equal before the law. Article 22 provides that all offices set up in the HKSAR by departments of the Central People's Government, or by provinces, autonomous regions, or municipalities directly under the Central Government and personnel of these offices shall abide by the laws of the Region. Article 14 provides that members of the garrison shall, in addition to abiding by national laws of the PRC, abide by the laws of the HKSAR. Article 35 also provides that Hong Kong residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel. No government authority or official, and no individual, in the HKSAR, is above the law. All persons, regardless of race, rank, politics, religion or sex, are equal before the law and subject to the same law. Individuals and the HKSAR Government have the same access to the courts to enforce legal rights or defend an action.

Human rights guarantees in the Basic Law

28. Article 4 of the Basic Law provides that the HKSAR shall safeguard the rights and freedoms of residents of the HKSAR and of other persons in the Region in accordance with law. The Basic Law guarantees a wide range of freedoms and rights, including -

- (a) equality before the law;
- (b) freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike;
- (c) freedom of the person; freedom from torture; freedom from arbitrary or unlawful arrest, detention or imprisonment; freedom from arbitrary or unlawful search of the body; and right against arbitrary or unlawful deprivation of life;
- (d) freedom from arbitrary or unlawful search of, or intrusion into, one's home or other premises;
- (e) freedom and privacy of communication;
- (f) freedom of movement within the HKSAR and freedom of emigration to other countries and regions and freedom to travel and to enter or leave the Region;
- (g) freedom of conscience; freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public;
- (h) freedom of choice of occupation;
- (i) freedom to engage in academic research, literary and artistic creation, and other cultural activities;
- (j) right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies; right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel;
- (k) right to social welfare in accordance with law; and
- (l) freedom of marriage and right to raise a family freely.

Persons in Hong Kong other than Hong Kong residents shall, in accordance with law, enjoy the rights and freedoms of Hong Kong residents prescribed by Chapter III of the Basic Law. In addition, permanent residents of the HKSAR enjoy the rights to vote and to stand for election in accordance with law.

Effect of other human rights instruments in HKSAR law

29. According to Article 39 of the Basic Law -

“The provisions of the ICCPR, the ICESCR and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the HKSAR.

The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the preceding paragraph of this Article.”

30. In general, and as is usual in common law systems, treaties that apply to Hong Kong (including human rights treaties) do not themselves have the force of law in the domestic legal system of Hong Kong. They cannot directly be invoked before the courts as the source of individual rights. However, the courts will, when possible, construe domestic legislation in such a way as to avoid incompatibility with international treaties that apply to Hong Kong. The usual method of giving effect in local law to treaty obligations (when these require some change in existing laws or practice) is to enact specific new legislation¹¹. Where this results in the creation or definition of specific legal rights and where these rights are denied or interfered with (or there is the threat of such action), a remedy will be available in the courts through the ordinary procedures of civil litigation; or the law may provide criminal sanctions.

The Hong Kong Bill of Rights Ordinance

31. The Hong Kong Bill of Rights Ordinance (HKBORO) (Chapter 383 of the Laws of the HKSAR) was enacted in June 1991 specifically to give effect in local law to the provisions of the ICCPR as applied to Hong Kong. It achieves this by setting out a detailed Bill of Rights, the terms of which are almost identical to those of the ICCPR.

¹¹ An example is the Crimes (Torture) Ordinance (Chapter 427 of the Laws of the HKSAR) which was enacted to give effect in Hong Kong to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Adoption of laws: effect on the HKBORO

32. Article 160 of the Basic Law provides that the laws previously in force in Hong Kong shall be adopted as laws of the Region except for those which the Standing Committee of the NPC declares to be in contravention of the Basic Law. In February 1997, the Standing Committee considered that three sections of the HKBORO (relating to the interpretation and application of the Ordinance¹²) had an overriding effect over other laws, including the Basic Law. As such, they contravened the Basic Law and could not be adopted.

33. The non-adoption of these sections has no effect on the protection of human rights in the HKSAR in view of the constitutional guarantee in Article 39 of the Basic Law. The substantive protections in Part II of the Ordinance (which are almost identical to the provisions of the ICCPR) are unchanged. So too are the remedies provided under section 6 for contravention of the Ordinance and the binding effect on the Government and all public authorities under section 7. The full text of the HKBORO is at **Annex II**.

Legal aid

34. Eligible applicants receive legal aid through the provision of the services of a solicitor and, if necessary, a barrister in court proceedings to ensure that any person who has reasonable grounds for pursuing or defending a legal action is not prevented from doing so by lack of means. Publicly funded legal aid services are provided through the Legal Aid Department and the Duty Lawyer Service.

Legal Aid Department

35. The Legal Aid Department provides legal representation to eligible persons in both civil and criminal cases heard in the Court of Final Appeal, the Court of Appeal, the Court of First Instance, the District Court and the Magistrates' Court (for committal proceedings). Civil legal aid is available for proceedings covering major areas of livelihood of the community ranging from

¹² The three sections were -

- (a) Section 2(3): "In interpreting and applying this Ordinance, regard shall be had to the fact that the purpose of this Ordinance is to provide for the incorporation into the law of Hong Kong of provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong, and for ancillary and connected matters."
- (b) Section 3: "Effect on pre-existing legislation -
 - (1) All pre-existing legislation that admits of a construction consistent with this Ordinance shall be given such a construction.
 - (2) All pre-existing legislation that does not admit of a construction consistent with this Ordinance is, to the extent of the inconsistency, repealed."
- (c) Section 4: "Interpretation of subsequent legislation - All legislation enacted on or after the commencement date shall, to the extent that it admits of such a construction, be construed so as to be consistent with the International Covenant on Civil and Political Rights as applied to Hong Kong."

family disputes to immigration matters and to coroner's inquests. Applicants must satisfy the Director of Legal Aid of their financial eligibility (the means test) and of the justification for legal action (the merits test). The grant of legal aid is not subject to a residence requirement. In criminal cases, the Director has discretion to waive the upper limits of the means test if he considers it in the interest of justice to do so. He also has the same discretion in meritorious applications for civil legal aid where a breach of the HKBORO or the ICCPR as applied to Hong Kong is an issue. Subject to the means test (unless waived by a judge), it is mandatory to grant legal aid to an applicant charged with murder, treason or piracy with violence. For other criminal offences, provided the applicant passes the means test, a judge may grant legal aid notwithstanding that legal aid has been refused on merits by the Director.

The Duty Lawyer Service

36. This Service complements the legal aid services provided by the Legal Aid Department. It operates three schemes that respectively provide legal representation (the Duty Lawyer Scheme), legal advice (the Legal Advice Scheme) and legal information (the Tel Law Scheme). The Duty Lawyer Scheme offers legal representation to virtually all defendants (juvenile and adult) charged in the Magistracies who cannot afford private representation. It also provides legal representation to persons who are at risk of criminal prosecution as a result of giving incriminating evidence in Coroner's inquests. Applicants are subject to a means test and merits test, based on the "interest of justice" principle in accordance with Article 14 of the ICCPR and Article 11 of the Hong Kong Bill of Rights. The Legal Advice Scheme and the Tel Law Scheme respectively provide members of the public with free legal advice through individual appointments and taped information on the legal aspects of everyday problems.

Legal Aid Services Council

37. The Legal Aid Services Council, an independent statutory body, was established in 1996. Its role is to oversee the provision of legal aid services by the Legal Aid Department and advise the Chief Executive on legal aid policy.

Office of The Ombudsman

38. The Ombudsman - formerly known as the Commissioner for Administrative Complaints (COMAC) - is an independent authority, established under The Ombudsman Ordinance (Chapter 397)¹³. The Ombudsman investigates complaints of grievances arising from maladministration in the

¹³ Formerly known as the COMAC Ordinance.

public sector. "Maladministration" includes such things as inefficient, bad or improper administration, unreasonable conduct (such as delay, discourtesy and lack of consideration), abuse of power or authority and unjust or discriminatory procedures. Members of the public can complain directly but The Ombudsman may also initiate investigations on her own volition and may publish investigation reports of public interest. Additionally, The Ombudsman is empowered to investigate complaints of non-compliance with the Code on Access to Information.

39. The enactment of The Ombudsman (Amendment) Ordinance 2001 enhances the independent status of The Ombudsman and enables her to carry out her functions more effectively. The Ombudsman, a corporate sole, is empowered with full autonomy and statutory authority to conduct its own administrative and financial business. The Ordinance specifically makes it clear that The Ombudsman is not a servant or agent of Government.

40. Under The Ombudsman Ordinance, The Ombudsman may obtain any information and documents from such persons as she thinks fit. She may summon any person to provide information relating to her investigations and may enter any premises of the organisations under her jurisdiction to conduct investigations.

41. After investigating a complaint, The Ombudsman is empowered to report her opinion and reasons, together with a statement of any remedy and recommendation necessary, to the head of the organisation affected. If the recommendation is not acted upon within a reasonable timeframe, The Ombudsman may report the matter to the Chief Executive. She may also do so if she believes that a serious irregularity or injustice has been done. Such reports are required by law to be laid before the Legislative Council. This helps ensure that The Ombudsman's recommendations are heard and acted upon.

42. With the exceptions of the Police and the Independent Commission Against Corruption (ICAC), The Ombudsman has jurisdiction over all Government departments of the HKSAR and major statutory bodies. Complaints against these two organisations are handled separately by discrete, dedicated bodies (see paragraphs 45 and 46 below). However, complaints of non-compliance with the Code on Access to Information by the Police and the ICAC remain within The Ombudsman's jurisdiction.

Equal Opportunities Commission

43. The Equal Opportunities Commission (EOC) was an independent statutory body established under the Sex Discrimination Ordinance (SDO) in 1996 to implement the SDO, the Disability Discrimination Ordinance (DDO)

and the Family Status Discrimination Ordinance (FSDO). The Commission is responsible for conducting formal investigations, handling complaints, encouraging conciliation between parties in dispute, providing assistance to aggrieved persons in accordance with these ordinances. It undertakes research programmes and public education to promote equal opportunities in the community. The Commission is also empowered to issue codes of practice to provide practical guidelines to facilitate public compliance with the laws on equal opportunities.

Privacy Commissioner for Personal Data

44. The Personal Data (Privacy) Ordinance (PDPO) provides for statutory control of the collection, holding, processing and use of personal data in both the public and private sectors. Its provisions are based on internationally accepted data protection principles. The Ordinance applies to personal data access to or processing of which is practicable whether they are recorded in electronic, paper file, or audio-visual forms. The Ordinance provides for an independent statutory authority, the Privacy Commissioner for Personal Data, to promote, monitor and enforce compliance with its provisions. The Commissioner's responsibilities include, among others, promoting awareness and understanding of the Ordinance, issuing codes of practice on how to comply with the Ordinance, examining proposed legislation that may affect the privacy of individuals in relation to personal data, and enforcing the Ordinance.

Complaints and investigations

The Police

45. The Complaints Against Police Office (CAPO) investigates complaints about the conduct and behaviour of members of the police force. The CAPO's investigations are monitored and reviewed by the Independent Police Complaints Council (IPCC). The IPCC is an independent body comprising non-official members appointed by the Chief Executive from a wide spectrum of the community.

The ICAC

46. The Independent Commission Against Corruption Complaints Committee (the ICC) - established in 1977 - monitors and reviews the handling by the ICAC of non-criminal complaints against the ICAC and officers of the ICAC. Again, this is an independent committee appointed by the Chief Executive. The ICC comprises mainly members of the Executive and Legislative Councils and a representative of The Ombudsman. Complaints against the ICAC or its officers can be made direct to the ICC as well as the

ICAC at any of its offices. The investigation of such complaints is handled by a special unit of the Operations Department of the ICAC. When the unit has completed its investigation of a complaint, its conclusions and recommendations are submitted to the ICC for consideration.

Other disciplined services

47. Other disciplined services departments maintain clear guidelines and procedures for handling complaints. For example, the Correctional Services Department (CSD), which runs HKSAR's prisons, has a Complaints Investigation Unit to manage its grievance redress system for staff, prisoners, and members of the public. These persons may also direct their complaints to the Chief Executive, members of the Legislative Council, the Ombudsman, visiting Justices of the Peace and other law enforcement agencies such as the ICAC and the Police. The existing complaint channels are considered effective in view of the number and the nature of complaints handled.

48. The Immigration Department applies complaints procedures set out in the Immigration Service Standing Orders made by the Director of Immigration under the authority of the Immigration Service Ordinance. Complaints about abuse of authority or maltreatment by service members can be made to the Director of Immigration and are investigated promptly in accordance with the procedures in the Standing Orders. To ensure that all complaints are properly handled, a Complaints Review Working Party examines the results of investigations, conducts reviews and recommends follow-up action whenever necessary. Persons who consider that they have been improperly treated or that their cases have been mismanaged also have access to the Ombudsman. If there is prima facie evidence that a member of the Immigration Service has committed a criminal offence, the Immigration Service will immediately report the matter to the Police for further investigation. Disciplinary procedures against Immigration Service staff are also governed by the Immigration Service Ordinance and the Immigration Service Standing Orders. Under Section 8 of the Immigration Service Ordinance (Chapter 331), unlawful or unnecessary exercise of authority resulting in loss or injury to any person is a disciplinary offence.

INFORMATION AND PUBLICITY

Promotion of public awareness of the human rights treaties

49. The Constitutional and Mainland Affairs Bureau¹⁴ of the HKSAR Government is responsible for promoting public awareness of the rights and obligations stipulated in the human rights treaties applicable to Hong Kong. Following the enactment of the HKBORO in 1991, the Committee on the Promotion of Civic Education (CPCE) under the Home Affairs Bureau has been tasked to promote public understanding of the HKBORO and respect for human rights as set out in the various treaties. Human rights have been one of the major emphases of the CPCE's work. Recently, the CPCE has increased its efforts to promote a public understanding of the Basic Law, which provides the constitutional guarantees for human rights protection in the HKSAR. Separately, a Basic Law Promotion Steering Committee - chaired by the Chief Secretary for Administration - was established in January 1998 to guide promotional strategy.

50. In 2002, a joint non-governmental organisation (NGO)/Government forum, the Committee on the Promotion of Racial Harmony, was established to advise Government on the promotion of inter-racial respect and tolerance and matters relating to the International Convention on the Elimination of All Forms of Racial Discrimination. The Committee is serviced by the Race Relations Unit, also established in 2002 under the auspices of the Constitutional and Mainland Affairs Bureau.

Government publications

51. The Central People's Government of the People's Republic of China is obliged to submit reports in respect of the HKSAR under various human rights treaties (but see paragraph 52 below in relation to the ICCPR). Draft reports are prepared by the Constitutional and Mainland Affairs Bureau and the Labour and Welfare Bureau of the HKSAR Government. The Bureaux consult the Legislative Council and NGOs and address their views in the reports. The final reports are tabled before the Legislative Council - and publish in bilingual format - after the submission by the Central People's Government to the United Nations. Copies are deposited in public libraries and posted on the Internet for public inspection.

¹⁴ Following the reorganisation of Government Secretariat with effect from 1 July 2007, matters related to human rights were transferred from Home Affairs Bureau to the purview of Constitutional and Mainland Affairs Bureau. Matters related to women were transferred from the Health, Welfare and Food Bureau to the Labour and Welfare Bureau.

Reports of the HKSAR in the light of the ICCPR

52. In November 1997, the Central People's Government of the People's Republic of China announced that, in line with the Joint Declaration and the Basic Law, and considering that China was not yet a signatory to the ICESCR and ICCPR, it would make reference to the provisions of the two Covenants as applied to Hong Kong and transmit reports on the HKSAR to the United Nations. China subsequently ratified the ICESCR in 2001 and the HKSAR's reports form part of China's reports under that Covenant¹⁵. The Government of the HKSAR is responsible for preparing the reports on the HKSAR in the light of the ICCPR for transmission to the United Nations through the Central People's Government.

¹⁵ China's first report was submitted to the United Nations in June 2003 and was heard in April 2005.

Part B

**Information in relation to
each of the Articles
in Part I of the Convention**

Part B: Information in relation to each of the Articles in Part I of the Convention

Article 1 – Definition of racial discrimination

53. Article 1 of the Convention defines the concept of racial discrimination. We have accordingly adopted this definition in our proposed Race Discrimination Bill.

54. In reporting on implementation of this Article, the guidelines contained in the United Nations Manual on Human Rights Reporting, particularly those set out in pages 273 and 274 thereof, advise Parties to –

- (a) discuss their policy with regard to racial discrimination and the legal framework of such a policy;
- (b) provide information on how the Convention and the rights put forward in it become part of the domestic legal order; and
- (c) provide general background information on the reporting State, and make special reference to the demographic composition of the population, and to any problems confronting different ethnic groups.

55. In regard to (a), our consistent policy is that we are opposed to all forms of discrimination, including racial discrimination. Our commitment to safeguarding equality is clearly enshrined in the Basic Law and in domestic legislation. They are further buttressed by the rule of law and an impartial and independent judiciary. Details of our policy with specific reference to racial discrimination and the legal framework for protection against such discrimination are described in paragraphs 60 to 68 below, as well as in paragraphs 27 to 48 of Part A, under the heading ‘General legal framework within which human rights are protected’.

56. With regard to (b), we are pleased to report, as mentioned in paragraph 53, that in addition to existing protection under the Basic Law and domestic legislation, we have further introduced draft legislation specifically to reinforce protection for individuals against racial discrimination. The domestic legal order in HKSAR for protection of the rights put forward in this Convention is described in detail in paragraphs 27 to 48 of Part A and is further discussed in the context of implementation of Article 2, in paragraphs 60 to 74 below.

57. With regard to (c), the general background information, including the demographic composition of the population in HKSAR, is set out in Part A. We address the issues relating to special groups and ethnic minorities in paragraphs 75 to 104 below.

Publicity of the report and Concluding Observations

58. In paragraphs 9 and 24 of the 2001 Concluding Observations, the Committee –

- (a) welcomed “the extensive consultation with civil society in the preparation of, in particular, the part of the State party report pertaining to the Hong Kong Special Administrative Region”; and
- (b) recommended “that the State party’s reports continue to be made readily available to the public from the time they are submitted and that the Committee’s observations on them be similarly publicised.”

59. We are grateful to the Committee for its appreciation and encouragement. We continue to take proactive measures to publicise and to widely disseminate our reports and the Committee’s Concluding Observations. We reported, through the media, the publication of the Committee’s 2001 Concluding Observations shortly after its release and distributed, free of charge, the full text of the observations together with a Chinese translation to facilitate access and understanding by the general public. We promulgated the bilingual version of the observations on the Government website, along with, also in bilingual version, the relevant HKSAR report which had been posted on the web at the time of its submission. We continue to make these reports available to the public, both in printed and electronic media. The same arrangement is made for the present report. Members of the public can obtain printed copies and CD-ROM containing the full text of this report, in English and Chinese, at all district offices, or download it from the Government website as they wish.

Article 2 - Policy of eliminating racial discrimination

Legal framework

60. Our position in this area remains essentially as described in paragraphs 2 to 5 of the initial report. That is, the Basic Law (the full text of which is at **Annex I**) offers protection for fundamental rights and freedoms and safeguards equality before the law and equal protection of the law without any discrimination for all residents and people of Hong Kong. It is complemented by the Hong Kong Bill of Rights Ordinance (HKBORO)(copy at **Annex II**), which implements in local law the provisions of the ICCPR as applied to Hong Kong. The Ordinance binds the Government and all public authorities and any person acting on behalf of the Government or a public authority. In addition, our three existing anti-discrimination ordinances, namely the Sex Discrimination Ordinance (SDO), the Disability Discrimination Ordinance (DDO) and the Family Status Discrimination Ordinance (FSDO), prohibit discrimination in specific areas in both the private and the public sector.

61. In paragraph 19 of the 2001 Concluding Observations, the Committee requested "...the State party to provide in subsequent reports, inter alia, detailed information on judicial cases relating specifically to violations of the Convention, including in the Hong Kong and Macau Special Administrative Regions, with special reference to the granting by courts of adequate reparation for such violations." We confirm that, to date, there have not been any judicial cases relating to violations of the Convention in Hong Kong. We will update the Committee of changes, if any, at the hearing of this report.

Policy of eliminating racial discrimination

62. Fundamentally, our policy remains as explained in paragraph 11 of the initial report. We are committed to the promotion of equal opportunities for all and firmly believe that all forms of discrimination – including racial discrimination – are wrong. At the same time, we believe that each form of discrimination has its own characteristics, including the particular ways in which they may be manifested in Hong Kong. Therefore, the strategies for combatting discrimination must be tailored and appropriate to the particular form of discrimination that they are intended to address. In general, we believe that, in the interest of social harmony, promotion of integration and public education on equality remain the quintessential vehicles for eliminating prejudice and discrimination. Thus, legislation

cannot, and should not, take the place of continuing public education for the larger population and of necessary support measures for the minorities who may be discriminated. Any proposals to legislate should also be made open to extensive and comprehensive consultation within the community.

63. In paragraph 17 of the 2001 Concluding Observations, the Committee took note of the on-going consultation being conducted in Hong Kong but expressed concern over –

“...the continuous absence in the Hong Kong Special Administrative Region of legal provisions protecting persons from racial discrimination to which they may be subjected by private persons, groups or organizations.”

The Committee particularly recommended that –

“... the existing unsatisfactory situation be thoroughly reviewed and that appropriate legislation be adopted to provide appropriate legal remedies and prohibit discrimination based on race, colour, descent or national or ethnic origin similarly to what has been done with regard to discrimination on the grounds of gender and disability.”

64. We have taken careful heed of the Committee’s view and recommendation. Against the background of a public consultation conducted in 1997, in which over 80% of the respondents were against legislation, we, in 2001-02, initiated further consultation on the issues with the business community and with non-governmental organizations and other interested parties. It appeared from that consultation that, with Government’s continued efforts in raising public consciousness, the general public in Hong Kong was becoming more receptive to the proposal of legislating against racial discrimination. This change of attitude was particularly discernible among those in the business community. This observation was vindicated by the findings of a survey later conducted between February and March 2004, in which about 60% of the respondents supported the introduction of legislation to prohibit racial discrimination.

65. In light of gradual community acceptance, we announced in June 2003 our intention to legislate against racial discrimination and commenced more detailed formulation of proposals on the legal provisions. We put our proposed legislative framework to extensive public consultation

in September 2004. By the end of the consultation in February 2005, we received 240 submissions, most of which were in support of our legislative proposal.

66. The Race Discrimination Bill was introduced into the Legislative Council in December 2006.

67. Specifically, the Bill seeks to proscribe racial discrimination and to provide for details of the areas of protection, enforcement mechanism and remedies. We aim to arrive at a regulatory regime which not only satisfies our policy objective and international obligation to combat racial discrimination, but also one which balances the rights and interests of different parties and is reasonable in its justifications, practicable in implementation and acceptable to the people affected. The Bill is divided into nine parts containing 94 clauses. In line with the Committee's recommendation cited in paragraph 63 above, this Bill aims at "protecting persons from racial discrimination to which they may be subjected by private persons, groups or organizations". To ensure parity of treatment, the Bill contains the specific provision that it applies to an act done by or for the purposes of the Government that is of a kind similar to an act done by a private person. In other words, the proposed provisions in the Bill will apply to both the Government and the private sector.

68. The Bill proposes to render unlawful both direct and indirect racial discrimination. It enshrines the internationally accepted principle of proportionality in determining whether there is indirect discrimination. While it does not impose an obligation for affirmative actions, special measures designed for the benefit of ethnic minorities are specifically permitted under the proposed law. As in existing anti-discrimination ordinances in Hong Kong, the Bill covers discrimination in the same six prescribed areas of activity, including particularly education, employment and the provision of facilities and services.

Public discussions on the Bill

69. Concurrent with the introduction of the Bill into the Legislative Council, we mounted special publicity to raise public awareness and to encourage discussions on the proposed legislation. We issued a press release and held press briefings to introduce the main features of the Bill. To enhance public understanding, we published an explanatory booklet with Q&As to explain in layman language the key provisions and their impact on

ordinary daily life. This booklet was published in English and Chinese as well as in the four major ethnic minority languages in Hong Kong. We also organised special briefings for interested groups, including those in the ethnic minorities, NGOs, the government's Committee for the Promotion of Racial Harmony, the Ethnic Minorities Forum, the Human Rights Forum and those from the business, employment and education sectors. Government officials also attended media interviews as well as various meetings and discussion fora arranged by local organisations and ethnic communities, both to exchange views and to further explain the detailed provisions and rationale for the proposals.

70. Meanwhile, the Bills Committee of the Legislative Council, which has been formed to examine the Bill, is holding regular meetings with Government officials to discuss the underlying principles and detailed provisions of the Bill. These meetings are open to the public. It has also organised public hearings to receive deputations from members of the public and interested parties. We will continue to provide input to the Bills Committee to facilitate its consideration of the Bill. In the light of the discussions, we will consider the scope for making appropriate amendments or refinements to relevant provisions of the Bill.

71. In line with our established practice in the preparation of reports to UN Treaty Monitoring Bodies, we conducted public consultation within the community in the process of drafting this report. In this connection, a number of community groups and NGOs have expressed views, inter alia, on the provisions of the Race Discrimination Bill. Their submissions and representations are forwarded, intact, to the Committee for members' reference and consideration.

72. We value the views of the public and the civil society on the proposed legislation. We shall continue to maintain dialogue with them both to exchange views and to explain the Government's policy. At the time of writing this report, the Race Discrimination Bill is going through due legislative process of consideration by the Legislative Council¹⁶. We shall report further on progress at the hearing or in a future report as appropriate.

¹⁶ A supplementary note on the Race Discrimination Bill is at Annex III.

Administrative measures to promote racial harmony

73. We firmly recognise that the prosperity of Hong Kong is founded, among other things, on its cosmopolitan nature and the contribution of its people from different background and ethnic origins. In this context, therefore, racial harmony is a particularly important cornerstone for harmony in our society. The HKSAR Government is committed to safeguarding the rights of people against racial discrimination. The Race Discrimination Bill discussed in paragraphs 66 to 72 above is a major stride in our continuous endeavours and commitment in this regard.

74. We also firmly believe that legislation must go hand in hand with public education and support for better integration. We have, over the years, launched various initiatives to promote racial harmony and to assist integration of the ethnic minorities in Hong Kong. We finance and operate an Equal Opportunities (Race) Funding Scheme to support community based projects, publications and campaigns to promote racial harmony. We organise language classes at district level to facilitate integration of members of the ethnic minorities in our community. We fund radio programmes in the languages of the ethnic minorities both for their entertainment and to keep them up-to-date with local news and important government announcements. We sponsor community support teams to provide services to the ethnic minority groups through members of their own community. We have established a Race Relations Unit which, among its many functions and responsibilities, operates a hotline for enquiries and help deal with complaints. It also organises talks and workshops in schools to promote public education on anti-racial discrimination. We also maintain continuing dialogue with ethnic minority groups through our regular liaison, the Committee on the Promotion of Racial Harmony and the Ethnic Minorities Forum. These are just examples of the initiatives taken. A detailed list of our activities as well as the support measures taken in education and employment is at **Annex IV**. We shall continue to develop and enhance our services as necessary and appropriate.

Special groups

75. In this section, we focus on four groups which are the subject of concern both locally and internationally. They are: foreign domestic helpers; refugees, migrants and illegal immigrants from Vietnam (including ex-China Vietnamese illegal immigrants); new residents of Pakistani origin; as well as asylum seekers and torture claimants.

Foreign domestic helpers

76. As at 31 December 2006, some 232 781 people – mostly women – were working in Hong Kong as foreign domestic helpers. The majority were from the Philippines (about 120 788, or 51.9%), 44.7% (about 104 129) from Indonesia and 1.8% (about 4 292) from Thailand. Most of the remaining 1.5% (about 3 572) were from South Asia.

77. We explained in paragraphs 25 to 26 of our initial report the rights, benefits and protection under the labour legislation foreign domestic helpers enjoy. Employers of foreign domestic helpers are required to pay a minimum allowable wage, currently HK\$3,400 (US\$436) a month. The purpose of this minimum allowable wage is to protect the helpers from exploitation and to ensure that local workers are not undercut by foreign labour. The minimum allowable wage is reviewed regularly, taking into account a basket of economic indicators, such as the prevailing economic situation, household income, per capita GDP and wage movements for local workers in Hong Kong. Arising from such a regular review, the wage level was reduced from HK\$3,670 (US\$471) to HK\$3,270 (US\$419) a month in April 2003. However, it was subsequently increased to HK\$3,320 (US\$426) in May 2005 and to the current level of HK\$3,400 (US\$436) since May 2006 based on the same principle and mechanism.

78. In addition to the minimum allowable wage, employers of foreign domestic helpers must also provide their helpers with free accommodation and food, free medical treatment and return passage upon expiry or termination of employment contracts. Helpers enjoy the same and full statutory rights and protection (including entitlements of statutory holidays, annual leave with pay and weekly rest, as well as maternity protection and the right to form and join trade unions) as do local workers. Like other imported workers, foreign domestic helpers are informed of their legal and contractual rights and obligations through the enquiry service and publicity measures of the Labour Department and the Immigration Department. Publicity events reaching out to the community of foreign domestic helpers direct are organised from time to time to disseminate information on their rights and channels to seek assistance when needed.

79. As explained, foreign domestic helpers in Hong Kong enjoy equal and full protection and entitlements under the labour legislation in the same way as local employees. The Labour Department provides free service and assistance to foreign domestic helpers who are underpaid to help

recovery of the outstanding wages from their employers. Besides, any employer defaulting wage payment commits a serious offence and is liable, upon conviction, to a maximum fine of HK\$350,000 (US\$44,872) and imprisonment for three years.

80. Despite the above protection given to foreign domestic helpers, there are still concerns surrounding some of their employment and admission terms. We shall discuss these issues under paragraphs 140 to 150 in relation to Article 5(e) below.

Refugees, migrants and illegal immigrants from Vietnam (including ex-China Vietnamese illegal immigrants)

81. At the beginning of 2000, some 1 400 Vietnamese refugees (VRs) and Vietnamese migrants (VMs) remained stranded in Hong Kong and it was clear that the chance of overseas resettlement for them had become extremely remote. The HKSAR Government therefore offered local integration to them through the widened Local Resettlement Scheme in February 2000. As an integral part of the scheme, the Pillar Point Vietnamese Refugee Centre, the last such centre in Hong Kong, was closed in a dignified, peaceful and orderly manner in June 2000. As at 31 January 2007, 98% or 1 400 eligible VRs and VMs have applied under the Scheme.

82. In January 1998, the HKSAR Government abolished the port of first asylum policy for Vietnamese arriving in Hong Kong illegally. Thereafter, all new illegal arrivals were classified as Vietnamese illegal immigrants (VIIs) and repatriated to Vietnam after clearance by the Vietnamese government. A total of 598 VIIs arrived in 2006. Like other illegal immigrants, they are normally detained when intercepted, and arrangements are made for their prompt repatriation to Vietnam.

Ex-China Vietnamese (ECVs)

83. In our initial report, we advised that the removal of about 350 ECVs was held in abeyance pending outcome of a judicial review against the HKSAR Government's decision. The case was eventually settled by consent of the parties involved. All the ECVs and their family members were granted permission to stay in Hong Kong except for one missing female ECV.

New residents of Pakistani origin

84. Like the Indian community, the Pakistanis are the oldest and most established of all the minorities in Hong Kong. The early settlers were by and large first brought to Hong Kong by the British to man the Police Force and parts of the armed services. The population of Pakistani settlers in Hong Kong in the past year is listed in the table below.

Pakistani nationals living in Hong Kong¹⁷

As at end of the year	Permanent resident	Temporary resident	Total
1997	9 057	4 124	13 181
1998	9 419	4 837	14 256
1999	9 457	4 786	14 243
2000	9 474	4 213	13 687
2001	9 848	4 072	13 920
2002	10 261	3 831	14 092
2003	10 350	3 400	13 750
2004	10 879	3 069	13 948
2005	11 540	2 595	14 135
2006	11 693	2 682	14 375

¹⁷ Please note that the figures on foreign residents are derived from a physical count of arrival and departure records maintained by the Immigration Department. Such figures are a breakdown of the number of persons by their nationalities physically present in Hong Kong on a particular date (usually the last day of a month). They do not represent the total number of foreign residents who have residential status here. The figures also vary from time to time because some foreign residents travel frequently on business trips or on vacation overseas.

“*Permanent Residents*” refer to residents whose stay in Hong Kong is not restricted by the Director of Immigration. This category of residents may have the right of abode, right to land or unconditional stay in Hong Kong. “*Temporary Residents*” refer to residents whose conditions of stay in Hong Kong are being restricted by the Director of Immigration.

85. In July 2006, there were a total of 177 611 non-Chinese new arrivals, representing 2.6% of the population in Hong Kong. Among them, 0.8% were Pakistanis. The median age for Pakistanis was 23, significantly lower than that of the whole population of 39. The most commonly used language for Pakistanis aged 5 and over was Bengali and Urdu (69.6%). A high proportion (63.7%) of them could speak English, but many, perhaps most, could not read or write Chinese. Some 21.7% of Pakistanis aged 15 and over had attended primary education or below (the corresponding proportion for the whole population aged 15 and over was 25.4%). On the other hand, 36.4% of Pakistanis aged 15 and over had attained post-secondary education which was higher than that of the whole population aged 15 and over at 23.0%.

86. The labour force participation rate for Pakistanis was 79.8% for male and 8.0% for female. Some female Pakistanis have proved a more difficult target for outreach and have not responded to approaches from service providers. They seem generally prefer to approach their spouse or clansmen at times of crisis. As they are not prepared to seek help from other local people, many of them are not aware of the welfare services available to them. Taking into account the reluctance of Pakistanis (in particular the female members) in seeking community services, Government and NGOs have adopted a more proactive approach through out-reach work by different stakeholders at the district level and self-help teams administered by members of the Pakistani community. We have therefore provided funding for the establishment and operation of a Pakistani Community Support Team. This team is operated by a Pakistani community group in partnership with an experienced local NGO and serves to offer assistance and support services to Pakistani settlers in their own language and in a culturally sensitive manner.

87. About 31% of the working Pakistanis were engaged in “Managers and administrators”, followed by “Associate professionals and Elementary occupations”. As at the end of January 2007, there was a total of 1 213 Comprehensive Social Security Assistance (CSSA) cases involving recipients whose country of origin are Pakistan. To help the able-bodied unemployed CSSA recipients, including Pakistanis, move towards full-time paid employment and be self-reliant, the Social Welfare Department, through the Support for Self-reliance Scheme, provides them with personalised employment assistance and community work opportunities to help them enhance employability and build up self-confidence.

88. To assist their finding employment, the Labour Department provides a wide range of free employment services to help place job-seekers, including Pakistanis, into employment through a network of 12 Job Centres, Telephone Employment Service Centre as well as bilingual Interactive

Employment Service on the web. With the specific aim to facilitate Pakistanis to make use of public employment service, the leaflet on "Easy-to-use Employment Services of the Labour Department" has been translated into Urdu. Employment briefings specifically for ethnic minorities are organised regularly at the Job Centres. They are also encouraged to join the Job Matching Programme of the Labour Department for more in-depth interview, career counselling and active job-matching.

Asylum seekers and torture claimants

89. During public consultation in the preparation of this report, a number of commentators accused the Government of malpractices and failure in its treatment of refugees, asylum seekers and torture claimants. Although the issues raised do not in our view concern racial discrimination, in view of the gravity of the allegations we should explain our policy and practice so as to remove unnecessary misunderstanding and misperception.

90. The issue of asylum seekers and torture claimants in Hong Kong has, in recent years, attracted much attention from certain NGOs. The 1951 United Nations Convention relating to the Status of Refugees ("the 1951 UN Convention") does not apply to Hong Kong. The unique situation of Hong Kong, with its small geographical size and a dense population, set against the backdrop of our relative economic prosperity in the region and our liberal visa regime, makes us vulnerable to possible abuses if the said Convention were to be extended to Hong Kong. We thus have a firm policy of not granting asylum and do not have any obligation to admit individuals seeking refugee status under the 1951 UN Convention.

91. Claims for refugee status lodged in Hong Kong are dealt with by the United Nations High Commissioner for Refugees (UNHCR). The Government has maintained close liaison with the UNHCR to ensure persons whose claims for refugee status have been denied and who have no permission to remain here leave Hong Kong in accordance with the law. According to the UNHCR, there were some 2 370 outstanding refugee status claims involving 2 407 persons as at the end of 2006. However, as refugee status claims are not dealt with by the Government, we do not have the demographics of refugees and asylum seekers. Some refugee status claimants would also lodge a claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) against repatriation to their home countries. As of December 2006, there were some 700 outstanding torture claim cases. A majority of the torture claimants came from South Asian countries, with others coming from Africa.

There is a considerable overlap between the population of asylum seekers and torture claimants.

92. Any torture claimant who fails to establish his claim will be removed from Hong Kong in accordance with the local laws. On the other hand, a torture claimant who has established his claim will not be removed to the country where there are substantial grounds for believing that he would be in danger of being subject to torture. His removal to another country to which he may be admitted without the danger of being subject to torture will nonetheless be considered. Furthermore, if subsequent changes in country conditions are such that a torture claim established earlier in respect of a particular country can no longer be substantiated, removal to that country will also be considered.

93. Turning to the specific issues raised, some commentators have accused the Government of arbitrary detention of asylum seekers.

94. We should point out that, in Hong Kong, the fact that a person is an asylum seeker or torture claimant does not by itself lead to that person's prosecution or detention. However, a person found to be in violation of our laws may be liable to such enforcement actions. For example, persons who have entered Hong Kong illegally or breached their conditions of stay may be so liable.

95. In the case of a person put under detention in accordance with our laws who is also an asylum seeker or torture claimant, the Director of Immigration may on a case-by-case basis exercise his discretion to grant the person release on recognizance pending the determination of his claim by the relevant authorities or, for mandated refugee, pending his resettlement elsewhere arranged by the UNHCR. As at end January 2007, 73% of those liable to detention for various reasons were granted release on recognizance.

96. The treatment of immigration detainees is governed by respective law. The detention centres are considered fit for accommodation by the respective authority. Channels of complaints are open to every detainee and they are not to be punished for making complaints.

97. Some commentators alleged that the Government was not providing enough support to asylum seekers and torture claimants and that it was depriving these people of basic necessities and denying education for their children pending determination of their claims.

98. There are no grounds for such allegations. On humanitarian grounds, the Government is providing, on a case-by-case and need basis, assistance-in-kind to asylum seekers and torture claimants who are deprived

of basic needs during their temporary presence in Hong Kong. The types of assistance offered include temporary accommodation, food, clothing, other basic necessities, appropriate transport allowances, counselling, and recommendation for the waiver of medical expenses at public clinics or hospitals. The types of assistance offered to the individual vary according to the needs and personal situations of the person concerned.

99. Children with no right to remain in Hong Kong, including asylum seekers and torture claimants, are subject to removal and the question of their schooling in Hong Kong therefore does not normally arise. Where removal is unlikely for a considerable length of time, the Education Bureau would arrange schooling for them where appropriate. Where strong compassionate and humanitarian grounds exist, student financial assistance is provided on a case-by-case basis, even though the children concerned are not normally eligible.

100. Some commentators suggested that the Government should expand the scope of legal aid and make it available to torture claims and refugee status determination procedures.

101. Our legal aid policy is to ensure that no one with reasonable grounds for taking or defending a legal action in Hong Kong courts is prevented from doing so because of a lack of means. Legal aid is granted to any person, whether resident or non-resident, who satisfies the relevant criteria under the means test and the merits test.

102. As Hong Kong's legal aid service is an integral part of Hong Kong's legal system, legal aid will only be granted for legal representation in civil and criminal proceedings in the courts of Hong Kong, in accordance with the Legal Aid Ordinance and the Legal Aid in Criminal Cases Rules. Legal aid is therefore not available if no legal proceeding is involved. The Government has no intention to change the existing policy at this stage.

103. Some commentators also alleged that no support was given to asylum seekers or torture claimants who suffered from domestic violence or sexual abuse.

104. Again, this is not true. Victims of sexual, physical assault and related offences, and vulnerable witnesses, enjoy protection under our relevant law irrespective of their residence status. Services are available to all victims of domestic violence and sexual abuse, including asylum seekers and torture claimants. These services include legal and medical assistance, psychological support/counselling, temporary accommodation/shelter, other short-term emergency intervention, etc.

Article 3 - No racial segregation or apartheid

105. The position remains as explained in paragraph 61 of the initial report. That is, neither apartheid nor any form of racial segregation is practised in Hong Kong, nor would it be tolerated by Hong Kong's people or Government.

Patterns of settlement

106. In paragraphs 62 to 64 of the initial report, we advised the Committee that some ethnic groups were found to be residing in some localities in greater numbers than in others but there were no marked signs of a trend towards 'ghettoisation'.

107. The position remain largely the same: members of South Asian communities continue to favour Tsimshatsui, their traditional area of congregation, while the Nepalese community tend to settle in northwestern New Territories near the former British military bases. In recent years, we also see a rise in Pakistani population in the newly-developed areas of Yuen Long, Tin Shui Wai and Tung Chung, likely attributable to new public residential housing being available in those areas. Although the economic factor, along with other reasons such as familiarity and mutual support, does play a role in determining the settlement pattern, none of the areas are predominantly inhabited by any particular ethnic minority group. Ethnic communities continue to co-exist with the local Chinese majority in a generally peaceful and harmonic manner in different districts of Hong Kong. The Government will continue to actively pursue its policy of integration and encourage the ethnic communities to participate in the general community of Hong Kong.

Article 4 - No propaganda or organisations which are based on racial superiority

108. The position remains as reported in paragraphs 65 to 70 of the initial report. That is, the HKSAR and its people do not tolerate views of extremist or racist organizations, and that no such groups exist in Hong Kong. While we firmly uphold the freedom of opinion and expression, our laws also contain adequate safeguards and provisions to effectively punish or suppress any racist acts of violence.

109. When enacted, the proposed Race Discrimination Bill described in paragraphs 66 to 72 of this report will further reinforce existing legislation and render it unlawful for a person or an organisation, by any activity in public, to incite hatred towards, serious contempt for, or severe ridicule of, another person or members of a class of persons on the ground of race. It will also prohibit serious vilification which involves the threatening of physical harm or inciting others to threaten physical harm toward persons of his target, or the property or premises of those persons. Serious racial vilification is a criminal offence under the Bill, and carries a penalty of a fine of HK\$100,000 (US\$12,821) and imprisonment for two years.

Article 5 - Guarantees of rights of everyone without distinction as to race, colour, or national or ethnic origin

Article 5(a) - equal treatment before tribunals and organs administering justice

110. In Hong Kong, all persons regardless of their race, colour or national or ethnic origin are equal before the law and have equal access to the courts. This is expressly provided for in Article 25 of the Basic Law and Articles 1, 10 and 22 of the Hong Kong Bill of Rights (HKBOR).

111. Legal aid is available to all persons if they meet the means test and that there is justification for legal action. Article 11 of the HKBOR provides that any person charged with a criminal offence is entitled, in full equality, to legal aid where the interests of justice so require and without payment if he himself cannot pay for it. The operation of the legal aid system is explained in paragraphs 34 to 37 of Part A.

Decisions made under the Immigration Ordinance

112. The position remains the same as reported in paragraphs 75 and 78 of the initial report.

113. Concerns have been raised by some commentators on the possible abuse of power by frontline officers of the Immigration Department, that they might have taken decisions in refusing entry or extending visa to individuals based on racial bias.

114. Such speculations are unfounded. To guard against abuse of powers, the Immigration Department has in place established guidelines and procedures for its frontline staff to handle applications. It also provides training to new recruits and in-service immigration staff to foster the culture of courtesy and impartiality in compliance with the law. All staff are trained to treat all members of the public with respect and professionalism irrespective of their race, gender, nationality, age, marital status, pregnancy, family status, religion or disability. General human rights training provided by the Immigration Department also covers topics of the HKBORO and other applicable laws. In addition, there are established review mechanisms and provisions available to members of the public who are aggrieved by actions or decisions of the Immigration Department.

Persons in Police custody

115. The position remains as explained in paragraph 79 of the initial report. The rights of detained persons are made known to the detainees, irrespective of their race, colour, or national or ethnic origin. Translation service is also arranged where necessary.

Article 5(b) - security of person

116. A commentator raised questions on the measures taken by the Police and the Correctional Services Department to prevent racial discrimination. On this, we confirm that staff of the Police and Correctional Services Department act in accordance with the laws of Hong Kong, all binding international conventions and other applicable standards.

117. At the Correctional Services Department, the staff are required to observe the United Nations Standard Minimum Rules for the Treatment of Prisoners. They are also required to treat all persons under the Department's custody equally, with respect and humanity, irrespective of their race, colour, or nationality. A high standard of conduct is maintained through enforcement of the discipline rules prescribed by the law. They are given training on cultural sensitivity and measures against racial discrimination as part of their induction training as well as in-service refresher training organised regularly. They are also required to refresh and update relevant knowledge through in-service training courses.

118. As for the Police, training covering racial sensitivity is already included in the basic training provided to new recruits at both Inspectorate and Police Constable ranks. Training topics include the general subject of prejudice and discrimination and the possible difficulties in policing a multicultural society.

119. At the strategic level, a Working Group on Non-Ethnic Chinese was established by the Police in March 2006 to consider the policing service needs of non-ethnic Chinese in Hong Kong. In addition, at the district level, several Police Formations have developed and undertaken a wide variety of initiatives to address their specific issues related to non-ethnic Chinese. Police officers of non-ethnic Chinese origins are also involved in initiatives to broaden the understanding of different faiths within the Police.

Article 5(c) - political rights

Elections of the Chief Executive and to the Legislative Council and District Councils

120. The system of elections of the Chief Executive and to the Legislative Council and the District Councils is explained in Part A of this report, paragraphs 6 to 17. All Hong Kong permanent residents aged 18 or above and who ordinarily reside in Hong Kong are eligible to apply to be registered as electors for the Legislative Council geographical constituency elections and District Council elections. The electorate for Legislative Council functional constituencies comprises representatives of major organisations of the relevant sectors and members of professions with well-established and recognised qualifications. The Members of the Election Committee, who form the electorate for the Chief Executive, are returned through election on a sectoral and functional basis and are subject to relevant legal provisions. These provisions make no reference to race, colour or national or ethnic origin.

121. All persons who are registered geographical constituency electors, aged 21 or above and have ordinarily resided in Hong Kong for the three years immediately preceding the relevant election are eligible to be nominated as candidates in District Council elections. To qualify for candidature in the Legislative Council geographical constituency elections, they must be Chinese citizens with no right of abode in any country other than the People's Republic of China.

122. Candidates for election to the Legislative Council functional constituencies must be registered electors in the relevant constituencies or have substantial connection with them. They must also be registered geographical constituency electors and must satisfy the same age and residential requirements as in a geographical constituency election. Article 67 of the Basic Law provides that permanent residents of the HKSAR who are not of Chinese nationality or who have the right of abode in foreign countries may become members of the Legislative Council if so elected, subject to their number not exceeding 20% of the total membership of the Council.

123. Article 44 of the Basic Law provides that the Chief Executive shall be a Chinese citizen of not less than 40 years of age who is a permanent resident of the HKSAR with no right of abode in any foreign country and has ordinarily resided in Hong Kong for a continuous period of not less than 20 years.

124. The laws governing candidature to the Chief Executive, the Legislative Council and the District Council make no reference to race, colour or national or ethnic origin¹⁸.

Equal access to public service

125. The Government is Hong Kong's largest single employer and recruitment is highly competitive. Being an equal opportunities employer, appointments to the civil service are based on open and fair competition. Entry requirements for civil service posts in general are set on the basis of academic or professional qualifications obtained from local institutions or professional bodies (or equivalent), technical skills, work experience, language proficiency, and other qualities or attributes as may be required for particular jobs.

126. Historically, local and overseas officers were employed on different terms and conditions of service. But in present day circumstances, the need to do so has greatly diminished. Accordingly, we introduced a common set of terms and conditions of service for all appointees so that, since January 1999, all new recruits would be appointed on the same terms of employment regardless of their origin. As at 31 December 2006, the public service comprised about 154 000 officers. The majority of them were serving on local terms (recruited before 1999), followed by those on common/new terms (recruited after 1999). Officers on overseas terms and conditions of service comprised only 0.2% of the civil service.

Permanent residency requirement

127. Article 99 of the Basic Law provides that – with the exception of the provisions regarding foreign nationals in Article 101 – public servants must be permanent residents of the HKSAR. No distinction is made on the grounds of race or nationality: there are permanent residents who are foreign nationals and non-permanent residents who are ethnic Chinese. Article 101 provides that the Government of the HKSAR may employ foreign nationals previously serving in the public service in Hong Kong, or those who have become permanent residents of the HKSAR, to serve as public servants in government departments at all levels, except the principal official posts which should be filled by Chinese citizens among permanent residents of the

¹⁸ Non-Chinese permanent residents who wish to acquire Chinese nationality may do so in accordance with Article 7 of the Nationality Law of the People's Republic of China (NLPRC) and the "Explanations of some questions by the Standing Committee of the National People's Congress concerning the implementation of the Nationality Law of the People's Republic of China in the Hong Kong Special Administrative Region".

HKSAR with no right of abode in any foreign country. It also provides that “the Government may employ foreign nationals as advisers to government departments and, when required, may recruit qualified candidates from outside the HKSAR to fill professional and technical posts in government departments”. Other than that, access to the public service is open to all suitably qualified persons. Recruitment is based on open and fair competition. Candidates who meet the specified entry requirements (which are based on qualifications and experience) may apply and compete for vacancies.

Language proficiency requirements

128. As an international financial and commercial centre, English is an important working language in Hong Kong, although nearly 95% of the members of the public whom we serve are Chinese. Thus, our long-term policy objective is to develop and maintain a biliterate civil service. To ensure the civil service operates efficiently and effectively in both official languages of Hong Kong, all civil service grades are required to specify Chinese and English language proficiency requirements that are commensurate with the job requirements. Nevertheless, where operational needs so require, individual departments can seek exemption for candidates who do not meet the language proficiency requirements but possess special expertise.

Article 5(d) - civil rights

(i) Freedom of movement

129. The position is as explained in paragraph 91 of the initial report. That is, the freedom of movement is enshrined in Article 31 of the Basic Law.

(ii) Freedom to leave the territory

130. The position is as explained in paragraph 101 of the initial report. That is, Article 31 of the Basic Law provides that Hong Kong residents shall have freedom to travel and to enter or leave the region.

(iii) Right to residency/right of abode

131. As explained in paragraph 102 of the initial report, Article 24 of the Basic Law prescribes the categories of persons who are permanent residents of the HKSAR and therefore qualified to obtain, in accordance with

the laws of the HKSAR, permanent identity cards that state their right of abode. The interpretation of Articles 22(4) and 24(2)(3) of the Basic Law as adopted by the Standing Committee of the Ninth National People's Congress at its Tenth Session on 26 June 1999 and the judgments of the HKSAR Court of Final Appeal in the related litigation have established a firm legal basis for the Government to deal with cases concerning the right of abode.

(iv) Right to marriage

132. The position remains the same as reported in paragraph 111 of the initial report. That is, Article 19 of the HKBOR provides, *inter alia*, that the right of men and women of marriageable age to marry and to found a family shall be recognised. No marriage shall be entered into without the free and full consent of the intending spouses. Freedom of marriage is further protected under Article 37 of the Basic Law. The right is without distinction as to race, colour or national or ethnic origin. Marriage between persons of different ethnic origin is common and well accepted in the HKSAR.

(v) and (vi) Right to own property and inherit

133. The position remains the same as reported in paragraph 115 of the initial report. That is, Article 105 of the Basic Law provides that the HKSAR shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property. The rights in Article 5(d)(v) and (vi) are also secured by both statute and common law. They – and the laws that enforce them – are applied without discrimination as to race, colour or national, or ethnic origin.

(vii) Freedom of thought, conscience and religion

134. The position remains the same as reported in paragraph 116 of the initial report. That is, Article 32 of the Basic Law provides that Hong Kong residents shall have freedom of conscience. Hong Kong residents shall have freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public. Freedom of thought, conscience and religion is also guaranteed by Article 15 of the HKBOR, which gives effect in domestic law to Article 18 of the ICCPR. Pursuant to Article 1 of the HKBOR, these freedoms shall be enjoyed by all persons regardless of race, colour, or national origin or other status.

135. In paragraphs 117 and 118 of the initial report, we reported a case of dispute over proposals to build a mosque in Fanling, in the New

Territories. The dispute arose from the resistance put up by the residents of a housing estate bordering the site of the proposed mosque in view of its proximity to their estate and the potential impact on traffic. Nevertheless, we are pleased to report that the application for a private treaty grant of the site for the building of the mosque was approved in 2005 after consultations with the District Council and the residents concerned.

(viii) Freedom of expression

136. The position remains the same as reported in paragraphs 119 to 120 of the initial report. That is, the freedom of expression is constitutionally enshrined in Article 27 of the Basic Law, which states that Hong Kong residents shall have freedom of speech, of the press and of publication. The freedom of expression is also safeguarded by Article 16 of the HKBOR. And as stated in paragraph 134, Article 1 of the HKBOR provides that the rights recognised in the HKBOR shall be enjoyed without distinction of any kind, such as race, colour, or national, or social origin.

(ix) Freedom of peaceful assembly and association

137. The position remains as explained in paragraph 121 of the initial report. The freedom or right to peaceful assembly and to peaceful public procession are fundamental rights guaranteed in the Basic Law and the HKBORO. The HKSAR Government remains firmly committed to the protection of these fundamental rights and freedoms of people in Hong Kong, regardless of their race, colour, or national or ethnic origin.

138. To assist frontline officers in exercising their discretion to regulate public meetings and processions, the Police have widely promulgated the “Guidelines on the approach to the Public Order Ordinance in relation to public meetings and public processions” among frontline Police officers. These Guidelines aim to further explain the meaning of important terms and provide additional guidance on the terms used on the limits to Police discretion. They have also been made available on the Police’s website and Divisional Police Report Rooms for public inspection.

Article 5(e) - economic, social and cultural rights

(i) Employment rights

139. The position on the protection of general employment rights remains broadly as explained in paragraphs 124 to 139 of the initial report, with some developments in selected areas as explained below.

Foreign domestic helpers

140. The position of foreign domestic helpers in Hong Kong has been updated in paragraphs 76 to 80 of this report in relation to Article 2. In the following paragraphs, we further address the concerns raised by some commentators on issues relating to the admission and employment terms of these domestic helpers.

(a) Two-week rule

141. In paragraph 18 of the Concluding Observations, the Committee expressed its concern –

“... regarding the situation of foreign domestic workers in the Hong Kong Special Administrative Region, mainly from the Philippines, Indonesia and Thailand, and the existence of certain rules and practices, such as the so called “two-weeks rule”, which may be discriminatory in effect.”;

142. As explained in paragraphs 27 to 33 of the initial report, the “two-week rule” on foreign domestic helpers is imposed to prevent abuse and to deter foreign domestic helpers and imported workers from overstaying and taking up unauthorized work. The same rule applies equally to other migrant workers, such as workers imported under the Supplementary Labour Scheme, irrespective of their countries of origin. It is not based on and does not entail racial discrimination. The rule does not preclude the helpers from working in Hong Kong again after returning to their places of origin and does not lead to additional expenses on the part of the foreign domestic helpers as the passages are paid by their employers. Under exceptional circumstances, such as where the employment contract is terminated due to external transfer, emigration, death or financial difficulties of the employer, or where there is evidence that the helper had been abused, the Immigration Department may allow the helpers concerned to change employer without requiring them to return to their home countries before commencing new contracts in Hong Kong. Moreover, a foreign domestic helper may, if necessary, apply for extension of stay from the Immigration Department to facilitate him/her in pursuing claims in court.

(b) Minimum allowable wage

143. The Government introduced the minimum allowable wage (the wage) for foreign domestic helpers in 1973 to guard against exploitation of these migrant workers, and to ensure that local employees are not undercut by cheap foreign labour. As explained in paragraph 77 of this report (in relation to Article 2), the wage is subject to regular review, a process that

takes account of Hong Kong's overall economic and employment situation against a basket of economic indicators. In February 2003, on the basis of the wage review, a decision was taken to reduce the wage by HK\$400 (US\$51) (or 10.9%) from HK\$3,670 (US\$471) to HK\$3,270 (US\$419) with effect from 1 April 2003. Despite the fact that the wage has since been increased following regular reviews in 2005 and 2006, there have been calls for "reinstatement" of the HK\$400 reduction in view of the current level of lowest income among employed persons in the territory.

144. The reduction of the minimum allowable wage in 2003 followed the well-trying and established mechanism of the wage review as outlined in the last paragraph, and reflected the state of the local economy from the period of 1999-2002. In conducting the review, the Government takes into account the prevailing general economic condition (such as the Gross Domestic Product) and employment situation, as reflected through economic indicators which includes the relevant income movement (such as earnings of elementary employees), price change (such as Consumer Price Index (A)) and labour market situation. The same mechanism and approach was used in 2003 and in previous and subsequent reviews. There is thus no question of "reinstating" the amount reduced.

145. We should highlight that the wage is only a minimum stipulation to prevent abuse of foreign domestic helpers. While employers are not allowed to pay their foreign domestic helpers wages below this level, they may, and many do, offer higher wages to their foreign domestic helpers than that minimum requirement. Moreover, as mentioned above, the wage has also been revised upwards since the reduction in 2003, and at its current level HK\$3,400 (US\$436) per month, it compares favourably to wages offered to foreign domestic helpers among Asian economies.

(c) Employees Retraining Levy

146. The Employees Retraining Levy, at HK\$400 (US\$51) per month as stipulated in the Employees Retraining Ordinance (Chapter 423) since its enactment in 1992, was extended to employers of foreign domestic helpers in October 2003. There have been allegations of the Government "abusing" foreign domestic helpers by using the HK\$400 (US\$51) minimum allowable wage reduction that year to offset the levy imposed on their employers. We wish to clarify that the adjustment of the minimum allowable wage and the imposition of the levy are two completely separate matters. It should be noted that the minimum allowable wage was adjusted in 2003 in accordance with the established principle and mechanism while the level of the levy had been prescribed in the statute for over a decade in 1992. Moreover, the minimum allowable wage has been adjusted upward

twice since the extension of the levy to employers of foreign domestic workers in 2003.

(d) Live-in requirement

147. Starting from 1 April 2003, all foreign domestic helpers are required to work and reside in the employers' residences as stated in the standard employment contract, except for foreign domestic helpers working for employers who had obtained exceptional approval of the Director of Immigration before 1 April 2003 to let their foreign domestic helpers live out. Although some helpers may claim this requirement to be an inconvenience, we maintain that it is in keeping with the well-established policy that non-local workers are only allowed to work in the HKSAR where there is an inadequate supply of local workers. In the case of foreign domestic helpers, they are brought in to meet employers' needs for live-in domestic helpers. To allow foreign domestic helpers to live out as a matter of course would defeat the purpose of importing full-time live-in domestic helpers.

148. As regards working hours for live-in foreign domestic helpers, it may be noted that there are no statutory prescriptions on working hours in Hong Kong. Working hours is one of the terms and conditions of employment which is to be agreed between employers and employees in the light of market conditions.

(e) Maternity protection

149. In paragraph 130(c) of the initial report, we reported on the proposals for the continued application of the Employment Ordinance, including the provisions on maternity protection to live-in domestic helpers, and for the introduction of a flexible arrangement for the termination of contract by mutual consent of the employer and employee. We advised that the proposals were being examined.

150. Having considered the views of the parties concerned, the Government has decided that all provisions under the Employment Ordinance, including those on maternity protection, should continue to apply in full to live-in domestic helpers, foreign and local alike. The proposal for flexible arrangement for a pregnant live-in domestic helper and her employer to mutually agree to dissolve the employment contract, however, has been abandoned owing to the lack of support from both the relevant employers' associations and employees' groups.

Imported workers

151. As at 31 December 2006, there were 1 144 persons working in Hong Kong under the Supplementary Labour Scheme, the details of which were explained in paragraph 131 of the initial report. Most of these imported workers were employed on a two-year contract. They are informed of their legal and contractual rights and benefits through pamphlets, briefings and a telephone enquiry service with pre-recorded messages in English, Cantonese and Putonghua¹⁹. Their employers are required to pay the imported workers wages at a rate comparable to local workers in similar positions, to provide them with free medical treatment, subsidised accommodation of a prescribed standard and return passage.

Legal protections

152. The position remains broadly the same as explained in paragraph 133 of the initial report. In the event of disputes relating to employment rights and benefits, the Labour Department provides free conciliation services. Past experience shows that imported workers and foreign domestic helpers who could not communicate in Chinese and English were often accompanied by friends or relatives speaking either language when making enquiries, filing claims or attending conciliation meetings. In such cases, the Labour Department will exercise flexibility to ensure that nobody would be denied access to its services due to language difficulties. In addition, the Labour Department has commissioned interpreters to provide interpretation service during conciliation meetings and for criminal investigation and prosecution purposes when necessary.

Promotion and publicity of employment rights and benefits

153. The position remains broadly the same as reported in paragraphs 134 and 135 of the initial report. The Labour Department issues publicity materials informing imported workers of their statutory and contractual rights and benefits. The Department also maintains a telephone enquiry service for that purpose in English, Cantonese and Putonghua, and conducts briefings for all imported workers within eight weeks of their arrival, advising them of their employment rights and obligations and of the channels available to them for enquiries and complaints.

154. Foreign domestic helpers have access to information about their legal and contractual rights through a Government-maintained enquiry service. The Immigration Department issues pamphlets and leaflets to all

¹⁹ Out of the some 1 000 imported workers in Hong Kong, over 90% come from Mainland China.

helpers when they apply for their identity cards. These are published in seven languages²⁰. The Labour Department also publishes a practical guide on the rights and obligations of foreign domestic helpers and their employers in five languages, namely Chinese, English, Tagalog, Indonesian and Thai. These are distributed to the helpers free of charge. A copy of the standard contract for the employment of foreign domestic helpers in the relevant language is attached to the guidebook for their ready reference.

Enforcement

155. The position remains broadly the same as reported in paragraphs 136 to 138 of the initial report. Relevant government departments, particularly the Labour Department, continue to vigorously enforce the legislations governing the employment of imported workers to protect their rights and benefits.

Employment services provided to ethnic minorities

156. Some commentators considered the employment services provided by the Government insufficient to cater for the needs of ethnic minorities. Their views and our response are summarized as follows.

157. A few have raised concern that many ethnic minorities were unable to find jobs through the Labour Department because the information on vacancies was provided in Chinese. They considered that Government should provide multi-lingual employment services as well as translation and interpretation services for ethnic minorities.

158. At present, the Labour Department provides a wide range of free employment services to help place job-seekers into employment. Job-seekers can obtain a full range of employment service through the Department's network of 12 Job Centres, Telephone Employment Service Centre as well as bilingual Interactive Employment Service on the web. They can browse the most up-to-date vacancy information printed in three languages (English, Traditional Chinese and Simplified Chinese) through the user-friendly vacancy search terminals at all Job Centres. To facilitate ethnic minorities to make use of our employment service, the leaflet on "Easy-to-use Employment Services of the Labour Department" has been translated into Tagalog, Indonesian, Thai, Urdu, Hindi and Nepali. Indeed, with only a few exceptions, e.g. when some of the job vacancy information cannot be readily translated into English, the essential items of vacancy information (e.g. occupation, working hours, salary, location of workplace) are shown in

²⁰ Namely: Chinese, English, Tagalog, Hindi, Indonesian, Thai and Sinhalese.

both English and Chinese. If ethnic minority job-seekers would like to know more about specific job vacancies or need other types of employment assistance, they can directly approach the staff at the Job Centres and the Telephone Employment Service Centre of the Labour Department. In addition, employment briefings specifically for ethnic minorities are organised regularly at the Job Centres.

159. Some also suggested that the Government should create more job and training opportunities and programmes for ethnic minorities. In response to this, we wish to point out that the Government has adopted a multi-pronged approach to promote employment on all fronts without distinction as to race, colour, or national or ethnic origin. The Government has also launched several special employment programmes including the Employment Programme for the Middle-aged, the Work Trial Scheme, the Work Orientation and Placement Scheme, the Special Incentive Allowance Scheme for Local Domestic Helpers, the Youth Pre-employment Training Programme and the Youth Work Experience and Training Scheme to enhance the employability of the more vulnerable and disadvantaged groups. Ethnic minorities falling into the respective categories are always encouraged to join the programmes. The Administration will continue to facilitate economic development so that more job opportunities will be created on the open market.

160. In response to allegations from some commentators that the Government does not provide special service counters for ethnic minorities in its Job Centres, we should explain that members of the ethnic minorities are always encouraged to seek employment assistance through the Labour Department's Job Centres, Telephone Employment Service and Interactive Employment Service on the web for suitable jobs. In addition, ethnic minorities who need more personalised and intensive employment service are welcome to join the Job Matching Programme available at all the Job Centres run by the Labour Department. Under this programme, each participant is assigned a placement officer who provides job-seekers with comprehensive employment services comprising in-depth interview, career counselling and active job-matching. Placement officers also introduce suitable tailor-made retraining courses to job-seekers where appropriate.

161. Some commentators requested that the Government should provide information on the number of ethnic minority job-seekers successfully finding employment through the Labour Department's employment services. There are, however, difficulties. As established practice, the Labour Department provides free employment services to all job-seekers and draws no distinction on the basis of their ethnicity and race. Information on job vacancies, which usually contains the employers' contact

details, is provided and job-seekers are encouraged to approach employers direct without necessarily seeking referrals from Job Centres. As there is no obligation for either the employers or the job-seekers to report to the Labour Department the results of the recruitment, the Department does not have information on the number of successful job placements for ethnic minorities.

(ii) Right to form and join trade unions

162. The position remains the same as reported in paragraph 141 of the initial report. That is, the right to form and join trade unions is guaranteed by Article 27 of the Basic Law and Article 18 of the HKBOR. There are registered trade unions which specifically represent the rights of overseas workers. Those unions include the Filipino Migrant Workers' Union; the Indonesian Migrant Workers Union; and the Overseas Nepali Workers Union Hong Kong.

(iii) Right to housing

163. The objective of our public housing policy is to provide subsidised housing for low-income families which are unable to afford private rental housing. The right to subsidised housing is based on an applicant's housing need (which is assessed by making reference to the applicant's household income, assets, property ownership and the residence period in Hong Kong) and is enjoyed without distinction as to race, colour, national or ethnic origin.

164. In paragraph 143 of the initial report, we had responded to the comment concerning legislating against racial discrimination by landlords who refuse to lease their premises to members of the ethnic minorities. When enacted, the proposed Race Discrimination Bill, described in paragraphs 66 to 72 above in relation to Article 2, will outlaw discrimination by landlords in the disposal or management of premises, including premises comprised in a tenancy, or the treatment of occupiers of premises. We believe that the provision will effectively deter landlords from discriminating against persons of different racial or ethnic backgrounds in regard to leasing and purchases of accommodation.

Housing needs of new arrivals

165. Public rental housing is subject to eligibility criteria that all applicants must meet, irrespective of their race, colour, national or ethnic origin. One such criterion is that at least 50% of an applicant's household members included in the application must have lived in Hong Kong for

seven years²¹ and are still living in Hong Kong at the time of allocation of a public rental flat. We consider that, in view of the scarcity of our public housing resources, it is fair and reasonable to maintain the current residence rule in the allocation of public rental housing. As explained in the initial report, the system also embodies the necessary flexibility to provide compassionate rehousing in public rental flats for people with urgent and genuine housing needs²².

(iv) Right to receive medical care, social security and social services

166. The right to receive medical care, social security and social services is enjoyed without distinction as to race, colour or national or ethnic origin. Article 36 of the Basic Law provides that Hong Kong residents shall have the right to social welfare in accordance with law. Article 145 further provides that, on the basis of the previous social welfare system, the HKSAR Government shall formulate policies on the development and improvement of this system “in the light of the economic conditions and social needs”.

167. Our social security policy is to meet the basic and special needs of the disadvantaged people in Hong Kong. These include people such as the financially vulnerable, the elderly, and the severely disabled. All local residents - irrespective of their sex, race or religion - enjoy the right to social security. This is achieved through the Comprehensive Social Security Assistance (CSSA) Scheme which provides comprehensive social security on an entirely non-contributory basis.

168. The CSSA Scheme provides financial assistance to bring the income of needy individuals and families up to a prescribed level to meet their basic needs. To be eligible for CSSA, an applicant must satisfy the residence requirement and the financial test. Regarding the residence requirement, the applicant must have been a Hong Kong resident for at least seven years and have resided in Hong Kong continuously for at least one year immediately before the date of application. Moreover, Hong Kong residents aged below 18 are exempt from the “prior residence” requirement. Persons whose presence in Hong Kong is unlawful and persons permitted to Hong Kong for a purpose other than residence are excluded from the CSSA Scheme. However, the Director of Social Welfare may, at his discretion,

²¹ All children under the age of 18 are deemed to have fulfilled the seven-year requirement if they meet one of the following conditions -
(a) at least one of their parents has lived in Hong Kong for seven years or more; or
(b) the children have established Hong Kong birth status as a permanent resident.

²² On, for example, medical or social grounds.

grant assistance to applicants who do not satisfy the residence requirement, but are in genuine hardship.

169. We emphasize that the seven-year residence requirement applies to all applicants, irrespective of race. It may also be noted that most developed countries require a prior period of residence as a condition to the receipt of non-contributing welfare benefit. Applicants, irrespective of their racial background, can receive CSSA once they pass the residence rule, assets and income tests.

170. In order to ensure that the needy persons can have access to the relevant information through sufficient channels, we have all along emphasized the importance of promoting public knowledge of the social security system. Information on social security is available in both Chinese and English, so that those who cannot read Chinese can access the information.

171. In providing social services for ethnic minorities, we seek to facilitate their integration into the local community. To this end, we encourage ethnic minorities in need to make use of the support provided by mainstream services, including family and child welfare services, youth services, medical social services, etc. For example, based on district needs, Integrated Family Service Centres or Integrated Children and Youth Services Centres organise various groups and programmes to enhance ethnic minorities' understanding of the local community they reside in. Those activities will also strengthen their social participation and provide them with more integration opportunities with the local community.

172. As regards access to medical care, it is a well-established policy of the HKSAR that no one should be prevented from obtaining adequate medical treatment due to a lack of means. All persons who hold valid Hong Kong identity cards have access - at very low cost - to public health services. Persons who do not hold valid Hong Kong identity cards also have access to those services although they will be charged at higher rates. This applies irrespective of the person's race, colour, or national or ethnic origin.

(v) Right to education and training

173. As explained in paragraph 151 of the initial report, these rights are enjoyed without discrimination on the grounds of race, colour, or national or ethnic origin. Primary and secondary schools provide education to all eligible children in Hong Kong irrespective of race, colour or national or ethnic origin. To ensure that the schools remained mindful of their role in

ensuring equal opportunities for all students and in fostering the concepts of equality and equity, the Education Bureau issued a circular on "The Principle of Equal Opportunities" in December 2003. The circular was sent to all schools, reminding them of that role and of their duty to eliminate all forms of discrimination on grounds such as sex, class, race, disability, and so forth. The circular also serves to remind all schools that, in formulating and revising their school policies, they should observe the principles of equal opportunities and avoid any form of discrimination.

174. We have discussed in paragraph 152 of the initial report the issue of education for non-Chinese children. The updated position of the relevant issues of concern is as follows –

(a) Securing school places

175. Under existing legislation in Hong Kong, all children aged between six and 15 must attend school and the Permanent Secretary for Education has the duty of ensuring that they do²³. The Education Bureau meets all requests for school placement on a standard procedural basis. All children, irrespective of their racial or ethnic backgrounds, are treated alike. The Bureau's Regional Education Offices provide placement assistance, as well as advice or information on schools, the education system, or policies on kindergarten, primary, and secondary education. To facilitate access, the four Regional Education Offices are located at different locations of the territory, namely Hong Kong Island, Kowloon, New Territories East and New Territories West. The Bureau also provides counselling and assistance to children with difficulties. While most of the schools in the public sector use Chinese as the medium of instruction, one should not assume that these schools are not appropriate for non-Chinese speaking students, particularly those who have started to learn Chinese at an early age. For non-Chinese speaking students who would cope better with English as a medium of instruction, they have to compete with other local students for entry to English-medium schools, failing which placement assistance to the relevant schools is offered.

(b) Opportunities to learn Chinese and support services to non-Chinese speaking children

176. As mentioned in paragraph 153(c) of the initial report, all children, regardless of their race, are eligible to study in a public sector school (most of which use Chinese as the medium of instruction) provided

²³ Section 74 of the Education Ordinance (Chapter 279).

that they are either Hong Kong permanent residents or that their travel documents contains an appropriate endorsement on their conditions of stay in Hong Kong. Irrespective of the medium of instruction (Chinese or English) adopted by the schools in which they are studying, non-Chinese speaking students are encouraged to learn Chinese in school. This is to help them integrate into the local community through effective communication and a better understanding of the local culture.

177. In recognition of the need of non-Chinese speaking ethnic minority students, we have stepped up our efforts in implementing special measures to provide them with appropriate education support, particularly in their learning of the Chinese language. These measures include –

- (i) centralised support provided by the Education Bureau to ten designated primary schools and five designated secondary schools in the 2006/07 school year. The Bureau provides intensive on-site support to these designated schools to help them further enhance the learning and teaching, particularly in the Chinese Language subject, of the non-Chinese speaking students. Such support takes the form of regular visits by professional officers to conduct collaborative lesson planning with teachers and to help the schools develop school-based Chinese Language curricula, learning and teaching strategies, school-based teaching resources/materials, learning activities and assessment designs, etc. Each designated school is provided a special grant of \$0.3 million (US\$38,462) per annum for two years to arrange programmes to support the learning and teaching of their non-Chinese speaking students;
- (ii) a supplementary guide on the teaching of Chinese to non-Chinese speaking students will be developed under the umbrella of the central Chinese Language curriculum framework. This supplementary guide will advise on the selection of key learning targets and objectives related to different strands, and principles of selecting relevant materials and contexts for the different needs of students. It will also be supported by examples based on the experiences of learning and teaching of Chinese Language to non-Chinese speaking students in local schools;
- (iii) a local university has been commissioned to run Chinese Learning Support Centres which support non-Chinese speaking students who are less proficient in Chinese (in particular the late starters) by offering remedial programmes for these

students after school hours or during holidays. The Centres also participate in the development of related teaching resources, provide professional advice and provide training to the Chinese Language teachers ;

- (iv) training programmes for Chinese Language teachers in the designated schools has commenced in May 2007;
- (v) starting from summer 2007, the 4-week Summer Bridging Programme, previously confined to incoming non-Chinese speaking Primary 1 entrants, was extended to cover also non-Chinese speaking students proceeding to Primary 2, Primary 3 and Primary 4 to help them consolidate what they have learned in Key Learning Stage 1;
- (vi) to meet the aspirations of individual non-Chinese speaking students who would like to be provided an avenue for alternative qualifications in Chinese, arrangements have been made for interested non-Chinese speaking students to participate in the General Certificate of Secondary Education (GCSE) (Chinese) examination in Hong Kong starting from 2007; and
- (vii) in recent years, we have provided information notes and conducted briefings on school places allocation systems in the major ethnic minority languages (e.g. Nepali, Urdu and Hindi). A non-Chinese speaking parent information package and leaflet, in English and Chinese, introducing the local education system and educational support services for non-Chinese speaking students has been prepared and distributed to schools and parent. This has been translated into the major ethnic minority languages for distribution.

178. As for language education outside school, the Bureau's Standing Committee on Language Education and Research will, making reference to its experience in administering the Workplace English Campaign, develop a Workplace Chinese Programme for meeting the needs of the non-Chinese speaking students group.

(c) Diversity in the education sector

179. Educational alternatives for students with different preferences continue to exist, both within and outside the public sector. For example, some public sector schools use English as the medium of instruction. Some

schools also offer the opportunity to learn other languages including those of Hong Kong's major minority groups such as Hindi or Urdu. Additionally, some schools, mainly privately-run, offer non-local curricula at the primary and secondary levels. Subject to the availability of resources and the applicable vetting mechanism, some of these private schools may receive one-off capital assistance from the Government for school building. At present, some 55 such schools offer a range of curricula as those of the USA, Australia, Canada, United Kingdom, France, Germany, Japan, Korea, Singapore and so forth.

(d) Access to tertiary education and vocational training

180. At the tertiary education level, the eight University Grants Committee (UGC)-funded institutions admit students based on merits taking into account their academic and non-academic performance, including sports, music, public services and so forth. Their admission policies incorporate flexibility, enabling them to accept good students without the relevant qualifications in Chinese Language based on the local examinations. This is achieved through the acceptance of results in an alternative language other than Chinese, the granting of a waiver to the language requirement or acceptance of alternative qualifications in Chinese. For other tertiary institutions in Hong Kong, section 4(i) of the Post Secondary Colleges Ordinance (Chapter 320) provides, inter alia, that – for a college to be registered under the Ordinance – students must be admitted “without favour being shown on grounds of race, nationality or religion”.

181. As mentioned in paragraph 157 of the initial report, the Vocational Training Council (VTC) continues to offer vocational education and training programmes and the Employees Retraining Board (ERB) retraining services to eligible persons, irrespective of race, colour, national or ethnic origin. To enhance vocational education and training for non-Chinese speaking persons notably those from ethnic minority groups, the VTC has put in place dedicated programmes in different streams (including electrical and welding industries) for them since the academic year 2003/2004. The ERB also provides two tailor-made courses (one on security and property management and the other on domestic help) in the English language with curriculum adapted to suit the specific vocational needs of non-Chinese speaking adults on a pilot basis. The two courses were launched in May 2007.

182. We have conveyed the views of the ethnic minority community to the local universities and post-secondary/vocational training institutions, and have encouraged them to continue to suitably allow

flexibility for non-Chinese speaking students when applying the Chinese language requirement during student admission and course design.

(vi) Right to participate in cultural activities

183. The position remains the same as explained in paragraph 159 of the initial report. The right to participate in cultural activities is guaranteed by Article 34 of the Basic Law and Article 15 of the ICESCR. The right is enjoyed without restriction as to race, colour, or national or ethnic origin.

Article 5(f) - right of access to services

184. The position remains the same as explained in paragraph 160 of the initial report. That is, by virtue of Article 22 of the HKBOR all laws that regulate the right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks, must not be discriminatory either in their terms or in their practical application. The existing legal framework will be further reinforced by the Race Discrimination Bill described in paragraphs 66 to 72 of this report when it is enacted.

Article 6 - Provision of effective protection and remedies against any acts of racial discrimination

185. The position remains broadly as explained in paragraphs 162 to 164 of the initial report. That is, the rights provided under ICCPR and ICESCR as applied to Hong Kong, as well as various other individual rights and freedoms enjoyed by Hong Kong residents are protected under Article 39 of the Basic Law. Any acts of racial discrimination by the Government or public authorities would infringe the HKBORO. Under the HKBORO, a court or tribunal may grant remedies in respect of a breach, violation or threatened violation of the Ordinance as it considers appropriate and just in the circumstance.

186. In addition, the Race Discrimination Bill, when enacted, will provide additional legal protection against racial discrimination. Under the Race Discrimination Bill, legal proceedings can ordinarily be brought in the District Court and, in general, a claim may be made the subject of civil proceedings in like manner as any other claims in tort. In addition to the usual judicial remedies obtainable in the Court of First Instance, the District Court may –

- (a) make a declaration that the respondent has engaged in conduct that is unlawful under the Bill and order that the respondent shall not repeat or continue such unlawful conduct;
- (b) order that the respondent shall perform reasonable act or course of conduct to redress any loss or damage suffered by the claimant;
- (c) order that the respondent shall employ or re-employ the claimant;
- (d) order that the respondent shall promote the claimant;
- (e) order that the respondent shall pay to the claimant damages by way of compensation for any loss or damages suffered by reason of the respondent's conduct or act;
- (f) order that the respondent shall pay to the claimant punitive or exemplary damages;
- (g) make an order declaring void in whole or in part and either ab initio or from such date as may be specified in the order, any contract or agreement made in contravention of the Bill.

187. Some commentators have criticized the alleged discriminatory attitudes of some public officials in dealing with ethnic minorities, specifically those in the Legal Aid Department and the Labour Tribunal. Our response to these allegations is as follows.

(a) Legal Aid Department

188. In 2005 and 2006, non-Chinese applicants lodged a total of 3 complaints against the Legal Aid Department. None alleged discrimination on the part of the Department's staff. The Department has taken measures to ensure racial minorities have equal access to its services, for example, by providing interpreters to ensure that applicants' instructions are fully and properly conveyed and that differences of language do not give rise to misunderstanding. The Department is in the process of preparing information leaflets in other languages about legal aid services for the ethnic minorities.

(b) Labour Tribunal

189. As mentioned in paragraphs 21 to 26 of Part A, the mission of the Judiciary is to maintain an independent and effective judicial system which upholds the rule of law, safeguards the rights and freedoms of the individual, and commands the confidence within and outside Hong Kong. Every one is treated fairly and equally before the courts. The Labour Tribunal is part of the Judiciary and is accessible to all without distinction as to race, colour, or national or ethnic origin. The Tribunal addresses the cases before it in accordance with the law and established procedures. Persons aggrieved by its decisions have access to well-established channels of appeal.

190. One commentator criticised the Labour Tribunal for the discriminatory behaviour of some of its Presiding Officers, saying that they pressurized foreign domestic helpers to accept settlements from their employers that were far below their rightful claims. We were surprised to learn of such accusation. In fact, the Tribunal has not received any complaints in the last five years from foreign domestic helpers that they had been racially discriminated against or they had been pressurized by the Presiding Officers to accept any settlement. We have asked the commentator to provide details of the incident, upon receipt of which the Chief Magistrate will investigate into the complaint.

191. As explained in paragraph 168 of the initial report, the Government firmly opposes all forms of discrimination and strives to foster a culture of courtesy, respect and tolerance throughout the public service generally. To that end, civil service (which, in Hong Kong, includes the

disciplined services) training incorporates elements aimed at instilling human rights awareness. For example, the 'Basic Training Package' for civil servants emphasizes the importance of impartiality in all dealings with the public, which entails fair and equal treatment for persons of all races or nationalities. Another example is the 'Valuing Diversity Web Package' launched in 2005 with special modules on racial sensitivity and equal opportunities. The above principles are also highlighted in the customer service training courses for front-line officers and equal opportunities training courses for new recruits. These efforts will continue.

192. Where members of the public consider that a public officer has mistreated them, we encourage them to bring the matter to attention through the relevant departmental complaint channel (such as those listed in paragraphs 45 to 48 in Part A of this report). The Government takes a serious view of such matters and will thoroughly investigate all allegations of misconduct and maltreatment of the public. In addition, The Ombudsman is empowered to investigate, in accordance with The Ombudsman Ordinance, complaints of grievances arising from maladministration in the public sector including inefficiency, bad or improper administration, unreasonable conduct (such as delay, discourtesy and lack of consideration), abuse of power or authority and unjust or discriminatory procedures. Where, after such investigations, either by The Ombudsman or by Government itself, misconduct or malpractice is established, the Government will take appropriate remedial and corrective measures, which may include disciplinary action against the officers concerned.

Article 7 - Measures to combat prejudice

The schools

193. Schools in Hong Kong promote students' understanding of, and respect for, the roles, rights and responsibilities of individuals and groups, as well as the importance of social justice through the teaching of relevant subjects such as General Studies, Economic and Public Affairs, Ethics and Religious Studies, Integrated Humanities, Social Studies and Liberal Studies. Students also learn to appreciate and respect the culture and heritage of different communities through subjects such as Ethics and Religious Studies, History, Social Studies and Travel and Tourism. Schools also implement Moral and Civic Education and conduct life-wide learning activities to promulgate the anti-discrimination message. To support teachers in these endeavours, the Education Bureau has developed various learning and teaching resources, including Education Television programmes, reading materials, teaching kits and on-line learning packages. The Bureau regularly organises professional development programmes on human rights and global citizenship to keep teachers abreast of the latest information on human rights issues.

194. Many tertiary institutions offer programmes on history and culture of different countries, either for specific humanities discipline or as general education programmes for all their students. Courses on various aspects on human rights are also offered by the UGC-funded institutions. These programmes enable students to gain a better understanding of people of different races and ethnic origins. Many UGC-funded institutions have also organised student exchange and other forms of informal activities which are conducive to promoting cultural diversity, widening the students' exposure as well as enhancing their appreciation of different culture.

Public education

195. We attach great importance to public education as an effective measure to foster understanding and to cultivate respect for racial differences, which are fundamental for the elimination of prejudices and discrimination. In paragraph 74 of this report, we have outlined, with details at Annex IV, the many initiatives taken on public education against racial discrimination and support services for the ethnic minorities. We shall continue to implement these measures and, subject to assessment of need and availability of resources, enhance our services as necessary.

196. As explained in paragraph 172 of the initial report, the

Committee on the Promotion of Civic Education (CPCE) promotes human rights education among the general public. The Committee has a full-time education unit to develop civic education materials, including human rights education materials and programmes. In addition, the CPCE provides sponsorship to community organizations through its Community Participation Scheme to organise activities to promote public understanding of human rights, among others.

197. We are supported in our efforts by the Committee on the Promotion of Racial Harmony which advises Government on the problems and needs of the ethnic minorities and on promotion of public education against racial prejudice and discrimination. The Committee consists of members of different racial groups from different walks of life and include persons working with NGOs which are involved in providing services for the ethnic minorities. Apart from giving advice, the Committee helps in scrutiny of applications under the Equal Opportunities (Race) Funding Scheme and assists in the organisation of the Culture in Motion programme which aims at showcasing the unique culture and heritage of the ethnic minorities so as to promote public understanding of the characteristics and achievements of the ethnic minority groups. Through dialogues also at the Ethnic Minorities Forum, we aim to ensure that our services and public education programmes are effectively focussed on relevant areas of needs and concerns, and at the appropriate targets.

District initiatives

198. The Government's efforts to promote racial harmony is also well-supported at district level by the 18 District Councils, which sponsored a host of activities in their respective districts to facilitate social integration of ethnic minorities and enhance mutual understanding between the ethnic communities and the local Chinese. Examples of these activities include volunteer training programme and services, language and other interests classes for ethnic minorities, learning groups, familiarisation tours, tutorial classes for ethnic minority students, cultural shows, carnivals and other outdoor activities.

Durban Declaration and Programme of Action 2001

199. General Recommendation XXVIII of the CERD calls on State Parties to "include in their periodic reports information on action plans of other measures they have taken to implement the Durban Declaration and Programme of Action at the national level". Our response to the paragraphs in the Programme of Action applicable to Hong Kong is at **Annex V**.

**THE BASIC LAW
OF THE HONG KONG SPECIAL
ADMINISTRATIVE REGION OF
THE PEOPLE'S REPUBLIC OF CHINA**

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**Decree of the President of
the People's Republic of China**

No. 26

I hereby promulgate the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, including Annex I, Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region, Annex II, Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures, Annex III, National Laws to be Applied in the Hong Kong Special Administrative Region, and designs of the regional flag and regional emblem of the Hong Kong Special Administrative Region, which was adopted at the Third Session of the Seventh National People's Congress of the People's Republic of China on 4 April 1990 and shall be put into effect as of 1 July 1997.

(Signed)
Yang Shangkun
President of
the People's Republic of China

4 April 1990

**THE BASIC LAW
OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF
THE PEOPLE'S REPUBLIC OF CHINA**

**Adopted on 4 April 1990 by the Seventh National People's Congress of the
People's Republic of China at its Third Session**

Preamble

Hong Kong has been part of the territory of China since ancient times; it was occupied by Britain after the Opium War in 1840. On 19 December 1984, the Chinese and British Governments signed the Joint Declaration on the Question of Hong Kong, affirming that the Government of the People's Republic of China will resume the exercise of sovereignty over Hong Kong with effect from 1 July 1997, thus fulfilling the long-cherished common aspiration of the Chinese people for the recovery of Hong Kong.

Upholding national unity and territorial integrity, maintaining the prosperity and stability of Hong Kong, and taking account of its history and realities, the People's Republic of China has decided that upon China's resumption of the exercise of sovereignty over Hong Kong, a Hong Kong Special Administrative Region will be established in accordance with the provisions of Article 31 of the Constitution of the People's Republic of China, and that under the principle of "one country, two systems", the socialist system and policies will not be practised in Hong Kong. The basic policies of the People's Republic of China regarding Hong Kong have been elaborated by the Chinese Government in the Sino-British Joint Declaration.

In accordance with the Constitution of the People's Republic of China, the National People's Congress hereby enacts the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, prescribing the systems to be practised in the Hong Kong Special Administrative Region, in order to ensure the implementation of the basic policies of the People's Republic of China regarding Hong Kong.

Chapter I : General Principles

Article 1

The Hong Kong Special Administrative Region is an inalienable part of the People's Republic of China.

Article 2

The National People's Congress authorizes the Hong Kong Special Administrative Region to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of this Law.

Article 3

The executive authorities and legislature of the Hong Kong Special Administrative Region shall be composed of permanent residents of Hong Kong in accordance with the relevant provisions of this Law.

Article 4

The Hong Kong Special Administrative Region shall safeguard the rights and freedoms of the residents of the Hong Kong Special Administrative Region and of other persons in the Region in accordance with law.

Article 5

The socialist system and policies shall not be practised in the Hong Kong Special Administrative Region, and the previous capitalist system and way of life shall remain unchanged for 50 years.

Article 6

The Hong Kong Special Administrative Region shall protect the right of private ownership of property in accordance with law.

Article 7

The land and natural resources within the Hong Kong Special Administrative Region shall be State property. The Government of the Hong Kong Special Administrative Region shall be responsible for their management, use and development and for their lease or grant to individuals, legal persons or organizations for use or development. The revenues derived therefrom shall be exclusively at the disposal of the government of the Region.

Article 8

The laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, except for any that contravene this Law, and subject to any amendment by the legislature of the Hong Kong Special Administrative Region.

Article 9

In addition to the Chinese language, English may also be used as an official language by the executive authorities, legislature and judiciary of the Hong Kong Special Administrative Region.

Article 10

Apart from displaying the national flag and national emblem of the People's Republic of China, the Hong Kong Special Administrative Region may also use a regional flag and regional emblem.

The regional flag of the Hong Kong Special Administrative Region is a red flag with a bauhinia highlighted by five star-tipped stamens.

The regional emblem of the Hong Kong Special Administrative Region is a bauhinia in the centre highlighted by five star-tipped stamens and encircled by the words "Hong Kong Special Administrative Region of the People's Republic of China" in Chinese and "HONG KONG" in English.

Article 11

In accordance with Article 31 of the Constitution of the People's Republic of China, the systems and policies practised in the Hong Kong Special Administrative Region, including the social and economic systems, the system for safeguarding the fundamental rights and freedoms of its residents, the executive, legislative and judicial systems, and the relevant policies, shall be based on the provisions of this Law.

No law enacted by the legislature of the Hong Kong Special Administrative Region shall contravene this Law.

Chapter II: Relationship between the Central Authorities and the Hong Kong Special Administrative Region

Article 12

The Hong Kong Special Administrative Region shall be a local administrative region of the People's Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People's Government.

Article 13

The Central People's Government shall be responsible for the foreign affairs relating to the Hong Kong Special Administrative Region.

The Ministry of Foreign Affairs of the People's Republic of China shall establish an office in Hong Kong to deal with foreign affairs.

The Central People's Government authorizes the Hong Kong Special Administrative Region to conduct relevant external affairs on its own in accordance with this Law.

Article 14

The Central People's Government shall be responsible for the defence of the Hong Kong Special Administrative Region.

The Government of the Hong Kong Special Administrative Region shall be responsible for the maintenance of public order in the Region.

Military forces stationed by the Central People's Government in the Hong Kong Special Administrative Region for defence shall not interfere in the local affairs of the Region. The Government of the Hong Kong Special Administrative Region may, when necessary, ask the Central People's Government for assistance from the garrison in the maintenance of public order and in disaster relief.

In addition to abiding by national laws, members of the garrison shall abide by the laws of the Hong Kong Special Administrative Region.

Expenditure for the garrison shall be borne by the Central People's Government.

Article 15

The Central People's Government shall appoint the Chief Executive and the principal officials of the executive authorities of the Hong Kong Special Administrative Region in accordance with the provisions of Chapter IV of this Law.

Article 16

The Hong Kong Special Administrative Region shall be vested with executive power. It shall, on its own, conduct the administrative affairs of the Region in accordance with the relevant provisions of this Law.

Article 17

The Hong Kong Special Administrative Region shall be vested with legislative power.

Laws enacted by the legislature of the Hong Kong Special Administrative Region must be reported to the Standing Committee of the National People's Congress for the record. The reporting for record shall not affect the entry into force of such laws.

If the Standing Committee of the National People's Congress, after consulting the Committee for the Basic Law of the Hong Kong Special Administrative Region under it, considers that any law enacted by the legislature of the Region is not in conformity with the provisions of this Law regarding affairs within the responsibility of the Central Authorities or regarding the relationship between the Central Authorities and the Region, the Standing Committee may return the law in question but shall not amend it. Any law returned by the Standing Committee of the National People's Congress shall immediately be invalidated. This invalidation shall not have retroactive effect, unless otherwise provided for in the laws of the Region.

Article 18

The laws in force in the Hong Kong Special Administrative Region shall be this Law, the laws previously in force in Hong Kong as provided for in Article 8 of this Law, and the laws enacted by the legislature of the Region.

National laws shall not be applied in the Hong Kong Special Administrative Region except for those listed in Annex III to this Law. The laws listed therein shall be applied locally by way of promulgation or legislation by the Region.

The Standing Committee of the National People's Congress may add to or delete from the list of laws in Annex III after consulting its Committee for the Basic Law of the Hong Kong Special Administrative Region and the government of the Region. Laws listed in Annex III to this Law shall be confined to those relating to defence and foreign affairs as well as other matters outside the limits of the autonomy of the Region as specified by this Law.

In the event that the Standing Committee of the National People's Congress decides to declare a state of war or, by reason of turmoil within the Hong Kong Special Administrative Region which endangers national unity or security and is beyond the control of the government of the Region, decides that the Region is in a state of emergency, the Central People's Government may issue an order applying the relevant national laws in the Region.

Article 19

The Hong Kong Special Administrative Region shall be vested with independent judicial power, including that of final adjudication.

The courts of the Hong Kong Special Administrative Region shall have jurisdiction over all cases in the Region, except that the restrictions on their jurisdiction imposed by the legal system and principles previously in force in Hong Kong shall be maintained.

The courts of the Hong Kong Special Administrative Region shall have no jurisdiction over acts of state such as defence and foreign affairs. The courts of the Region shall obtain a certificate from the Chief Executive on questions of fact concerning acts of state such as defence and foreign affairs whenever such questions arise in the adjudication of cases. This certificate shall be binding on the courts. Before issuing such a certificate, the Chief Executive shall obtain a certifying document from the Central People's Government.

Article 20

The Hong Kong Special Administrative Region may enjoy other powers granted to it by the National People's Congress, the Standing Committee of the National People's Congress or the Central People's Government.

Article 21

Chinese citizens who are residents of the Hong Kong Special Administrative Region shall be entitled to participate in the management of state affairs according to law.

In accordance with the assigned number of seats and the selection method specified by the National People's Congress, the Chinese citizens among the residents of the Hong Kong Special Administrative Region shall locally elect deputies of the Region to the National People's Congress to participate in the work of the highest organ of state power.

Article 22

No department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law.

If there is a need for departments of the Central Government, or for provinces, autonomous regions, or municipalities directly under the Central Government to set up offices in the Hong Kong Special Administrative Region, they must obtain the consent of the government of the Region and the approval of the Central People's Government.

All offices set up in the Hong Kong Special Administrative Region by departments of the Central Government, or by provinces, autonomous regions, or municipalities directly under the Central Government, and the personnel of these offices shall abide by the laws of the Region.

For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval. Among them, the number of persons who enter the Region for the purpose of settlement shall be determined by the competent authorities of the Central People's Government after consulting the government of the Region.

The Hong Kong Special Administrative Region may establish an office in Beijing.

Article 23

The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies.

Chapter III : Fundamental Rights and Duties of the Residents

Article 24

Residents of the Hong Kong Special Administrative Region ("Hong Kong residents") shall include permanent residents and non-permanent residents.

The permanent residents of the Hong Kong Special Administrative Region shall be:

- (1) Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region;
- (2) Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the Hong Kong Special Administrative Region;
- (3) Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2);
- (4) Persons not of Chinese nationality who have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region;
- (5) Persons under 21 years of age born in Hong Kong of those residents listed in category (4) before or after the establishment of the Hong Kong Special Administrative Region; and
- (6) Persons other than those residents listed in categories (1) to (5), who, before the establishment of the Hong Kong Special Administrative Region, had the right of abode in Hong Kong only.

The above-mentioned residents shall have the right of abode in the Hong Kong Special Administrative Region and shall be qualified to obtain, in accordance with the laws of the Region, permanent identity cards which state their right of abode.

The non-permanent residents of the Hong Kong Special Administrative Region shall be persons who are qualified to obtain Hong Kong identity cards in accordance with the laws of the Region but have no right of abode.

Article 25

All Hong Kong residents shall be equal before the law.

Article 26

Permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election in accordance with law.

Article 27

Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike.

Article 28

The freedom of the person of Hong Kong residents shall be inviolable.

No Hong Kong resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment. Arbitrary or unlawful search of the body of any resident or deprivation or restriction of the freedom of the person shall be prohibited. Torture of any resident or arbitrary or unlawful deprivation of the life of any resident shall be prohibited.

Article 29

The homes and other premises of Hong Kong residents shall be inviolable. Arbitrary or unlawful search of, or intrusion into, a resident's home or other premises shall be prohibited.

Article 30

The freedom and privacy of communication of Hong Kong residents shall be protected by law. No department or individual may, on any grounds, infringe upon the freedom and privacy of communication of residents except that the relevant authorities may inspect communication in accordance with legal procedures to meet the needs of public security or of investigation into criminal offences.

Article 31

Hong Kong residents shall have freedom of movement within the Hong Kong Special Administrative Region and freedom of emigration to other countries and regions. They shall have freedom to travel and to enter or leave the Region. Unless restrained by law, holders of valid travel documents shall be free to leave the Region without special authorization.

Article 32

Hong Kong residents shall have freedom of conscience.

Hong Kong residents shall have freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public.

Article 33

Hong Kong residents shall have freedom of choice of occupation.

Article 34

Hong Kong residents shall have freedom to engage in academic research, literary and artistic creation, and other cultural activities.

Article 35

Hong Kong residents shall have the right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies.

Hong Kong residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel.

Articles 36

Hong Kong residents shall have the right to social welfare in accordance with law. The welfare benefits and retirement security of the labour force shall be protected by law.

Article 37

The freedom of marriage of Hong Kong residents and their right to raise a family freely shall be protected by law.

Article 38

Hong Kong residents shall enjoy the other rights and freedoms safeguarded by the laws of the Hong Kong Special Administrative Region.

Article 39

The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region.

The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the preceding paragraph of this Article.

Article 40

The lawful traditional rights and interests of the indigenous inhabitants of the "New Territories" shall be protected by the Hong Kong Special Administrative Region.

Article 41

Persons in the Hong Kong Special Administrative Region other than Hong Kong residents shall, in accordance with law, enjoy the rights and freedoms of Hong Kong residents prescribed in this Chapter.

Article 42

Hong Kong residents and other persons in Hong Kong shall have the obligation to abide by the laws in force in the Hong Kong Special Administrative Region.

Chapter IV : Political Structure

Section 1: The Chief Executive

Article 43

The Chief Executive of the Hong Kong Special Administrative Region shall be the head of the Hong Kong Special Administrative Region and shall represent the Region.

The Chief Executive of the Hong Kong Special Administrative Region shall be accountable to the Central People's Government and the Hong Kong Special Administrative Region in accordance with the provisions of this law.

Article 44

The Chief Executive of the Hong Kong Special Administrative Region shall be a Chinese citizen of not less than 40 years of age who is a permanent resident of the Region with no right of abode in any foreign country and has ordinarily resided in Hong Kong for a continuous period of not less than 20 years.

Article 45

The Chief Executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People's Government.

The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.

The specific method for selecting the Chief Executive is prescribed in Annex I "Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region".

Article 46

The term of office of the Chief Executive of the Hong Kong Special Administrative Region shall be five years. He or she may serve for not more than two consecutive terms.

Article 47

The Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties.

The Chief Executive, on assuming office, shall declare his or her assets to the Chief Justice of the Court of Final Appeal of the Hong Kong Special Administrative Region. This declaration shall be put on record.

Article 48

The Chief Executive of the Hong Kong Special Administrative Region shall exercise the following powers and functions:

- (1) To lead the government of the Region;
- (2) To be responsible for the implementation of this Law and other laws which, in accordance with this Law, apply in the Hong Kong Special Administrative Region;
- (3) To sign bills passed by the Legislative Council and to promulgate laws;

To sign budgets passed by the Legislative Council and report the budgets and final accounts to the Central People's Government for the record;
- (4) To decide on government policies and to issue executive orders;
- (5) To nominate and to report to the Central People's Government for appointment the following principal officials: Secretaries and Deputy Secretaries of Departments, Directors of Bureaux, Commissioner Against Corruption, Director of Audit, Commissioner of Police, Director of Immigration and Commissioner of Customs and Excise; and to recommend to the Central People's Government the removal of the above-mentioned officials;
- (6) To appoint or remove judges of the courts at all levels in accordance with legal procedures;
- (7) To appoint or remove holders of public office in accordance with legal procedures;
- (8) To implement the directives issued by the Central People's Government in respect of the relevant matters provided for in this Law;

- (9) To conduct, on behalf of the Government of the Hong Kong Special Administrative Region, external affairs and other affairs as authorized by the Central Authorities;
- (10) To approve the introduction of motions regarding revenues or expenditure to the Legislative Council;
- (11) To decide, in the light of security and vital public interests, whether government officials or other personnel in charge of government affairs should testify or give evidence before the Legislative Council or its committees;
- (12) To pardon persons convicted of criminal offences or commute their penalties; and
- (13) To handle petitions and complaints.

Article 49

If the Chief Executive of the Hong Kong Special Administrative Region considers that a bill passed by the Legislative Council is not compatible with the overall interests of the Region, he or she may return it to the Legislative Council within three months for reconsideration. If the Legislative Council passes the original bill again by not less than a two-thirds majority of all the members, the Chief Executive must sign and promulgate it within one month, or act in accordance with the provisions of Article 50 of this Law.

Article 50

If the Chief Executive of the Hong Kong Special Administrative Region refuses to sign a bill passed the second time by the Legislative Council, or the Legislative Council refuses to pass a budget or any other important bill introduced by the government, and if consensus still cannot be reached after consultations, the Chief Executive may dissolve the Legislative Council.

The Chief Executive must consult the Executive Council before dissolving the Legislative Council. The Chief Executive may dissolve the Legislative Council only once in each term of his or her office.

Article 51

If the Legislative Council of the Hong Kong Special Administrative Region refuses to pass the budget introduced by the government, the Chief Executive may apply to the Legislative Council for provisional appropriations. If appropriation of public funds cannot be approved because the Legislative Council has already been

dissolved, the Chief Executive may, prior to the election of the new Legislative Council, approve provisional short-term appropriations according to the level of expenditure of the previous fiscal year.

Article 52

The Chief Executive of the Hong Kong Special Administrative Region must resign under any of the following circumstances:

- (1) When he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons;
- (2) When, after the Legislative Council is dissolved because he or she twice refuses to sign a bill passed by it, the new Legislative Council again passes by a two-thirds majority of all the members the original bill in dispute, but he or she still refuses to sign it; and
- (3) When, after the Legislative Council is dissolved because it refuses to pass a budget or any other important bill, the new Legislative Council still refuses to pass the original bill in dispute.

Article 53

If the Chief Executive of the Hong Kong Special Administrative Region is not able to discharge his or her duties for a short period, such duties shall temporarily be assumed by the Administrative Secretary, Financial Secretary or Secretary of Justice in this order of precedence.

In the event that the office of Chief Executive becomes vacant, a new Chief Executive shall be selected within six months in accordance with the provisions of Article 45 of this Law. During the period of vacancy, his or her duties shall be assumed according to the provisions of the preceding paragraph.

Article 54

The Executive Council of the Hong Kong Special Administrative Region shall be an organ for assisting the Chief Executive in policy-making.

Article 55

Members of the Executive Council of the Hong Kong Special Administrative Region shall be appointed by the Chief Executive from among the principal officials of the executive authorities, members of the Legislative Council and public figures. Their appointment or removal shall be decided by the Chief Executive. The term of office of members of the Executive Council shall not extend beyond the expiry of the term of office of the Chief Executive who appoints them.

Members of the Executive Council of the Hong Kong Special Administrative Region shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country.

The Chief Executive may, as he or she deems necessary, invite other persons concerned to sit in on meetings of the Council.

Article 56

The Executive Council of the Hong Kong Special Administrative Region shall be presided over by the Chief Executive.

Except for the appointment, removal and disciplining of officials and the adoption of measures in emergencies, the Chief Executive shall consult the Executive Council before making important policy decisions, introducing bills to the Legislative Council, making subordinate legislation, or dissolving the Legislative Council.

If the Chief Executive does not accept a majority opinion of the Executive Council, he or she shall put the specific reasons on record.

Article 57

A Commission Against Corruption shall be established in the Hong Kong Special Administrative Region. It shall function independently and be accountable to the Chief Executive.

Article 58

A Commission of Audit shall be established in the Hong Kong Special Administrative Region. It shall function independently and be accountable to the Chief Executive.

Section 2: The Executive Authorities

Article 59

The Government of the Hong Kong Special Administrative Region shall be the executive authorities of the Region.

Article 60

The head of the Government of the Hong Kong Special Administrative Region shall be the Chief Executive of the Region.

A Department of Administration, a Department of Finance, a Department of Justice, and various bureaux, divisions and commissions shall be established in the Government of the Hong Kong Special Administrative Region.

Article 61

The principal officials of the Hong Kong Special Administrative Region shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country and have ordinarily resided in Hong Kong for a continuous period of not less than 15 years.

Article 62

The Government of the Hong Kong Special Administrative Region shall exercise the following powers and functions:

- (1) To formulate and implement policies;
- (2) To conduct administrative affairs;
- (3) To conduct external affairs as authorised by the Central People's Government under this Law;
- (4) To draw up and introduce budgets and final accounts;
- (5) To draft and introduce bills, motions and subordinate legislation; and
- (6) To designate officials to sit in on the meetings of the Legislative Council and to speak on behalf of the government.

Article 63

The Department of Justice of the Hong Kong Special Administrative Region shall control criminal prosecutions, free from any interference.

Article 64

The Government of the Hong Kong Special Administrative Region must abide by the law and be accountable to the Legislative Council of the Region: it shall implement laws passed by the Council and already in force; it shall present regular policy addresses to the Council; it shall answer questions raised by members of the Council; and it shall obtain approval from the Council for taxation and public expenditure.

Article 65

The previous system of establishing advisory bodies by the executive authorities shall be maintained.

Section 3 : The Legislature

Article 66

The Legislative Council of the Hong Kong Special Administrative Region shall be the legislature of the Region.

Article 67

The Legislative Council of the Hong Kong Special Administrative Region shall be composed of Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country. However, permanent residents of the Region who are not of Chinese nationality or who have the right of abode in foreign countries may also be elected members of the Legislative Council of the Region, provided that the proportion of such members does not exceed 20 percent of the total membership of the Council.

Article 68

The Legislative Council of the Hong Kong Special Administrative Region shall be constituted by election.

The method for forming the Legislative Council shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the Legislative Council by universal suffrage.

The specific method for forming the Legislative Council and its procedures for voting on bills and motions are prescribed in Annex II: “Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures”.

Article 69

The term of office of the Legislative Council of the Hong Kong Special Administrative Region shall be four years, except the first term which shall be two years.

Article 70

If the Legislative Council of the Hong Kong Special Administrative Region is dissolved by the Chief Executive in accordance with the provisions of this Law, it

must, within three months, be reconstituted by election in accordance with Article 68 of this Law.

Article 71

The President of the Legislative Council of the Hong Kong Special Administrative Region shall be elected by and from among the members of the Legislative Council.

The President of the Legislative Council of the Hong Kong Special Administrative Region shall be a Chinese citizen of not less than 40 years of age, who is a permanent resident of the Region with no right of abode in any foreign country and has ordinarily resided in Hong Kong for a continuous period of not less than 20 years.

Article 72

The President of the Legislative Council of the Hong Kong Special Administrative Region shall exercise the following powers and functions:

- (1) To preside over meetings;
- (2) To decide on the agenda, giving priority to government bills for inclusion in the agenda;
- (3) To decide on the time of meetings;
- (4) To call special sessions during the recess;
- (5) To call emergency sessions on the request of the Chief Executive; and
- (6) To exercise other powers and functions as prescribed in the rules of procedure of the Legislative Council.

Article 73

The Legislative Council of the Hong Kong Special Administrative Region shall exercise the following powers and functions:

- (1) To enact, amend or repeal laws in accordance with the provisions of this Law and legal procedures;
- (2) To examine and approve budgets introduced by the government;
- (3) To approve taxation and public expenditure;
- (4) To receive and debate the policy addresses of the Chief Executive;
- (5) To raise questions on the work of the government;
- (6) To debate any issue concerning public interests;
- (7) To endorse the appointment and removal of the judges of the Court of Final Appeal and the Chief Judge of the High Court;
- (8) To receive and handle complaints from Hong Kong residents;

- (9) If a motion initiated jointly by one-fourth of all the members of the Legislative Council charges the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign, the Council may, after passing a motion for investigation, give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee. The committee shall be responsible for carrying out the investigation and reporting its findings to the Council. If the committee considers the evidence sufficient to substantiate such charges, the Council may pass a motion of impeachment by a two-thirds majority of all its members and report it to the Central People's Government for decision; and
- (10) To summon, as required when exercising the above-mentioned powers and functions, persons concerned to testify or give evidence.

Article 74

Members of the Legislative Council of the Hong Kong Special Administrative Region may introduce bills in accordance with the provisions of this Law and legal procedures. Bills which do not relate to public expenditure or political structure or the operation of the government may be introduced individually or jointly by members of the Council. The written consent of the Chief Executive shall be required before bills relating to government polices are introduced.

Article 75

The quorum for the meeting of the Legislative Council of the Hong Kong Special Administrative Region shall be not less than one half of all its members.

The rules of procedure of the Legislative Council shall be made by the Council on its own, provided that they do not contravene this Law.

Article 76

A bill passed by the Legislative Council of the Hong Kong Special Administrative Region may take effect only after it is signed and promulgated by the Chief Executive.

Article 77

Members of the Legislative Council of the Hong Kong Special Administrative Region shall be immune from legal action in respect of their statements at meetings of the Council.

Article 78

Members of the Legislative Council of the Hong Kong Special Administrative Region shall not be subjected to arrest when attending or on their way to a meeting of the Council.

Article 79

The President of the Legislative Council of the Hong Kong Special Administrative Region shall declare that a member of the Council is no longer qualified for the office under any of the following circumstances:

- (1) When he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons;
- (2) When he or she, with no valid reason, is absent from meetings for three consecutive months without the consent of the President of the Legislative Council;
- (3) When he or she loses or renounces his or her status as a permanent resident of the Region;
- (4) When he or she accepts a government appointment and becomes a public servant;
- (5) When he or she is bankrupt or fails to comply with a court order to repay debts;
- (6) When he or she is convicted and sentenced to imprisonment for one month or more for a criminal offence committed within or outside the Region and is relieved of his or her duties by a motion passed by two-thirds of the members of the Legislative Council present; and
- (7) When he or she is censured for misbehaviour or breach of oath by a vote of two-thirds of the members of the Legislative Council present.

Section 4: The Judiciary

Article 80

The courts of the Hong Kong Special Administrative Region at all levels shall be the judiciary of the Region, exercising the judicial power of the Region.

Article 81

The Court of Final Appeal, the High Court, district courts, magistrates' courts and other special courts shall be established in the Hong Kong Special Administrative Region. The High Court shall comprise the Court of Appeal and the Court of First Instance.

The judicial system previously practised in Hong Kong shall be maintained except for those changes consequent upon the establishment of the Court of Final Appeal of the Hong Kong Special Administrative Region.

Article 82

The power of final adjudication of the Hong Kong Special Administrative Region shall be vested in the Court of Final Appeal of the Region, which may as required invite judges from other common law jurisdictions to sit on the Court of Final Appeal.

Article 83

The structure, powers and functions of the courts of the Hong Kong Special Administrative Region at all levels shall be prescribed by law.

Article 84

The courts of the Hong Kong Special Administrative Region shall adjudicate cases in accordance with the laws applicable in the Region as prescribed in Article 18 of this Law and may refer to precedents of other common law jurisdictions.

Article 85

The courts of the Hong Kong Special Administrative Region shall exercise judicial power independently, free from any interference. Members of the judiciary shall be immune from legal action in the performance of their judicial functions.

Article 86

The principle of trial by jury previously practised in Hong Kong shall be maintained.

Article 87

In criminal or civil proceedings in the Hong Kong Special Administrative Region, the principles previously applied in Hong Kong and the rights previously enjoyed by parties to proceedings shall be maintained.

Anyone who is lawfully arrested shall have the right to a fair trial by the judicial organs without delay and shall be presumed innocent until convicted by the judicial organs.

Article 88

Judges of the courts of the Hong Kong Special Administrative Region shall be appointed by the Chief Executive on the recommendation of an independent commission composed of local judges, persons from the legal profession and eminent persons from other sectors.

Article 89

A judge of court of the Hong Kong Special Administrative Region may only be removed for inability to discharge his or her duties, or for misbehaviour, by the Chief Executive on the recommendation of a tribunal appointed by the Chief Justice of the Court of Final Appeal and consisting of not fewer than three local judges.

The Chief Justice of the Court of Final Appeal of the Hong Kong Special Administrative Region may be investigated only for inability to discharge his or her duties, or for misbehaviour, by a tribunal appointed by the Chief Executive and consisting of not fewer than five local judges and may be removed by the Chief Executive on the recommendation of the tribunal and in accordance with the procedures prescribed in this Law.

Article 90

The Chief Justice of the Court of Final Appeal and the Chief Judge of the High Court of the Hong Kong Special Administrative Region shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country.

In the case of the appointment or removal of judges of the Court of Final Appeal and the Chief Judge of the High Court of the Hong Kong Special Administrative Region, the Chief Executive shall, in addition to following the procedures prescribed in Article 88 and 89 of this Law, obtain the endorsement of the Legislative Council and report such appointment or removal to the Standing Committee of the National People's Congress for the record.

Article 91

The Hong Kong Special Administrative Region shall maintain the previous system of appointment and removal of members of the judiciary other than judges.

Article 92

Judges and other members of the judiciary of the Hong Kong Special Administrative Region shall be chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions.

Article 93

Judges and other members of the judiciary serving in Hong Kong before the establishment of the Hong Kong Special Administrative Region may all remain in employment and retain their seniority with pay, allowances, benefits and conditions of service no less favourable than before.

The Government of the Hong Kong Special Administrative Region shall pay to judges and other members of the judiciary who retire or leave the service in compliance with regulations, including those who have retired or left the service before the establishment of the Hong Kong Special Administrative Region, or to their dependants, all pensions, gratuities, allowances and benefits due to them on terms no less favourable than before, irrespective of their nationality or place of residence.

Article 94

On the basis of the system previously operating in Hong Kong, the Government of the Hong Kong Special Administrative Region may make provisions for local lawyers and lawyers from outside Hong Kong to work and practise in the Region.

Article 95

The Hong Kong Special Administrative Region may, through consultations and in accordance with law, maintain juridical relations with the judicial organs of other parts of the country, and they may render assistance to each other.

Article 96

With the assistance or authorization of the Central People's Government, the Government of the Hong Kong Special Administrative Region may make appropriate arrangements with foreign states for reciprocal juridical assistance.

Section 5: District Organizations

Article 97

District organizations which are not organs of political power may be established in the Hong Kong Special Administrative Region, to be consulted by the government of the Region on district administration and other affairs, or to be responsible for providing services in such fields as culture, recreation and environmental sanitation.

Article 98

The powers and functions of the district organizations and the method for their formation shall be prescribed by law.

Section 6: Public Servants

Article 99

Public servants serving in all government departments of the Hong Kong Special Administrative Region must be permanent residents of the Region, except where otherwise provided for in Article 101 of this Law regarding public servants of foreign nationalities and except for those below a certain rank as prescribed by law.

Public servants must be dedicated to their duties and be responsible to the Government of the Hong Kong Special Administrative Region.

Article 100

Public servants serving in all Hong Kong government departments, including the police department, before the establishment of the Hong Kong Special Administrative Region, may all remain in employment and retain their seniority with pay, allowances, benefits and conditions of service no less favourable than before.

Article 101

The Government of the Hong Kong Special Administrative Region may employ British and other foreign nationals previously serving in the public service in Hong Kong, or those holding permanent identity cards of the Region, to serve as public servants in government departments at all levels, but only Chinese citizens among permanent residents of the Region with no right of abode in any foreign country may fill the following posts: the Secretaries and Deputy Secretaries of Departments, Directors of Bureaux, Commissioner Against Corruption, Director of Audit, Commissioner of Police, Director of Immigration and Commissioner of Customs and Excise.

The Government of the Hong Kong Special Administrative Region may also employ British and other foreign nationals as advisers to government departments and, when required, may recruit qualified candidates from outside the Region to fill professional and technical posts in government departments. These foreign nationals shall be employed only in their individual capacities and shall be responsible to the government of the Region.

Article 102

The Government of the Hong Kong Special Administrative Region shall pay to public servants who retire or who leave the service in compliance with regulations, including those who have retired or who have left the service in compliance with regulations before the establishment of the Hong Kong Special

Administrative Region, or to their dependants, all pensions, gratuities, allowances and benefits due to them on terms no less favourable than before, irrespective of their nationality or place of residence.

Article 103

The appointment and promotion of public servants shall be on the basis of their qualifications, experience and ability. Hong Kong's previous system of recruitment, employment, assessment, discipline, training and management for the public service, including special bodies for their appointment, pay and conditions of service, shall be maintained, except for any provisions for privileged treatment of foreign nationals.

Article 104

When assuming office, the Chief Executive, principal officials, members of the Executive Council and of the Legislative Council, judges of the courts at all levels and other members of the judiciary in the Hong Kong Special Administrative Region must, in accordance with law, swear to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China.

Chapter V: Economy

Section 1: Public Finance, Monetary Affairs, Trade, Industry and Commerce

Article 105

The Hong Kong Special Administrative Region shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property.

Such compensation shall correspond to the real value of the property concerned at the time and shall be freely convertible and paid without undue delay.

The ownership of enterprises and the investments from outside the Region shall be protected by law.

Article 106

The Hong Kong Special Administrative Region shall have independent finances.

The Hong Kong Special Administrative Region shall use its financial revenues exclusively for its own purposes, and they shall not be handed over to the Central People's Government.

The Central People's Government shall not levy taxes in the Hong Kong Special Administrative Region.

Article 107

The Hong Kong Special Administrative Region shall follow the principle of keeping the expenditure within the limits of revenues in drawing up its budget, and strive to achieve a fiscal balance, avoid deficits and keep the budget commensurate with the growth rate of its gross domestic product.

Article 108

The Hong Kong Special Administrative Region shall practise an independent taxation system.

The Hong Kong Special Administrative Region shall, taking the low tax policy previously pursued in Hong Kong as reference, enact laws on its own concerning types of taxes, tax rates, tax reductions, allowances and exemptions, and other matters of taxation.

Article 109

The Government of the Hong Kong Special Administrative Region shall provide an appropriate economic and legal environment for the maintenance of the status of Hong Kong as an international financial centre.

Article 110

The monetary and financial systems of the Hong Kong Special Administrative Region shall be prescribed by law.

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate monetary and financial policies, safeguard the free operation of financial business and financial markets, and regulate and supervise them in accordance with law.

Article 111

The Hong Kong dollar, as the legal tender in the Hong Kong Special Administrative Region, shall continue to circulate.

The authority to issue Hong Kong currency shall be vested in the Government of the Hong Kong Special Administrative Region. The issue of Hong Kong currency must be backed by a 100 percent reserve fund. The system regarding the issue of Hong Kong currency and the reserve fund system shall be prescribed by law.

The Government of the Hong Kong Special Administrative Region may authorize designated banks to issue or continue to issue Hong Kong currency under statutory authority, after satisfying itself that any issue of currency will be soundly based and that the arrangements for such issue are consistent with the object of maintaining the stability of the currency.

Article 112

No foreign exchange control policies shall be applied in the Hong Kong Special Administrative Region. The Hong Kong dollar shall be freely convertible. Markets for foreign exchange, gold, securities, futures and the like shall continue.

The Government of the Hong Kong Special Administrative Region shall safeguard the free flow of capital within, into and out of the Region.

Article 113

The Exchange Fund of the Hong Kong Special Administrative Region shall be managed and controlled by the government of the Region, primarily for regulating the exchange value of the Hong Kong dollar.

Article 114

The Hong Kong Special Administrative Region shall maintain the status of a free port and shall not impose any tariff unless otherwise prescribed by law.

Article 115

The Hong Kong Special Administrative Region shall pursue the policy of free trade and safeguard the free movement of goods, intangible assets and capital.

Article 116

The Hong Kong Special Administrative Region shall be a separate customs territory.

The Hong Kong Special Administrative Region may, using the name “Hong Kong, China”, participate in relevant international organizations and international trade agreements (including preferential trade arrangements), such as the General Agreement on Tariffs and Trade and arrangements regarding international trade in textiles.

Export quotas, tariff preferences and other similar arrangements, which are obtained or made by the Hong Kong Special Administrative Region or which were obtained or made and remain valid, shall be enjoyed exclusively by the Region.

Article 117

The Hong Kong Special Administrative Region may issue its own certificates of origin for products in accordance with prevailing rules of origin.

Article 118

The Government of the Hong Kong Special Administrative Region shall provide an economic and legal environment for encouraging investments, technological progress and the development of new industries.

Article 119

The Government of the Hong Kong Special Administrative Region shall formulate appropriate policies to promote and co-ordinate the development of various trades such as manufacturing, commerce, tourism, real estate, transport, public utilities, services, agriculture and fisheries, and pay regard to the protection of the environment.

Section 2: Land Leases

Article 120

All leases of land granted, decided upon or renewed before the establishment of the Hong Kong Special Administrative Region which extend beyond 30 June 1997, and all rights in relation to such leases, shall continue to be recognized and protected under the law of the Region.

Article 121

As regards all leases of land granted or renewed where the original leases contain no right of renewal, during the period from 27 May 1985 to 30 June 1997, which extend beyond 30 June 1997 and expire not later than 30 June 2047, the lessee is not required to pay an additional premium as from 1 July 1997, but an annual rent equivalent to 3 per cent of the rateable value of the property at that date, adjusted in step with any changes in the rateable value thereafter, shall be charged.

Article 122

In the case of old schedule lots, village lots, small houses and similar rural holdings, where the property was on 30 June 1984 held by, or , in the case of small houses granted after that date, where the property is granted to, a lessee descended through the male line from a person who was in 1898 a resident of an established village in Hong Kong, the previous rent shall remain unchanged so long as the property is held by that lessee or by one of his lawful successors in the male line.

Articles 123

Where leases of land without a right of renewal expire after the establishment of the Hong Kong Special Administrative Region, they shall be dealt with in accordance with laws and policies formulated by the Region on its own.

Section 3: Shipping

Article 124

The Hong Kong Special Administrative Region shall maintain Hong Kong's previous systems of shipping management and shipping regulation, including the system for regulating conditions of seamen.

The Government of the Hong Kong Special Administrative Region shall, on its own, define its specific functions and responsibilities in respect of shipping.

Article 125

The Hong Kong Special Administrative Region shall be authorized by the Central People's Government to continue to maintain a shipping register and issue related certificates under its legislation, using the name "Hong Kong, China".

Article 126

With the exception of foreign warships, access for which requires the special permission of the Central People's Government, ships shall enjoy access to the ports of the Hong Kong Special Administrative Region in accordance with the laws of the Region.

Article 127

Private shipping businesses and shipping-related businesses and private container terminals in the Hong Kong Special Administrative Region may continue to operate freely.

Section 4: Civil Aviation

Article 128

The Government of the Hong Kong Special Administrative Region shall provide conditions and take measures for the maintenance of the status of Hong Kong as a centre of international and regional aviation.

Article 129

The Hong Kong Special Administrative Region shall continue the previous system of civil aviation management in Hong Kong and keep its own aircraft register in accordance with provisions laid down by the Central People's Government concerning nationality marks and registration marks of aircraft.

Access of foreign state aircraft to the Hong Kong Special Administrative Region shall require the special permission of the Central People's Government.

Article 130

The Hong Kong Special Administrative Region shall be responsible on its own for matters of routine business and technical management of civil aviation, including the management of airports, the provision of air traffic services within the flight information region of the Hong Kong Special Administrative Region, and the discharge of other responsibilities allocated to it under the regional air navigation procedures of the International Civil Aviation Organization.

Article 131

The Central People's Government shall, in consultation with the Government of the Hong Kong Special Administrative Region, make arrangements providing air services between the Region and other parts of the People's Republic of China for airlines incorporated in the Hong Kong Special Administrative Region and having their principal place of business in Hong Kong and other airlines of the People's Republic of China.

Article 132

All air service agreements providing air services between other parts of the People's Republic of China and other states and regions with stops at the Hong Kong Special Administrative Region and air services between the Hong Kong Special Administrative Region and other states and regions with stops at other parts of the People's Republic of China shall be concluded by the Central People's Government.

In concluding the air service agreements referred to in the first paragraph of this Article, the Central People's Government shall take account of the special conditions and economic interests of the Hong Kong Special Administrative Region and consult the government of the Region.

Representatives of the Government of the Hong Kong Special Administrative Region may, as members of the delegations of the Government of the People's Republic of China, participate in air service consultations conducted by the Central People's Government with foreign governments concerning arrangements for such services referred to in the first paragraph of this Article.

Article 133

Acting under specific authorizations from the Central People's Government, the Government of the Hong Kong Special Administrative Region may:

- (1) renew or amend air service agreements and arrangements previously in force;
- (2) negotiate and conclude new air service agreements providing routes for airlines incorporated in the Hong Kong Special Administrative Region and having their principal place of business in Hong Kong and providing rights for over-flights and technical stops; and
- (3) negotiate and conclude provisional arrangements with foreign states or regions with which no air service agreements have been concluded.

All scheduled air services to, from or through Hong Kong, which do not operate to, from or through the mainland of China shall be regulated by the air service agreements or provisional arrangements referred to in this Article.

Article 134

The Central People's Government shall give the Government of the Hong Kong Special Administrative Region the authority to :

- (1) negotiate and conclude with other authorities all arrangements concerning the implementation of the air service agreements and provisional arrangements referred to in Article 133 of this Law;
- (2) issue licences to airlines incorporated in the Hong Kong Special Administrative Region and having their principal place of business in Hong Kong;
- (3) designate such airlines under the air service agreements and provisional arrangements referred to in Article 133 of this Law; and
- (4) issue permits to foreign airlines for services other than those to, from or through the mainland of China.

Article 135

Airlines incorporated and having their principal place of business in Hong Kong and business related to civil aviation functioning there prior to the establishment of the Hong Kong Special Administrative Region may continue to operate.

Chapter VI : Education, Science, Culture, Sports, Religion, Labour and Social Services

Article 136

On the basis of the previous educational system, the Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on the development and improvement of education, including policies regarding the educational system and its administration, the language of instruction, the allocation of funds, the examination system, the system of academic awards and the recognition of educational qualifications.

Community organizations and individuals may, in accordance with law, run educational undertakings of various kinds in the Hong Kong Special Administrative Region.

Article 137

Educational institutions of all kinds may retain their autonomy and enjoy academic freedom. They may continue to recruit staff and use teaching materials from outside the Hong Kong Special Administrative Region. Schools run by religious organisations may continue to provide religious education, including courses in religion.

Students shall enjoy freedom of choice of educational institutions and freedom to pursue their education outside the Hong Kong Special Administrative Region.

Article 138

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies to develop Western and traditional Chinese medicine and to improve medical and health services. Community organizations and individuals may provide various medical and health services in accordance with law.

Article 139

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on science and technology and protect by law achievements in scientific and technological research, patents, discoveries and inventions.

The Government of the Hong Kong Special Administrative Region shall, on its own, decide on the scientific and technological standards and specifications applicable in Hong Kong.

Article 140

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on culture and protect by law the achievements and the lawful rights and interests of authors in their literary and artistic creation.

Article 141

The Government of the Hong Kong Special Administrative Region shall not restrict the freedom of religious belief, interfere in the internal affairs of religious organizations or restrict religious activities which do not contravene the laws of the Region.

Religious organizations shall, in accordance with law, enjoy the rights to acquire, use, dispose of and inherit property and the right to receive financial assistance. Their previous property rights and interests shall be maintained and protected.

Religious organizations may, according to their previous practice, continue to run seminaries and other schools, hospitals and welfare institutions and to provide other social services.

Religious organizations and believers in the Hong Kong Special Administrative Region may maintain and develop their relations with religious organizations and believers elsewhere.

Article 142

The Government of the Hong Kong Special Administrative Region shall, on the basis of maintaining the previous systems concerning the professions, formulate provisions on its own for assessing the qualifications for practice in the various professions.

Persons with professional qualifications or qualifications for professional practice obtained prior to the establishment of the Hong Kong Special Administrative Region may retain their previous qualifications in accordance with the relevant regulations and codes of practice.

The Government of the Hong Kong Special Administrative Region shall continue to recognize the professions and the professional organizations recognized prior to the establishment of the Region, and these organizations may, on their own, assess and confer professional qualifications.

The Government of the Hong Kong Special Administrative Region may, as required by developments in society and in consultation with the parties concerned, recognize new professions and professional organizations.

Article 143

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on sports. Non-governmental sports organizations may continue to exist and develop in accordance with law.

Article 144

The Government of the Hong Kong Special Administrative Region shall maintain the policy previously practised in Hong Kong in respect of subventions for non-governmental organizations in fields such as education, medicine and health, culture, art, recreation, sports, social welfare and social work. Staff members previously serving in subvented organizations in Hong Kong may remain in their employment in accordance with the previous system.

Article 145

On the basis of the previous social welfare system, the Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on the development and improvement of this system in the light of the economic conditions and social needs.

Article 146

Voluntary organizations providing social services in the Hong Kong Special Administrative Region may, on their own, decide their forms of service, provided that the law is not contravened.

Article 147

The Hong Kong Special Administrative Region shall on its own formulate laws and policies relating to labour.

Article 148

The relationship between non-governmental organizations in fields such as education, science, technology, culture, art, sports, the professions, medicine and health, labour, social welfare and social work as well as religious organizations in the Hong Kong Special Administrative Region and their counterparts on the mainland shall be based on the principles of non-subordination, non-interference and mutual respect.

Article 149

Non-governmental organizations in fields such as education, science, technology, culture, art, sports, the professions, medicine and health, labour, social welfare and social work as well as religious organizations in the Hong Kong Special Administrative Region may maintain and develop relations with their counterparts in foreign countries and regions and with relevant international organizations. They may, as required, use the name “Hong Kong, China” in the relevant activities.

Chapter VII : External Affairs

Article 150

Representatives of the Government of the Hong Kong Special Administrative Region may, as members of delegations of the Government of the People's Republic of China, participate in negotiations at the diplomatic level directly affecting the Region conducted by the Central People's Government.

Article 151

The Hong Kong Special Administrative Region may on its own, using the name "Hong Kong, China", maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organizations in the appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields.

Article 152

Representatives of the Government of the Hong Kong Special Administrative Region may, as members of delegations of the People's Republic of China, participate in international organizations or conferences in appropriate fields limited to states and affecting the Region, or may attend in such other capacity as may be permitted by the Central People's Government and the international organization or conference concerned, and may express their views, using the name "Hong Kong, China".

The Hong Kong Special Administrative Region may, using the name "Hong Kong, China", participate in international organizations and conferences not limited to states.

The Central People's Government shall take the necessary steps to ensure that the Hong Kong Special Administrative Region shall continue to retain its status in an appropriate capacity in those international organizations of which the People's Republic of China is a member and in which Hong Kong participates in one capacity or another.

The Central People's Government shall, where necessary, facilitate the continued participation of the Hong Kong Special Administrative Region in an appropriate capacity in those international organizations in which Hong Kong is a participant in one capacity or another, but of which the People's Republic of China is not a member.

Article 153

The application to the Hong Kong Special Administrative Region of international agreements to which the People's Republic of China is or becomes a party shall be decided by the Central People's Government, in accordance with the circumstances and needs of the Region, and after seeking the views of the government of the Region.

International agreements to which the People's Republic of China is not a party but which are implemented in Hong Kong may continue to be implemented in the Hong Kong Special Administrative Region. The Central People's Government shall, as necessary, authorize or assist the government of the Region to make appropriate arrangements for the application to the Region of other relevant international agreements.

Article 154

The Central People's Government shall authorize the Government of the Hong Kong Special Administrative Region to issue, in accordance with law, passports of the Hong Kong Special Administrative Region of the People's Republic of China to all Chinese citizens who hold permanent identity cards of the Region, and travel documents of the Hong Kong Special Administrative Region of the People's Republic of China to all other persons lawfully residing in the Region. The above passports and documents shall be valid for all states and regions and shall record the holder's right to return to the Region.

The Government of the Hong Kong Special Administrative Region may apply immigration controls on entry into, stay in and departure from the Region by persons from foreign states and regions.

Article 155

The Central People's Government shall assist or authorize the Government of the Hong Kong Special Administrative Region to conclude visa abolition agreements with foreign states or regions.

Article 156

The Hong Kong Special Administrative Region may, as necessary, establish official or semi-official economic and trade missions in foreign countries and shall report the establishment of such missions to the Central People's Government for the record.

Article 157

The establishment of foreign consular and other official or semi-official missions in the Hong Kong Special Administrative Region shall require the approval of the Central People's Government.

Consular and other official missions established in Hong Kong by states which have formal diplomatic relations with the People's Republic of China may be maintained.

According to the circumstances of each case, consular and other official missions established in Hong Kong by states which have no formal diplomatic relations with the People's Republic of China may be permitted either to remain or be changed to semi-official missions.

States not recognized by the People's Republic of China may only establish non-governmental institutions in the Region.

Chapter VIII: Interpretation and Amendment of the Basic Law

Article 158

The power of interpretation of this Law shall be vested in the Standing Committee of the National People's Congress.

The Standing Committee of the National People's Congress shall authorize the courts of the Hong Kong Special Administrative Region to interpret on their own, in adjudicating cases, the provisions of this Law which are within the limits of the autonomy of the Region.

The courts of the Hong Kong Special Administrative Region may also interpret other provisions of this Law in adjudicating cases. However, if the courts of the Region, in adjudicating cases, need to interpret the provisions of this Law concerning affairs which are the responsibility of the Central People's Government, or concerning the relationship between the Central Authorities and the Region, and if such interpretation will affect the judgments on the cases, the courts of the Region shall, before making their final judgments which are not appealable, seek an interpretation of the relevant provisions from the Standing Committee of the National People's Congress through the Court of Final Appeal of the Region. When the Standing Committee makes an interpretation of the provisions concerned, the courts of the Region, in applying those provisions, shall follow the interpretation of the Standing Committee. However, judgments previously rendered shall not be affected.

The Standing Committee of the National People's Congress shall consult its Committee for the Basic Law of the Hong Kong Special Administrative Region before giving an interpretation of this Law.

Article 159

The power of amendment of this Law shall be vested in the National People's Congress.

The power to propose bills for amendments to this Law shall be vested in the Standing Committee of the National People's Congress, the State Council and the Hong Kong Special Administrative Region. Amendment bills from the Hong Kong Special Administrative Region shall be submitted to the National People's Congress by the delegation of the Region to the National People's Congress after obtaining the consent of two-thirds of the deputies of the Region to the National People's Congress, two-thirds of all the members of the Legislative Council of the Region, and the Chief Executive of the Region.

Before a bill for amendment to this Law is put on the agenda of the National People's Congress, the Committee for the Basic Law of the Hong Kong Special Administrative Region shall study it and submit its views.

No amendment to this Law shall contravene the established basic policies of the People's Republic of China regarding Hong Kong.

Chapter IX: Supplementary Provisions

Article 160

Upon the establishment of the Hong Kong Special Administrative Region, the laws previously in force in Hong Kong shall be adopted as laws of the Region except for those which the Standing Committee of the National People's Congress declares to be in contravention of this Law. If any laws are later discovered to be in contravention of this Law, they shall be amended or cease to have force in accordance with the procedure as prescribed by this Law.

Documents, certificates, contracts, and rights and obligations valid under the laws previously in force in Hong Kong shall continue to be valid and be recognized and protected by the Hong Kong Special Administrative Region, provided that they do not contravene this Law.

Annex I: Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region

1. The Chief Executive shall be elected by a broadly representative Election Committee in accordance with this Law and appointed by the Central People's Government.

2. The Election Committee shall be composed of 800 members from the following sectors:

Industrial, commercial and financial sectors	200
The professions	200
Labour, social services, religious and other sectors	200
Members of the Legislative Council, representatives of district-based organizations, Hong Kong deputies to the National People's Congress, and representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference	200

The term of office of the Election Committee shall be five years.

3. The delimitation of the various sectors, the organizations in each sector eligible to return Election Committee members and the number of such members returned by each of these organizations shall be prescribed by an electoral law enacted by the Hong Kong Special Administrative Region in accordance with the principles of democracy and openness.

Corporate bodies in various sectors shall, on their own, elect members to the Election Committee, in accordance with the number of seats allocated and the election method as prescribed by the electoral law.

Members of the Election Committee shall vote in their individual capacities.

4. Candidates for the office of Chief Executive may be nominated jointly by not less than 100 members of the Election Committee. Each member may nominate only one candidate.

5. The Election Committee shall, on the basis of the list of nominees, elect the Chief Executive designate by secret ballot on a one-person-one-vote basis. The specific election method shall be prescribed by the electoral law.

6. The first Chief Executive shall be selected in accordance with the "Decision of the National People's Congress on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region".

7. If there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for approval.

Annex II : Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures

I. Method for the formation of the Legislative Council

1. The Legislative Council of the Hong Kong Special Administrative Region shall be composed of 60 members in each term. In the first term, the Legislative Council shall be formed in accordance with the "Decision of the National People's Congress on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region". The composition of the Legislative Council in the second and third terms shall be as follows :

Second term

Members returned by functional constituencies	30
Members returned by the Election Committee	6
Members returned by geographical constituencies through direct elections	24

Third term

Members returned by functional constituencies	30
Members returned by geographical constituencies through direct elections	30

2. Except in the case of the first Legislative Council, the above-mentioned Election Committee refers to the one provided for in Annex I of this Law. The division of geographical constituencies and the voting method for direct elections therein; the delimitation of functional sectors and corporate bodies, their seat allocation and election methods; and the method for electing members of the Legislative Council by the Election Committee shall be specified by an electoral law introduced by the Government of the Hong Kong Special Administrative Region and passed by the Legislative Council.

II. Procedures for voting on bills and motions in the Legislative Council

Unless otherwise provided for in this Law, the Legislative Council shall adopt the following procedures for voting on bills and motions :

The passage of bills introduced by the government shall require at least a simple majority vote of the members of the Legislative Council present.

The passage of motions, bills or amendments to government bills introduced by individual members of the Legislative Council shall require a simple majority vote of each of the two groups of members present: members returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee.

III. Method for the formation of the Legislative Council and its voting procedures subsequent to the year 2007

With regard to the method for forming the Legislative Council of the Hong Kong Special Administrative Region and its procedures for voting on bills and motions after 2007, if there is a need to amend the provisions of this Annex, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for the record.

Annex III : National Laws to be Applied in the Hong Kong Special Administrative Region

The following national laws shall be applied locally with effect from 1 July 1997 by way of promulgation or legislation by the Hong Kong Special Administrative Region:

1. Resolution on the Capital, Calendar, National Anthem and National Flag of the People's Republic of China.
2. Resolution on the National Day of the People's Republic of China.
3. Declaration of the Government of the People's Republic of China on the Territorial Sea.
4. Nationality Law of the People's Republic of China.
5. Regulations of the People's Republic of China Concerning Diplomatic Privileges and Immunities.
6. Law of the People's Republic of China on the National Flag.
7. Regulations of the People's Republic of China concerning Consular Privileges and Immunities.
8. Law of the People's Republic of China on the National Emblem.
9. Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone.
10. Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region.
11. Law of the People's Republic of China on the Exclusive Economic Zone and the Continental Shelf.*
12. Law of the People's Republic of China on Judicial Immunity from Compulsory Measures concerning the Assets of Foreign Central Banks.**

* Added to Annex III on 4 November 1998 and applied in the HKSAR with effect from 24 December 1998.

** Added to Annex III on 27 October 2005.

**Decision of the National People's Congress on
the Basic Law of the Hong Kong Special Administration Region
of the People's Republic of China**

(Adopted at the Third Session of the
Seventh National People's Congress on 4 April 1990)

The Third Session of the Seventh National People's Congress adopts the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, which includes Annex I: Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region, Annex II: Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures, Annex III: National Laws to be Applied in the Hong Kong Special Administrative Region, and the designs of the regional flag and regional emblem of the Hong Kong Special Administrative Region. Article 31 of the Constitution of the People's Republic of China provides: "The State may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by law enacted by the National People's Congress in the light of the specific conditions." The Basic Law of the Hong Kong Special Administrative Region is constitutional as it is enacted in accordance with the Constitution of the People's Republic of China and in the light of the specific conditions of Hong Kong. The systems, policies and laws to be instituted after the establishment of the Hong Kong Special Administrative Region shall be based on the Basic Law of the Hong Kong Special Administrative Region.

The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China shall be put into effect as of 1 July 1997.

**Decision of the National People's Congress
on the Establishment of the
Hong Kong Special Administrative Region**

(Adopted at the Third Session of the
Seventh National People's Congress on 4 April 1990)

In accordance with the provisions of Article 31 and sub-paragraph 13 of Article 62 of the Constitution of the People's Republic of China, the Third Session of the Seventh National People's Congress decides:

1. The Hong Kong Special Administrative Region is to be established as of July 1, 1997.

2. The area of the Hong Kong Special Administrative Region covers the Hong Kong Island, the Kowloon Peninsula, and the islands and adjacent waters under its jurisdiction. The map of the administrative division of the Hong Kong Special Administrative Region will be published by the State Council separately.

**Decision of the National People's Congress
on the Method for the Formation of the First Government
and the First Legislative Council
of the Hong Kong Special Administrative Region**

(Adopted at the Third Session of the
Seventh National People's Congress on 4 April 1990)

1. The first Government and the first Legislative Council of the Hong Kong Special Administrative Region shall be formed in accordance with the principles of State sovereignty and smooth transition.

2. Within the year 1996, the National People's Congress shall establish a Preparatory Committee for the Hong Kong Special Administrative Region, which shall be responsible for preparing the establishment of the Region and shall prescribe the specific method for forming the first Government and the first Legislative Council in accordance with this Decision. The Preparatory Committee shall be composed of mainland members and of Hong Kong members who shall constitute not less than 50 per cent of its membership. Its chairman and members shall be appointed by the Standing Committee of the National People's Congress.

3. The Preparatory Committee for the Hong Kong Special Administrative Region shall be responsible for preparing the establishment of the Selection Committee for the First Government of the Hong Kong Special Administrative Region (hereinafter referred to as the "Selection Committee").

The Selection Committee shall be composed entirely of permanent residents of Hong Kong and must be broadly representative. It shall include Hong Kong deputies to the National People's Congress, representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference, persons with practical experience who have served in Hong Kong's executive, legislative and advisory organs prior to the establishment of the Hong Kong Special Administrative Region, and persons representative of various strata and sectors of society.

The Selection Committee shall be composed of 400 members in the following proportions :

Industrial, commercial and financial sectors	25 per cent
The professions	25 per cent

Labour, grass-roots, religious and other sectors	25 per cent
Former political figures, Hong Kong deputies to the National People's Congress, and representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference	25 per cent

4. The Selection Committee shall recommend the candidate for the first Chief Executive through local consultations or through nomination and election after consultations, and report the recommended candidate to the Central People's Government for appointment. The term of office of the first Chief Executive shall be the same as the regular term.

5. The Chief Executive of the Hong Kong Special Administrative Region shall be responsible for preparing the formation of the first Government of the Region in accordance with the Basic Law of the Hong Kong Special Administrative Region.

6. The first Legislative Council of the Hong Kong Special Administrative Region shall be composed of 60 members, with 20 members returned by geographical constituencies through direct elections, 10 members returned by an election committee, and 30 members returned by functional constituencies. If the composition of the last Hong Kong Legislative Council before the establishment of the Hong Kong Special Administrative Region is in conformity with the relevant provisions of this Decision and the Basic Law of the Hong Kong Special Administrative Region, those of its members who uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and pledge allegiance to the Hong Kong Special Administrative Region of the People's Republic of China, and who meet the requirements set forth in the Basic Law of the Region may, upon confirmation by the Preparatory Committee, become members of the first Legislative Council of the Region.

The term of office of members of the first Legislative Council of the Hong Kong Special Administrative Region shall be two years.

**Decision of the National People's Congress
Approving the Proposal by the Drafting Committee for
the Basic Law of the Hong Kong Special Administrative Region on
the Establishment of the Committee for the Basic Law of
the Hong Kong Special Administrative Region
Under the Standing Committee of the National People's Congress**

(Adopted by the Third Session of the
Seventh National People's Congress on 4 April 1990)

The Third Session of the Seventh National People's Congress decides:

1. to approve the proposal by the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region on the Establishment of the Committee for the Basic Law of the Hong Kong Special Administrative Region Under the Standing Committee of the National People's Congress; and
2. to establish the Committee for the Basic Law of the Hong Kong Special Administrative Region Under the Standing Committee of the National People's Congress when the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China is put into effect.

Appendix

Proposal by the Drafting Committee for the Basic Law of the Hong Kong Special Administrative Region on the Establishment of the Committee for the Basic Law of the Hong Kong Special Administrative Region Under the Standing Committee of the National People's Congress

1. Name: The Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress.

2. Affiliation: To be a working committee under the Standing Committee of the National People's Congress.

3. Function: To study questions arising from the implementation of Articles 17, 18, 158 and 159 of the Basic Law of the Hong Kong Special Administrative Region and submit its views thereon to the Standing Committee of the National People's Congress.

4. Composition: Twelve members, six from the mainland and six from Hong Kong, including persons from the legal profession, appointed by the Standing Committee of the National People's Congress for a term of office of five years. Hong Kong members shall be Chinese citizens who are permanent residents of the Hong Kong Special Administrative Region with no right of abode in any foreign country and shall be nominated jointly by the Chief Executive, President of the Legislative Council and Chief Justice of the Court of Final Appeal of the Region for appointment by the Standing Committee of the National People's Congress.

**Decision of the Standing Committee
of the National People's Congress on
the English Text of the Basic Law
of the Hong Kong Special Administrative Region
of the People's Republic of China***

(Adopted on 28 June 1990)

The 14th Meeting of the Standing Committee of the Seventh National People's Congress decides: the English translation of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, examined and approved under the aegis of the Law Committee of the National People's Congress, shall be the official English text and shall be equally authentic as the Chinese text. In case of any discrepancy in the meaning of wording between the English text and the Chinese text, the Chinese text shall prevail.

* This English translation text is reproduced from "The Laws of the People's Republic of China 1990-1992" compiled by the Legislative Affairs Commission of the Standing Committee of the National People's Congress of the People's Republic of China. It is for reference purposes and has no legislative effect.

**Decision of the Standing Committee of the
National People's Congress on the Addition to or Deletion from
the List of National Laws in Annex III to the Basic Law of the
Hong Kong Special Administrative Region of the People's Republic of China***

(Adopted at the Twenty Sixth Session of the Standing Committee of the
Eighth National People's Congress on 1 July 1997)

I. The following national laws are added to the list of laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China -

- (1) Law of the People's Republic of China on the National Flag;
- (2) Regulations of the People's Republic of China concerning Consular Privileges and Immunities;
- (3) Law of the People's Republic of China on the National Emblem;
- (4) Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone;
- (5) Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region.

The above national laws shall be applied with effect from 1 July 1997 by way of promulgation or legislation by the Hong Kong Special Administrative Region.

II. The following national law is deleted from Annex III to the Basic Law of the Hong Kong Special Administrative Region:

Order on the National Emblem of the People's Republic of China
Proclaimed by the Central People's Government.

Attached: Design of the national emblem, notes of explanation and instructions for use.

* This English translation text is prepared by Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.

**Decision of the Standing Committee
of the National People's Congress
on the Addition to the List of National Laws
in Annex III to the Basic Law
of the Hong Kong Special Administrative Region
of the People's Republic of China ***

(Adopted on 4 November 1998)

The Fifth meeting of the Standing Committee of the Ninth National People's Congress decides: the national law being the "Law of the People's Republic of China on the Exclusive Economic Zone and the Continental Shelf" is added to the list of laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

* This English translation text is prepared by Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.

**The Interpretation by the Standing Committee of the National
People's Congress of Articles 22(4) and 24(2)(3) of the Basic Law of the
Hong Kong Special Administrative Region of the People's Republic of China**

(Adopted by the Standing Committee of the
Ninth National People's Congress at its Tenth Session on 26 June 1999)

The Standing Committee of the Ninth National People's Congress examined at its Tenth session the "Motion Regarding the Request for an Interpretation of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China" submitted by the State Council. The motion of the State Council was submitted upon the report furnished by the Chief Executive of the Hong Kong Special Administrative Region under the relevant provisions of Articles 43 and 48(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. The issue raised in the Motion concerns the interpretation of the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Court of Final Appeal of the Hong Kong Special Administrative Region in its judgment dated 29 January 1999. Those relevant provisions concern affairs which are the responsibility of the Central People's Government and concern the relationship between the Central Authorities and the Hong Kong Special Administrative Region. Before making its judgment, the Court of Final Appeal had not sought an interpretation of the Standing Committee of the National People's Congress in compliance with the requirement of Article 158(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. Moreover, the interpretation of the Court of Final Appeal is not consistent with the legislative intent. Therefore, having consulted the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress, the Standing Committee of the National People's Congress has decided to make, under the provisions of Article 67(4) of the Constitution of the People's Republic of China and Article 158(1) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, an interpretation of the provisions of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China as follows :

1. The provisions of Article 22(4) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China regarding "For entry into the Hong Kong Special Administrative Region, people from other parts of China

must apply for approval” mean as follows : People from all provinces, autonomous regions, or municipalities directly under the Central Government, including those persons of Chinese nationality born outside Hong Kong of Hong Kong permanent residents, who wish to enter the Hong Kong Special Administrative Region for whatever reason, must apply to the relevant authorities of their residential districts for approval in accordance with the relevant national laws and administrative regulations, and must hold valid documents issued by the relevant authorities before they can enter the Hong Kong Special Administrative Region. It is unlawful for people from all provinces, autonomous regions, or municipalities directly under the Central Government, including persons of Chinese nationality born outside Hong Kong of Hong Kong permanent residents, to enter the Hong Kong Special Administrative Region without complying with the appropriate approval procedure prescribed by the relevant national laws and administrative regulations.

2. It is stipulated in the first three categories of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China that the “permanent residents of the Hong Kong Special Administrative Region shall be :

- (1) Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region;
- (2) Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the Hong Kong Special Administrative Region;
- (3) Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2);”.

The provisions of category (3) regarding the “persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2)” mean both parents of such persons, whether born before or after the establishment of the Hong Kong Special Administrative Region, or either of such parents must have fulfilled the condition prescribed by category (1) or (2) of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China at the time of their birth. The legislative intent as stated by this Interpretation, together with the legislative intent of all other categories of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, have been reflected in the “Opinions on the Implementation of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China” adopted at the Fourth Plenary Meeting of the Preparatory

Committee for the Hong Kong Special Administrative Region of the National People's Congress on 10 August 1996.

As from the promulgation of this Interpretation, the courts of the Hong Kong Special Administrative Region, when referring to the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, shall adhere to this Interpretation. This Interpretation does not affect the right of abode in the Hong Kong Special Administrative Region which has been acquired under the judgment of the Court of Final Appeal on the relevant cases dated 29 January 1999 by the parties concerned in the relevant legal proceedings. Other than that, the question whether any other person fulfils the conditions prescribed by Article 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China shall be determined by reference to this Interpretation.

**The Interpretation by the Standing Committee of the National
People's Congress of Article 7 of Annex I and Article III of Annex II
to the Basic Law of the Hong Kong Special Administrative Region
of the People's Republic of China**

(Adopted by the Standing Committee of the Tenth National People's
Congress at its Eighth Session on 6 April 2004)

The Standing Committee of the Tenth National People's Congress examined at its Eighth Session the motion regarding the request for examination of "The Draft Interpretation of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China" submitted by the Council of Chairmen. Having consulted the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress, the Standing Committee of the National People's Congress has decided to make, under the provisions of Article 67(4) of the Constitution of the People's Republic of China and Article 158(1) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, an interpretation of the provisions of Article 7 of Annex I "Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region" to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China regarding "If there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for approval" and the provisions of Article III of Annex II "Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures" regarding "With regard to the method for forming the Legislative Council of the Hong Kong Special Administrative Region and its procedures for voting on bills and motions after 2007, if there is a need to amend the provisions of this Annex, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for the record" as follows:

1. The phrases “subsequent to the year 2007” and “after 2007” stipulated in the two above-mentioned Annexes include the year 2007.
2. The provisions in the two above-mentioned Annexes that “if there is a need” to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007 or the method for forming the Legislative Council and its procedures for voting on bills and motions after 2007 mean they may be amended or remain unamended.
3. The provisions in the two above-mentioned Annexes that any amendment must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive and shall be reported to the Standing Committee of the National People’s Congress for approval or for the record mean the requisite legislative process through which the method for selecting the Chief Executive and the method for forming the Legislative Council and its procedures for voting on bills and motions are amended. Such an amendment may take effect only if it has gone through the said process, including the approval or recording ultimately given or made by the Standing Committee of the National People’s Congress in accordance with law. The Chief Executive of the Hong Kong Special Administrative Region shall make a report to the Standing Committee of the National People’s Congress as regards whether there is a need to make an amendment; and the Standing Committee of the National People’s Congress shall, in accordance with the provisions of Articles 45 and 68 of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, make a determination in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The bills on the amendments to the method for selecting the Chief Executive and the method for forming the Legislative Council and its procedures for voting on bills and motions and the proposed amendments to such bills shall be introduced by the Government of the Hong Kong Special Administrative Region into the Legislative Council.
4. If no amendment is made to the method for selecting the Chief Executive, the method for forming the Legislative Council and its procedures for voting on bills and motions as stipulated in the two above-mentioned Annexes, the provisions relating to the method for selecting the Chief Executive in Annex I will still be applicable to the method for selecting the Chief Executive, and the provisions relating to the method for

forming the third term of the Legislative Council in Annex II and the provisions relating to its procedures for voting on bills and motions in Annex II will still be applicable to the method for forming the Legislative Council and its procedures for voting on bills and motions.

This Interpretation is hereby proclaimed.

**Decision of the Standing Committee of the National People's Congress
on Issues relating to the Methods for Selecting the
Chief Executive of the Hong Kong Special Administrative Region
in the year 2007 and for Forming the Legislative Council
of the Hong Kong Special Administrative Region in the Year 2008**

(Adopted by the Standing Committee of the Tenth National People's
Congress at its Ninth Session on 26 April 2004)

The Standing Committee of the Tenth National People's Congress examined at its Ninth Session the "Report on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2008" submitted by Tung Chee-hwa, the Chief Executive of the Hong Kong Special Administrative Region, on 15 April 2004 and, before the Session, had consulted the Hong Kong deputies to the National People's Congress, the Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference, different sectors of Hong Kong, the Hong Kong members of the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress, and the Constitutional Development Task Force of the Government of the Hong Kong Special Administrative Region, and had also sought the views of the Hong Kong and Macao Affairs Office of the State Council. The Standing Committee of the National People's Congress was, in the course of the examination, fully aware of the recent concerns of the Hong Kong society about the methods for selecting the Chief Executive and for forming the Legislative Council after the year 2007, including the views of some bodies and people that they wish to see the selection of the Chief Executive by universal suffrage in the year 2007 and the election of all the members of the Legislative Council by universal suffrage in the year 2008.

The Session is of the view that Articles 45 and 68 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (hereinafter referred to as "Hong Kong Basic Law") already expressly provide that the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress, and that the ultimate aims are the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic

procedures and the election of all the members of the Legislative Council by universal suffrage. The methods for selecting the Chief Executive of the Hong Kong Special Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region shall conform to the above principles and provisions of the Hong Kong Basic Law. Any change relating to the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region shall conform to principles such as being compatible with the social, economic, political development of Hong Kong, being conducive to the balanced participation of all sectors and groups of the society, being conducive to the effective operation of the executive-led system, being conducive to the maintenance of the long-term prosperity and stability of Hong Kong.

The Session is of the view that since the establishment of the Hong Kong Special Administrative Region, Hong Kong residents have enjoyed democratic rights that they have never had before. The first Chief Executive was elected by the Selection Committee, which was composed of 400 members. The second Chief Executive was elected by the Election Committee, which was composed of 800 members. Out of the 60 members of the Legislative Council, the number of members returned by geographical constituencies through direct elections increased from 20 in the Legislative Council in the first term to 24 in the Legislative Council in the second term and will reach 30 in the Legislative Council in the third term to be formed this September. Hong Kong does not have a long history of practising democratic elections. Until now, Hong Kong residents have exercised the democratic right to participate in the selection of the Chief Executive of the Special Administrative Region for less than 7 years. Since the reunification of Hong Kong with the motherland, the number of members of the Legislative Council returned by geographical constituencies through direct elections has already substantially increased. When the set-up is such that half of the members are returned by geographical constituencies through direct elections and half of the members are returned by functional constituencies, the impact on the operation of the Hong Kong society as a whole, especially the impact on the executive-led system, remains to be examined through practice. Further, at present, different sectors of the Hong Kong society still have considerable differences on how to determine the methods for selecting the Chief Executive and for forming the Legislative Council after the year 2007 and have not come to a broad consensus. In the circumstances, conditions do not exist for the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures as provided for in Article 45 of the Hong Kong Basic Law and the election of all the members of the Legislative Council by universal suffrage as provided for in Article 68 of the Hong Kong Basic Law.

In the light of the above and pursuant to the relevant provisions of the Hong Kong Basic Law and “The Interpretation by the Standing Committee of the National People’s Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China”, the Standing Committee of the National People’s Congress makes the following decision on the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2008:

- (1) The election of the third Chief Executive of the Hong Kong Special Administrative Region to be held in the year 2007 shall not be by means of universal suffrage. The election of the Legislative Council of the Hong Kong Special Administrative Region in the fourth term in the year 2008 shall not be by means of an election of all the members by universal suffrage. The ratio between members returned by functional constituencies and members returned by geographical constituencies through direct elections, who shall respectively occupy half of the seats, is to remain unchanged. The procedures for voting on bills and motions in the Legislative Council are to remain unchanged.
- (2) Subject to Article 1 of this Decision not being contravened, appropriate amendments that conform to the principle of gradual and orderly progress may be made to the specific method for selecting the third Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and the specific method for forming the Legislative Council of the Hong Kong Special Administrative Region in the fourth term in the year 2008 according to the provisions of Articles 45 and 68 of the Hong Kong Basic Law and the provisions of Article 7 of Annex I and Article III of Annex II to the Hong Kong Basic Law.

The Session is of the view that developing democracy in the Hong Kong Special Administrative Region in the light of the actual situation and in a gradual and orderly manner according to the provisions of the Hong Kong Basic Law has all along been the resolute and firm stance of the Central Authorities. With the development and progress in all aspects of the Hong Kong society and through the joint endeavours of the Government of the Hong Kong Special Administrative Region and Hong Kong residents, the democratic system of the Hong Kong Special Administrative Region will certainly be able to progress forward incessantly, and ultimately attain the aims of selecting the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance

with democratic procedures and electing all the members of the Legislative Council by universal suffrage provided for in the Hong Kong Basic Law.

**Interpretation of Paragraph 2, Article 53 of the Basic Law of
the Hong Kong Special Administrative Region of
the People's Republic of China by the Standing
Committee of the National People's Congress**

(Adopted at the 15th Session of the Standing Committee of the
Tenth National People's Congress on 27 April 2005)

The Standing Committee of the Tenth National People's Congress at its 15th session deliberated the State Council's Proposal on Requesting Interpretation of Paragraph 2, Article 53 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. In accordance with Item 4, Article 67 of the Constitution of the People's Republic of China and Paragraph 1, Article 158 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, and after consulting the Committee for the Basic Law of the HKSAR under the NPC Standing Committee, the Standing Committee of the National People's Congress hereby makes the following interpretation on Paragraph 2, Article 53 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

Paragraph 2, Article 53 of the Basic Law stipulates, "In the event that the office of Chief Executive becomes vacant, a new Chief Executive shall be selected within six months in accordance with the provisions of Article 45 of this Law." The phrase "a new Chief Executive shall be selected ... in accordance with the provisions of Article 45 of this Law" implies that both the method of selecting and the term of office of the new Chief Executive shall be as prescribed and determined by the said Article.

Paragraph 3, Article 45 of the Basic Law stipulates, "The specific method for selecting the Chief Executive is prescribed in Annex I 'Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region'." Clause 1 of Annex I stipulates, "The Chief Executive shall be elected by a broadly representative Election Committee in accordance with this Law and appointed by the Central People's Government." Clause 2 of Annex I stipulates, "The term of office of the Election Committee shall be five years." Clause 7 of Annex I stipulates, "If there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for approval." These provisions

make it clear that prior to the year 2007, when the Chief Executive is selected by the Election Committee with a five-year term of office, in the event that the office of Chief Executive becomes vacant as he (she) fails to serve the full term of office of five years as prescribed by Article 46 of the Basic Law, the term of office of the new Chief Executive shall be the remainder of the previous Chief Executive; and that after 2007, the above-mentioned method for selecting the Chief Executives could be amended, and should the office of the Chief Executive then become vacant, the term of office of the new Chief Executive shall be determined in accordance with the amended method for the selection of the Chief Executive.

This Interpretation is hereby announced.

**Decision of the Standing Committee
of the National People's Congress
on the Addition to the List of National Laws
in Annex III to the Basic Law
of the Hong Kong Special Administrative Region
of the People's Republic of China ***

(Adopted on 27 October 2005)

The Eighteenth meeting of the Standing Committee of the Tenth National People's Congress decides: the national law being the "Law of the People's Republic of China on Judicial Immunity from Compulsory Measures concerning the Assets of Foreign Central Banks" is added to the list of laws in Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

* This English translation text is prepared by Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.

**HONG KONG BILL OF RIGHTS
ORDINANCE, CAP. 383**

HONG KONG BILL OF RIGHTS ORDINANCE

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CHAPTER 383

HONG KONG BILL OF RIGHTS

An Ordinance to provide for the incorporation into the law of Hong Kong of provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong; and for ancillary and connected matters.

[8 June 1991]

PART I

PRELIMINARY

1. Short title

This Ordinance may be cited as the Hong Kong Bill of Rights Ordinance.

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires-

"article" means an article of the Bill of Rights;

"Bill of Rights" (人權法案) means the Hong Kong Bill of Rights set out in Part II;

"commencement date" (生效日期) means the date on which this Ordinance comes into operation;

"legislation" (法例) means legislation that can be amended by an Ordinance;

"pre-existing legislation" (先前法例) means legislation enacted before the commencement date.

(2) The Bill of Rights is subject to Part III.

(3) (* *Not adopted as the Laws of the HKSAR*)

(4) Nothing in this Ordinance shall be interpreted as implying for the Government or any authority, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized in the Bill of Rights

* See Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, which is published in Volume 1, P. 13/1.

or at their limitation to a greater extent than is provided for in the Bill. [cf. ICCPR Art. 5.1]

(5) There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in Hong Kong pursuant to law, conventions, regulations or custom on the pretext that the Bill of Rights does not recognize such rights or that it recognizes them to a lesser extent. [cf. ICCPR Art. 5.2]

(6) A heading to any article does not have any legislative effect and does not in any way vary, limit or extend the meaning of the article.

3. Effect on pre-existing legislation

(1)-(2) (* Not adopted as the Laws of the HKSAR)

@ (3)-(4) (Repealed 2 of 1998 s. 2)

4. (* Not adopted as the Laws of the HKSAR)

5. Public emergencies

(1) In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, measures may be taken derogating from the Bill of Rights to the extent strictly required by the exigencies of the situation, but these measures shall be taken in accordance with law.

(2) No measure shall be taken under subsection (1) that-

- (a) is inconsistent with any obligation under international law that applies to Hong Kong (other than an obligation under the International Covenant on Civil and Political Rights);
- (b) involves discrimination solely on the ground of race, colour, sex, language, religion or social origin; or
- (c) derogates from articles 2, 3, 4(1) and (2), 7, 12, 13 and 15.

[cf. ICCPR Art. 4]

* See Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, which is published in Volume 1, P. 13/1.

@ S. 3(3) and (4) was added by 107 of 1997. As to suspension of operation of 107 of 1997, please see S. 2(1) and (2) of Cap 538.

6. Remedies for contravention of Bill of Rights

(1) A court or tribunal-

(a) in proceedings within its jurisdiction in an action for breach of this Ordinance; and

(b) in other proceedings within its jurisdiction in which a violation or threatened violation of the Bill of Rights is relevant,

may grant such remedy or relief, or make such order, in respect of such a breach, violation or threatened violation as it has power to grant or make in those proceedings and as it considers appropriate and just in the circumstances.

(2) No proceedings shall be held to be outside the jurisdiction of any court or tribunal on the ground that they relate to the Bill of Rights.

7. Binding effect of Ordinance

(1) This Ordinance binds only-

(a) the Government and all public authorities; and

(b) any person acting on behalf of the Government or a public authority.

(2) In this section-

"person" (人) includes any body of persons, corporate or unincorporate.

PART II

THE HONG KONG BILL OF RIGHTS

8. Hong Kong Bill of Rights

The Hong Kong Bill of Rights is as follows.

Article 1

Entitlement to rights without distinction

(1) The rights recognized in this Bill of Rights shall be enjoyed without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

(2) Men and women shall have an equal right to the enjoyment of all civil and

political rights set forth in this Bill of Rights.

[*cf. ICCPR Arts. 2 & 3*]

Article 2

Right to life

(1) Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

(2) Sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of this Bill of Rights and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court.

(3) When deprivation of life constitutes the crime of genocide, nothing in this article shall authorize the derogation in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

(4) Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

(5) Sentence of death shall not be imposed for crimes committed by persons below 18 years of age and shall not be carried out on pregnant women.

(6) Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment in Hong Kong.

[*cf. ICCPR Art. 6*]

Article 3

No torture or inhuman treatment and no experimentation without consent

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

[*cf. ICCPR Art. 7*]

Article 4

No slavery or servitude

(1) No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

(2) No one shall be held in servitude.

(3) (a) No one shall be required to perform forced or compulsory labour.

(b) For the purpose of this paragraph the term "forced or compulsory labour" shall not include-

(i) any work or service normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) any service of a military character and, where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) any work or service which forms part of normal civil obligations.

[*cf. ICCPR Art. 8*]

Article 5

Liberty and security of person

(1) Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

(2) Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

(3) Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.

(4) Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

(5) Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

[*cf. ICCPR Art. 9*]

Article 6

Rights of persons deprived of their liberty

(1) All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

(2) (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

(3) The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

[*cf. ICCPR Art. 10*]

Article 7

No imprisonment for breach of contract

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

[*cf. ICCPR Art. 11*]

Article 8

Liberty of movement

(1) Everyone lawfully within Hong Kong shall, within Hong Kong, have the right to liberty of movement and freedom to choose his residence.

(2) Everyone shall be free to leave Hong Kong.

(3) The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in this Bill of Rights.

(4) No one who has the right of abode in Hong Kong shall be arbitrarily deprived of the right to enter Hong Kong.

[*cf. ICCPR Art. 12*]

Article 9

Restrictions on expulsion from Hong Kong

A person who does not have the right of abode in Hong Kong but who is lawfully in Hong Kong may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

[cf. ICCPR Art. 13]

Article 10

Equality before courts and right to fair and public hearing

All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

[cf. ICCPR Art. 14.1]

Article 11

Rights of persons charged with or convicted of criminal offence

(1) Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

(2) In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality-

- (a) to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
- (b) to have adequate time and facilities for the preparation of his defence and to

- communicate with counsel of his own choosing;
- (c) to be tried without undue delay;
 - (d) to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - (e) to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (f) to have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - (g) not to be compelled to testify against himself or to confess guilt.
- (3) In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
- (4) Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
- (5) When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.
- (6) No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of Hong Kong.

[*cf. ICCPR Art. 14.2 to 7*]

Article 12

No retrospective criminal offences or penalties

(1) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under Hong Kong or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

(2) Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

[*cf. ICCPR Art. 15*]

Article 13

Right to recognition as person before law

Everyone shall have the right to recognition everywhere as a person before the law.

[*cf. ICCPR Art. 16*]

Article 14

Protection of privacy, family, home, correspondence, honour and reputation

(1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

(2) Everyone has the right to the protection of the law against such interference or attacks.

[*cf. ICCPR Art. 17*]

Article 15

Freedom of thought, conscience and religion

(1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

(2) No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

(3) Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

(4) The liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions shall be respected.

[*cf. ICCPR Art. 18*]

Article 16

Freedom of opinion and expression

(1) Everyone shall have the right to hold opinions without interference.

(2) Everyone shall have the right to freedom of expression; this right shall include

freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

(3) The exercise of the rights provided for in paragraph (2) of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary-

- (a) for respect of the rights or reputations of others; or
- (b) for the protection of national security or of public order (*ordre public*), or of public health or morals.

[*cf. ICCPR Art. 19*]

Article 17

Right of peaceful assembly

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

[*cf. ICCPR Art. 21*]

Article 18

Freedom of association

(1) Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

(2) No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms or others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

(3) Nothing in this article authorizes legislative measures to be taken which would prejudice, or the law to be applied in such a manner as to prejudice, the guarantees provided for in the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to organize as it applies to Hong Kong.

[*cf. ICCPR Art. 22*]

Article 19

Rights in respect of marriage and family

(1) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

(2) The right of men and women of marriageable age to marry and to found a family shall be recognized.

(3) No marriage shall be entered into without the free and full consent of the intending spouses.

(4) Spouses shall have equal rights and responsibilities as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

[cf. ICCPR Art. 23]

Article 20

Rights of children

(1) Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

(2) Every child shall be registered immediately after birth and shall have a name.

[cf. ICCPR Art. 24]

Article 21

Right to participate in public life

Every permanent resident shall have the right and the opportunity, without any of the distinctions mentioned in article 1(1) and without unreasonable restrictions-

- (a) to take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) to have access, on general terms of equality, to public service in Hong Kong.

[cf. ICCPR Art. 25]

Article 22

Equality before and equal protection of law

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

[*cf. ICCPR Art. 26*]

Article 23

Rights of minorities

Persons belonging to ethnic, religious or linguistic minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

[*cf. ICCPR Art. 27*]

PART III

EXCEPTIONS AND SAVINGS

9. Armed forces and persons detained in penal establishments

Members of and persons serving with the armed forces of the government responsible for the foreign affairs of Hong Kong and persons lawfully detained in penal establishments of whatever character are subject to such restrictions as may from time to time be authorized by law for the preservation of service and custodial discipline.

10. Juveniles under detention

Where at any time there is a lack of suitable prison facilities or where the mixing of adults and juveniles is mutually beneficial, article 6(2)(b) and (3) does not require juveniles who are detained to be accommodated separately from adults.

11. Immigration legislation

As regards persons not having the right to enter and remain in Hong Kong, this Ordinance does not affect any immigration legislation governing entry into, stay in and departure from Hong Kong, or the application of any such legislation.

12. Persons not having the right of abode

Article 9 does not confer a right of review in respect of a decision to deport a person not having the right of abode in Hong Kong or a right to be represented for this purpose before the competent authority.

13. Executive and Legislative Councils

Article 21 does not require the establishment of an elected Executive or Legislative Council in Hong Kong.

14. Temporary savings

(1) For a period of 1 year beginning on the commencement date, this Ordinance is subject to the Ordinances listed in the Schedule.

(2) This Ordinance does not affect-

(a) any act done (including any act done in the exercise of a discretion); or

(b) any omission authorized or required, or occurring in the exercise of a discretion,

before the first anniversary of the commencement date, under or by any Ordinance listed in the Schedule.

(3) The Legislative Council may before the first anniversary of the commencement date by resolution amend this section for all or any of the following purposes-

(a) to provide that, for a period of 1 year beginning on the first anniversary of the commencement date, this Ordinance is subject to such of the Ordinances listed in the Schedule as are specified in the amendment;

(b) to provide that this Ordinance does not affect-

(i) any act done (including any act done in the exercise of a discretion); or

- (ii) any omission authorized or required, or occurring in the exercise of a discretion,
before the second anniversary of the commencement date, under or by any Ordinance listed in the Schedule that is specified in the amendment; and
- (c) to repeal this subsection.
- (4) In this section, a reference to an Ordinance includes a reference to any subsidiary legislation made under that Ordinance.
- (5) This section operates notwithstanding section 3.

[section 14]

SCHEDULE

PROVISIONS TO WHICH SECTION 14(1) AND (2) APPLIES

Immigration Ordinance (Cap 115)

Societies Ordinance (Cap 151)

Crimes Ordinance (Cap 200)

Prevention of Bribery Ordinance (Cap 201)

Independent Commission Against Corruption Ordinance (Cap 204)

Police Force Ordinance (Cap 232)

Supplementary note on the Race Discrimination Bill

In paragraphs 60 to 72 of the Report, we described the existing legal framework in the Hong Kong Special Administrative Region (HKSAR) for the protection of human rights, the Government's policy and commitment to safeguard equal opportunity for all persons irrespective of their race and the initiative taken to introduce legislation specifically to prohibit racial discrimination. We also described, in paragraphs 73 and 74, with additional details in Annex IV, the extensive range of administrative measures undertaken by the HKSAR Government (HKSARG) to promote racial harmony and to provide special support services for the ethnic minorities.

2. As stated in paragraphs 66 and 72 of the Report, the Race Discrimination Bill (RDB) was introduced into the Legislative Council in December 2006. The Bill is going through due legislative process of consideration by the Legislative Council. This supplementary note provides an update on the progress of the legislative exercise, as well an overview of the key issues arising from discussions of the Bill.

The Bill

3. In HKSAR, there are existing constitutional and statutory provisions under the Basic Law and the Hong Kong Bill of Rights Ordinance (HKBORO) respectively, which guarantee the fundamental rights and freedoms of individuals, including the right of the individual against discrimination on the ground of race. Moreover, although over 95% of the population is ethnic Chinese, Hong Kong has always been a cosmopolitan city and Hong Kong people have a long tradition of living in harmony with and respect for persons from diverse cultural background and ethnic origins. Racial discrimination is not a prevalent problem in Hong Kong.

4. The introduction of the RDB represented a major step forward in reinforcing existing legal framework and ensuring proper statutory safeguards for people in the HKSAR against racial discrimination,

irrespective of their ethnic or racial origin. Since the Basic Law and the HKBORO already bind the Government and public authorities, one of the principal objectives of the RDB is to extend the legal protection to cover racial discrimination by private persons and organisations.

5. The RDB was prepared after extensive consultation within the community. The purpose of the Bill is to eliminate racial discrimination in specific areas where individual life or choice interacts with the public. These specified areas of activity are –

- (a) employment;
- (b) education;
- (c) provision of goods, facilities, services and premises;
- (d) election and appointment to public bodies;
- (e) pupillage and tenancy by, and instructions to, barristers; and
- (f) membership of and access to clubs.

The Bill clearly spells out the circumstances which constitute racial discrimination and harassment in these areas of activity, which are made unlawful under the Bill. It also prohibits vilification on the ground of race and makes serious vilification on the ground of race a criminal offence.

6. Since publication of the proposed legislation in 2006, there have been constructive discussions on the various provisions proposed in the Bill, both in community and at the Legislative Council Bills Committee which was established to study the Bill. While different views have

been expressed, the focus of the debates have centred around four major issues, viz –

- (a) the definition of racial discrimination in the Bill;
- (b) the application of the provisions to Government;
- (c) the application of the Bill to new arrival from the Mainland of China; and
- (d) the application of the provisions relating to the use of language in education and in provision of goods, facilities and services etc.

These issues are discussed in the following paragraphs.

Definition of racial discrimination

7. Consistent with the definition in Article 1 of ICERD, “race” is defined in the RDB as meaning “the race, colour, descent or national or ethnic origin of the person”. For clarity of the legislation so as to facilitate public understanding of and compliance with the law, the Bill clarifies that other grounds such as nationality, citizenship, resident status and length of residence in the HKSAR are not grounds of race under the Bill.

8. The definition of racial discrimination in the RDB covers both direct and indirect discrimination. Direct racial discrimination is taken to occur when, on the ground of race, a person treats another person less favourably than he or she would treat other persons of a different race. Indirect racial discrimination is taken to occur when a person applies a requirement or condition which, although applicable to persons of different racial groups, would –

- (a) have a disproportionate adverse impact on people of a racial group because the proportion of persons of that group who can meet it is considerably smaller; and
- (b) the requirement or condition cannot be shown to be justifiable irrespective of the race of the person to whom it is applied.

Both forms of discrimination, ie direct and indirect racial discrimination, in the specified areas of activity are made unlawful under the Bill.

9. In regard to the definition of indirect discrimination, the Bill originally provides for two alternative tests for assessing whether a requirement or condition imposed by a person is justifiable and, hence, does not constitute discrimination. The first test is whether the requirement or condition imposed serves a legitimate purpose and bears a rational and proportionate connection to the legitimate objective (ie the proportionality test). The alternative test is whether it is not reasonably practicable for the person concerned not to apply the requirement or condition (ie the reasonable practicability test). The second test was introduced to address the problem that some employers and/or service providers do not actively consider questions such as legitimate objective or proportionality.

10. We appreciate the confusion caused by the inclusion of two alternative tests, instead of having only one single yardstick. To allay unnecessary concerns and to avoid misperceptions, we have informed the Legislative Council that we would amend the relevant clause in the RDB by deleting the reasonable practicability test and adopting only the proportionality test.

Application of the Ordinance to Government

11. The HKSARG firmly upholds the principle of equality and, as policy, recognises protection against racial discrimination to be a fundamental human right for all individuals. Over the years, we have

also endeavoured to foster understanding and racial harmony through public education and other promotional activities.

12. For parity of treatment with the private sector, the RDB proposes that the Ordinance, when enacted, would apply to an act done by or for the purpose of the Government that is of a kind similar to an act done by a private person.

13. Some commentators have pointed out that the provision is different from similar provisions in the existing anti-discrimination ordinances in the HKSAR, which simply state that the Ordinance binds the Government. The Bill also differs from the existing ordinances in not having a specific provision to cover the Government “in the performance of its functions or the exercise of its powers”. In view of the differences, they allege that the proposed provision would limit the application of the RDB to Government. Some have also advocated expanding the scope of the Bill to cover all government functions, along the lines of section 19B of the Race Relations Act 1976 (which was added by the Race Relations (Amendment) Act 2000) in the United Kingdom (UK).

14. As mentioned in paragraph 4 above, the HKSARG and public authorities in the HKSAR are already bound by the Basic Law and the HKBORO not to discriminate, including not to discriminate on the ground of race. Moreover, since the RDB is a piece of local legislation, it should properly reflect and take into account local circumstances. We do not consider it appropriate to follow the UK legislation, since the circumstances of the UK and the HKSAR are different.

15. However, in view of the anxiety that this provision has caused, we have informed the Legislative Council that the HKSARG would introduce an amendment to delete the clause and replace it by “This Ordinance binds the Government”, so as to clarify the scope of application of the ordinance to Government.

Application to new arrivals from the Mainland

16. Some commentators have expressed concern that because the RDB provides that an act done on the ground of a person's permanent resident status, length of residency and right of abode in the HKSAR does not constitute an act done on the ground of race, the Bill has excluded new arrivals from its application.

17. The RDB does not exclude new arrivals from the Mainland from its ambit. Like anyone else in Hong Kong, new arrivals are protected under the Bill against discrimination on the ground of race. Most of the new arrivals are Han Chinese and hence are of the same ethnic origin as the local Chinese in the HKSAR. While we appreciate the difficulties faced by some new arrivals, the problems they face are largely similar to those faced by people who move their residence to another place and who have to adapt to the life-style of a new environment. These problems have nothing to do with race. It would be wrong in principle to seek to address their problems through legislation on racial discrimination.

18. The definition of race in the RDB is in line with the definition under the ICERD. It does not include references to the person's resident status, length of residency and right of abode etc. Hence, new arrivals do not constitute a separate racial group under the definition of "race" in Article 1 of the ICERD, which is adopted in the present Bill. The RDB does not propose to define new arrivals as a distinct racial group. Whether or not individual new arrivals would be regarded as belonging to a distinct racial group will be a matter of fact to be determined by the Court.

Use of language in education and in provision of facilities and services etc

19. For clarity of the law, the RDB states that the use of, or the failure to use, any languages in circumstances relevant to specified provisions of the Bill (including the provision of services and facilities) is

not unlawful. Some commentators have interpreted this to be condoning discrimination against members of particular racial groups who are not able to use English and Chinese, particularly in the provision of facilities and services. Some commentators have also expressed concern on the provision regarding the medium of instruction in education and vocational training.

20. It should be recognised that language is not a ground of race. In regard to access to facilities and services, we appreciate the difficulties which are at times faced by some members of ethnic minorities who do not use English and Chinese, which are the official languages in the HKSAR. However, it would not be practicable for service providers, either in the public or private sectors, to conduct their activities and businesses in all languages, or in the language of their clients/customers' choice. Thus, the Bill makes it clear that the use of, or failure to use, any languages for the purpose of communication will not be unlawful. Service providers who target their service at specific minority groups should conduct their business in an appropriate manner and in an appropriate language as is reasonably practicable in the circumstances.

21. On the other hand, the RDB does prohibit indirect discrimination by any persons who impose a condition or requirement, including a requirement on language proficiency, which would have a disproportionate adverse impact on a particular race and which cannot be justified as a proportionate means to achieve a legitimate objective that is unrelated to race. For example, it would be unlawful for an employer to impose a condition for job applicants to be able to use a particular language when the job concerned does not require such language skills.

22. In regard to education, the HKSARG firmly upholds the right of children to education, irrespective of their race or ethnic origin. All children in the HKSAR have the right to nine years of free and universal basic education (which will be increased to 12 years from the 2008-09 school year). However, this does not carry with it the right for a child to be educated in the language of his/her choice or the choice of his/her parents. The Bill therefore makes it clear that, when enacted, it does not

require educational establishments to modify their arrangements regarding the medium of instruction for students of any racial group. Meanwhile, extensive initiatives have been taken by the HKSARG to facilitate the teaching and learning of non-Chinese speaking students who do not use Chinese as their mother tongue and special arrangements are being put in place to facilitate their admission to tertiary institutions.

Support services for ethnic minorities

23. We believe that, apart from legislation, public education and special support measures to promote equal opportunity for ethnic minorities and to facilitate their integration into community are the most effective tools in order to combat racial discrimination in society. Over the years, the HKSARG has launched various initiatives to promote racial harmony and to assist integration of the ethnic minorities. These measures are described in detail in Part B of this Report.

24. As further new initiatives, the HKSARG announced in February 2008 that we would enhance our support in education and provision of support service. These include the granting of a recurrent annual allowance to designated primary and secondary schools to help them implement the School-based Support Scheme for non-Chinese speaking students and the setting up of four support centres in different districts to provide interpretation services for ethnic minorities and organise Chinese and English language courses and other activities to help them integrate into the community.

Conclusion

25. The initiative taken in the introduction of the RDB, together with the extensive support measures planned and implemented for ethnic minorities, clearly demonstrates the HKSARG's firm commitment to combat racial discrimination, to promote racial harmony and to cater for the needs of ethnic minorities in the HKSAR. The Bill is being examined by the Legislative Council. We will work closely with

members of the Council with a view to enacting the Bill within the current session of the Legislative Council.

**Activities in promotion of racial harmony
and support measures for ethnic minorities**

In paragraph 74 of Part B of the Report, we emphasized the importance which the HKSAR Government attached to public education and support for integration. Details of the measures taken are set out in this Annex.

The Committee on the Promotion of Racial Harmony

2. In 2002, the Home Affairs Bureau (HAB)¹ established the Committee on the Promotion of Racial Harmony, a consultative body comprising members from NGOs, ethnic minority communities and other sectors to advise the Government on strategies for promoting racial harmony, in terms of both improving existing efforts and of introducing new initiatives.

The Race Relations Unit

3. Also in 2002, the Race Relations Unit was set up within the HAB¹, both to render secretarial support to the Committee on the Promotion of Racial Harmony and to provide a range of services to promote racial harmony and facilitate the integration of ethnic minorities in the community. The Unit's work now includes –

Public Education Programme

- (a) ***Equal Opportunities (Race) Funding Scheme:*** the funding scheme is an annual programme to encourage community-based initiatives to promote awareness and to encourage contact between the minorities and the majority population;
- (b) ***hotline for complaints and enquiries:*** the hotline was established to receive enquiries from ethnic minorities and complaints on racial discrimination. To promote this service, the Unit has published a guide to its procedures in Chinese, English, Thai, Indonesian, Nepali and Urdu. The guide explains how to make a complaint, describes the investigation process, and provides answers to frequently asked questions;

¹ Following the reorganisation of Government Secretariat with effect from 1 July 2007, matters related to human rights were transferred from Home Affairs Bureau to the purview of Constitutional and Mainland Affairs Bureau.

- (c) ***school talks:*** the Unit gives talks to schools, NGOs and government departments. The talks include briefing on the concept of racial discrimination, examples of cases that the Unit handled and the culture of ethnic minorities in Hong Kong;
- (d) ***storybooks for school children:*** the Unit published two storybooks, which target at primary students and secondary students respectively. The purpose of the storybooks is to arouse students' awareness and interest in the subject of racial harmony at an early age;
- (e) ***an education kit:*** the kit was designed for teachers to use in the classroom. It includes a teacher's guidebook, a CD-ROM (for presentation by the teachers), and information on inter-active class activities;
- (f) ***exhibitions:*** the Unit has three sets of roving boards which it lends to schools and youth centres for display. One set is in story format and aims at fostering respect for people of different ethnicities. The second set describes the culture and lifestyles of Hong Kong's minority communities. The third set tells four stories of ethnic minorities in real-life situations;
- (g) ***Multilingual Phrasebook for Emergencies:*** the phrasebook was published as an aid for front-line emergency service staff to communicate with patients who do not speak Cantonese or English. It is now being used in both private and public medical establishments;
- (h) ***after-school support programme:*** the programme helped minority children and their parents to adapt to school life in Hong Kong, through such means as language lessons and assistance with homework;
- (i) ***Cross-cultural Learning Programme for Non-Chinese Speaking Youth:*** this is to help minority youth to integrate into the wider society through such means as Cantonese lessons and mentorship programmes;
- (j) ***Harmony Scholarship:*** the scholarship aims to award and recognise schools that have made special efforts in diversifying their enrolment and in promoting integration of ethnic minorities;

- (k) ***Community Organiser Training Programme:*** the programme aims at helping potential community organisers to address problems experienced by the minority communities and to promote racial harmony. In its capacity as the secretariat to the Committee on the Promotion of Racial Harmony, the Unit has formed an expert sub-committee to design the curriculum and to work out a plan for programme delivery;
- (l) ***Sensitivity kit:*** the Unit produced a self-learning sensitivity kit for front-line civil servants in association with Civil Service Training and Development Institute, Health Welfare and Food Bureau and Equal Opportunities Commission; and
- (m) ***Code of Practice against Discrimination in Employment (on the ground of race):*** this was published to facilitate self-regulation on the part of employers and employees in eliminating discriminatory practices in employment.

Publicity programmes

4. The publicity programmes primarily focus on raising the public's awareness of racial harmony and promoting the Unit and its services.

- (n) ***drawing competition-cum-mural project:*** the project aimed at encouraging community organisations to enhance the public's awareness of racial harmony among multi-racial groups through active participation and among the general public, through the medium of a highly visible mural; and
- (o) ***Announcements of public interests (APIs) and poster campaign:*** the Unit has produced two APIs which are broadcast periodically. It also runs poster campaigns at mass transit railway stations. The poster includes the Unit's hotline number and the message of equal opportunities for all, irrespective of race and colour.

Integration programmes

5. These are practical measures to help minority communities – both established and newly arrived – to adapt to the Hong Kong way of life.

- (p) ***Your Guide to Services in Hong Kong:*** this is a service guidebook that is available in eight languages, namely English, Indonesian,

Tagalog, Thai, Sinhalese, Hindi, Nepali and Urdu. The guides provide comprehensive information on Government and NGO services and are tailored to the needs of each client community;

- (q) ***Mobile Information Service:*** a team of ‘information ambassadors’ recruited from the main minority communities is employed and stationed at the Hong Kong International Airport. The ambassadors distribute information kits to ethnic minority workers and immigrants on their arrival and handle enquiries in their own native languages;
- (r) ***language courses:*** the HAB funds NGOs for the provision of training courses in Cantonese and English for members of the ethnic minorities. The Unit co-ordinates the programme and organises promotion campaigns to publicise the availability of such language classes to the various ethnic communities;
- (s) ***radio programmes:*** the Unit is responsible for launching and funding minority language programmes on local radio stations. Weekly programmes targetted at the ethnic communities are aired in Urdu, Nepali, and Bahasa Indonesia;
- (t) ***Culture in Motion:*** this is a series of thematic Sunday cultural programme in which ethnic communities are encouraged to showcase their culture through dances, songs, games, photographic and art exhibitions;
- (u) ***Community Development Teams:*** the HAB sponsors two Community Development Teams for Ethnic Minorities. The primary objectives of the project are to build up the ethnic minorities’ capacity to tackle the problems facing them, provide services to and assist ethnic minorities in getting access to community resources and social services, promote social integration, and to collaborate with other social service agencies and ethnic community organisations to provide better support to the South Asians; and
- (v) ***Community Support Teams for Ethnic Communities:*** the HAB provides sponsorship for the establishment and operation of a Pakistani service team and a Nepalese service team. The teams are operated by their respective ethnic minority community groups and the Pakistani team is in partnership with an experienced NGO. Both teams offer a range of services to members of their own communities in their own languages and in a culturally sensitive manner.

The Ethnic Minorities Forum

6. The Ethnic Minorities Forum provides a regular and formal channel of communication between the Government and Hong Kong's minority communities and the organizations dedicated to serving them. The Forum serves to keep us informed of the concerns and needs of the ethnic communities and provides opportunities to discuss possible ways of addressing them. The membership is self-nominating and the agenda is open to suggestions by Forum members.

Educational support measures

7. The Education and Manpower Bureau (EMB)² has taken the following initiatives to facilitate the education of ethnic minority students:

- (a) ***School-Based Support Scheme Grant:*** public-sector schools with intake of newly-arrived non-Chinese speaking (NCS) children (including newly-arrived ethnic minority children) are provided with the Grant to arrange school-based programmes such as orientation, intensive and/or remedial teaching, and personal development training to meet the learning and adaptation needs of the newly arrived NCS students. The Grant is at the rate of \$2,633 (US\$338) and \$3,906 (US\$501) per student per annum at primary and secondary level respectively for the 2006/07 school year;
- (b) ***Bridging Programmes:*** schools with NCS students admitted to Primary 1 are provided with funds to run the 4-week summer Bridging Programmes to familiarize Primary 1 entrants with the school environment and to raise their interest in the learning of Chinese. Starting from summer 2007, these Programmes will be extended to cover also NCS students proceeding to Primary 2, Primary 3 and Primary 4 to help them to consolidate what they have learned in Key Learning Stage 1;
- (c) ***Flexible deployment of resources:*** to optimize the effective use of resources, EMB has encouraged schools with NCS students to flexibly deploy the different resources (in the form of block grants) currently provided for meeting students' diverse learning needs, such as Remedial Teaching, Intensive Remedial Teaching Programme, Capacity Enhancement Grant, Student Guidance Service Grant, etc;

² Following the reorganisation of Government Secretariat with effect from 1 July 2007, Education and Manpower Bureau was renamed as Education Bureau. Matters related to manpower were transferred to the purview of Labour and Welfare Bureau.

- (d) ***Centralised Support:*** to further enhance the learning and teaching particularly in the Chinese Language of the NCS students, EMB has decided to centralise its support through the intensive on-site support to schools. 10 primary and 5 secondary schools have been designated in the 2006/07 school year. The intensive on-site support to the designated schools includes regular visits by professional officers to conduct collaborative lesson planning with teachers to develop the school-based Chinese Language curriculum, learning and teaching strategies, school-based teaching resources/materials, learning activities and assessment designs, etc. School-based and inter-school professional development activities are also provided to enhance the effectiveness of learning and teaching of the designated schools and to share experiences. Each designated school is provided a special grant of \$0.3 million (US\$38,462) per annum for two years to arrange programmes to support the learning and teaching of their NCS students;
- (e) ***Supplementary guide on the teaching of Chinese to NCS students:*** this supplementary guide will be developed under the umbrella of the Central Chinese Language curriculum framework. It will advise on the selection of key learning targets and objectives related to different strands, and principles of selecting relevant materials and contexts for the different needs of students. It will also be supported by examples based on the experience of learning and teaching of Chinese Language to NCS students in local schools;
- (f) ***Chinese Learning Support Centres:*** EMB has commissioned a local university to run Chinese Learning Support Centres, which support NCS students who are less proficient in Chinese, in particular the late starters, by offering remedial programmes for these students after school hours or during holidays. The Centres also participate in the development of related teaching resources and provide professional advice to Chinese Language teachers in designated schools;
- (g) ***Training for Chinese teachers:*** EMB has also commissioned tertiary institutions to run training programmes for Chinese language teachers in the designated schools, beginning from May 2007;
- (h) ***Study on the integration of ethnic minority students:*** to further understand the integration of students of ethnic minorities in the school community, EMB has commissioned a local university to conduct a three-year longitudinal study in November 2004. The

study will track the development and adaptation of these students newly allocated to Primary 1 in local schools in the 2004/05 school year until they complete Primary 3 in the 2006/07 school year;

- (i) ***Further support programmes:*** to meet the specific needs of the ethnic minority communities, we are also planning to make available a vacant school and invite non-government organizations to operate more support programmes for these students;
- (j) ***Alternative qualifications in Chinese:*** in recognition of individual NCS student's aspiration to be provided with the avenue to attain alternative qualifications in Chinese, arrangements have been made for interested NCS students to participate in the General Certificate of Secondary Education (GCSE) (Chinese) examination in Hong Kong starting from 2007;
- (k) ***Vocational training:*** in view of the growing demand for vocational training from NCS students, the Vocational Training Council (VTC), the Construction Industry Training Authority, the Clothing Industry Training Authority and other non-publicly funded post-secondary institutions are prepared to provide suitable flexibility in implementing any Chinese Language requirement when considering NCS students' applications. VTC would consider recruiting speakers for the main minority languages (e.g. Urdu and Nepali) as interpreters in vocational training courses, and to translate courses materials into minority languages where necessary and practicable. The actual number of such classes and the implementation time-frame will be adjusted in the light of actual demand for the classes and cost for their provision; and
- (l) ***Dissemination of information:*** to enhance reaching-out of the educational services to the NCS parents and students, a Parent Information Package and leaflet outlining the school system, major education policies and the related education services have been published. Similar to the arrangement for the briefings and notes on school places allocation systems, the Package, in English and Chinese, has been translated into the major ethnic minority languages for easy reference.

Employment related measures

8. As for language education outside school to enhance the employability of the ethnic minorities, the Standing Committee on

Language Education and Research will, making reference to its experience in administering the Workplace English Campaign, develop a Workplace Chinese Programme for meeting the needs of the ethnic minority community. The Labour Department (LD) currently also provides a wide range of employment services to help place job-seekers, including ethnic minorities, into employment. They include –

- (a) ***Vacancy information:*** LD disseminates information on job vacancies through the 12 Job Centres, the Interactive Employment Service on the web as well as the vacancy search terminals installed at the Social Security Field Units of Social Welfare Department and Public Enquiry Service Centres of the Home Affairs Department. With limited exceptions where the information cannot be readily translated into English, the essential items of vacancy information (e.g. occupation, working hours, salary, location of workplace) are shown in both English and Chinese;
- (b) ***Employment briefings:*** LD regularly conducts employment briefings, tailor-made for the needs of the ethnic minorities, at the Job Centres of LD in English to facilitate their better understanding of the local job market as well as job hunting skills;
- (c) ***Resource corners:*** LD operates a resource corner in each of the 12 Job Centres to provide labour market information and job-hunting skills in English. It also distributes a guidance leaflet entitled “Easy-to-use Employment Services of the Labour Department”. This is published in six languages, viz Tagalog, Indonesian, Thai, Hindi, Urdu and Nepali, to facilitate use of the employment services by ethnic minorities; and
- (d) ***Job Matching Programme:*** this service is tailored to the individual needs of job-seekers, including members of the ethnic minorities. It provides in-depth interview, career counselling and active job-matching for job-seekers.

Durban Declaration and Programme of Action 2001

Position as at 31 March 2007

Note for readers: the Programme of Action forms part of the Durban Resolution. Each call, or group of calls, within the Programme corresponding to individual resolutions – or groups of resolutions - within the Resolution as a whole. The first 23 paragraphs of the Programme address matters that do not pertain to the situation of or in Hong Kong, the broad areas concerned being international investment and the alleviation of global poverty, Africans and people of African¹ descent (the contents being chiefly concerned with development and land issues in Africa), and indigenous peoples. The issues that do impinge on Hong Kong begin with the question of migrants, which starts from paragraph 24 of the Programme. For this reason, our response – this checklist – commences at that point and the numbering of the items below corresponds to paragraph numbers in the Programme.

Subject area	Specific provision(s)	Position
Migrants		
24. Migrants and asylum seekers	Requests all States to combat manifestations of a generalized rejection of migrants and actively to discourage all racist demonstrations and acts that generate xenophobic behaviour and negative sentiments towards, or rejection of, migrants	Racial discrimination is not a prevalent or serious problem in Hong Kong. Although over 95% of the population is ethnic Chinese, Hong Kong has always been a cosmopolitan city and Hong Kong people have a long tradition of living in harmony with and respect for persons from diverse cultural background and ethnic origins. As a community, the relationship between the Chinese majority and the ethnic minorities in Hong Kong has generally been peaceful and harmonious. There have not been any instances of racist demonstrations or generalised xenophobic behaviour. This notwithstanding, we continue actively to foster understanding and racial harmony through

¹ There are, of course, Africans and persons of African descent living and working in Hong Kong but, to the extent that they may be victims of racial discrimination (and so forth), their concerns exhibit no qualitative difference to that experienced by, for example, persons from South or Southeast Asia. Their concerns are therefore accommodated within the overall framework of measures that we employ to combat discrimination. Those measures are explained below.

Subject area	Specific provision(s)	Position
		public education, as well as to facilitate integration through administrative support services to ethnic minorities.
26. Human rights and fundamental freedoms of migrants	Requests States to promote and protect fully and effectively the human rights and fundamental freedoms of all migrants, in conformity with the Universal Declaration of Human Rights and their obligations under international human rights instruments, regardless of the migrants' immigration status	<p>All migrants who enter Hong Kong in accordance with the laws enjoy the same human rights protections as others, except insofar as they entail differences as between citizens and non-citizens per Articles 1.2 and 1.3 of the ICERD. This applies equally to migrant workers entering on contract terms except as regards the limitations imposed by their conditions of stay.</p> <p>All local residents - irrespective of their sex, race or religion are eligible for the non-contributory Comprehensive Social Security Assistance (CSSA) and the Social Security Allowance (SSA) Schemes if they meet the requirements of the Schemes. These two Schemes are the mainstay of the Hong Kong's social security system.</p> <p>The means-tested CSSA scheme provides financial assistance to bring the income of needy individuals and families up to a prescribed level to meet their basic needs. The largely non-means-tested SSA Scheme provides allowances to meet the special needs of the severely disabled and elderly persons. To be eligible for CSSA or SSA, an applicant must have been a Hong Kong resident for at least seven years and have resided in Hong Kong continuously for at least one year</p>

Subject area	Specific provision(s)	Position
		<p>immediately before the date of application. Hong Kong residents aged below 18 applying for CSSA or a disability allowance under the SSA Scheme are exempted from any prior residence requirement. Those who have become Hong Kong residents before 1 January 2004 are exempted from the seven-year residence requirement but they must have resided in Hong Kong continuously for at least one year immediately before the date of application.</p> <p>Persons whose presence in Hong Kong is unlawful and persons permitted to stay in Hong Kong for a purpose other than residence are excluded from the CSSA and SSA Schemes. The Director of Social Welfare may, at his discretion, grant assistance to applicants who do not satisfy the residence requirement, but are in genuine hardship.</p>
27. Family reunification and public education on the rights of migrants	Encourages States to promote education on the human rights of migrants and to engage in information campaigns to ensure that the public receives accurate information regarding migrants and migration issues, including the positive contribution of migrants to the host society and the vulnerability of migrants, particularly those who are in an irregular situation	(a) Family reunification: most migration for settlement in Hong Kong originates from Mainland China. Such migration is on a large scale and a quota system ("One-way Permit") administered by Mainland authorities is in place to ensure that the resulting rate of population increase is maintained at a level that our social infrastructure can realistically absorb. The quota system accords priority to persons entering for family reunion but those so entering must do so in accordance with established legal procedures.

Subject area	Specific provision(s)	Position
		<p>Migration from places other than Mainland China usually takes the form of an employment visa, student visa or dependent visa. There was a surge in migration from South and Southeast Asia in the 1990s. The above quota system does not apply to such migrants, though applications for persons joining a settled migrant as dependants must be supported by evidence, e.g. applicants are in a position to support their dependants.</p> <p>(b) public education on the rights of migrants: over the past decade, efforts have been made both to facilitate the settlement process (in the form of practical assistance to newly-arrived migrants) and to promote public awareness of the rights of migrants as fellow-citizens. Salient initiatives in this regard include the annual publication of a Service Handbook for New Arrivals which contains updated information on the range of public services available to the newly-arrived migrants. Activities aiming to enhance the mutual understanding between new arrivals and local citizens are also organised at district level to facilitate their early integration into the community. We will continue with these efforts to assist the newly-arrived migrants to adapt to life in the local community.</p>
28. Integration of migrants	Calls upon States to facilitate family reunification in an expeditious and effective manner which has a positive effect on integration of migrants, with due regard for the desire of many family members to have an independent status	The question of family reunification is addressed in item 27(a) above. We are acutely aware of the need to expedite and ease the settlement process and on-going measures are

Subject area	Specific provision(s)	Position
		<p>in place for that purpose. Inter alia, these include handbooks in the principal minority languages (covering such matters as employment, public housing, education, and social welfare), bridging and other programmes for school children (including language tuition), and an emergency services handbook to assist communication between migrant patients and medical personnel.</p> <p>To ensure that these and other services continue to meet the actual (evolving) needs of the migrant communities, we maintain close contact with representatives of those communities and NGOs that serve them through the Committee on the Promotion of Racial Harmony and the Ethnic Minorities Forum. Our Race Relations Unit – established in 2002 – provides a regular channel of communication for members of the ethnic minorities seeking advice or with complaints about racial discrimination.</p>
29. Elimination of racial discrimination etc	Urges States to take concrete measures that would eliminate racism, racial discrimination, xenophobia and related intolerance in the workplace against all workers, including migrants, and ensure the full equality of all before the law, including labour law, and further urges States to eliminate barriers, where appropriate, to: participating in vocational training, collective bargaining, employment, contracts and trade union activity; accessing judicial and administrative tribunals dealing with grievances; seeking employment in different parts of their country of residence; and working in safe and healthy conditions	The Hong Kong Bill of Rights Ordinance (HKBORO) already prohibits all forms of discrimination – including racial discrimination - on the part of the Government and the public authorities. We have further, in December 2006, introduced into the Legislative Council (LegCo) the Race Discrimination Bill to extend the scope of protection for individuals and to prohibit acts of racial discrimination by private persons, groups or organisations as well as by the Government. The Bill is currently being

Subject area	Specific provision(s)	Position
		examined by the LegCo.
30. Protection of minority rights	<p>Urges States:</p> <p>(a) To develop and implement policies and action plans, and to reinforce and implement preventive measures, in order to foster greater harmony and tolerance between migrants and host societies, with the aim of eliminating manifestations of racism, racial discrimination, xenophobia and related intolerance, including acts of violence, perpetrated in many societies by individuals or groups;</p> <p>(b) To review and revise, where necessary, their immigration laws, policies and practices so that they are free of racial discrimination and compatible with States' obligations under international human rights instruments;</p> <p>(c) To implement specific measures involving the host community and migrants in order to encourage respect for cultural diversity, to promote the fair treatment of migrants and to develop programmes, where appropriate, that facilitate their integration into social, cultural, political and economic life;</p> <p>(d) To ensure that migrants, regardless of their immigration status, detained by public authorities are treated with humanity and in a fair manner, and receive effective legal protection and, where appropriate, the assistance of a competent interpreter in accordance with the relevant norms of international law and human rights standards, particularly during interrogation;</p>	<p>Please see our response to items 27 to 29 above.</p> <p>Our immigration laws, policies and practices are in conformity with the ICCPR as applied to Hong Kong and are consistent with our international human rights obligations.</p> <p>Please see our response to item 28 above.</p> <p>Established guidelines and procedures are in place in handling detainees for fair treatment (e.g. addressing to their physical needs), instant notification of their rights (e.g. to make telephone calls, to request legal representation, to remain silent under caution, and to seek consular assistance) and provision of competent interpreters.</p> <p>Immigration staff are trained to handle detainees properly in accordance with these</p>

Subject area	Specific provision(s)	Position
	<p>(e) To ensure that the police and immigration authorities treat migrants in a dignified and non-discriminatory manner, in accordance with international standards, through, inter alia, organizing specialized training courses for administrators, police officers, immigration officials and other interested groups;</p>	<p>guidelines and an effective mechanism is in place to ensure compliance by staff. Up-to-date lists of competent interpreters are prepared regularly for staff's reference.</p> <p>It is the policy of the Police to treat every person that they come across, regardless of their racial background, in a dignified and non-discriminatory manner. To enhance police officers' awareness of anti-prejudice and racial discrimination issues, the Police College has included in its basic training programme topics like "Policing ethnic and other minority groups", "Equal opportunities", "Bill of Rights", "Basic Law" and "Elimination of all forms of discrimination" for newly-recruited police officers. Besides, regular training and seminars on elimination of discrimination are organised for serving police officers as and when necessary. Elimination of discrimination has been one of the training objectives of the Police.</p> <p>For immigration staff, training is provided to new recruits and in-service immigration staff to foster the culture of courtesy and impartiality. All staff are trained to treat each member of the public, including migrants, with respect, consideration and compassion irrespective of their race, gender, nationality, age, marital status, pregnancy, family status, religion or disability. General human rights training provided by the Immigration Department covers topics of the HKBORO and</p>

Subject area	Specific provision(s)	Position
	<p>(f) To consider the question of promoting the recognition of the educational, professional and technical credentials of migrants, with a view to maximizing their contribution to their new States of residence;</p> <p>(g) To take all possible measures to promote the full enjoyment by all migrants of all human rights, including those related to fair wages and equal remuneration for work of equal value without distinction of any kind, and to the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond their control, social security, including social insurance, access to education, health care, social services and respect for their cultural identity; and</p>	<p>other applicable laws.</p> <p>Migrants to Hong Kong holding non-local qualifications who wish to have their qualifications recognised by employers in Hong Kong can approach the Hong Kong Council for Academic Accreditation for assessment to determine their local equivalence.</p> <p>All legal migrants to Hong Kong – be they persons who have entered for settlement or for time-limited contract employment – enjoy the same employment-related rights as all other workers. However, foreign domestic helpers and workers imported under the Supplementary Labour Scheme are restricted by the terms of their conditions of entry and are not allowed to change their employment under normal circumstances. Their employers have to provide accommodation and free medical treatment for them. The workers cannot bring family members to HKSAR on the strength of their employment, although their families may always apply to enter HKSAR as visitors. There is thus no question of entitlement to schooling, social welfare, or public housing – but they do have full access to hospital treatment. Their wages cannot be below the standard set by the Government. Except for those exempted from the Mandatory Provident Fund Ordinance, workers imported under the Supplementary Labour Scheme are covered by the Mandatory Provident Fund Scheme, which</p>

Subject area	Specific provision(s)	Position
		<p>provides retirement support for the working population. Besides, foreign domestic helpers, imported workers and local workers alike may be eligible to a lump-sum long service payment. Settled migrants have full access to the benefits available to the majority population. A wide range of assistance and support services such as counselling, child care, mutual help or supportive group, volunteer group, financial aid, housing assistance, psychological services, referral services, etc. are available from the Social Welfare Department and Non-governmental Organisations to assist new arrivals in reducing their adjustment problem, integrating into the local community, and enhancing their social functioning and self-sufficiency. Moreover, an outreaching and networking approach is adopted to contact new arrivals to facilitate early identification and timely provision of support services to them.</p> <p>In the event of financial hardship, migrants who enter Hong Kong for the purpose of residence meeting all the eligibility criteria, including the seven-year residence requirement, are eligible for CSSA. However, persons whose presence in Hong Kong is unlawful or persons who are permitted to stay in Hong Kong for a purpose other than residence (for example, imported workers and visitors) are excluded from the Scheme. CSSA, a safety net of last resort for those who cannot support themselves financially for</p>

Subject area	Specific provision(s)	Position
	<p>(h) To consider adopting and implementing immigration policies and programmes that would enable immigrants, in particular women and children who are victims of spousal or domestic violence, to free themselves from abusive relationships</p>	<p>various reasons, is non-contributory but means-tested (minors below the age of 18 are exempt from the means-test) . The seven-year residence requirement aims to ensure a rational basis on which public resources are allocated. In exceptional circumstances, the Director of Social Welfare may exercise discretion and grant assistance to a person who does not meet the residence requirement.</p> <p>Our social security policy aims to meet the basic and special needs of Hong Kong's disadvantaged people. This is achieved through the CSSA and SSA Schemes which provide comprehensive social security on an entirely non-contributory basis. See also the response to 26 above for the details of the requirement of the CSSA and SSA Schemes.</p> <p>Hong Kong's immigration policies are applied to immigrants including women and children with due regard to individual circumstances.</p> <p>The Government does not condone domestic violence. It adopts a three-pronged approach, i.e. preventive measures, supportive services and specialised services, to tackle the problem. Our policy applies to all immigrants in the territory.</p> <p>The Government attaches great importance to the service needs of the deprived groups, including the immigrants in Hong Kong. We aim to develop comprehensive welfare</p>

Subject area	Specific provision(s)	Position
		<p>services to meet family needs through a series of preventive, supportive and remedial services. We will strive to provide better and more cost-effective services to families in need through on-going review and service re-engineering.</p> <p>Victims of family violence, including the newly arrived women and their children, also have access to the range of services described in our response to paragraph (g) above. In addition, they can seek temporary shelter at refuge centres for women.</p>
31. Gender issues	Urges States, in the light of the increased proportion of women migrants, to place special focus on gender issues, including gender discrimination, particularly when the multiple barriers faced by migrant women intersect; detailed research should be undertaken not only in respect of human rights violations perpetrated against women migrants, but also on the contribution they make to the economies of their countries of origin and their host countries, and the findings should be included in reports to treaty bodies	The Women's Commission's mission is to enable women in Hong Kong to fully realize their due status, rights and opportunities in all aspects of life. To achieve this mission, the Commission has adopted a three-pronged strategy, namely the provision of an enabling environment, empowerment of women, and public education. The Commission has secured since 2002 the Government's endorsement to introduce gender mainstreaming into various policy areas on an incremental basis to integrate gender perspectives in legislation, policies and measures. The Commission has also launched various public education and publicity programmes to reduce gender prejudice and stereotyping.
32. Equal economic rights for migrants	Urges States to recognize the same economic opportunities and responsibilities to documented long-term migrants as to	Except for foreign domestic helpers and workers imported under the Supplementary

Subject area	Specific provision(s)	Position
	other members of society	Labour Scheme who are only allowed to work for a specified employer, for a specified job, and, at a specified address, in principle, all persons whose terms of entry do not restrict them to work (which includes all persons who have migrated for settlement) are free to seek and hold employment in the open market or to establish businesses in the pursuit of their livelihood. One of the aims of the impending Race Discrimination Bill (see item 29 above) is to prohibit racial discrimination in the area of employment. See also our response to item 30(a) above.
33. Access to health, education, and housing.	Recommends that host countries of migrants consider the provision of adequate social services, in particular in the areas of health, education and adequate housing, as a matter of priority, in cooperation with the United Nations agencies, the regional organizations and international financial bodies; also requests that these agencies provide an adequate response to requests for such services	All persons who have immigrated for settlement have access to health, education, housing and welfare services on the same terms as the majority population. The entitlement to the non-contributory CSSA benefits is subject to their legal residence in Hong Kong for seven years (where circumstances such as compassionate grounds warrant). Schooling is free and compulsory for all children aged between 6 and 15 and heavily subsidised thereafter. Access to health services is open to all at highly subsidised rates. Access to public housing has to fulfil specified residence requirement, is means-tested and subject to a queuing system (essentially, this operates on a first-come-first-served basis but families, the elderly, and other special categories are accorded priority). Migrants who meet the eligibility criteria may apply on the same terms

Subject area	Specific provision(s)	Position
		and conditions as anyone else.
34. Refugees, asylum seekers and displaced persons	Urges States to comply with their obligations under international human rights, refugee and humanitarian law relating to refugees, asylum-seekers and displaced persons, and urges the international community to provide them with protection and assistance in an equitable manner and with due regard to their needs in different parts of the world, in keeping with principles of international solidarity, burden-sharing and international cooperation, to share responsibilities	<p>The 1951 United Nations Convention relating to the Status of Refugees (the Refugee Convention) and its protocol do not apply to Hong Kong.</p> <p>In the light of the unique situation of Hong Kong, the Government has a firm policy of not granting asylum. Despite the non-application of the Refugee Convention, asylum seekers may lodge their refugee status claims in Hong Kong to the United Nations High Commissioner for Refugees (UNHCR) Sub-office in Hong Kong.</p> <p>People who do not have the permission to stay are subject to removal. However, if a person subject to removal is a refugee or an asylum seeker, the Director of Immigration may, on a case-by-case basis, not execute the removal pending the resettlement overseas of refugees as arranged by the UNHCR or in the case of asylum seekers, pending determination of their claims.</p>
35. Refugees	Calls upon States to recognize the racism, racial discrimination, xenophobia and related intolerance that refugees may face as they endeavour to engage in the life of the societies of their host countries and encourages States, in accordance with their international obligations and commitments, to develop strategies to address this discrimination and to facilitate the full enjoyment of the human rights of refugees. States parties should ensure that all	The position is as explained in relation to our response to item 34 above.

Subject area	Specific provision(s)	Position
	measures relating to refugees must be in full accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol	
36. Protection of refugees from violence	Urges States to take effective steps to protect refugee and internally displaced women and girls from violence, to investigate any such violations and to bring those responsible to justice, in collaboration, when appropriate, with the relevant and competent organizations	All refugees are protected by relevant laws of Hong Kong against violence.
Victims		
37. Registration of persons without discrimination	Urges States to take all possible measures to ensure that all persons, without any discrimination, are registered and have access to the necessary documentation reflecting their legal identity to enable them to benefit from available legal procedures, remedies and development opportunities, as well as to reduce the incidence of trafficking	The Registration of Persons Ordinance (Cap 177) and subsidiary legislation provide that all residents in Hong Kong, other than those exempted (such as bona fide travellers in transit and children under 11 years of age) or excluded (such as Vietnamese refugees awaiting overseas resettlement), must apply for an identity card. Besides, Hong Kong permanent residents who enjoy the right of abode in Hong Kong shall be issued with permanent identity cards which state their right of abode. Under the Ordinance, the registration of persons services are provided to all legal migrants (including contract workers) irrespective of their race, nationality and place of origin.
38. Non-discrimination against victims of trafficking	Recognizes that victims of trafficking are particularly exposed to racism, racial discrimination, xenophobia and related intolerance. States shall ensure that all measures taken against trafficking in persons, in particular those that affect the victims of such trafficking, are consistent with internationally recognized principles of non-discrimination, including the	Hong Kong is neither a destination for human trafficking nor a place for exporting illegal migrants. Cases of trafficking are rare. Nonetheless, the Government offers the necessary protection for trafficking victims. Refugee centres and counselling services are

Subject area	Specific provision(s)	Position
	prohibition of racial discrimination and the availability of appropriate legal redress	available for women suffering from abuse and exploitation. Besides, the Family Crisis Support Centre provides a package of services, including overnight accommodation, counselling, hotline service and resource corner to needy individuals including victims of trafficking. Immunity would be considered for victims of 'trafficking' cases where appropriate. Where necessary, protection will be afforded to victims. Legal aid is available for any person, including victims of trafficking, who satisfies the relevant criteria, namely the "means test" and the "merits test". The criteria ensure that no one with reasonable grounds for taking or defending a legal action in Hong Kong courts is prevented from doing so because of a lack of means.
50. Gender perspective in programmes of action against racial discrimination	Urges States to incorporate a gender perspective in all programmes of action against racism, racial discrimination, xenophobia and related intolerance and to consider the burden of such discrimination which falls particularly on indigenous women, African women, Asian women, women of African descent, women of Asian descent, women migrants and women from other disadvantaged groups, ensuring their access to the resources of production on an equal footing with men, as a means of promoting their participation in the economic and productive development of their communities	Hong Kong is governed by the rule of law and all persons in Hong Kong – regardless of race, gender, or other inherent characteristic – are equal before the law. The HKBORO prohibits all forms of discrimination on the part of the Government and the public authorities and the Sex Discrimination Ordinance prohibits discrimination on the basis of gender on the part of all persons, whether in a private or public capacity. The Race Discrimination Bill will extend such prohibitions to the area of race and will apply without distinction to women and men.
51. Involvement of women in decision-making relating to	Urges States to involve women, especially women victims of racism, racial discrimination, xenophobia and related	The Race Discrimination Bill was drafted after extensive public consultation, which included

Subject area	Specific provision(s)	Position
the elimination of racial discrimination	intolerance, in decision-making at all levels when working towards the eradication of such discrimination, and to develop concrete measures to incorporate race and gender analysis in the implementation of all aspects of the Programme of Action and national plans of action, particularly in the fields of employment programmes and services and resource allocation	consultation with representatives and members of migrant workers groups (whose membership comprised almost entirely of women) and the Women's Commission. Their views were taken into full account in the drafting process. The Women's Commission has developed a gender mainstreaming checklist for the incorporation of gender perspectives and needs in making policy and will develop a similar mechanism in regard to race once the Bill becomes law.
52. Gender analysis of policies and programmes, especially poverty eradication measures, including those for the benefit of victims of racial discrimination	Recognizing that poverty shapes economic and social status and establishes obstacles to the effective political participation of women and men in different ways and to different extents, urges States to undertake gender analyses of all economic and social policies and programmes, especially poverty eradication measures, including those designed and implemented to benefit those individuals or groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance	As indicated in our response to item 50 above, the Women's Commission's gender mainstreaming checklist is intended for the analysis of all Government policy initiatives and programmes, including those relating to poverty. Policies and programmes relating to the victims of racial discrimination are no exception.
53. Empowerment of female victims of racial discrimination	Urges States and encourages all sectors of society to empower women and girls who are victims of racism, racial discrimination, xenophobia and related intolerance, so that they can fully exercise their rights in all spheres of public and private life, and to ensure the full, equal and effective participation of women in decision-making at all levels, in particular in the design, implementation and evaluation of policies and measures which affect their lives	The empowerment of women and girls as well as elimination of gender bias and stereotyping through public education programmes are priority areas of work promoted by the Women's Commission and the Equal Opportunities Commission. The principles of gender equality and related human rights are also taught to school children through various components of the curriculum. As regards the public decision-making process, entry into the public service is an open and competitive process that is free of gender bias. The Government is an equal opportunities

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		employer and is committed to eliminating all forms of discrimination against gender, age, disability, pregnancy, marital status and race in the recruitment process.
55. Best interest of the child in the provision of protection against racial discrimination	Requests States, in collaboration where necessary with international organizations, having the best interests of the child as a primary consideration, to provide protection against racism, racial discrimination, xenophobia and related intolerance against children, especially those in circumstances of particular vulnerability, and to pay special attention to the situation of such children when designing relevant policies, strategies and programmes	The best interests of the child are, as appropriate, considered in the formulation, delivery and development of policies and programmes that may affect them, including those designed to combat discrimination or to promote racial harmony. Our Children’s Rights Forum provides a regular and formal channel of communication between the Government, children, and the NGOs/civil society groups that promote their rights. It offers the avenue for children to express their views on matters affecting them, including – among others – racial discrimination and related concerns.
56.(a)Right of all children to the immediate registration of birth (b)Women to have equal rights with men with respect to nationality	Urges States, in accordance with their national law and their obligations under the relevant international instruments, to take all measures to the maximum extent of their available resources to guarantee, without any discrimination, the equal right of all children to the immediate registration of birth, in order to enable them to exercise their human rights and fundamental freedoms States shall grant women equal rights with men with respect to nationality	Article 20(2) of the Hong Kong Bill of Rights provides that every child shall be registered immediately after birth and shall have a name. The Births and Deaths Registration Ordinance (Chapter 174) also provides for a child who is not named at the registration of birth to have his/her name inscribed on the register at a later time. Please also refer to item 37 above on registration of persons. The Nationality Law of the People’s Republic of China, as applied locally pursuant to Annex III to the Basic Law of the Hong Kong Special Administrative Region and the Promulgation of National Laws 1997, provides equal rights

Subject area	Specific provision(s)	Position
		for women and men with respect to Chinese nationality in Hong Kong.
III. Measures of prevention, education and protection aimed at eradication of racism, racial discrimination, xenophobia and related intolerance at the national, regional and international levels		
58. Measures to eradicate racial discrimination and to promote diversity and acceptance	Urges States to adopt and implement, at both the national and international levels, effective measures and policies, in addition to existing anti-discrimination national legislation and relevant international instruments and mechanisms, which encourage all citizens and institutions to take a stand against racism, racial discrimination, xenophobia and related intolerance, and to recognize, respect and maximize the benefits of diversity within and among all nations in working together to build a harmonious and productive future by putting into practice and promoting values and principles such as justice, equality in and non-discrimination, democracy, fairness and friendship, tolerance and respect within and between communities and nations, in particular through public information and education programmes to raise awareness and understanding of the benefits of cultural diversity, including programmes where the public authorities work in partnership with international and non-governmental organizations and other sectors of civil society	The Race Discrimination Bill is specifically designed to reinforce existing protection and to extend the regulatory regime so as to prohibit racial discrimination in the private sector. It has always been our view that public education and promotion of racial harmony, tolerance, and acceptance of diversity are the most important tools in the combat against racial discrimination. This has been the focus of the Government's activities in the past – through the work of the Committee on the Promotion of Racial Harmony and the Race Relations Unit – and the efforts will continue through the Equal Opportunities Commission (EOC) after the enactment of the Bill.
59. Gender mainstreaming in the design and development of measures to eradicate racial discrimination	Urges States to mainstream a gender perspective in the design and development of measures of prevention, education and protection aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at all levels, to ensure that they effectively target the distinct situations of women and men	Please see our response to item 53 above.
61. Political and legal systems to reflect multi-cultural diversity	Urges States to work to ensure that their political and legal systems reflect the multicultural diversity within their	All persons in Hong Kong are equal before the law. The systems for electing the Chief

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	societies and, where necessary, to improve democratic institutions so that they are more fully participatory and avoid marginalization, exclusion and discrimination against specific sectors of society	<p>Executive and the Legislative Council are established in accordance with the Basic Law. The Basic Law also clearly provides that the ultimate aim is to attain universal suffrage.</p> <p>Article 26 of the Basic Law stipulates that permanent residents of the HKSAR shall have the right to vote and the right to stand for election in accordance with law.</p>
62. Racism and racially motivated violence against women and girls	Urges States to take all necessary measures to address specifically, through policies and programmes, racism and racially motivated violence against women and girls and to increase cooperation, policy responses and effective implementation of national legislation and of their obligations under relevant international instruments, and other protective and preventive measures aimed at the elimination of all forms of racially motivated discrimination and violence against women and girls	Our response to items 50 to 53 above applies equally to measures against violence, though it must be stressed that racially motivated violence – irrespective of the gender of the victims – is all but unknown in Hong Kong. The Race Discrimination Bill also prohibits racial vilification against members of a particular group irrespective of their sex. The Bill further makes serious racial vilification an offence.
63. Business sector – particularly the tourist industry and Internet providers - to develop codes of conduct on preventing trafficking in persons and protecting the victims of such traffic	Encourages the business sector, in particular the tourist industry and Internet providers, to develop codes of conduct, with a view to preventing trafficking in persons and protecting the victims of such traffic, especially those in prostitution, against gender-based and racial discrimination and promoting their rights, dignity and security	As explained in our response to item 38, human trafficking is not a real problem in Hong Kong. We therefore do not see a need for developing a code of conduct for businesses on this subject.
64. States to devise, enforce and strengthen measures at the national, regional and international levels to prevent, combat and eliminate all forms	Urges States to devise, enforce and strengthen effective measures at the national, regional and international levels to prevent, combat and eliminate all forms of trafficking in women and children, in particular girls, through comprehensive anti-trafficking strategies which include	Although only isolated cases were recorded over the years, Hong Kong takes all human trafficking reports and allegations seriously and spares no effort in bringing to justice those who engage in such illegal practice. Our law

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of trafficking in women and children, in particular girls	legislative measures, prevention campaigns and information exchange. It also urges States to allocate resources, as appropriate, to provide comprehensive programmes designed to provide assistance to, protection for, healing, reintegration into society and rehabilitation of victims. States shall provide or strengthen training for law enforcement, immigration and other relevant officials who deal with victims of trafficking in this regard	<p>enforcement agencies, namely the Police, Immigration Department and Customs and Excise Department (C&ED), have made concerted efforts to tackle trafficking activities on all fronts including prevention of and enforcement against trafficking as well as protection of victims. They will continue to cooperate with relevant parties, such as the local shipping industry and their overseas enforcement counterparts, to prevent and combat such activities.</p> <p>Please also refer to our response to item 38 for details on victim protection.</p>
<p>A. National level</p> <p>1. Legislative, judicial, regulatory, administrative and other measures to prevent and protect against racism, racial discrimination, xenophobia and related intolerance</p>		
<p>67.(a) States to design or reinforce, promote and implement measures, against the serious situation experienced by certain groups of workers, including migrant workers, who are victims of racial discrimination.</p> <p>(b) Special attention should be given to protecting domestic workers and trafficked persons from discrimination and violence.</p>	<p>Urges States to design or reinforce, promote and implement effective legislative and administrative policies, as well as other preventive measures, against the serious situation experienced by certain groups of workers, including migrant workers, who are victims of racism, racial discrimination, xenophobia and related intolerance</p> <p>Special attention should be given to protecting people engaged in domestic work and trafficked persons from discrimination and violence, as well as to combating prejudice against them</p>	<p>Please refer to our response to items 38 and 64 above on protection of victims of human trafficking, and the prevention of and enforcement against human trafficking.</p> <p>The laws of Hong Kong protect migrant workers (most of whom are women working in the domestic sector) against discrimination. A strictly controlled visa and fixed contract regime applies for employers to import foreign domestic helpers. They must enter into the</p>

Subject area	Specific provision(s)	Position
		<p>standard employment contract (which specifies major employment terms such as wages, free medical treatment, free passage, etc.) with their prospective employer prior to departing for Hong Kong. They are thus unlikely to be victims of trafficking. The Race Discrimination Bill will strengthen existing protections against racial discrimination. Those protections will apply to everyone in Hong Kong, irrespective of their racial or national origin or their form of employment.</p> <p>We must emphasise that item 67 of the Action Plan has little, if any, relevance, to the situation in Hong Kong. Hong Kong is neither a destination for people trafficking, nor a place for exporting illegal immigrants. It has been used as a transit point in the past but the stringent controls that are in place serve to deter the practice and incidence of transit trafficking.</p>
<p>68. Measures against racial discrimination whether direct or indirect, in all spheres of public life</p>	<p>Urges States to adopt and implement, or strengthen, national legislation and administrative measures that expressly and specifically counter racism and prohibit racial discrimination, xenophobia and related intolerance, whether direct or indirect, in all spheres of public life, in accordance with their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, ensuring that their reservations are not contrary to the object and purpose of the Convention</p>	<p>The Hong Kong Bill of Rights Ordinance prohibits all forms of discrimination – including racial discrimination – on the part of the public sector. The Race Discrimination Bill will extend the prohibition against racial discrimination to the private sector.</p> <p>Our interpretative declaration in respect of Article 6 of the ICERD is not contrary to the object and purpose of the Convention. The reservation made by the Central People’s Government to Article 22 of the Convention,</p>

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		which also applies to the HKSAR, is also consistent with the purpose of the Convention.
69. Laws against trafficking in persons, especially women and children, smuggling of migrants	Urges States to enact and implement, as appropriate, laws against trafficking in persons, especially women and children, and smuggling of migrants, taking into account practices that endanger human lives or lead to various kinds of servitude and exploitation, such as debt bondage, slavery, sexual exploitation or labour exploitation; also encourages States to create, if they do not already exist, mechanisms to combat such practices and to allocate adequate resources to ensure law enforcement and the protection of the rights of victims, and to reinforce bilateral, regional and international cooperation, including with non-governmental organizations that assist victims, to combat this trafficking in persons and smuggling of migrants	Please refer to our response to items 38 and 64 above.
71. Policies and programmes against misconduct by law enforcement personnel	Urges States, including their law enforcement agencies, to design and fully implement effective policies and programmes to prevent, detect and ensure accountability for misconduct by police officers and other law enforcement personnel which is motivated by racism, racial discrimination, xenophobia and related intolerance, and to prosecute perpetrators of such misconduct	<p>The law enforcement agencies in Hong Kong, such as the Police, the C&ED, have implemented effective policies to prevent, detect and ensure accountability for misconduct motivated by racism, racial discrimination, xenophobia and related intolerance. For example, C&ED's policies and guidelines are not premised on considerations of race, culture, gender, language or religion. Violation by C&ED officers may result in disciplinary action.</p> <p>For the Police, it has been the Government's policy to ensure that Police officers carry out their duties professionally. In particular, there is an established system to handle complaints against Police officers, including misconduct</p>

Subject area	Specific provision(s)	Position
		<p>of Police officers relating to race discrimination. Complaints against Police officers are investigated by the Complaints Against Police Office, which comprises Police officers under a chain of command separate from the rest of the Police. The investigations are monitored and reviewed by the Independent Police Complaints Council, which is an independent body comprising non-official members appointed by the Chief Executive from a wide spectrum of the community.</p>
72. Racial profiling	<p>Urges States to design, implement and enforce effective measures to eliminate the phenomenon popularly known as “racial profiling” and comprising the practice of police and other law enforcement officers relying, to any degree, on race, colour, descent or national or ethnic origin as the basis for subjecting persons to investigatory activities or for determining whether an individual is engaged in criminal activity</p>	<p>The practices adopted by the disciplined services in Hong Kong are not based on "racial profiling". For example –</p> <ul style="list-style-type: none"> ● C&ED adopts risk management techniques in line with the best international practices. They are not premised on considerations of race, national origin, religion or gender. ● Similarly, the existing immigration policy on investigatory activities or for determining whether an individual is a suspected immigration offender is applicable to all, irrespective of their races or national origin. ● The Police conduct investigations based on available information and evidence. They would not use “racial profiling” as the basis of their investigation.

Subject area	Specific provision(s)	Position
		<ul style="list-style-type: none"> • There are no records of investigations and disciplinary actions in the Correctional Services Department (CSD) that suggest the existence of “racial profiling”. It will continue to provide training to its staff to raise their awareness against racial discrimination.
<p>74.(a) A racially diverse Police Force</p> <p>(b) Reducing violence, including racial violence</p>	<p>74. Urges States and invites non-governmental organizations and the private sector:</p> <p>(a) To create and implement policies that promote a high-quality and diverse police force free from racism, racial discrimination, xenophobia and related intolerance, and recruit actively all groups, including minorities, into public employment, including the police force and other agencies within the criminal justice system (such as prosecutors); and</p> <p>(b) To work to reduce violence, including violence motivated by racism, racial discrimination, xenophobia and related intolerance, by:</p> <p>(i) Developing educational materials to teach young people the importance of tolerance and respect;</p> <p>(ii) Addressing bias before it manifests itself in violent criminal activity;</p> <p>(iii) Establishing working groups consisting of, among others, local community leaders and national and local law enforcement officials, to improve coordination, community involvement, training,</p>	<p>It has been the policy of the Police to recruit appropriate officers based on their core competencies and commitment to the community, regardless of their racial background, to serve in the Force.</p> <p>As indicated in our response to item 62 above, racial violence is almost unknown in Hong Kong. At present, therefore, the measures proposed under item 74(b) are not applicable.</p> <p>That said, the work of the Race Relations Unit and the Committee on the Promotion of Racial Harmony do much to ensure regular and productive communication between the authorities, the minority communities, and the organisations that serve those communities. Schools are requested to report regularly incidents of violent behaviours irrespective of racial or non-racial origins.</p>

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	<p>education and data collection, with the aim of preventing such violent criminal activity;</p> <p>(iv) Ensuring that civil rights laws that prohibit violent criminal activity are strongly enforced;</p> <p>(v) Enhancing data collection regarding violence motivated by racism, racial discrimination, xenophobia and related intolerance; and</p> <p>(vi) Providing appropriate assistance to victims, and public education to prevent future incidents of violence motivated by racism, racial discrimination, xenophobia and related intolerance</p>	<p>Moreover, “Respect for others” is one of the major values and attitudes emphasized in the school curriculum in Hong Kong. By cultivating in students the proper attitude of understanding and respecting others, bias could be prevented. It is subsumed under moral and civic education and infused into different Key Learning Areas or subjects at various levels, (e.g. General Studies at primary level, Ethics and Religious Studies, Integrated Humanities, Liberal Studies at secondary level). Relevant learning elements are also covered in textbooks of subjects concerned. Besides, relevant educational TV programmes are available for use by schools. A new programme on “respecting cultural differences” which emphasized on the importance of tolerance and respect is also under preparation.</p>
Ratification of and effective implementation of relevant international and regional legal instruments on human rights and non-discrimination		
<p>75. International human rights instruments against racial discrimination</p>	<p>Urges States that have not yet done so to consider ratifying or acceding to the international human rights instruments which combat racism, racial discrimination, xenophobia and related intolerance, in particular to accede to the International Convention on the Elimination of All Forms of Racial Discrimination as a matter of urgency, with a view to universal ratification by the year 2005, and to consider making the declaration envisaged under article 14, to comply with their reporting obligations, and to publish and act upon the concluding observations of the Committee on the Elimination of Racial Discrimination. It also urges States to withdraw reservations contrary to the object and purpose of that</p>	<p>The ICERD has applied to Hong Kong since 1969. It continues to apply to the HKSAR after the People’s Republic of China resumes the exercise of sovereignty over Hong Kong with effect from 1 July 1997. Reports on our performance under the Convention form part of China’s reports. Hong Kong delegation participates in the related hearings as part of the Chinese delegation. The concluding observations are made widely and freely available in Hong Kong and we treat the recommendations with the utmost respect with</p>

Subject area	Specific provision(s)	Position
	Convention and to consider withdrawing other reservations	a view to implementing them – either wholly or in part – insofar as we consider them practicable in the prevailing circumstances. As indicated above in relation to item 69, our interpretative declaration in respect of Article 6 of the ICERD is not contrary to the purposes of that Convention. Nor is China’s reservation (which applies to the Hong Kong SAR) that it will not be bound by Article 22. We have no plans to make a declaration as envisaged under Article 14.
76. Observations and recommendations of the Committee on the Elimination of Racial Discrimination	Urges States to give due consideration to the observations and recommendations of the Committee on the Elimination of Racial Discrimination. To that effect, States should consider setting up appropriate national monitoring and evaluation mechanisms to ensure that all appropriate steps are taken to follow up on these observations and recommendations	Our performance in these respects is monitored by the LegCo, the media and the public, which all take a close interest in the implementation of the international human rights treaties that apply to Hong Kong. All reports to the Committee on the Elimination of Racial Discrimination as well as the latter’s observations and recommendations and our response to them are published and widely publicised. We have no plans or time-table to set up further monitoring mechanisms.
78. Ratification of various international instruments	Urges those States that have not yet done so to consider signing and ratifying or acceding to the following instruments: (a) Convention on the Prevention and Punishment of the Crime of Genocide of 1948;	This Convention has been applied to Hong Kong since 1970. It continues to apply to the HKSAR after the People’s Republic of China resumes the exercise of sovereignty over Hong Kong with effect from 1 July 1997.

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	<p>(b) International Labour Organization Migration for Employment Convention (Revised), 1949 (No. 97);</p> <p>(c) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949;</p> <p>(d) Convention relating to the Status of Refugees of 1951, and its 1967 Protocol;</p> <p>(e) International Labour Organization Discrimination (Employment and Occupation) Convention, 1958 (No. 111);</p> <p>(f) Convention against Discrimination in Education, adopted on 14 December 1960 by the General Conference of the United Nations Educational, Scientific and Cultural Organization;</p> <p>(g) Convention on the Elimination of All Forms of Discrimination against Women of 1979, with a view to achieving universal ratification within five years, and its Optional Protocol of 1999 (CEDAW);</p> <p>(h) Convention on the Rights of the Child of 1989 and its two Optional Protocols of 2000 (and the International Labour Organization Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999 (No. 182);</p>	<p>This Convention has been applied to Hong Kong with Annexes I to III excluded and without modification since 1980.</p> <p>This Convention is not applicable to Hong Kong.</p> <p>As indicated in relation to item 34 above, we do not propose seeking the extension of this Convention to Hong Kong.</p> <p>Having considered local circumstances, we do not propose seeking the application of the Convention to Hong Kong at the moment.</p> <p>This Convention is not applicable to Hong Kong.</p> <p>The CEDAW has been applied to Hong Kong since 1996. It continues to apply to the HKSAR after the People’s Republic of China resumes the exercise of sovereignty over Hong Kong with effect from 1 July 1997. The Optional Protocol is not applicable to Hong Kong.</p> <p>The CRC has been applied to Hong Kong since 1994. It continues to apply to the HKSAR after the People’s Republic of China resumes the exercise of sovereignty over Hong Kong with effect from 1 July 1997. We are</p>

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		<p>considering the necessary domestic legislation that will enable us to extend application of the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography to Hong Kong.</p> <p>The International Labour Organisation Minimum Age Convention, 1973 (No.138) was first applied to Hong Kong in 1999 with modifications. The modifications previously registered under the Convention were removed in 2004 and the Convention has been applied to Hong Kong without modification since then. The Worst Forms of Child Labour Convention, 1999 (No.182) has been applied to Hong Kong without modification since 2002.</p>
	(i) International Labour Organization Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143);	Having considered local circumstances, we have no plan to seek the application of the Convention to Hong Kong.
	(j) International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the Convention on Biological Diversity of 1992;	These two Conventions are not applicable to Hong Kong.
	(k) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990;	We do not propose seeking the application of this Convention to Hong Kong.
	(l) The Rome Statute of the International Criminal Court of 1998; and	The Rome Statute of the International Criminal Court of 1998 is not applicable to Hong Kong;
	(m) United Nations Convention against Transnational Organized Crime, the Protocol to Prevent,	The United Nations Convention Against Transnational Organised Crime has been

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	Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention of 2000	applicable to the Hong Kong since 2006.
79. Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on religion or belief	Calls upon States to promote and protect the exercise of the rights set out in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, proclaimed by the General Assembly in its resolution 36/55 of 25 November 1981, in order to obviate religious discrimination which, when combined with certain other forms of discrimination, constitutes a form of multiple discrimination	Article 32 of the Basic Law, Hong Kong's constitutional document, guarantees the freedom of conscience and religious belief, including the freedom to preach and to conduct and participate in religious activities in public. Additionally, those rights enjoy protection under Article 15 of the Hong Kong Bill of Rights, which gives effect in domestic law to Article 18 of the ICCPR. Thus, the rights set out in the Declaration are fully protected in Hong Kong law. The provisions of the Basic Law and the Hong Kong Bill of Rights have been widely publicised and both documents are widely available, free of charge, both in hard copy and on the Internet.
83. ILO Declaration on Fundamental Principles and Rights at Work	Urges States to make every effort to apply fully the relevant provisions of the International Labour Organization Declaration on Fundamental Principles and Rights at Work of 1998, in order to combat racism, racial discrimination, xenophobia and related intolerance	The ILO Declaration promotes, among others, the elimination of discrimination in respect of employment and occupation. As indicated in the response to item 29 above, we have enacted the HKBORO and have introduced into the LegCo the Race Discrimination Bill which will cover, among others, discrimination in the employment field.
Prosecution of perpetrators of racist acts		
89. Investigation of all unlawful acts of racism and racial	Urges States to carry out comprehensive, exhaustive, timely and impartial investigations of all unlawful acts of racism and	As indicated in response to several of the items above, the Hong Kong Bill of Rights prohibits

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discrimination	<p>racial discrimination, to prosecute criminal offences ex officio, as appropriate, or initiate or facilitate all appropriate actions arising from offences of a racist or xenophobic nature, to ensure that criminal and civil investigations and prosecutions of offences of a racist or xenophobic nature are given high priority and are actively and consistently undertaken, and to ensure the right to equal treatment before the tribunals and all other organs administering justice. In this regard, the World Conference underlines the importance of fostering awareness and providing training to the various agents in the criminal justice system to ensure fair and impartial application of the law. In this respect, it recommends that anti-discrimination monitoring services be established</p>	<p>acts of racial discrimination (and so forth) on the part of the Government and public authorities. The Hong Kong Bill of Rights gives effect in domestic law to the ICCPR as applied to Hong Kong. Similar protection will be extended to the private sector when the Race Discrimination Bill becomes law. Acts of racially motivated violence and other racially motivated crimes would be investigated and – where necessary – prosecuted under the appropriate statutes, such as the Crimes Ordinance and the Offences Against the Person Ordinance. As indicated above, racially motivated violence is essentially non-existent in Hong Kong but all forms of violence – whatever the underlying motivation – are serious offences and are dealt with accordingly. Hong Kong is a peaceful and law-abiding society.</p>
Establishment and reinforcement of independent specialized national institutions and mediation		
90. Human rights institutions	<p>Urges States, as appropriate, to establish, strengthen, review and reinforce the effectiveness of independent national human rights institutions, particularly on issues of racism, racial discrimination, xenophobia and related intolerance, in conformity with the Principles relating to the status of national institutions for the promotion and protection of human rights, annexed to General Assembly resolution 48/134 of 20 December 1993, and to provide them with adequate financial resources, competence and capacity for investigation, research, education and public awareness activities to combat these phenomena</p>	<p>The EOC – an independent, statutory body responsible for implementation of existing anti-discrimination ordinances in Hong Kong – will be responsible also for the implementation of the Race Discrimination Bill when it becomes law. We have yet to be convinced of the need for – or the benefits to be derived from – a Human Rights Commission modelled on the Paris Principles. We have no plans or time-table for setting up a separate human rights institution.</p>

Subject area	Specific provision(s)	Position
<p>2. Policies and practices</p> <p>Data collection and disaggregation, research and study</p>		
<p>92. Statistical data</p>	<p>Urges States to collect, compile, analyse, disseminate and publish reliable statistical data at the national and local levels and undertake all other related measures which are necessary to assess regularly the situation of individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance;</p> <p>(a) Such statistical data should be disaggregated in accordance with national legislation. Any such information shall, as appropriate, be collected with the explicit consent of the victims, based on their self-identification and in accordance with provisions on human rights and fundamental freedoms, such as data protection regulations and privacy guarantees. This information must not be misused;</p> <p>(b) The statistical data and information should be collected with the objective of monitoring the situation of marginalized groups, and the development and evaluation of legislation, policies, practices and other measures aimed at preventing and combating racism, racial discrimination, xenophobia and related intolerance, as well as for the purpose of determining whether any measures have an unintentional disparate impact on victims. To that end, it recommends the development of voluntary, consensual and participatory strategies in the process of collecting, designing and using</p>	<p>No statistical data on victims of racism, racial discrimination, xenophobia and related intolerance have been collected so far. Victims of racial discrimination rarely involve criminal cases in Hong Kong.</p>

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	information	
98. Statistical data for inclusion in UN reports	Recommends that States include where applicable in their periodic reports to United Nations human rights treaty bodies, in an appropriate form, statistical information relating to individuals, members of groups and communities within their jurisdiction, including statistical data on participation in political life and on their economic, social and cultural situation. All such information shall be collected in accordance with provisions on human rights and fundamental freedoms, such as data protection regulations and privacy guarantees	We closely follow the UN Manual on Human Rights Reporting and provide the statistical data as required by the individual Treaty Monitoring Bodies.
Action-oriented policies and action plans, including affirmative action to ensure non-discrimination, in particular as regards access to social services, employment, housing, education, health care, etc.		
102. Residential integration	Urges States to promote residential integration of all members of the society at the planning stage of urban development schemes and other human settlements, as well as while renewing neglected areas of public housing, so as to counter social exclusion and marginalization	<p>As in most developed jurisdictions, Hong Kong's residential provision comprises public and private sectors, both of which include existing stock of various ages and stock that is in the planning stage. Private sector purchases and rentals are determined almost exclusively by market forces.</p> <p>Public rental housing in Hong Kong is intended for those whose income and assets are insufficient for them to arrange adequate accommodation for themselves in the private sector. All residents who are permitted to stay in Hong Kong without being subject to any conditions of stay (except for conditions concerning a limit of stay) are eligible to apply for public rental housing, irrespective of their racial or national origin. Thus, the ethnic</p>

Subject area	Specific provision(s)	Position
		<p>composition of public housing broadly reflects the composition of the population as a whole, with the main bulk being ethnic (Han) Chinese and the remainder comprising persons of various origins. The location of the housing units allocated are primarily determined by the applicants' choice of district (subject to availability of housing resources), again irrespective of their racial or national origins. These factors, together with the constraints imposed by Hong Kong's limited land space, militate against any significant levels of social exclusion or marginalisation.</p>
Role of Politicians and political parties		
<p>115. Role of politicians and political parties</p>	<p>Underlines the key role that politicians and political parties can play in combating racism, racial discrimination, xenophobia and related intolerance and encourages political parties to take concrete steps to promote equality, solidarity and non-discrimination in society, inter alia by developing voluntary codes of conduct which include internal disciplinary measures for violations thereof, so their members refrain from public statements and actions that encourage or incite racism, racial discrimination, xenophobia and related intolerance</p>	<p>Hong Kong's political parties are independent of the Government. Without exception, they uphold the individual's right against discrimination and support measures taken to promote integration and social harmony.</p>
3. Education and awareness-raising measures		
<p>118. Africa's contribution to humanity</p>	<p>Urges the United Nations, other appropriate international and regional organizations and States to redress the marginalization of Africa's contribution to world history and civilization by developing and implementing a specific and comprehensive programme of research, education and mass</p>	<p>The recommendation is directed at the UN and does not, therefore, require a response from Hong Kong.</p>

Subject area	Specific provision(s)	Position
	communication to disseminate widely a balanced and objective presentation of Africa's seminal and valuable contribution to humanity	
Human rights education		
125. United Nations Decade for Human Rights Education	Requests States to include the struggle against racism, racial discrimination, xenophobia and related intolerance among the activities undertaken within the framework of the United Nations Decade for Human Rights Education (1995-2004) and to take into account the recommendations of the mid-term evaluation report of the Decade	The Decade has now passed. We take the opportunity to re-affirm our support for the principles involved. We have described our initiatives in this regard in the main body of our report, particularly in relation to Article 2.
126. Cultural and educational programmes aimed at countering racism, racial discrimination, xenophobia and related intolerance	Encourages all States, in cooperation with the United Nations, the United Nations Educational, Scientific and Cultural Organization and other relevant international organizations, to initiate and develop cultural and educational programmes aimed at countering racism, racial discrimination, xenophobia and related intolerance, in order to ensure respect for the dignity and worth of all human beings and enhance mutual understanding among all cultures and civilizations. It further urges States to support and implement public information campaigns and specific training programmes in the field of human rights, where appropriate formulated in local languages, to combat racism, racial discrimination, xenophobia and related intolerance and promote respect for the values of diversity, pluralism, tolerance, mutual respect, cultural sensitivity, integration and inclusiveness. Such programmes and campaigns should be addressed to all sectors of society, in particular children and young people	Educational programmes for these purposes have two discrete targets, namely the schools and the general public. (a) At schools: Professional development programmes on human rights, respect and tolerance are regularly conducted for school principals, teachers in moral and civic education, humanities and counselling in collaboration with universities and professional organisations. Topics/themes aiming to enhance mutual understanding among all cultures and civilizations are included in the local school curriculum and infused through different subjects, examples are shown below – (1) General Studies at Primary level: includes a strand on "global understanding". Students

Subject area	Specific provision(s)	Position
		<p>are expected to develop a caring attitude towards issues of global concern and acquire some basic understanding and appreciation of people around the world and their cultures through this subject. Relevant contents include:</p> <ul style="list-style-type: none"> • characteristics of people of different cultures • cultural differences which affect the lives of different peoples • the ways we perceive other cultural groupings • respecting cultural differences • ways people interact with other cultural groups • common elements found in different cultures • effects of cultural interaction on cultures and societies • major current international events and their meanings to us • the interdependence of different parts of the world <p>(2) Liberal Studies at the present Advanced Supplementary Level (ASL) and the upcoming New Senior Secondary (NSS)</p>

Subject area	Specific provision(s)	Position
		<p>Level:</p> <p><u>ASL</u> –</p> <p>Human Relationships module:</p> <ul style="list-style-type: none"> • How civic-minded are HK people in their willingness to accept/assist minority groups? <p>Modern World module:</p> <ul style="list-style-type: none"> • What are the principles and assumptions that underlie racism? Is the trend more or less racism in the modern world? What are the factors fuelling modern racism? Is anyone completely free of racist sentiments? <p>China Today module:</p> <ul style="list-style-type: none"> • To what extent are the relationships among different ethnic groups harmonious? How could the relationship be further improved? <p><u>NSS</u> –</p> <p>Hong Kong Today module:</p> <ul style="list-style-type: none"> • In what ways does the rule of law protect rights ... among Hong Kong residents, such as minority rights? <p>Globalization module:</p> <ul style="list-style-type: none"> • Does the spread of globalization promote international understanding or cause greater conflict among ethnic groups, religions, cultures and political entities?

Subject area	Specific provision(s)	Position
		<p>(3)Subjects of the Personal, Social and Humanities Education Key Learning Area at Secondary Level –</p> <ul style="list-style-type: none"> • respect for others with different values and lifestyles • effects of cultural interaction on cultures and societies • factors contributing to cross-cultural understanding or posing obstacles to it • harmony and conflict among different cultures and ethnic groups <p>(b) public education:</p> <p>Our campaigns for the promotion of racial harmony and for the elimination of racial discrimination are conducted in the two official languages: Chinese and English, the latter being widely understood and spoken by members of the minority communities.</p>
127. Content of anti-discrimination education	Urges States to intensify their efforts in the field of education, including human rights education, in order to promote an understanding and awareness of the causes, consequences and evils of racism, racial discrimination, xenophobia and related intolerance, and also urges States, in consultation with educational authorities and the private sector, as appropriate, and encourages educational authorities and the private sector, as appropriate, to develop educational materials, including textbooks and dictionaries, aimed at combating those phenomena and, in this context, calls upon States to give	<p>There are clear and explicit guidelines for textbook publishers to adhere to the principle of no discrimination. The latest curriculum reform has emphasized the need for respecting others as priority in value education. Contents are updated in primary and secondary school curricula.</p> <p>Moreover, resource materials to support the promotion of human rights education have been produced for schools' reference.</p>

Subject area	Specific provision(s)	Position
	<p>importance, if appropriate, to textbook and curriculum review and amendment, so as to eliminate any elements that might promote racism, racial discrimination, xenophobia and related intolerance or reinforce negative stereotypes, and to include material that refutes such stereotypes</p>	<p>Examples of these resource materials include:</p> <ul style="list-style-type: none"> • Human Rights Education Teaching Kit for Youth • Human Rights Teaching kit for Children • Comic books on human rights for youth and novels ‘Human rights in schools’ <p>Furthermore, resource webs, with relevant information and teaching resources, were constructed for teachers’ easy reference. Examples of these web-based materials include photos, cartoons, stories and exemplars related to human rights education.</p> <p>Related positive ideas are covered in textbooks of related subjects (e.g. General Studies). With the present textbook review system in Education and Manpower Bureau (EMB), only quality textbooks will be placed on the Recommended List for reference of schools. According to the “Guiding Principles for Quality Textbooks”, a quality textbook should be one which :</p> <ul style="list-style-type: none"> • “There is not any bias in content, such as over-generalisation and stereotyping.” and • “The content and illustrations do not carry any form of discrimination on the grounds of gender, age, race, religion, culture and disability etc., nor do they suggest exclusion”.

Subject area	Specific provision(s)	Position
		Textbooks that failed to meet the above and other criteria in the Guiding Principles will not be placed on the Recommended List for selection by schools.
128. Education programmes designed to promote respect for cultural diversity	Urges States, if appropriate in cooperation with relevant organizations, including youth organizations, to support and implement public formal and non-formal education programmes designed to promote respect for cultural diversity	<p>Local tertiary institutes and non-government organisations have been commissioned to operate courses on human rights education for teachers to enhance their understanding and competency in dealing with human rights education. These courses include –</p> <ul style="list-style-type: none"> • Human Rights and Civic Education • Introduction to Basic Political Concepts • Equality and Human Rights Education • The Concept and Education of Human Rights • Human Rights in Hong Kong • Meanings and Impact of Globalization
Human rights education for children and youth		
129. Human rights programmes in school curricula	Urges States to introduce and, as applicable, to reinforce anti-discrimination and anti-racism components in human rights programmes in school curricula, to develop and improve relevant educational material, including history and other textbooks, and to ensure that all teachers are effectively trained and adequately motivated to shape attitudes and behavioural patterns, based on the principles of non-discrimination, mutual respect and tolerance	<p>As regards, the school curriculum, the position is as explained in the responses to items 126 and 127 above.</p> <p>As regards teacher training,</p> <p><u>Textbooks</u> : please see our response to item 127.</p> <p><u>Teacher training</u>: A great variety of relevant teacher training courses are provided (e.g. for General Studies, local tertiary institutes have</p>

Subject area	Specific provision(s)	Position
		<p>been commissioned to run in-service teacher development courses on “Global Understanding and Information Era” for four consecutive years since 2002-03).</p> <p>In order to prepare teachers to teach NSS Liberal Studies, professional development programmes with focus on the prevention of discrimination against minority groups were organised to illustrate learning and teaching strategies in the relevant modules of the subject.</p> <p>In order to enhance teachers with the skills and knowledge for promoting human rights education in schools, seminars on human rights-related themes, such as “anti-discrimination”, “freedom”, “traditional Chinese values and modern citizenship”, “human rights and the Basic Law”, “intellectual property” and “freedom of press and the media” etc were organised.</p> <p>Please also see our response to item 128.</p>
<p>130. Educating young people in human rights and democratic citizenship</p>	<p>Calls upon States to undertake and facilitate activities aimed at educating young people in human rights and democratic citizenship and instilling values of solidarity, respect and appreciation of diversity, including respect for different groups. A special effort to inform and sensitize young people to respect democratic values and human rights should be undertaken or developed to fight against ideologies based on the fallacious theory of racial superiority</p>	<p>In the existing school curriculum, students are provided with ample opportunities to develop concepts and values in relation to human rights. Below are some examples –</p> <ul style="list-style-type: none"> • Education related to democratic citizenship is included in the school curriculum of Hong Kong. (For example, in the subject General Studies for Primary Schools, there is a strand “Community

Subject area	Specific provision(s)	Position
		<p>and Citizenship”, which is designed to help students understand the rights and responsibilities of citizens and to arouse their sense of civic awareness. It includes education on the rights and responsibilities of Hong Kong residents according to the Basic Law. Relevant contents are covered in textbooks and teacher development courses of the subject.)</p> <ul style="list-style-type: none"> • The strand of “Social Systems and Citizenship” in the Personal, Social and Humanities Education Key Learning Area is designed to promote secondary school students’ understanding of the concepts of rights and responsibilities, the intertwinement of local, national and global identities, as well as the interrelationship between social and political systems. <p>Students may also get acquainted with the concepts and values of human rights through other school activities, such as the class teacher periods, assemblies, talks, extra-curricular activities, discussion forums, debates, and visits etc.</p> <p>In addition, the Home Affairs Bureau works closely with the Committee on the Promotion of Civic Education, an advisory body under the Bureau, to promote civic education amongst the general public, including the promotion of the understanding of and respect for human</p>

Subject area	Specific provision(s)	Position
		rights and the rule of law.
131. Educational activities to raise awareness against racism, racial discrimination, xenophobia, and related intolerance	Urges States to encourage all schools to consider developing educational activities, including extracurricular ones, to raise awareness against racism, racial discrimination, xenophobia and related intolerance, inter alia by commemorating the International Day for the Elimination of Racial Discrimination (21 March)	Schools are encouraged to organise various forms of educational activities to raise awareness against discrimination and related intolerance, such as class teacher periods, assemblies, talks, extra-curricular activities, discussion forums, debates, and visits etc. However, these activities may not be organised in commemoration of the “International Day for the Elimination of Racial Discrimination.”
132. Education programmes designed to promote respect for cultural diversity and the self-esteem of victims	Recommends that States introduce, or reinforce, human rights education, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship between different racial or ethnic groups, in schools and in institutions of higher education, and support public formal and non-formal education programmes designed to promote respect for cultural diversity and the self-esteem of victims	<p>The eight publicly-funded tertiary institutions in Hong Kong have been offering programmes or courses on history and culture of different nations. These programmes help enhance students’ understanding of people with different ethnic origins and background, and promote respect of cultural diversity. Courses on various aspects of human rights have also been provided by our tertiary institutions.</p> <p>Tertiary institutions in Hong Kong have also been actively promoting student exchange activities to widen students’ exposure and enhance their appreciation towards different cultures.</p> <p>Please also refer to our response to items 126(a) to 131 above.</p>

Human rights education for public officials and professionals

Subject area	Specific provision(s)	Position
<p>133. Anti-racist and gender-sensitive human rights training for public officials</p>	<p>Urges States to develop and strengthen anti-racist and gender-sensitive human rights training for public officials, including personnel in the administration of justice, particularly in law enforcement, correctional and security services, as well as among health-care, schools and migration authorities</p>	<p>For public officials, the Government has organised training programmes to raise their awareness on gender sensitive issues. Gender-sensitive training is provided to civil servants of various grades and ranks to raise their awareness of gender issues, and facilitate their taking into account women's perspectives in their work. So far, over 2 000 civil servants have attended such training courses.</p> <p>For judicial officers, the human rights issue is covered in the professional training and development activities organised for our Judges and Judicial Officers from time to time. This includes participation in human rights seminars and conferences organised by the academia and professional bodies both locally and overseas.</p> <p>Training workshops on Gender Sensitivity are organised every year for social workers and social security staff in the Social Welfare Department.</p> <p>On the education front, the Government is committed to upholding the principles of equal opportunities in schools. To develop and strengthen school personnel's understanding and awareness of upholding the principles of equality and non-discrimination, the EMB has issued a circular in 2003 to remind all school staff to observe the principle of equal opportunities. The circular states that schools have the responsibility to formulate and</p>

Subject area	Specific provision(s)	Position
		<p>promote a policy of equal opportunities. Schools should not subject their staff members and students to discrimination or unfair treatment due to their race, ethnic origins, sex, religion, etc. The Bureau has also uploaded onto its Homepage some common examples and reference materials on adopting the principle of equal opportunities for easy reference by school personnel. An e-Learning Programme “Equal Opportunities Begins at School” for teachers was jointly developed by the Bureau and the Equal Opportunities Commission.</p> <p>For the disciplined services, relevant training has been developed for their personnel. For example –</p> <ul style="list-style-type: none"> ● The C&ED adopts a risk management approach and training programme not premised on considerations of race or gender. In addition, there are specific guidelines that all personal searches should only be conducted by an officer of the same sex. ● As regards the Police, relevant training programmes have been designed to enhance awareness of anti-prejudice and racial discrimination issues among both newly recruited and serving Police officers. Please refer to item 30(e) for more details.

Subject area	Specific provision(s)	Position
		<p>General human rights training provided by the Immigration Department to new recruits and in-service immigration staff covers topics of the HKBORO, relevant international conventions and local legislation.</p> <p>For medical staff, the Hospital Authority (HA) had organised, in collaboration with the Equal Opportunities Commission, several experience-sharing sessions for some 250 staff members in 2005-06, which aimed to provide an avenue for the frontline staff to get familiar with the anti-discrimination ordinances, namely the Sex Discrimination Ordinance, Disability Discrimination Ordinance and Family Status Discrimination Ordinance. The HA also organised a seminar on equal opportunities for its staff members in 2006-07.</p>
<p>134. Impact of racism, racial discrimination, xenophobia and related intolerance on the administration of justice and fair trial</p>	<p>Urges States to pay specific attention to the negative impact of racism, racial discrimination, xenophobia and related intolerance on the administration of justice and fair trial, and to conduct nationwide campaigns, amongst other measures, to raise awareness among State organs and public officials concerning their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination and other relevant instruments</p>	<p>Article 10 of the Hong Kong Bill of Rights guarantees that all persons shall be equal before the courts and tribunal. All persons, regardless of his or her race, shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. This right to fair hearing is buttressed by Article 22 of the Hong Kong Bill of Rights which prohibits any discrimination on grounds such as race, colour, birth or other status.</p> <p>As mentioned in our response to item 133 above, the human rights issue is covered in the professional training and development activities organised for our Judges and Judicial</p>

Subject area	Specific provision(s)	Position
		Officers from time to time, by means of participation in human rights seminars and conferences organised by the academia and professional bodies both locally and overseas.
135. Training on international norms	Requests States, wherever appropriate through cooperation with international organizations, national institutions, non-governmental organizations and the private sector, to organise and facilitate training activities, including courses or seminars, on international norms prohibiting racial discrimination and their applicability in domestic law, as well as on their international human rights obligations, for prosecutors, members of the judiciary and other public officials	Please refer to the part on Judicial Officers in our response to item 134 above.
136. Education and training, especially teacher training	Calls upon States to ensure that education and training, especially teacher training, promote respect for human rights and the fight against racism, racial discrimination, xenophobia and related intolerance and that educational institutions implement policies and programmes agreed by the relevant authorities on equal opportunities, anti-racism, gender equality, and cultural, religious and other diversity, with the participation of teachers, parents and students, and follow up their implementation. It further urges all educators, including teachers at all levels of education, religious communities and the print and electronic media, to play an effective role in human rights education, including as a means to combat racism, racial discrimination, xenophobia and related intolerance	<p>The eight publicly-funded tertiary institutions and other subvented vocational training and retraining institutions in Hong Kong have adhered to the principle of equal opportunities to people with different gender, racial, cultural or religious background in respect of student admission and staff recruitment.</p> <p>The four publicly-funded tertiary institutions in Hong Kong providing teacher education have also been promoting the respect of diversity in classrooms and advising on ways of handling students with different background in their teacher training programmes.</p> <p>In respect of teachers' professional development, the EMB organises professional development programmes with regard to human rights education, civic education,</p>

Subject area	Specific provision(s)	Position
		<p>religious education and sex education from time to time to help teachers grasp better the core values and concepts, and help them develop relevant effective teaching strategies.</p> <p>To facilitate schools to promote the education of these core values, the EMB has produced and uploaded related teaching resources onto its website for teachers' easy reference.</p> <p>An e-Learning Programme titled "Equal Opportunities Begin at School" has been jointly developed by the EMB and the Equal Opportunities Commission for the professional development of teachers.</p> <p>To enhance the awareness and knowledge of school leadership, the EMB has incorporated the component on "Equal Opportunities" in the professional development programmes for new primary and secondary principals.</p>
138. Human rights training and awareness-raising	Urges States to strengthen the human rights training and awareness-raising activities designed for immigration officials, border police and staff of detention centres and prisons, local authorities and other civil servants in charge of enforcing laws, as well as teachers, with particular attention to the human rights of migrants, refugees and asylum-seekers, in order to prevent acts of racial discrimination and xenophobia and to avoid situations where prejudices lead to decisions based on racism, racial discrimination, xenophobia or related intolerance	<p>For public officials, the Government has produced a self-learning kit to enhance their knowledge and understanding on issues related to gender, race, disability and equal opportunities. Training programmes have also been organised to enhance public officials' understanding on issues related to the Basic Law and the Bill of Rights.</p> <p>For teachers, the EMB provides funding and professional development opportunities to schools where students of different ethnic</p>

Subject area	Specific provision(s)	Position
		<p>groups are admitted. There is also an e-platform for teachers to share among themselves ways of catering to the learning needs of students from different ethnic backgrounds. These support measures help enhance teachers' awareness of human rights of different ethnic groups and strengthen their capability in addressing these students' need, thus facilitating their students' smooth integration into the wider community.</p> <p>For disciplined services, relevant training on human rights have been designed and implemented by the disciplined services, including immigration staff, Police, CSD staff and C&ED staff. For example –</p> <ul style="list-style-type: none"> • Training for C&ED officers includes training on human rights awareness. Court judgments and cases related to human rights are incorporated in the training material to raise awareness and strengthen analytical skills in this area. • Relevant training programmes have been designed to enhance awareness of anti-prejudice and racial discrimination issues among both newly recruited and serving Police officers. Please refer to item 30(e) for more details. • New recruits of CSD must receive human rights training in their basic training programmes. Serving officers will be regularly updated of developments in

Subject area	Specific provision(s)	Position
		<p>human rights in various in-service training programmes.</p> <ul style="list-style-type: none"> • General human rights training is provided by the Immigration Department to new recruits and in-service immigration staff.
<p>139. Training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons</p>	<p>Urges States to provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society</p>	<p>Relevant training on the prevention of trafficking of persons has been organised by the disciplined services. For example –</p> <ul style="list-style-type: none"> • C&ED periodically invites the Immigration Department to share experience in the prevention of human smuggling. Customs officers also receive training in operating special equipment such as mobile x-ray scanning system to detect trafficking of persons and contraband. • The Immigration Department is committed to preventing and detecting immigration-related crimes. All immigration staff are trained to facilitate the visit of genuine travellers and, at the same time, to exercise immigration control measures to prevent and detect immigration-related crimes including trafficking in persons. Apart from in-service training, immigration staff are also arranged to attend relevant overseas conferences and workshops. • Relevant training programmes have been designed to prevent and detect trafficking

Subject area	Specific provision(s)	Position
		in persons related crimes among both newly recruited and serving police officers.
4. Information, communication and the media, including new technologies		
144. States and the private sector to promote the development of a voluntary ethical code of conduct and self-regulatory measures	<p>Urges States and encourages the private sector to promote the development by the media, including the print and electronic media, including the Internet and advertising, taking into account their independence, through their relevant associations and organizations at the national, regional and international levels, of a voluntary ethical code of conduct and self-regulatory measures, and of policies and practices aimed at:</p> <ul style="list-style-type: none"> (a) Combating racism, racial discrimination, xenophobia and related intolerance; (b) Promoting the fair, balanced and equitable representation of the diversity of their societies, as well as ensuring that this diversity is reflected among their staff; (c) Combating the proliferation of ideas of racial superiority, justification of racial hatred and discrimination in any form; (d) Promoting respect, tolerance and understanding among all individuals, peoples, nations and civilizations, for example through assistance in public awareness-raising campaigns; and (e) Avoiding stereotyping in all its forms, and particularly the promotion of false images of migrants, including migrant workers, and 	The Race Relations Unit of the Home Affairs Bureau has drawn up a code of practice for employers' references. Upon the enactment of the Race Discrimination Bill, the EOC, which will be responsible for implementation of the legislation, will draw up codes of practice in consultation with the relevant professional bodies and organisations.

Subject area	Specific provision(s)	Position
	<p>refugees, in order to prevent the spread of xenophobic sentiments among the public and to encourage the objective and balanced portrayal of people, events and history</p>	
<p>145. Legal sanctions and application of relevant human rights instruments to racism on the Internet</p>	<p>Urges States to implement legal sanctions, in accordance with relevant international human rights law, in respect of incitement to racial hatred through new information and communications technologies, including the Internet, and further urges them to apply all relevant human rights instruments to which they are parties, in particular the International Convention on the Elimination of All Forms of Racial Discrimination, to racism on the Internet</p>	<p>Legal sanctions for incitement to racial hatred will be provided for when the Race Discrimination Bill becomes law. The relevant provision in the Race Discrimination Bill prohibits the incitement of racial hatred in any form of communication to the public including speaking, writing, printing, displaying notices, broadcasting, screening and playing of tapes or other recorded material. The provision applies equally to communication on the internet.</p>
<p>146. Media to avoid stereotyping</p>	<p>Urges States to encourage the media to avoid stereotyping based on racism, racial discrimination, xenophobia and related intolerance</p>	<p>Racial vilification, which involves incitement of hatred towards, serious contempt for, or severe ridicule of another person on the ground of the person's racial or ethnic background, will be rendered unlawful by the Race Discrimination Bill when it is enacted. The HKSAR Government will continue to promote the message of anti-racial discrimination to all sectors, including the media.</p>
<p>147. Self-regulation by the media and Internet service providers.</p>	<p>Calls upon States to consider the following, taking fully into account existing international and regional standards on freedom of expression, while taking all necessary measures to guarantee the right to freedom of opinion and expression:</p> <p>(a) Encouraging Internet service providers to establish and disseminate specific voluntary codes of</p>	<p>As explained in our response to item 146 above, the Race Discrimination Bill seeks to outlaw racial vilification which involves incitement of hatred towards, serious contempt for, or severe ridicule of another person on the ground of the person's racial or ethnic background in public, including the Internet. It</p>

Subject area	Specific provision(s)	Position
	<p>conduct and self-regulatory measures against the dissemination of racist messages and those that result in racial discrimination, xenophobia or any form of intolerance and discrimination; to that end, Internet providers are encouraged to set up mediating bodies at national and international levels, involving relevant civil society institutions;</p> <p>(b) Adopting and applying, to the extent possible, appropriate legislation for prosecuting those responsible for incitement to racial hatred or violence through the new information and communications technologies, including the Internet;</p> <p>(c) Addressing the problem of dissemination of racist material through the new information and communications technologies, including the Internet, inter alia by imparting training to law enforcement authorities;</p> <p>(d) Denouncing and actively discouraging the transmission of racist and xenophobic messages through all communications media, including new information and communications technologies, such as the Internet;</p> <p>(e) Considering a prompt and coordinated international response to the rapidly evolving phenomenon of the dissemination of hate speech and racist material through the new information and communications technologies, including the Internet; and in this context strengthening international cooperation;</p>	<p>will also prohibit serious vilification which threatens physical harm to persons or property or premises of persons. The Government will continue to promote the message of anti-racial discrimination to all sectors.</p>

Subject area	Specific provision(s)	Position
	<p>(f) Encouraging access and use by all people of the Internet as an international and equal forum, aware that there are disparities in use of and access to the Internet;</p> <p>(g) Examining ways in which the positive contribution made by the new information and communications technologies, such as the Internet, can be enhanced through replication of good practices in combating racism, racial discrimination, xenophobia and related intolerance; and</p> <p>(h) Encouraging the reflection of the diversity of societies among the personnel of media organizations and the new information and communications technologies, such as the Internet, by promoting adequate representation of different segments within societies at all levels of their organizational structure</p>	
<p>IV. Position of effective remedies, resources, redress and other measures at the national, regional and international levels</p> <p>Legal Assistance</p>		
160. Justice for victims	Urges States to take all necessary measures to address, as a matter of urgency, the pressing requirement for justice for the victims of racism, racial discrimination, xenophobia and related intolerance and to ensure that victims have full access to information, support, effective protection and national, administrative and judicial remedies, including the right to seek just and adequate reparation or satisfaction for damage, as well as legal assistance, where required	The Hong Kong Bill of Rights provides redress for victims of all forms of discrimination, including racial discrimination where such discrimination is inflicted by the Government or public authorities. When the Race Discrimination Bill becomes law, it will extend the redress system to discrimination in the private sector.
161. Access to legal procedures and free legal assistance	Urges States to facilitate for victims of racial discrimination, including victims of torture and ill-treatment, access to all appropriate legal procedures and free legal assistance in a	All persons in Hong Kong with claims in law may seek assistance from the Legal Aid Department. If found eligible (in terms of

Subject area	Specific provision(s)	Position
	manner adapted to their specific needs and vulnerability, including through legal representation	financial capacity and the Department's assessment of the merits of the case), legal aid – covering the cost of legal representation – will be provided. The Director of Legal Aid has discretion to waive the upper limit of means in proceedings in which a breach of the HKBORO or an inconsistency with the ICCPR as applied to Hong Kong is an issue.
162. Victimization of complainants and witnesses	Urges States to ensure the protection against victimization of complainants and witnesses of acts of racism, racial discrimination, xenophobia and related intolerance, and to consider measures such as, where appropriate, making legal assistance, including legal aid, available to complainants seeking a legal remedy and, if possible, affording the possibility for non-governmental organizations to support complainants of racism, with their consent, in legal procedures	The Race Discrimination Bill prohibits victimisation of complainants and witnesses. The Bill would be enforced by the Equal Opportunities Commission which would provide assistance including legal assistance to the complainant in appropriate cases.
National legislation and programmes		
163. Prohibition of racial discrimination national legislative framework	The Conference recommends to all States that their national legislative framework should expressly and specifically prohibit racial discrimination and provide effective judicial and other remedies or redress	Article 39 of the Basic Law provides that the provisions of the ICCPR as applied to Hong Kong shall remain in force and shall be implemented through the laws of the HKSAR. Accordingly, the Covenant's prohibition on discrimination is protected at the constitutional level.
164. Remedies in domestic law	Urges States, with regard to the procedural remedies provided for in their domestic law, to bear in mind the following considerations:	

Subject area	Specific provision(s)	Position
	<p>(a) Access to such remedies should be widely available, on a non-discriminatory and equal basis;</p> <p>(b) Existing procedural remedies should be made known in the context of the relevant action, and victims of racial discrimination should be helped to avail themselves of them in accordance with the particular case;</p> <p>(c) Inquiries into complaints of racial discrimination and the adjudication of such complaints must be carried out as rapidly as possible;</p>	<p>Hong Kong is governed by the rule of law, which entails the principle of equality before the law. The principle is entrenched at the constitutional level by virtue of Article 25 of the Basic Law. Article 35 of the Basic Law guarantees the right to confidential legal advice, access to courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies. Under Article 10 of the Hong Kong Bill of Rights, all persons irrespective of their race shall be equal “before the courts and tribunals”.</p> <p>The EOC ensures that the public is well informed of the remedies available under existing anti-discrimination laws. It will have the same function in respect of racial discrimination when the Race Discrimination Bill becomes law. At present, hotline and complaints services provided by the Race Relations Unit are also widely publicised.</p> <p>At present, the Race Relations Unit carries out this function. The responsibility will pass to the EOC on enactment of the Race Discrimination Bill. Complainants who are dissatisfied with the performance of the Race Relations Unit have access to The Ombudsman, whose mandate is to investigate complaints of maladministration within the Government and public sector agencies.</p>

Subject area	Specific provision(s)	Position
	<p>(d) Persons who are victims of racial discrimination should be accorded legal assistance and aid in complaint proceedings;</p> <p>(e) Steps should be taken towards the enactment of legislation to prohibit discriminatory practices on grounds of race, colour, descent, or national or ethnic origin, and to provide for the application of appropriate penalties against offenders and remedies, including adequate compensation, for the victims;</p> <p>(f) Access to legal remedies should be facilitated for victims of discrimination and, in this regard, the innovation of conferring a capacity on national and other institutions, as well as relevant non-governmental organizations, to assist such victims should be seriously considered, and programmes should be developed to enable the most vulnerable groups to have access to the legal system;</p> <p>(g) New and innovative methods and procedures of conflict resolution, mediation and conciliation between parties involved in conflicts or disputes based on racism, racial discrimination, xenophobia and related intolerance should be explored and, where possible, established;</p> <p>(h) The development of restorative justice policies and programmes for the benefit of victims of relevant forms of discrimination is desirable and should be seriously considered; and</p>	<p>Persons who consider that they have been the victims of racial discrimination on the part of the public sector may apply for legal aid to take court proceedings. The Director of Legal Aid also has the discretion to waive the upper limit of means for actions of this kind.</p> <p>These matters are specifically provided for in the Race Discrimination Bill.</p> <p>See our response above in regard to the functions of the Race Relations Unit and the EOC, and in regard to legal aid, which is provided precisely to ensure that access to justice is not denied to persons of limited financial means.</p> <p>Our existing mechanisms have worked well. We shall consider other methods and procedures as and when necessary.</p> <p>Currently, the Government's Race Relations Unit receives and seeks to conciliate complaints about racial discrimination. When the Race Discrimination Bill becomes law, that</p>

Subject area	Specific provision(s)	Position
	(i) States which have made the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination should make increased efforts to inform their public of the existence of the complaints mechanism under article 14	function will be performed by the EOC. As demonstrated by experience, the EOC's approach to the handling of complaints is primarily conciliatory, though it is empowered to take legal action should conciliation fail. Article 14 does not apply to Hong Kong.
Remedies, reparations, compensation		
165. Effective and adequate remedies: just and adequate reparation and satisfaction	Urges States to reinforce protection against racism, racial discrimination, xenophobia and related intolerance by ensuring that all persons have access to effective and adequate remedies and enjoy the right to seek from competent national tribunals and other national institutions just and adequate reparation and satisfaction for any damage as a result of such discrimination. It further underlines the importance of access to the law and to the courts for complainants of racism and racial discrimination and draws attention to the need for judicial and other remedies to be made widely known, easily accessible, expeditious and not unduly complicated	This will be legally provided for when the Race Discrimination Bill becomes law. Please also see our response to item 29 above.
166. Right of victims to just and adequate reparation and redress	Urges States to adopt the necessary measures, as provided by national law, to ensure the right of victims to seek just and adequate reparation and satisfaction to redress acts of racism, racial discrimination, xenophobia and related intolerance, and to design effective measures to prevent the repetition of such acts	Please see our response to item 165 above.

Subject area	Specific provision(s)	Position
V. Strategies to achieve full and effective equality, including international cooperation and enhancement of the United Nations and other international mechanisms in combating racism, racial discrimination, xenophobia and related intolerance and follow-up		
169. Programmes to promote equal opportunities for the benefit of victims of racism, racial discrimination, xenophobia and related intolerance	Urges States to develop cooperation programmes to promote equal opportunities for the benefit of victims of racism, racial discrimination, xenophobia and related intolerance and encourages them to propose the creation of multilateral cooperation programmes with the same objective	At the moment, Hong Kong cooperates with other countries and international authorities on a broad range of issues. We shall consider international cooperation in combating racial discrimination, etc when the opportunity arises.
171. Developing harmonious multiracial and multicultural societies	Urges States to recognize the challenges that people of different socially constructed races, colours, descent, national or ethnic origins, religions and languages experience in seeking to live together and to develop harmonious multiracial and multicultural societies; also urges States to recognize that the positive examples of relatively successful multiracial and multicultural societies, such as some of those in the Caribbean region, need to be examined and analysed, and that techniques, mechanisms, policies and programmes for reconciling conflicts based on factors related to race, colour, descent, language, religion, or national or ethnic origin and for developing harmonious multiracial and multicultural societies need to be systematically considered and developed, and therefore requests the United Nations and its relevant specialized agencies to consider establishing an international centre for multiracial and multicultural studies and policy development to undertake this critical work for the benefit of the international community	We are committed to promoting racial harmony. We have established the Committee on the Promotion of Racial Harmony and the Ethnic Minorities Forum to foster communication and cooperative participation.
172. Protecting the national, ethnic, cultural, religious, and linguistic identity of minorities	Urges States to protect the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and to develop appropriate legislative and other measures to encourage conditions for the promotion of that identity, in order to protect them from any form of	Article 39 of the Basic Law provides that the provisions of the ICCPR as applied to Hong Kong shall remain in force and shall be implemented through the laws of the HKSAR. This covers Article 27 of the ICCPR, which is

Subject area	Specific provision(s)	Position
	<p>racism, racial discrimination, xenophobia and related intolerance. In this context, forms of multiple discrimination should be fully taken into account</p>	<p>given statutory effect through Article 23 of the Hong Kong Bill of Rights –</p> <p>“Persons belonging to ethnic, religious or linguistic minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”</p> <p>Through the work of the Committee on the Promotion of Racial Harmony, we actively encourage the minorities to take pride in their cultural identities and to share them with the community as a whole. This has been effected through a series of cultural and entertainment programmes entitled ‘Culture in Motion’. The objectives are to promote cultural diversity and to encourage inter-communal understanding.</p>
<p>175. Trafficking: co-operation with NGOs</p>	<p>Encourages States, in cooperation with non-governmental organisations, to undertake campaigns aimed at clarifying opportunities, limitations and rights in the event of migration, so as to enable everyone, in particular women, to make informed decisions and to prevent them from becoming victims of trafficking</p>	<p>We work closely with NGOs in our work to eliminate racial discrimination and to promote racial harmony. But migration of individuals away from Hong Kong is not extensive (most emigration being by families to places where they have relatives) and the trafficking of Hong Kong persons is extremely rare if, indeed, it occurs at all. We therefore envisage no useful purpose being served by campaigns of the type envisaged.</p> <p>Please refer to our response to items 38 and 64 on the protection of victims of trafficking and on efforts to prevent and combat human trafficking.</p>

Subject area	Specific provision(s)	Position
Regional/international cooperation		
191. Action plans to be provided to the United Nations High Commissioner for Human Rights	Call upon States to elaborate action plans in consultation with national human rights institutions, other institutions created by law to combat racism, and civil society and to provide the United Nations High Commissioner for Human Rights with such action plans and other relevant materials on the measures undertaken in order to implement provisions of the present Declaration and the Programme of Action	We provide the information in the present report and this checklist.
Indigenous peoples		
207. Measures to reduce income and wealth inequalities	Urges States, in the light of the relationship between racism, racial discrimination, xenophobia and related intolerance and poverty, marginality and social exclusion of peoples and individuals at both the national and international levels, to enhance their policies and measures to reduce income and wealth inequalities and to take appropriate steps, individually and through international cooperation, to promote and protect economic, social and cultural rights on a non-discriminatory basis	<p>In Hong Kong, there is no direct correlation between poverty and ethnicity. Our strategies for reducing poverty focus on helping people to secure and remain in employment and the measures we take to those ends are undertaken without regard to ethnic or other social distinctions.</p> <p>Our social security policy aims to meet the basic and special needs of Hong Kong's disadvantaged people. These include such people as the financially vulnerable, the elderly, and the severely disabled. The CSSA Scheme under our social security system provides comprehensive social security on an entirely non-contributory basis.</p>
208. Negative effects of globalization	Urges States and international financial and development institutions to mitigate any negative effects of globalization by examining, inter alia, how their policies and practices affect	In Hong Kong, the 'indigenous population' is entirely of the same ethnic stock as the majority local population. We consult widely

Subject area	Specific provision(s)	Position
	national populations in general and indigenous peoples in particular; by ensuring that their policies and practices contribute to the eradication of racism through the participation of national populations and, in particular, indigenous peoples in development projects; by further democratizing international financial institutions; and by consulting with indigenous peoples on any matter that may affect their physical, spiritual or cultural integrity	and carefully assess the impact of all our policies and practices on our population before implementation.
Civil Society		
210. Co-operation with NGOs/civil society	Calls upon States to strengthen cooperation, develop partnerships and consult regularly with non-governmental organisations and all other sectors of the civil society to harness their experience and expertise, thereby contributing to the development of legislation, policies and other governmental initiatives, as well as involving them more closely in the elaboration and implementation of policies and programmes designed to combat racism, racial discrimination, xenophobia and related intolerance	NGOs and civil society organisations were among the numerous groups consulted in preparation for the Race Discrimination Bill. Their views have been fully taken into account in the drafting process. We also discuss race-related policy initiatives with them in the meetings of the Ethnic Minorities Forum, the Human Rights Forum, and the Committee on the Promotion of Racial Harmony. Some are active partners in the promotion and delivery of the programmes designed to deliver our policy aims.
212. Partnerships with civil society/NGOs to promote gender equality and the advancement of women	Urges States to establish and strengthen effective partnerships with and provide support, as appropriate, to all relevant actors of civil society, including non-governmental organisations working to promote gender equality and the advancement of women, particularly women subject to multiple discrimination, and to promote an integrated and holistic approach to the elimination of all forms of discrimination against women and girls	The Women's Commission's mission is to enable women in Hong Kong to fully realize their due status, rights and opportunities in all aspects of life. To this end, the Commission has adopted a three-pronged strategy, namely the provision of an enabling environment, empowerment of women, and public education. The Women's Commission recognises and appreciates the important

Subject area	Specific provision(s)	Position
		<p>contribution that the NGOs and civil society have made in advancing the interests of women in Hong Kong. The Commission seeks to establish partnership with women's groups/NGOs/civil society through various activities, including regular visits to local women organisations, service agencies and districts, discussion fora, seminars and conference, etc., to create synergy with them. To further strengthen collaboration with women organisations and other stakeholder groups, the Commission has set up in 2006 a Working Group on Collaboration to develop the strategy and to take forward initiatives on this front.</p>
Non-governmental organisations		
214. The role of non-governmental organisations	Calls upon States to explore means to expand the role of non-governmental organizations in society through, in particular, deepening the ties of solidarity amongst citizens and promoting greater trust across racial and social class divides by promoting wider citizen involvement and more voluntary cooperation	NGOs are active partners in our work to promote racial harmony and to combat discrimination. They include both established local and international organisations and organisations from the various minority communities. These arrangements are well established.
The private sector		
215. Transnational corporations	Urges States to take measures, including, where appropriate, legislative measures, to ensure that transnational corporations and other foreign enterprises operating within their national territories conform to precepts and practices of non-racism and non-discrimination, and further encourages the business	The Race Discrimination Bill, when enacted, will bind the private sector, including transnational corporations. Codes of practice will also be developed in consultation with the private sector after the enactment of the Bill.

Subject area	Specific provision(s)	Position
	sector, including transnational corporations and foreign enterprises, to collaborate with trade unions and other relevant sectors of civil society to develop voluntary codes of conduct for all businesses, designed to prevent, address and eradicate racism, racial discrimination, xenophobia and related intolerance	
Youth		
216. Participation of youth	Urges States to encourage the full and active participation of, as well as involve more closely, youth in the elaboration, planning and implementation of activities to fight racism, racial discrimination, xenophobia and related intolerance, and calls upon States, in partnership with non-governmental organisations and other sectors of society, to facilitate both national and international youth dialogue on racism, racial discrimination, xenophobia and related intolerance, through the World Youth Forum of the United Nations system and through the use of new technologies, exchanges and other means	The HKSAR Government will continue to work closely with the Commission on Youth, the Committee on the Promotion of Civic Education and other related organisations to promote social participation of youth through various programmes and activities.
217. Maintenance of youth mechanisms to combat racism	Urges States to encourage and facilitate the establishment and maintenance of youth mechanisms, set up by youth organizations and young women and men themselves, in the spirit of combating racism, racial discrimination, xenophobia and related intolerance, through such activities as: disseminating and exchanging information and building networks to these ends; organizing awareness-raising campaigns and participating in multicultural education programmes; developing proposals and solutions, where possible and appropriate; cooperating and consulting regularly with non-governmental organizations and other actors in civil society in developing initiatives and programmes that promote intercultural exchange and dialogue	Please see our responses to item 216 above.

Subject area	Specific provision(s)	Position
218. Racism in sports	Urges States, in cooperation with intergovernmental organizations, the International Olympic Committee and international and regional sports federations, to intensify the fight against racism in sport by, among other things, educating the youth of the world through sport practised without discrimination of any kind and in the Olympic spirit, which requires human understanding, tolerance, fair play and solidarity	With a view to developing a sport culture in Hong Kong and promoting “Sport-for-All”, the Leisure and Cultural Services Department has organised a wide range of recreation and sports programmes at all levels throughout the community, regardless of their age, gender and race. In 2006/07, the Department organised over 29 000 programmes to entertain 1 680 000 participants, including persons with disabilities, older persons, youth at risk and recipients of comprehensive social security allowance. Out of 29 000 programmes, 7 800 were organised under the school sports programmes and young athletes training scheme to cultivate sporting culture among students and youth, which requires human understanding, tolerance, fair play and solidarity.