

**For discussion
on 19 July 2010**

Legislative Council Panel on Constitutional Affairs

**An Outline of the Topics to be Covered
in the Third Report of the
Hong Kong Special Administrative Region
under the United Nations Convention on the Elimination of
All Forms of Discrimination against Women**

Purpose

This paper seeks Members' comments on the proposed outline of the topics to be included in the third report of the Hong Kong Special Administrative Region (HKSAR) under the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Reporting Obligation under CEDAW

2. CEDAW has been extended to Hong Kong since October 1996. In accordance with Article 18 of the Convention, each State Party undertakes to submit a report on measures taken to give effect to the provisions of the Convention and on the progress made in this respect for consideration by the United Nations Committee on the Elimination of Discrimination against Women (the CEDAW Committee).

3. The initial report of the HKSAR was submitted as part of the combined third and fourth periodic reports of the People's Republic of China (PRC) in August 1998 and was considered by the CEDAW Committee in February 1999.

4. As part of the combined fifth and sixth periodic reports of the PRC, the HKSAR Government submitted its second report on the implementation of CEDAW to the United Nations in 2004, which was considered by the CEDAW Committee in August 2006.

5. The Central People's Government (CPG) is preparing its combined seventh and eighth reports under CEDAW. In this connection, the HKSAR Government will submit to the CPG a report which will set out in detail the measures taken by the HKSAR to implement the Convention; progress made in promoting women's well-being; changes in the status of women as well as obstacles to the full achievement of the Convention since the previous report for incorporation into the combined seventh and eighth periodic reports of the PRC.

Public Consultation

6. In line with established practice, we have prepared for public consultation an outline of the topics for inclusion in the report at **Appendix**. Members of the public are invited to submit views on the implementation of CEDAW in the HKSAR in respect of those topics and to suggest any additional topics that should be included in the report of the HKSAR.

7. The seven-week public consultation period, commencing on 14 June 2010, will end on 31 July 2010. We have issued the outline to relevant non-governmental organisations and women's groups to invite their views. The outline is also made available at all Public Enquiry Service Centres of the District Offices, and has been uploaded to the websites of the Labour and Welfare Bureau at www.lwb.gov.hk and the Women's Commission at www.women.gov.hk. As the central mechanism to promote the well-being and interests of women in the HKSAR, the Women's Commission conducted a public consultation session on 30 June 2010 for interested parties to express their views.

Comments Sought

8. Members are invited to comment on the proposed outline. We will carefully consider all the comments received, including those of Panel Members and deputations, and to address the concerns and incorporate the views so expressed as far as possible in preparing the report of the HKSAR. The report of the HKSAR will be published for dissemination to the public after submission to the United Nations.

Labour and Welfare Bureau
July 2010

**An Outline of the Topics to be Covered in the Third Report
of the Hong Kong Special Administrative Region under
the United Nations Convention on the Elimination
of All Forms of Discrimination Against Women**

Introduction

The Administration is preparing for the submission of the third report of the Hong Kong Special Administrative Region (HKSAR) under the United Nations (UN) Convention on the Elimination of All Forms of Discrimination against Women (the Convention). It will form part of the combined seventh and eighth report of the People's Republic of China under the Convention.

2. In accordance with established practice, we have prepared at Annex A an outline of the report. It sets out the broad subject headings and individual topics that we plan to cover in the report. We invite members of the public to submit their views on the implementation of the Convention in respect of those topics, and to suggest any additional topics that should be included in the report.

3. The text of the Convention is available on the LWB website (http://www.lwb.gov.hk/UNCEDAW/documents/CEDAW_E.pdf).

4. References to "the previous report" are to the report of the HKSAR submitted by the Central People's Government in February 2004 and heard by the UN Committee on the Elimination of Discrimination against Women (the Committee) in August 2006. A copy of the previous report is at http://www.lwb.gov.hk/UNCEDAW/documents/CEDAW_2nd_report_E.pdf.

5. The report will mainly consist of –

- (a) information / explanations about any significant developments since the submission of the previous report in 2004. Our preliminary views on the areas in which there may have been developments that qualify as "significant" are indicated in the topic headings at Annex A. Respondents are welcome to propose additional topics which they consider appropriate. In proposing additional topics, respondents should indicate why they consider the issue to be significant and relevant to the application of the

Convention in the HKSAR, and set out their views on the implementation of the Convention in respect of those topics;

- (b) updates of any developments that were ongoing since the 2006 hearing and in respect of which we undertook to inform the Committee of future progress or outcomes; and
- (c) responses to the concerns and recommendations raised in the Committee's concluding comments of the previous report (the Concluding Comments) (reproduced at Annex B).

6. We will consider carefully all the comments and suggestions that we receive. Any persons or organisations wishing to offer views are invited to send them to the Labour and Welfare Bureau (LWB) on or before **31 July 2010** –

by post: Team 2, Labour and Welfare Bureau,
Rooms 1011-1017, 10/F,
Citibank Tower, 3 Garden Road,
Hong Kong
by fax: 2501 0478
by e-mail: cedaw_consultation@lwb.gov.hk

7. Submissions will normally be made available to the general public upon request, unless the contributors specifically ask us to keep their views confidential.

Outline of the Report

Preface

Major developments since the Committee's hearing of the second report on the Hong Kong Special Administrative Region (HKSAR) submitted by the Government of People's Republic of China in August 2006 will be highlighted in the Preface.

Part I – General profile of the HKSAR

2. This part of the report follows the standard format, form and content as prescribed by the current reporting guidelines of the UN. It contains information of a general and factual nature relating to the implementation of the human rights treaties applicable to the HKSAR.

Part II – Main Report

3. This part of the report contains specific information relating to the implementation of Articles 1 to 16 of the Convention in the HKSAR as described by the current reporting guideline of the Committee.

ARTICLE 1

DEFINING DISCRIMINATION

4. We will advise the Committee that the definition of "Discrimination against Women" in the Sex Discrimination Ordinance continues to uphold.

5. We will provide updates on the seven reservations entered in respect of the Convention and the justifications.

ARTICLE 2

OBLIGATIONS OF STATES PARTIES

6. We will inform the Committee of any significant developments in respect of –

- (a) Relevant provisions in the Basic Law and the Hong Kong Bill of Rights

- (b) Legislation
 - (i) The Race Discrimination Ordinance
 - (ii) The Sex Discrimination Ordinance
 - (iii) The Family Status Discrimination Ordinance
 - (iv) The Disability Discrimination Ordinance
 - (v) Changes in the laws regarding the protection of women
- (c) The Equal Opportunities Commission
 - (i) Functions
 - (ii) Update on its work
- (d) Women's Commission
 - (i) Priority areas of work and achievements
 - (ii) Advice given to the government on policy issues and programme areas

ARTICLE 3

APPROPRIATE MEASURES

7. We will advise the Committee of any new developments since the previous report in respect of –

- (a) Basis for elimination of discrimination
 - (i) International covenants entered by the HKSAR
 - (ii) Domestic legislation
- (b) Gender mainstreaming
 - (i) Recent work related to the implementation of gender mainstreaming
- (c) Studies, research and data collection on women
 - (i) Collection of sex-disaggregated statistics
 - (ii) Surveys and researches conducted by Women's Commission

ARTICLE 4

TEMPORARY SPECIAL MEASURES

8. We will advise the Committee that the position remains as reported in paragraphs 39 to 41 of the previous report in relation to special measures provided for under the Sex Discrimination Ordinance and maternity protection. We will also state the reservation entered in respect of this Article and the justification for its continued maintenance.

ARTICLE 5

STEREOTYPING AND PREJUDICES

9. We will inform the Committee of developments since the previous report. We will also address paragraphs 35 and 36 of the Concluding Comments with regard to efforts in combating all forms of violence against women, including domestic violence. The section will cover the following areas –

- (a) Recent survey results by Women's Commission on gender stereotyping and relevant statistics on the status of women in the HKSAR
- (b) Public education efforts
 - (i) Promotion of the Convention
 - (ii) The Equal Opportunities Commission
 - (iii) Women's Commission
 - (iv) Committee on the Promotion of Civic Education
- (c) Control of pornography and sex discriminatory elements in the media
- (d) Protection of women against violence
 - (i) International instruments
 - (ii) Budget allocation
 - (iii) Related statistics
 - (iv) Legislation protecting women against violence
 - (v) Preventive measures on domestic violence
 - (vi) Services offered to victims of domestic violence
 - (vii) Treatment and counselling of perpetrators of domestic violence
 - (viii) Services offered to victims of sexual violence
 - (ix) Cross-sector collaboration on combating violence
 - (x) Safety report by Women's Commission
 - (xi) Information system
 - (xii) Training to professionals
 - (xiii) Research

ARTICLE 6

EXPLOITATION OF WOMEN

10. We will advise the Committee of new developments in relation to the matters discussed in paragraphs 105 to 113 of the previous report, including the following –

- (a) Prostitution and trafficking of women
 - (i) Measures against trafficking of women and girl child prostitution
 - (ii) Assistance available and protection rendered to sex workers
- (b) Application of laws against violence to prostitutes

ARTICLE 7

EQUALITY IN POLITICAL AND PUBLIC LIFE AT THE NATIONAL LEVEL

11. We will inform the Committee of any significant developments since the previous report. We will also respond to paragraphs 39 and 40 of the Concluding Comments with regard to increasing women's representation in politics. This part will include –

- (a) The Hong Kong Bill of Rights
- (b) Women in the Legislative Council and District Councils
- (c) Women in the Executive Council
- (d) Women in rural elections
- (e) Women in advisory and statutory bodies
- (f) Women in public offices
- (g) Women voters in Legislative Council and District Councils elections
- (h) Women in the Election Committee for the election of the Chief Executive of the HKSAR

ARTICLE 8

EQUALITY IN POLITICAL AND PUBLIC LIFE AT THE INTERNATIONAL LEVEL

12. We will advise the Committee that the position remains as explained in paragraph 125 and 126 of the previous report and will update the figures of officers representing Government at international level. We will also provide information about women officers holding leading positions in international organisations.

ARTICLE 9

EQUALITY IN NATIONALITY LAWS

13. We will advise the Committee that the position remains unchanged as reported in paragraphs 127 and 128 of the previous report.

ARTICLE 10

EQUALITY IN EDUCATION

14. We will advise the Committee of any significant developments in the education system in relation to promoting equality between men and women, in the following areas –

- (a) Primary and secondary education
- (b) Post-secondary education
- (c) Higher education
- (d) Vocational education
- (e) Continuing education
- (f) Continuous learning for women – the Capacity Building Mileage Programme initiated by Women’s Commission
- (g) Special education for girls with disabilities
- (h) Gender awareness education for teachers
- (i) Financial assistance for students
- (j) Women in the teaching profession

ARTICLE 11

EQUALITY IN EMPLOYMENT AND LABOUR RIGHTS

15. We will report to the Committee any significant developments since the previous report. We will also respond to paragraphs 41 and 42 of the Concluding Comments on the “two-week rule” and protection for foreign domestic workers against abuse and violence –

- (a) Reservations entered in respect of this Article and the justification for its continuation

- (b) Statistics on women's participation and standing in the economy
- (c) Legislation against discrimination in employment
 - (i) Equal employment rights and opportunities
 - (ii) Discrimination based on marital status and pregnancy
 - (iii) Sexual harassment
 - (iv) Maternity leave and maternity leave pay
 - (v) Working conditions
 - (vi) Mandatory Provident Fund
- (d) Administrative measures to address sex discrimination
- (e) Administrative measures to address discrimination based on pregnancy
- (f) Efforts to address discrimination in employment based on age
- (g) Women and poverty
- (h) Employment services provided for women
- (i) Youth training and employment programmes
- (j) Retraining programmes
- (k) Imported workers and foreign domestic helpers
- (l) Child-care facilities and services
- (m) Carers support service
- (n) Promotion of family-friendly employment policies and practices
- (o) Equal pay for work of equal value

ARTICLE 12

EQUALITY IN ACCESS TO HEALTH FACILITIES

16. In this section, highlights on major developments in healthcare system of the HKSAR for women since the last report will be presented, including –

- (a) Health status of women in the HKSAR
- (b) Access to care
 - (i) Health services for women

- (ii) Preventive and promotional services
 - Cervical cancer screening
 - Services in connection to child birth
 - Childcare knowledge and skills
 - Sexual and reproductive health
 - Health education
 - Controlling smoking
 - Mental health
 - Sexually transmissible diseases
 - HIV prevention
 - (iii) Ambulatory care
 - (iv) Inpatient service
- (c) Enabling resources for care
 - (d) Health services utilisation
 - (e) Highlights on services for women with special health needs
 - (i) Women with disabilities
 - (ii) Girl-child
 - (iii) Elderly women
 - (iv) Drug abusers
 - (v) Sex Workers

ARTICLE 13

WOMEN IN ECONOMIC, SOCIAL AND CULTURAL LIFE

17. We will report to the Committee any new major developments since the previous report in the following areas –

- (a) Social security
 - (i) An overview of the social security system of the HKSAR
 - (ii) Government expenditure on social security
 - (iii) The Comprehensive Social Security Assistance Scheme
 - (iv) The Social Security Allowance Scheme
- (b) Tax allowance
- (c) Community Investment and Inclusion Fund
- (d) New arrival women
- (e) Single parents
- (f) Women with disability

- (g) Women of ethnic minorities
- (h) Loans, mortgages and credit
- (i) Recreation, sport and cultural life

ARTICLE 14

RURAL WOMEN

18. In view of the small area of the HKSAR, it is not practicable to distinguish women in the rural areas from those who live in urban areas. This part will therefore mainly focus on policies relating to the indigenous population in the HKSAR. We will also respond to paragraphs 37 and 38 of the Concluding Comments with regard to the rights of indigenous women –

- (a) Reservation entered in respect of this Article and the justification for its continuation
- (b) Definition of “Indigenous population” in the HKSAR
- (c) Succession of land properties in the New Territories and review of land policy
- (d) Rural elections

ARTICLE 15

EQUALITY IN LEGAL AND CIVIL MATTERS

19. We will respond to paragraphs 43 and 44 of the Concluding Comments concerning the HKSAR’s position on the 1951 Convention relating to the Status of Refugees. We will also report to the Committee new developments in relation to legal and civil matter since the previous report including –

- (a) Reservations entered in respect of this Article and the justification for its continuation
- (b) Women’s legal status and civil rights
 - (i) The Hong Kong Bill of Rights
 - (ii) Women’s rights to make contracts in their own name and rights to administer property
 - (iii) Treatment of women in court
 - (iv) Access to legal aid
 - (v) Others

- Married Persons Status Ordinance
 - Jury duty
 - Liberty of movement and freedom to choose residence
- (c) Appointment to the Judiciary
- (d) Women in prisons

ARTICLE 16

EQUALITY IN FAMILY LAW

20. We will report to the Committee on the measures to protect equality in family law including –

- (a) Rights in respect of marriage and family
 - (i) The Basic Law and the Hong Kong Bill of Rights
 - (ii) The Marriage Ordinance
 - (iii) Legislation regarding maintenance and property rights
- (b) Recovery of maintenance
 - (i) Maintenance orders
 - (ii) Recovery of maintenance from overseas
- (c) Legislation regarding guardianship, wardship and adoption of children
 - (i) The Adoption Ordinance
 - (ii) The Hague Convention on Adoption and improvements in adoption arrangements
 - (iii) The Guardianship of Minors Ordinance
 - (iv) The Child Abduction and Custody Ordinance

Labour and Welfare Bureau
June 2010



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of All Forms of Discrimination
against Women**

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**Committee on the Elimination of
Discrimination against Women**

Thirty-sixth session
7-25 August 2006

**Concluding comments of the Committee on the Elimination
of Discrimination against Women: China**

[Note: This document only contains extracts of paragraphs concerning principal areas of concern and recommendations pertaining to the Hong Kong Special Administrative Region (HKSAR)]

**Principal areas of concern and recommendations pertaining to the Hong Kong
Special Administrative Region**

35. While commending the efforts of the Government to protect women against violence, including the “zero tolerance on domestic violence” principle, the Committee expresses concern at the low prosecution rate of domestic violence in the Hong Kong Special Administrative Region.

36. **The Committee urges the Government of the Hong Kong Special Administrative Region to strengthen its efforts in combating all forms of violence against women, including domestic violence. It urges the Government to enhance women’s access to justice, including by ensuring an effective response to complaints and carrying out more proactive investigations of complaints, and to improve gender-sensitivity training for judicial and law enforcement officials and health and social workers on violence against women. The Committee encourages the Government to re-establish the Hong Kong rape crisis centres so as to ensure that victims of sexual violence receive specific attention and counselling in full anonymity. The Committee recommends that the Government allocate sufficient resources to combat all forms of violence against women, including domestic violence, and to provide details about budget allocation in its next periodic report.**

37. The Committee expresses concern at the Small House Policy, under which only indigenous men, but not indigenous women, are entitled to apply for a permit to build a residence in the New Territories.

38. The Committee urges the Government of the Hong Kong Special Administrative Region to repeal all discriminatory provisions from the Small House Policy and ensure that indigenous women have the same rights and access to property as indigenous men.

39. While acknowledging that the established target of 25 per cent of women in advisory and consultative bodies has been reached by the Government of the Hong Kong Special Administrative Region, the Committee notes with concern the low level of political representation of women, including in the functional constituencies. The Committee is concerned that the electoral system of functional constituencies may constitute indirect discrimination against women, as it results in the unequal participation of women in political life.

40. The Committee urges the Government of the Hong Kong Special Administrative Region to take temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25 so as to increase women's representation in politics, including in the functional constituencies.

41. The Committee is concerned about the situation of female foreign domestic workers who may be subject to double discrimination on the basis of their sex and ethnic background. The Committee is also concerned about the "Two-Week Rule", which requires foreign domestic workers to leave Hong Kong no later than two weeks after the expiration or termination of their employment contract thus pushing foreign domestic workers to accept employment which may have unfair or abusive terms and conditions in order to stay in Hong Kong. It further raises concern at the reported abuse perpetrated by employment agencies against domestic workers, such as lower wages, fewer holidays and longer working hours than what is prescribed by law.

42. The Committee recommends that the Government of the Hong Kong Special Administrative Region ensure that female foreign domestic workers are not discriminated against by their employers or subject to abuse and violence. It urges the Hong Kong Special Administrative Region to repeal the "Two-Week Rule" and to implement a more flexible policy regarding foreign domestic workers. It also calls upon the State party to strengthen its control of employment agencies and to provide migrant workers with easily accessible avenues of redress against abuse by employers and permit them to stay in the country while seeking redress. The Committee further urges the State party to make migrant workers aware of their rights so that they have access to justice and can claim their rights.

43. The Committee expresses concern at the situation of women asylum-seekers and refugees in Hong Kong. It notes with concern the representative's statement that the Hong Kong Special Administrative Region has no intention of having the 1951 Convention Relating to the Status of Refugees extended to Hong Kong.

44. The Committee calls on the State party to extend the 1951 Convention Relating to the Status of Refugees to Hong Kong so as to ensure that women asylum-seekers and refugees can fully benefit from its protection.