

**For discussion  
on 18 February 2013**

**Legislative Council Panel on Constitutional Affairs**

**Hearing of the United Nations Human Rights Committee on the  
Third Report of the Hong Kong Special Administrative Region  
in the light of the  
International Covenant on Civil and Political Rights**

**Purpose**

As requested by Members at the Panel meeting held on 21 January 2013, this paper sets out the Administration's arrangements for the hearing of the third report of the Hong Kong Special Administrative Region (HKSAR) in the light of the International Covenant on Civil and Political Rights (ICCPR).

**Background**

2. The HKSAR submitted its second report in the light of the ICCPR in January 2005. The United Nations Human Rights Committee (the UN Human Rights Committee) held a hearing on that report in March 2006 and issued its Concluding Observations in April 2006. In line with established arrangements, the HKSAR submitted its third report to the UN Human Rights Committee through the Central People's Government (CPG) in April 2011, in which the issues in the Committee's Concluding Observations on the second report are addressed.

3. Hard copies of the third report (copy at **Annex A**) were distributed to the public, stakeholders and the Legislative Council in September 2011. Soft copy of the report is available at the website of the Constitutional and Mainland Affairs Bureau (CMAB) at [http://www.cmab.gov.hk/en/press/reports\\_human.htm](http://www.cmab.gov.hk/en/press/reports_human.htm).

4. In November 2012, the UN Human Rights Committee issued a List of Issues to be taken up in connection with the consideration of the third report (copy at **Annex B**). We will make our response to the UN Human Rights Committee through the CPG and will publish our response when the Committee has received it.

### **The hearing**

5. The UN Human Rights Committee's hearing on HKSAR's third report has been scheduled for 12 and 13 March 2013 at the United Nations in Geneva. A Government delegation, led by the CMAB, will attend the hearing.

**Constitutional and Mainland Affairs Bureau  
February 2013**

**Third Report  
of the Hong Kong  
Special Administrative Region  
of the People's Republic of China  
in the light of the  
International Covenant on  
Civil and Political Rights**

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## List of abbreviations

ASBs	Advisory and statutory bodies
C&ED	Customs and Exercise Department
CAPO	Complaints Against Police Office
CCTV	Closed-circuit television
CDF	Child Development Fund
CEDAW	The Convention on the Elimination of All Forms of Discrimination against Women
CoE	Certificate of Entitlement
CoP	Commission on Poverty
CPCE	Committee on the Promotion of Civic Education
CPG	The Central People's Government
CRC	The Convention on the Rights of the Child
CSD	Correctional Services Department
CSSA	Comprehensive Social Security Assistance
DC	District Council
EDB	Education Bureau
Election Committee	Election Committee for electing the Chief Executive
EOC	Equal Opportunities Commission
FCPSUs	Family and Child Protective Services Units
FCs	Functional constituencies
FDHs	Foreign domestic helpers
FEHD	Food and Environmental Hygiene Department
GCE	General Certificate of Education
GCs	Geographical constituencies
GCSE	General Certificate of Secondary Education
HAD	Home Affairs Department

## List of abbreviations

HKBORO	Hong Kong Bill of Rights Ordinance
HKSAR	The Hong Kong Special Administrative Region of the People's Republic of China
ICAC	Independent Commission Against Corruption
ICESCR	The International Covenant on Economic, Social and Cultural Rights
IFSC	Integrated Family Service Centre
IGCSE	International General Certificate of Secondary Education
IPCC	Independent Police Complaints Council
ISS	International Social Service Hong Kong Branch
LAD	Legal Aid Department
LASC	Legal Aid Services Council
LEAs	Law enforcement agencies
LegCo	Legislative Council
LRC	Law Reform Commission
MIPs	Mentally incapacitated persons
NCS	Non-Chinese speaking
NGOs	Non-governmental organisations
NPCSC	Standing Committee of the National People's Congress of the People's Republic of China
NSS Curriculum	New Senior Secondary Curriculum
PCPD	Office of the Privacy Commissioner for Personal Data
PDPO	Personal Data (Privacy) Ordinance
Previous Concluding Observations	The Committee's Concluding Observations of 21 April 2006
PRH	Public rental housing

## List of abbreviations

RDO	Race Discrimination Ordinance
RTHK	Radio Television Hong Kong
SSA	Social Security Allowance
SWD	Social Welfare Department
TFP	Task Force on Poverty
The Basic Law	The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China
The Committee	The Human Rights Committee
The Court of Appeal	The Court of Appeal of the High Court
The Covenant	The International Covenant on Civil and Political Rights
The initial report	The initial report of the HKSAR submitted in 1999
The previous report	The second report of the HKSAR submitted in January 2005
The Report	The third report of the HKSAR in the light of the Covenant
The NPCSC decision	The “Decision on Issues 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 in the Year 2012 and on Issues Relating to Universal Suffrage”
The UNATMO	United Nations (Anti-Terrorism Measures) Ordinance
UNCRPD	The United Nations Convention on Rights of Persons with Disabilities
WoC	Women's Commission

# **Third Report of the Hong Kong Special Administrative Region of the People's Republic of China in the light of the International Covenant on Civil and Political Rights**

## **Preamble**

This report (the Report) is the third report of the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR), in the light of the International Covenant on Civil and Political Rights (the Covenant). It updates the Human Rights Committee (the Committee) on developments since the submission of the second report of the HKSAR (the previous report) in January 2005. It also responds to the Committee's Concluding Observations of 21 April 2006 (previous Concluding Observations), after the Committee's hearing in respect of the previous report at its 2350<sup>th</sup> and 2351<sup>st</sup> meetings held from 20 to 21 March 2006.

Following the issue of the previous Concluding Observations by the Committee in April 2006, we have widely disseminated them among all levels of society, including the Legislative Council (LegCo), relevant Government bureaux and departments, the Judiciary, non-governmental organisations (NGOs) and other interested parties. They have also been made available to the public through the Government website.

We have undertaken to provide a detailed response to the concerns and recommendations of the Committee expressed in respect of the HKSAR in the Report. In preparing the Report, we have, in accordance with past practice, set out in an outline the broad subject headings and individual topics that we envisaged to be covered in the Report. The outline for consultation was widely issued to stakeholders, including the LegCo and members of the Human Rights Forum, Committee on the Promotion of Racial Harmony, Ethnic Minorities Forum and Children's Rights Forum (which comprise representatives of human rights organisations, ethnic minorities groups, children and youth groups, NGOs and other interested parties), and was available on the Internet. The public were invited to submit during the period from 3 June to 14 July 2010 their views on the Government's implementation

of the Covenant in respect of the topics. The public were also invited to suggest additional topics that ought to be included in the Report.

The outline was discussed at a session of the Panel on Constitutional Affairs of the LegCo, and representatives of interested NGOs presented their views during the session. Discussions were also held with members of the Human Rights Forum, Committee on the Promotion of Racial Harmony, Ethnic Minorities Forum, and Children's Rights Forum to seek their views. We have carefully considered the views and comments received in drafting the Report. As with the past practice, issues raised by commentators, together with the respective responses of the HKSAR Government where applicable, have been incorporated in the relevant sections of the Report.

As the initial report of the HKSAR submitted in 1999 (the initial report) and the previous report have already contained detailed information on the laws, policies and practices that are in place to ensure Hong Kong's compliance with the Covenant and many of them remain unchanged, or have changed only slightly, we have not repeated descriptions or explanations of such in this Report.

The Report will be made available to stakeholders, including the LegCo, members of the abovementioned forums and interested NGOs, and will be distributed to the public at the Public Enquiry Service Centres of the Home Affairs Department (HAD). It will also be accessible to members of the public through public libraries and Government website.

## **Article 1: Progress and development of democracy**

1.1 We have continued our effort in taking forward Hong Kong's constitutional development since the previous report and substantial progress has been made.

1.2 As stated in the previous report, the Constitutional Development Task Force published its Third Report in May 2004, setting out the areas which may be considered for amendment in respect of the methods for selecting the Chief Executive in 2007 and for forming the LegCo in 2008 and proceeded with a five-month public consultation.

1.3 In December 2004, the Constitutional Development Task Force published its Fourth Report, which set out and summarised the views and proposals collected from the community during the consultation on the Third Report and undertook a further consultation.

1.4 After several rounds of public consultation, the Task Force published in October 2005 its Fifth Report to put forth a package of proposals for amending the methods for selecting the Chief Executive in 2007 and for forming the LegCo in 2008.

1.5 The proposed package was aimed at enhancing the democratic elements of the two elections by including all District Council (DC) members (the majority of whom are elected members returned through one-person-one-vote by Hong Kong people) in the Election Committee for electing the Chief Executive (Election Committee), enabling DC members to elect among themselves a larger number of members to the LegCo, and increasing the number of district-based seats in the LegCo to be returned by geographical constituencies (GCs) through direct elections.

1.6 Although the proposed package received the support of some 60% of the public and more than half of all LegCo Members, it did not receive the two-thirds majority support of all LegCo Members as required under Annexes I and II to the Basic Law of the HKSAR (Basic Law) when it was put to vote in December 2005.



1.7 Notwithstanding this, during the period between end-2005 and mid-2007, the Government of the HKSAR continued to make effort in promoting discussions on the issue of universal suffrage within the community through the Commission on Strategic Development, a high-level advisory body to the Government chaired by the Chief Executive and comprising personalities from various sectors of the community, such as professionals, academics, politicians and personalities from business, labour, community services and media sectors.

1.8 Shortly after it came into office in July 2007, the third term HKSAR Government published the Green Paper on Constitutional Development for conducting a three-month public consultation. The consultation covered models, roadmap and timetable for implementing universal suffrage.

1.9 In December 2007, the Chief Executive submitted a report to the Standing Committee of the National People's Congress of the People's Republic of China (NPCSC), reflecting faithfully the aspirations of the Hong Kong's community for universal suffrage, including that:

- (a) in the opinion polls, more than half of the public supported the implementation of universal suffrage for the Chief Executive and the LegCo in 2012. The Chief Executive also made it clear to the NPCSC that these views should be taken seriously and given consideration;
- (b) at the same time, about 60% of the public accepted the implementation of universal suffrage for the Chief Executive in 2017, if this could not be attained in 2012.

1.10 Having considered the report submitted by the Chief Executive, the NPCSC adopted in late December 2007 the "Decision on Issues 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 in the Year 2012 and on Issues Relating to Universal Suffrage" (the NPCSC decision).

1.11 The NPCSC decision stipulates clearly that universal suffrage may be implemented for electing the Chief Executive in 2017 and after that, universal suffrage may be implemented for electing all the members of the LegCo. Moreover, appropriate amendments conforming to the principle of gradual and orderly progress may be made to the two electoral methods for 2012 in accordance with the relevant provisions of the Basic Law.

1.12 The NPCSC decision is a very important milestone which provides a clear direction to take forward Hong Kong's constitutional arrangements towards universal suffrage. As reflected in opinion polls conducted by universities, the decision was well received by the community.

1.13 In attaining universal suffrage, the aim of the current term Government is to further democratise the electoral systems for 2012 under the framework set out by the NPCSC decision. This will pave the way for implementing universal suffrage for the Chief Executive and the LegCo.

1.14 In November 2009, the HKSAR Government launched a three-month public consultation on the "Consultation Document on the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012", setting out the directions which may be considered regarding how the democratic elements of the two electoral methods for 2012 can be enhanced. The consultation period ended on 19 February 2010.

1.15 Having considered fully the views of the public, different sectors of the community and the LegCo expressed during the consultation period, the HKSAR Government put forth on 14 April 2010 a package of proposals for the methods for selecting the Chief Executive and for forming the LegCo in 2012.

1.16 Regarding the method for selecting the Chief Executive, we proposed that:

- (a) the number of members of the Election Committee in 2012 be increased from 800 to 1200, and the number of members of the four sectors in the Election Committee be increased by the same proportion, i.e. the number of seats for each sector be increased by 100, so as to provide more room for members of the community to participate in the Chief Executive election;
- (b) three quarters of the 100 new seats (i.e. 75 seats) in the fourth sector of the Election Committee (i.e. the political sector) be allocated to elected DC members, in order to increase public participation in the Election Committee (together with the existing 42 seats, the DC subsector will have a total of 117 seats, which will be returned through election from among elected DC members); and
- (c) the nomination threshold be maintained at the ratio of one-eighth of the total membership of the Election Committee, i.e. the number of subscribers required shall be not less than 150, so as to allow sufficient competition and ensure that candidates have sufficient support.

1.17 Regarding the method for forming the LegCo, we proposed that:

- (a) the number of seats in the LegCo in 2012 be increased from 60 to 70, with a view to broadening the scope of political participation;
- (b) the number of seats to be returned by GCs through direct elections and that by functional constituencies (FCs) be increased from 30 to 35 respectively; and
- (c) all the five new FC seats and the existing DC FC seat be returned through election by elected DC members from among themselves, i.e. appointed DC members would not take part in the election.

1.18 Overall speaking, the aim of the proposed package was to further enhance the democratic elements of the two elections through increasing the participation of elected DC members, who had the public mandate.

1.19 The HKSAR Government announced on 21 June 2010 an adjusted package, proposing that the “one-person-two-votes” model should be adopted for forming the LegCo. Specifically, for the five new FC seats in 2012, the candidates would be nominated by elected DC members and elected by all registered electors who currently did not have a right to vote in the existing FCs, on a one-person-one-vote basis (the electorate base would be about 3.2 million, being the total 3.43 million registered electors less about 230,000 registered electors for the existing FCs).

1.20 The adjusted package can further enhance the democratic elements of the electoral method for the LegCo under the framework of the NPCSC decision. With the addition of five new GC seats and five new FC seats, close to 60% of all seats in the LegCo will have an electorate base of over 3 million electors. Every registered voter would have two votes in the 2012 LegCo elections, one for GCs, and the other for FCs.

1.21 The motions put by the HKSAR Government concerning the draft amendments to the methods for the selection of the Chief Executive and for the formation of the LegCo in 2012 were passed by a two-thirds majority of all the Members of the LegCo on 24 and 25 June 2010 respectively. Subsequently, the draft amendments were given consent by the Chief Executive on 29 June 2010 and approved and recorded by the NPCSC respectively on 28 August 2010.

1.22 For the first time since the establishment of the HKSAR, the HKSAR has gone through the procedures stipulated in the “Interpretation by the NPCSC of Article 7 of Annex 1 and Article III of Annex II to the Basic Law of April 2004” and the Annexes to the Basic Law to amend the electoral methods for the Chief Executive and the LegCo. This will give the Hong Kong community greater confidence in and a stronger base for forging consensus on the issue of universal suffrage in future and pave

the way for implementing universal suffrage for the Chief Executive and the LegCo in 2017 and 2020 respectively. As reflected in an opinion poll conducted by a research organisation in late June 2010, over half of the respondents considered that the passage of the 2012 constitutional reform package is conducive to rolling forward Hong Kong's constitutional development towards universal suffrage.

1.23 In order to implement the 2012 constitutional reform package, the HKSAR Government introduced into the LegCo in December 2010 two Bills to prescribe the arrangements regarding the methods for selecting the Chief Executive and for forming the LegCo in 2012. In order to respond to the aspirations of the community, the HKSAR Government will also put forth local legislative proposals regarding the abolition of the DC appointment system for consideration by the public and the LegCo.

### **Universal suffrage for the Chief Executive and the LegCo**

1.24 The HKSAR Government is fully committed to rolling forward Hong Kong's democracy, with a view to achieving the ultimate aim of universal suffrage as enshrined in the Basic Law.

1.25 The NPCSC decision of December 2007 has made clear the timetable for universal suffrage for the Chief Executive and the LegCo. The HKSAR Government has also made it clear that future universal suffrage models for the Chief Executive and the LegCo should comply with the Basic Law and the principles of universality and equality.

1.26 We note that the Committee and commentators have expressed concerns about issues relating to the implementation of universal suffrage for the Chief Executive and the LegCo. While we will respond to the Committee's recommendation in paragraph 18 of the previous Concluding Observations in paragraphs 25.2 and 25.3 in respect of Article 25 below, we will address the points raised by commentators in the following paragraphs.

1.27 Some commentators called on the HKSAR Government to set out its understanding of the definition of universal suffrage. In the

Green Paper on Constitutional Development published in July 2007, the HKSAR Government has made it clear that in discussing the options for implementing universal suffrage for electing the Chief Executive and for forming the LegCo, we must consider, in accordance with the relevant provisions and principles, whether the relevant options can comply with:

- (a) the basic policies of the State regarding Hong Kong;
- (b) the four principles on constitutional development, namely, meeting the interests of different sectors of society, facilitating the development of the capitalist economy, gradual and orderly progress, and being appropriate to the actual situation in Hong Kong; and
- (c) the principles of “universal” and “equal” suffrage.

1.28 We have also stated in the Green Paper on Constitutional Development that as far as an individual jurisdiction is concerned, while conforming to the general international understanding of universal suffrage, it can also develop its electoral system having regard to the particular needs and aspirations of its people, the uniqueness of its socio-economic situation, and its historical realities.

1.29 As mentioned in paragraph 1.25 above, the HKSAR Government has made it clear that future universal suffrage models for the Chief Executive and the LegCo should comply with the Basic Law and the principles of universality and equality. The Hong Kong community will have sufficient time to discuss and forge consensus on the universal suffrage models for the Chief Executive and the LegCo in the coming years.

1.30 Some commentators called on the HKSAR Government to provide a roadmap for implementing universal suffrage for the Chief Executive and the LegCo in 2017 and 2020 respectively. In accordance with the NPCSC decision, the Chief Executive shall make a report to the NPCSC at an appropriate time prior to the selection of Chief Executive and the election of all the members of the LegCo by universal suffrage as regards the issue of amending the two electoral methods in accordance



with the relevant provisions of the Basic Law, including the principles of gradual and orderly progress and being appropriate to the actual situation in the HKSAR, and the NPCSC Interpretation of April 2004; a determination thereon shall be made by the NPCSC.

1.31 The current term Government has only been authorised by the NPCSC to determine the methods for selecting the Chief Executive and for forming the LegCo in 2012.

1.32 Some commentators requested the HKSAR Government to clarify its position on the abolition of the FCs when universal suffrage for the LegCo is implemented in 2020. In fact, different sectors of the community, as well as various political parties/groups of the LegCo still have extremely diverse views on the issue of how the FCs should be dealt with when universal suffrage for the LegCo is implemented. There are views that the FCs should be abolished. There are also views that the electorate base of the FCs should be broadened, for example, by adopting the “one-person-two-votes” model, i.e. registered electors can cast one vote in the GC election, and the other in the FC election.

1.33 Although the current-term HKSAR Government has only been authorised by the NPCSC to deal with the two electoral methods for 2012, we have consolidated and concluded the views relating to universal suffrage received during the public consultation on the electoral methods for selecting the Chief Executive and for forming the LegCo in 2012. We have also recommended the next-term Government to follow up actively and consider the relevant proposals seriously.

1.34 Some commentators expressed concerns that the size and the electorate base of the Election Committee are small and the nomination procedures for Chief Executive candidates when universal suffrage for the Chief Executive is implemented remain unclear.

1.35 It is stipulated in Article 45 and Annex I of the Basic Law that the Chief Executive shall be elected by a broadly representative Election Committee and be appointed by the Central People’s Government (CPG), and that 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.

1.36 The NPCSC decision of 2007 has already made it clear that universal suffrage may be implemented for the Chief Executive in 2017 and that the Chief Executive should be elected through universal suffrage by all registered electors of Hong Kong (i.e. one-person-one-vote) after being nominated by the nominating committee in accordance with democratic procedures. With the passage of the 2012 constitutional reform package, the representativeness of the Election Committee in 2012 will be further enhanced through the increase in the number of members and the increased participation of elected DC members. The nominating committee in 2017 may be formed with reference to the current provision regarding the Election Committee in Annex I to the Basic Law.

1.37 As to how Chief Executive candidates should be nominated in accordance with democratic procedures when universal suffrage for the Chief Executive is implemented, the Chief Executive returned in 2012 will address this issue.

### **Implementation of “One Country, Two Systems” and the Independence of the Judiciary**

1.38 Some commentators expressed concerns about the implementation of “One Country, Two Systems” and the independence of the Judiciary in Hong Kong.

1.39 The HKSAR is established under the principle of “One Country, Two Systems”. As stipulated in Article 2 of the Basic Law, the HKSAR enjoys executive, legislative and independent judicial power, including that of final adjudication.

1.40 Since the establishment of the HKSAR, the Central Authorities have been upholding Hong Kong’s high degree of autonomy, supporting the HKSAR Government to act according to the law, and respecting Hong Kong’s judicial independence in accordance with the



principle of “One Country, Two Systems” and the Basic Law.

1.41 The independence of the Judiciary is enshrined in Article 85 of the Basic Law, which states that the HKSAR courts shall exercise judicial power independently, free from any interference. As the rule of law is an important core value of Hong Kong, the consistent position of the HKSAR Government is that we should strive to preserve the independence of the Judiciary.

1.42 The executive authorities, the legislature and the judiciary of the HKSAR will continue to discharge their respective duties in accordance with the Basic Law, as elaborated under paragraphs 8 to 31 of the HKSAR Common Core Document.

## **Article 2: Ensuring to all individuals the rights recognised in the Covenant**

### **Human rights institution**

2.1 The Committee reiterated its recommendation for establishing an independent human rights institution, which was echoed by some of the local commentators. Some commentators also proposed to establish a similar commission with a clear mandate on children's rights. The issue of setting up an independent human rights institution has recently been considered by the Government in the context of the Review of Jurisdiction of the Office of The Ombudsman.

2.2 The Review was conducted by The Ombudsman and the Review Report was submitted to the Administration in two parts in 2006 and 2007 respectively. The issue of whether The Ombudsman should assume the role of a human rights commission to protect and promote human rights was examined in Part 2 of the Review Report. It pointed out that while The Ombudsman was not explicitly charged with human rights responsibilities, the essence of the Office's work was to ensure the protection of individual rights by public administration. Under the existing mechanism for protection of human rights in Hong Kong, various statutory bodies, including The Ombudsman, the Equal Opportunities Commission (EOC) and the Office of the Privacy Commissioner for Personal Data (PCPD), had a role to play as provided for under the respective ordinances. The question of whether one single institution should be set up to oversee all issues on human rights protection in Hong Kong was a policy issue to be examined by the Government.

2.3 Having considered the Review Report, the Government is of the view that in Hong Kong, human rights are fully protected by law. The legislative safeguards are enshrined in the Basic Law, the Hong Kong Bill of Rights Ordinance (HKBORO) (Cap. 383) and other relevant ordinances. They are buttressed by the rule of law and an independent judiciary. Hong Kong has an existing institutional framework of organisations which helps promote and safeguard different rights, including the EOC, the PCPD, The Ombudsman, and the legal aid

services. The Government's performance in promoting and safeguarding human rights is open to scrutiny through regular reports to the United Nations and is constantly watched over by the LegCo, the media and various human rights NGOs. The Administration considers that the existing mechanism has worked well. There is no obvious need for establishing another human rights institution to duplicate the functions of or supersede the existing mechanism.

2.4 We, therefore, remain of the view that an additional independent monitoring mechanism is not necessary to give effect to the Covenant or its requirements.

### **The Equal Opportunities Commission**

2.5 The functions and powers of the EOC remains largely the same as reported in paragraph 23 of Part II of the initial report in relation to Article 2, except that under the newly enacted Race Discrimination Ordinance (RDO) (Cap. 602), the EOC is also entrusted with the functions and powers to work towards the elimination of racial discrimination and promote equality of opportunity and harmony between persons of different racial groups. It deals with individual complaints, provides legal assistance to aggrieved persons, and conducts formal investigations under the RDO. The Government has provided additional resources to the EOC for undertaking these tasks. The EOC issued a Code of Practice on Employment under the RDO which came into operation in July 2009. The Code gives practical guidance to prevent racial discrimination and harassment, and to promote racial equality and harmony in employment-related matters. A detailed account of the EOC's latest work is provided in paragraphs 54 and 92 to 101 of the HKSAR Common Core Document.

2.6 Some commentators raised concern on the composition of the Selection Board for the recruitment of the new EOC Chairperson in 2009. The Selection Board was tasked to consider the candidates fairly on the basis of specified requirements and recommend the most suitable candidate to the Chief Executive for appointment. Members of the Selection Board have extensive experience and knowledge respectively in the medical, education, social services and other fields. The Selection

Board was chaired by a non-official member. It had considered carefully about 100 candidates drawn from the open recruitment exercise. After the appointment, the new EOC Chairperson has worked closely with Members of the EOC, who represent a fairly balanced mix of expertise and representatives of various sectors, including the interests of women, ethnic minorities and persons with disabilities, to enhance the elimination of discrimination and promotion of equality.

### Review of the Work of the Equal Opportunities Commission

2.7 As mentioned in paragraph 22 of Part II of the previous report, the EOC completed a review in 2002 on its complaints handling procedures, organisational structure and other related matters. Since the previous report, the complaint handling division of the EOC has been re-organised to ensure better staff deployment and work efficiency in the light of the findings and recommendations made in the review. The EOC also accords high priority in raising operational effectiveness of its staff through continuous training. When the RDO came into full effect in July 2009, additional staff were recruited to cope with the increased workload. For continuous improvement, the complaint handling procedures are under constant review with the latest enhancement made in June 2010 to achieve higher efficiency and effectiveness.

2.8 The EOC has raised a proposal to set up an Equal Opportunities Tribunal to handle alleged cases of discrimination under the existing anti-discrimination ordinances. Some commentators supported this proposal. The EOC is initiating discussions with the community and stakeholders before further pursuing the proposal with the Government. The Government will continue to liaise with the EOC on the proposal and study the recommendations after the EOC's further deliberation with the community.

### **The Ombudsman**

2.9 The role of The Ombudsman is essentially as explained in paragraphs 35 to 39 of Part II of the initial report in relation to Article 2 and updated in paragraphs 49 to 53 of the HKSAR Common Core Document. The Ombudsman's jurisdiction now covers 23 public

bodies, rather than the 17 previously reported. The Ombudsman (Amendment) Ordinance of December 2001 added the EOC and the PCPD under the jurisdiction of The Ombudsman. Consequent to a review conducted by The Ombudsman, four more public bodies, namely, the Auxiliary Medical Service, the Civil Aid Service, the Consumer Council and the Estate Agents Authority have been brought under the jurisdiction of The Ombudsman from 2 July 2010.

2.10 In the year 2009-10, The Ombudsman received 13 789 enquiries and 4 803 complaints. A total of 126 complaints were investigated, of which The Ombudsman found 75 substantiated or partially substantiated, and The Ombudsman made 141 recommendations to redress grievances and improve public administration. The other complaints were concluded after preliminary inquiries, with remedial action and improvement measures suggested where due. The Ombudsman also completed seven direct investigations, making 62 recommendations in relation to them. The Government has accepted and acted on almost all The Ombudsman's recommendations. The practices to ensure transparency remain as explained in paragraph 39 of Part II of the initial report.

### **Complaints against the Police**

2.11 The Committee reiterated its view that investigation of complaints against the Police should be carried out by an independent body, the decisions of which are binding on relevant authorities. Similar views were expressed by some commentators. Under the two-tier police complaints system, the Complaints Against Police Office (CAPO) is responsible for handling and investigating complaints lodged by members of the public against members of the police force. CAPO operates independently from other Police formations to ensure its impartiality in handling complaints. The Independent Police Complaints Council (IPCC) is an independent civilian oversight body specifically appointed to monitor and review the CAPO's handling and investigation of complaints. Members of the IPCC appointed by the Chief Executive are drawn from a wide spectrum of the community.

2.12 The Independent Police Complaints Council Ordinance (Cap. 604) codifies the above police complaints system. The Ordinance came into force on 1 June 2009 and turned the IPCC into a statutory body. It clearly sets out the IPCC's role, functions and powers in the police complaints system, as well as the obligations of the Police to comply with the requirement made by the IPCC under the Ordinance. There are effective checks and balances to ensure that the complaints lodged with CAPO are handled thoroughly, fairly and impartially.

2.13 In gist, CAPO submits a detailed investigation report on each reportable complaint to IPCC and is required to address queries and suggestions from the IPCC on the report. Where the IPCC members have doubts about the investigation of a particular complaint, they may invite the complainants, complainees and any other person who is or may be able to provide information or other assistance to interviews. If the IPCC is not satisfied with the result of a CAPO investigation, it may ask CAPO to clarify any doubts or reinvestigate the complaint. It may also bring the case to the personal attention of the Chief Executive. The IPCC also monitors CAPO's investigations into reportable complaints through the IPCC Observers Scheme, under which IPCC members and a wide pool of observers undertake, on a scheduled or surprise basis, observations of the interviews and collection of evidence conducted by the Police during investigation of complaints to ensure that these processes are conducted in a fair and impartial manner.

2.14 The above shows that the statutory framework provided for under the IPCC Ordinance has enhanced the transparency of the police complaints system and reinforced the independent monitoring role of the IPCC.

### **Human rights education**

2.15 The updated framework for the promotion of human rights is set out in paragraphs 61 to 86 of the HKSAR Common Core Document. Detailed information on human rights education in schools and outside school, and among the general public, public officials, professionals, judges and judicial officers is set out in paragraphs 13.87 to 13.100 of the HKSAR's third report under International Covenant on Economic, Social

and Cultural Rights (ICESCR), in relation to Article 13 of that Covenant. HKSAR's third report under ICESCR forms part of the second periodic report of the People's Republic of China under the ICESCR. In response to commentators' comments, we set out specific information on human rights education in schools and civic and national education in the ensuing paragraphs. Additional information on human rights education for staff of the disciplined forces is also set out below.

### Human rights education in schools

2.16 Education in schools is an important aspect in the promotion of human rights. From the curriculum perspective, human rights education is integral to the school curriculum. At the various Key Stages, students are provided with ample opportunities to develop concepts and values in relation to human rights. Students' concepts and understanding of human rights are strengthened progressively from a basic understanding of the rights and responsibilities to more complex concepts of human rights through the school curriculum. In the existing school curriculum, important concepts and values on human rights, such as the right to life, freedom, respect for all peoples, non-discrimination and equality are discussed and developed through the teaching and learning activities of General Studies and various Key Learning Areas at different Key Stages. With the introduction of Liberal Studies as a core subject in the New Senior Secondary Curriculum (NSS Curriculum), students are given ample opportunities to discuss important concepts of human rights such as democracy, the rule of law, equality before the law, and the independence of judiciary. Concepts related to human rights education such as Rights and Responsibilities of Citizens, Upholding the Core Values of Our Society, and Social System and Citizenship will be further promoted through a new subject Life and Society to be implemented in September 2012 at the junior secondary level. Students may also get acquainted with the above concepts and values through the school programmes, such as the class teacher periods, assemblies, talks, as well as other learning experiences, including discussion forums, debates, social services and visits.

2.17 In addition to the promotion of students' learning of the concepts and values related to human rights education through the school



curriculum and school programmes, the Education Bureau (EDB) has spared no efforts to enhance teachers' capacity and competency in teaching human rights education. Among others, the EDB has been organising a series of professional development programmes for teachers on themes related to human rights education. These themes include "non-discrimination", "freedom", "human rights and the Basic Law", "intellectual property", "freedom of press and the media", "equality and social harmony", and "rights and responsibilities".

2.18 In support of the promotion of human rights education in schools, the EDB has also produced diversified teaching and learning materials in the form of videos, resources packages, worksheets and websites for reference and use by teachers.

#### Civic and national education

2.19 The Committee on the Promotion of Civic Education (CPCE) is an advisory body under the Home Affairs Bureau set up in 1986 to promote civic education outside schools in liaison with relevant Government departments. The CPCE continues to promote public understanding of human rights as and when suitable opportunities arise, and provide sponsorship to community organisations to promote education on human rights.

2.20 Some commentators requested the Government to conduct a survey on human rights. Our view is that there are established channels to monitor the human rights situation in Hong Kong, including the EOC, the PCPD, The Ombudsman, and various complain channels of Government departments. We should continue to make use of these channels. Moreover, it would be more effective to deploy the resources available to implement measures or activities which would promote the rights of individuals.

2.21 Regarding national education, it is an established education policy of Hong Kong to develop students' national identity, which is stated as one of the curriculum goals in the curriculum documents. The promotion of national identity is implemented in school curricula, including General Studies and Chinese Language at primary level;



Chinese Language, Chinese History, Civic Education and Geography at junior secondary level. In the NSS curriculum implemented in the 2009/10 school year, Liberal Studies as a core subject is the main vehicle for promoting national identity in students. The EDB will invite the Curriculum Development Council to review the curriculum framework for moral and civic education at primary and secondary levels, and to develop an independent subject on “moral and national education”. This new initiative is expected to be implemented in the 2013/14 school year to further enhance the elements of national education. The EDB also enhances students’ understanding of their motherland and Chinese culture through organising Mainland exchange programmes for teachers and students regularly, inviting scholars and experts from the Mainland to give talks on issues of contemporary China, subsidising schools in organising interflow activities as well as organising student learning activities on Thirty Years of China’s Reform & Opening Up, the 60th Anniversary of the Founding of the People’s Republic of China, and the World Expo 2010. Opportunities for students to participate in Mainland learning and exchange activities will be increased and more exchange activities will be organised together with voluntary groups. In line with the spirit of the current curriculum reform, schools are encouraged to adopt multiple perspectives and equip students with critical thinking skills in analysing issues on contemporary China.

#### Operational staff of disciplined forces

2.22 As mentioned in paragraphs 70 and 71 of the HKSAR Common Core Document, training of disciplined services invariably includes reference to human rights. The Immigration Department, the Customs and Exercise Department (C&ED) and the Correctional Services Department (CSD) have incorporated lectures on the HKBORO and gender-related training into their regular in-service and training programmes for new recruits. Human rights and equality principles are part of the foundation training for the new recruits and probationary inspectors of the Police. The continued training programmes for in-service Police officers also cover these topics.

2.23 A research unit under the Operations Department of the Independent Commission Against Corruption (ICAC) monitors

developments in relation to the HKBORO and their implications for the Commission's operations. The Training and Development Group of the Commission provides officers with training on the Basic Law, HKBORO, the Interception of Communications and Surveillance Ordinance (Cap. 589) and the ICAC (Treatment of Detained Persons) Order (Cap. 204A). Officers also receive training on the Code on Access to Information, the Personal Data (Privacy) Ordinance (PDPO) (Cap. 486), the Rules and Directions for the Questioning of Suspects and the Taking of Statements issued by the Secretary for Security as well as the Victims of Crime Charter published by the Secretary for Justice. Furthermore, new recruits also receive lectures on the RDO.

## **Article 3: Equal rights of men and women**

### **Equal pay for work of equal value**

3.1 Further to the previous report, the EOC published a consolidated report of two studies on the subject, namely “Feasibility Study on Equal Pay for Work of Equal Value (1997-1998)” and “Consultancy Study on Equal Pay for Work of Equal Value in the Public Sector (2004)” in November 2006. The EOC had considered the way forward and adopted a strategy to promote and implement the principle of equal pay for work of equal value by means of public education. In this connection, the EOC developed and issued practical guidelines to promote the concept of equal pay for work of equal value as well as equal pay for equal work in 2009. These publications include an easy read guide, a main guide for employers and three supplementary booklets. Training sessions for human resources practitioners have also been conducted since the latter half of 2009. Effort to promote the guidelines to employers will continue.

### **Advisory and statutory bodies**

3.2 As at 31 March 2010, there were 5 679 Government appointed non-official members serving on some 430 advisory and statutory bodies (ASBs). In 2004, the Administration set a gender benchmark of 25% as an initial working target for appointment by the Government to ASBs. The women’s participation rate in ASBs reached the target in overall terms in December 2005. As at end-March 2010, 28.1% of the appointed non-official members were women. The gender benchmark target was raised from 25% to 30% with effect from June 2010. The Administration will closely monitor the situation and continue its efforts in promoting women’s participation in ASBs. Further discussion on advisory boards and committees is at paragraphs 25.31 to 25.34 below, in relation to Article 25.

## **Women in public office**

3.3 As explained in paragraph 54 of Part II of the previous report, the number of women in the civil service directorate increased steadily from 1992 to 2002. That trend has continued. The number of female directorate officers in the civil service has increased from 270 (21.3%) in 1999, to 316 (26.3%) in 2004, and to 396 (32.3%) in 2009. In June 2010, the number of female directorate officers was 410 (32.9%). The percentage of female staff in the civil service stood at 34.7% in June 2010. As at 2010, among the 20 Principal Officials<sup>1</sup>, the Secretary for the Civil Service, the Secretary for Development, the Secretary for Transport and Housing and the Secretary for Commerce and Economic Development are women.

3.4 Directorate officers and officers who are serving outside the Region at our Economic and Trade Offices often represent the HKSAR at the international level. As at 2010, there are 14 such Offices; female officers head seven of them. Women have actively represented the HKSAR Government in the work of international organisations and have contributed substantially to international fora organised by such institutions as Asia-Pacific Economic Co-operation, the World Trade Organisation, and the World Health Organisation. Many female officers have been members of the HKSAR Government teams that attend the hearings of reports under the United Nations human rights treaties.

## **Convention on the Elimination of All Forms of Discrimination against Women**

3.5 We were simultaneously preparing the third report of the HKSAR under the United Nations Convention on the Elimination of All

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<sup>1</sup> The 20 Principal Officials of the HKSAR include the Chief Secretary for Administration, Financial Secretary, Secretary for Justice, Secretary for Education, Secretary for Constitutional and Mainland Affairs, Secretary for Security, Secretary for Food and Health, Secretary for the Civil Service, Secretary for Home Affairs, Secretary for Labour and Welfare, Secretary for Financial Services and the Treasury, Secretary for Development, Secretary for the Environment, Secretary for Transport and Housing, Secretary for Commerce and Economic Development, Commissioner of Police, Commissioner of the Independent Commission Against Corruption, Director of Audit, Director of Immigration, and Commissioner of Customs and Excise.

Forms of Discrimination against Women (CEDAW), which would form part of the combined seventh and eighth report of the People's Republic of China under CEDAW, at the time of finalising this report. Our work to fulfil our obligations under CEDAW and to advance the status of women in Hong Kong would be explained in detail in our third CEDAW report.

### **Women's Commission**

3.6 The Women's Commission (WoC), established in January 2001, continues to advise the Government on issues relating to the development and advancement of women in Hong Kong. Its mission is to enable women in Hong Kong to fully realise their due status, rights and opportunities in all aspects of life. Its programme of work is described in summary form in paragraphs 3.2 to 3.5 of HKSAR's third report under the ICESCR in relation to Article 3 of that Covenant. It would also be discussed in detail in the section in relation to Article 2 of our third CEDAW report.

3.7 In 2007, the Family Council was set up to advise the Government on the formulation of policies and strategies for supporting and strengthening the family. Some commentators were concerned that with the establishment of the Family Council, the role of WoC would be weakened. It should be emphasised that the Family Council provides a high-level platform for cross-bureau and cross-sectoral discussion of major issues from the family perspective. On the other hand, WoC is a central mechanism responsible for promoting the well-being and interests of women. In view of the close relationship between family and women matters, the Chairperson of WoC is appointed as an ex-officio member of the Family Council. This enables WoC to offer views to the Family Council from women's perspective, and facilitates communication and co-operation between WoC and the Council.

### **The Small House Policy**

3.8 The position would be explained in the section in respect of Article 14 of the HKSAR's third report under the CEDAW.

## **Article 4: Public emergencies**

4.1 The position is as explained in paragraphs 88 to 92 of Part II of the initial report.

**Article 5: Prohibition on the destruction of any rights and freedoms recognised in the Covenant**

5.1 The position is as explained in paragraph 93 of Part II of the initial report. Article 5 of the Covenant is reproduced with adaptations in sections 2(4) and (5) of the HKBORO.

## **Article 6: The Right to life**

### **Deaths in Police custody**

6.1 During the last five years between 1 July 2005 and 30 June 2010, 15 persons died in the official custody of the Police, representing a 17% decrease compared to the five year period covered under the previous report. The Coroner has examined ten cases so far and the other five cases are pending the Coroner's inquest. For the ten cases examined, none of them was found to be caused by unlawful killing. One of the deceased was found to have committed suicide, five to have died by natural causes, three by accident, the remaining one was concluded by the Coroner as an open verdict case.

6.2 The Police attach great importance to carrying out their duty of care to detained persons. Various measures have been introduced, including conducting frequent but irregularly timed cell checks, installing closed-circuit television (CCTV) inside the cell complex to monitor sudden incident, and providing enhanced training to police officers in handling of detained persons including those with serious illness or mental disorder.

### **Deaths in custody of the Correctional Services Department**

6.3 Between 1 July 2005 and 30 June 2010, 101 persons died in the custody of the CSD, representing a 4% decrease compared to the five year period covered under the previous report. To date, the Coroner has examined 80 cases, and the other 21 cases are pending the Coroner's inquest. For the 80 cases examined, no misconduct was found on the part of the CSD. Eight of the deceased were found to have committed suicide, 66 to have died by natural causes, three to have died accidentally and three were concluded by the Coroner as open verdict cases.

6.4 The CSD is committed to providing a secure, safe, humane, decent and healthy environment for people in custody. Various measures have been put in place, including regular monitoring of inmates with a view to identifying those who need special attention, installation of CCTV systems, modifications of cells and building structure, and



provision of relevant training to CSD's staff regularly.

### **Deaths in custody of the Customs and Excise Department**

6.5 During the five years between 1 July 2005 and 30 June 2010, there was no death of person under the custody of the C&ED. The C&ED has laid down a set of internal guidelines strictly governing customs officers in handling detainees under their custody. Due regard is particularly given to the safety and proper treatment of arrested and detained persons while conducting investigations. Structured training is organised regularly to officers with a view to enhancing their awareness of the rights of arrested and detained persons.

### **Deaths in custody of the Immigration Department**

6.6 During the five years between 1 July 2005 and 30 June 2010, there was no death of person under the custody of the Immigration Department.

### **Deaths in custody of the Independent Commission Against Corruption**

6.7 There was no death of person in the custody of the ICAC during the above period.

### **Child Fatality**

6.8 Some commentators expressed concerns on the right to life of children, arising from cases of child suicide and parents committing suicide with their children. Our position is at paragraph 24.19 in respect of Article 24 below.

6.9 There are further suggestions from some commentators that review of child fatality cases should be conducted regularly and independently. The pilot project on Child Fatality Review, which was launched in February 2008 and conducted by a Review Panel set up under the Social Welfare Department (SWD), aims to identify patterns and trends for formulation of prevention strategies and promoting

multi-disciplinary and inter-agency cooperation in the prevention of child death. The Review Panel comprises medical doctors, clinical psychologists, academics, social workers and parents. Chaired by a non-official, the Review Panel conducts review independently. The Review Panel is conducting an evaluation of the pilot project and will submit its recommendations on the way forward of the pilot project to the SWD in due course.

## **Article 7: No torture or inhuman treatment and no experimentation without consent**

7.1 The constitutional and legal protection against torture or inhuman treatment remain as mentioned in paragraphs 105 to 107 of Part II of the initial report. The general position is also essentially the same as explained in Article 7 of the previous report. The updates are provided below.

### **Instances of the alleged use of torture**

7.2 Further to paragraph 76 of Part II of the previous report, during the period of 1 July 2003 to 30 June 2010, there were no reports of torture as defined in the Crimes (Torture) Ordinance (Cap. 427) involving the Immigration Department, the CSD, the C&ED, the Hong Kong Police Force or the ICAC. There was also no charge brought under the Crimes (Torture) Ordinance for Court of First Instance cases, District Court cases or Magistrates' Court cases that have been sent to the Department of Justice for legal advice or prosecution. Nor was there any charge instituted in the Magistrates' Court under the above ordinance during the period from 1 January 2006 to 30 September 2010.

### **Training of disciplined forces and ICAC**

7.3 The position remains as mentioned under paragraphs 116 to 123 of Part II of the initial report.

### **Immigration Department**

7.4 All immigration officers are trained in the proper handling of suspects in custody. Induction courses and on-going trainings are provided to raise officers' awareness of the provisions of the Crimes (Torture) Ordinance and they are required to adhere to relevant subsidiary legislation, such as the Immigration (Treatment of Detainees) Order, and pertinent Immigration Service Standing Orders.

## ICAC

7.5 In addition, we would like to supplement in respect of the ICAC that the ICAC provides training and issues orders to all investigating officers to ensure compliance with the Covenant and statutory requirements concerning the treatment of victims, witnesses and suspects. Officers are trained to treat all suspects and witnesses in accordance with the Basic Law and the HKBORO to ensure compliance with the Covenant.

7.6 To this end, the ICAC provides training to officers on voluntariness of admissions and confessions to ensure that there is no oppression, violence or threats. The HKBORO is taught as an individual subject and particular attention is paid to Article 3 (no torture or inhuman treatment) and Article 6 (rights of persons deprived of their liberty). The ICAC continues to be bound by the ICAC (Treatment of Detained Persons) Order that imposes statutory duties on the ICAC in respect of the rights, treatment and well-being of all persons arrested and detained by the ICAC; and the Victims of Crime Charter which sets out the rights and duties of victims of crime in Hong Kong.

7.7 The ICAC has also promulgated Commission Standing Orders that deal with the treatment of witnesses, victims and suspects as well as on the use of force and firearms.

### **Persons facing deportation**

7.8 In paragraph 10 of its Concluding Observations on the previous report, the Committee expressed concern about the protection of individuals against deportation to locations where they might be subjected to grave human rights violations, such as those contrary to Articles 6 and 7 of the Covenant. The Committee recommended that the HKSAR should establish an appropriate mechanism to assess the risk faced by these individuals.

7.9 The application of the Covenant in the HKSAR is subject to a reservation in relation to immigration. Nevertheless, the persons concerned still have ample opportunities to make representations against

deportation, before and after a deportation order is made.

7.10 Before a deportation order is made, the person concerned will be invited to make representations, which will be duly considered by the authority. If the grounds against deportation are considered insufficient and a deportation order is made, the following avenues of appeal are available:

- (a) lodging statutory objection against the decision with the Chief Secretary for Administration for consideration by the Chief Executive in Council. Where justified, deportation orders may be suspended or rescinded;
- (b) lodging petition with the Chief Executive under Article 48 of the Basic Law for the suspension or rescission of their deportation orders; and
- (c) applying to the Court for judicial review.

7.11 The HKSAR Government is fully committed to fulfilling our obligation under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Some commentators suggested that the Convention relating to the Status of Refugees should be extended to the HKSAR, and the Government should take over the screening of applications for refugee status from the United Nations High Commissioner for Refugees. As claimants who are dissatisfied with the decision of the Higher Commissioner cannot seek judicial redress through courts of the HKSAR, some commentators also criticised the screening procedures of the Higher Commissioner as unfair. In view of Hong Kong's vulnerability to immigration abuse, we maintain a firm position not to seek the extension of the Convention relating to the Status of Refugees to Hong Kong, and not to take up the screening of refugee status applications.

## **Article 8: No slavery or servitude; no forced or compulsory labour**

### **General**

8.1 The position remains as set out in paragraph 86 of Part II the previous report. Articles 4(1) and (2) of the Hong Kong Bill of Rights prohibit slavery and the slave trade in all their forms and also the holding of any person in servitude. Forced or compulsory labour is prohibited by Article 4(3) of the Hong Kong Bill of Rights. There is no slavery, servitude, forced or compulsory labour in Hong Kong.

### **Protection of foreign domestic helpers**

8.2 Some commentators continued to express concerns on the protection of the basic rights of foreign domestic helpers (FDHs) in Hong Kong. They are concerned with the monitoring of the employment agencies of FDHs, and relevant regulations concerning FDHs, such as the “two-week rule”, the “live-in” requirement of FDHs, exclusion of FDHs from the mandatory provident fund legislation and the minimum wage legislation, and the statutory preclusion of their continuous periods of stay in HKSAR from being counted as ordinary residence (which forms part of the requirement for them to acquire permanent residence status).

8.3 The Government attaches great importance to protecting the rights of all migrant workers (including FDHs). In Hong Kong, migrant workers enjoy the same rights and protection as local workers under the labour legislation. It grants equal statutory rights and benefits to migrant workers regardless of their race or country of origin. In addition, the Government has long provided to migrant workers, especially FDHs, additional rights and benefits which are not usually enjoyed by local workers. The details of the measures and our position on some of the issues raised by commentators (including the “two-week rule”, the minimum wage legislation and the mandatory provident fund legislation) have been explained in paragraphs 142 to 144 of Part II of the initial report, and paragraphs 7.17 to 7.36 and 9.32 of the third HKSAR report under the ICESCR.

8.4 The “live-in” requirement forms the cornerstone of Hong Kong’s policy of importing FDHs. It has been the HKSAR Government’s established policy that, as in many other jurisdictions in the world, priority in employment should be given to local workforce, and importation of workers should only be allowed where there is confirmed manpower shortage in a particular trade that cannot be filled by the local workers. Against this principle, FDHs have been imported since the early-1970s to meet the shortfall of local live-in domestic workers. This live-in requirement has been made known to FDHs before their admission into Hong Kong, and specified in the Standard Employment Contract which is signed by both the employer and the FDH concerned beforehand.

8.5 FDHs are admitted to Hong Kong for specific employment on a fix-term and are required to leave at the end of their contracts. They are not admitted to Hong Kong for settlement purpose. Given the large number of FDHs involved and Hong Kong being a densely populated city, excluding any period during which a person remains in Hong Kong while being employed as a FDH from the definition of “ordinary residence” is appropriate and consistent with the actual situation in Hong Kong.

8.6 The Labour Department will continue to rigorously enforce the labour laws to protect the labour rights of all workers (including migrant workers such as FDHs). It is committed to combating malpractices (including overcharging) of local employment agencies. It does not tolerate any abuse, and spares no effort in clamping down on offenders, by investigating promptly into any complaints lodged by FDHs, or by FDH groups and NGOs, and taking out prosecution where there is sufficient evidence. In 2009 and 2010 (up to end-June), the Labour Department secured 178 convicted summonses against employers of FDHs for wage offence. Among the convicted employers, two were sentenced to 80 and 160 hours’ of community service respectively while another two were sentenced to three-month imprisonment. During the same period, the department conducted 1 421 inspections to local employment agencies placing FDHs, and revoked or refused licenses of three such agencies for overcharging. One person has been convicted for operating an employment agency without a licence.

## **Minimum Allowable Wage and Employees Retraining Levy on employers**

8.7 We would take the opportunity to update paragraphs 87 to 93 of Part II of the previous report - there were four adjustments to FDH's minimum allowable wage since the time of preparation of the previous report, all upward, to the prevailing amount of \$3, 580, effective since 10 July 2008. At the same time, to help mitigate the impact of rising inflation and alleviate the financial burden on the employers of all imported labour, including those of FDHs, the HKSAR Government has suspended the collection of the Employees Retraining Levy for a period of five years with effect from 1 August 2008.

## **Protection against trafficking of women and children**

8.8 Some commentators raised concerns over sex trafficking of women and children in Hong Kong. They are especially concerned about child sex tourism and child prostitution, and considered that there are inadequate protections against trafficking in Hong Kong. Some called for the extension of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organised Crime to Hong Kong.

8.9 Hong Kong is neither a destination nor a transit point for human trafficking. Over the years, cases of human trafficking for the purpose of sex exploitation reported are rare. Our experience shows that people came voluntarily due to the comparative economic prosperity of Hong Kong in the region, rather than being trafficked into Hong Kong by force, fraud, or coercion. The number of human trafficking cases reported in 2005 to 2008 is three, three, four and one respectively, none of which involved children. Notwithstanding the rare occurrence of human trafficking crimes in Hong Kong, the Government attaches great importance to combating human trafficking and maintains close co-operation with overseas enforcement agencies in tackling the problem. The relevant legal protection and law enforcement efforts are elaborated under paragraphs 10.65 to 10.68 and 10.84 to 10.89 of the third HKSAR



report under the ICESCR.

8.10 Given Hong Kong's relatively liberal visa regime, we are mindful of the adverse implications to our effective immigration controls and possible abuses by overstayers and illegal migrants if the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, in particular the provision to permit victims of trafficking in persons to remain in the territory, is to apply to Hong Kong. After a thorough study on the implications of extending the application of the Protocol to Hong Kong, we have no plan to apply the Protocol to Hong Kong at this stage. Notwithstanding this, our law enforcement departments will continue to take proactive enforcement actions in combating human trafficking and protecting victims.

## **Article 9: Liberty and security of person**

9.1 The position on legal protection of liberty and security of persons in HKSAR remains as mentioned in paragraphs 150 and 151 of Part II of the initial report, i.e. under Article 28 of the Basic Law, and Article 5 of the Hong Kong Bill of Rights which corresponds to Article 9 of the Covenant.

### **Law Reform Commission Report on Arrest**

9.2 In paragraph 94 of Part II of the previous report, we explained that the Administration had implemented almost all of the recommendations of the Law Reform Commission (LRC) in relation to the powers of stop, search, arrest and detention that were capable of being effected through administrative means. Since then, we have examined the remaining LRC recommendations that may require legislative amendments to implement, and have started the drafting process for the legislative amendments to take forward the recommendations as appropriate.

### **Immigration detention in respect of foreign illegal migrants**

9.3 For officers exercising detention powers conferred by the law in respect of illegal immigrants, overstayers and other persons pending removal/deportation, the HKSAR Government has in place a detention policy to guide decisions to detain or grant release on recognizance. We attach great importance to ensuring that detention must be justified with sufficient reasons and for a period which is reasonable in all circumstances. Each case is to be considered on its own facts and merits. Reasonable alternatives will be considered before detention is authorised. Detention will be kept under regular review especially when there is a material change of circumstances.

9.4 The detention policy was revised in October 2008 with the objective of enhancing transparency. Under the revised policy, detainees are informed of the specific grounds for their detention. The policy is also made known to members of the public.

## **Vietnamese refugees and ex-China Vietnamese migrants**

9.5 Under the “Widened Local Resettlement Scheme” introduced in February 2000, remaining Vietnamese refugees and migrants who were unlikely to be accepted for overseas resettlement or for return to Vietnam at the time, as well as remaining ex-China Vietnamese migrants at the time, are allowed to apply for settlement in Hong Kong. By 30 May 2010, all eligible persons who had made applications were granted stay in Hong Kong under the scheme.

## **Article 10: Right of persons deprived of their liberty**

### **The rights of prisoners**

10.1 The position regarding the protection of the rights of prisoners in law is essentially as explained in paragraph 177 of Part II of the initial report.

### **Rights of petition and complaint**

10.2 The complaint mechanism remains as explained in paragraphs 109 to 111 of Part II of the previous report. Prisoners have the right to petition the Chief Executive or see visiting Justices of the Peace about any matter regarding prison treatment. They can also complain to senior officers or the Complaints Investigation Unit of the CSD, The Ombudsman, or Members of the LegCo.

### **Complaints to The Ombudsman**

10.3 The position is essentially as explained in paragraphs 204 and 205 of Part II of the initial report.

10.4 Between 1 July 2003 and 30 June 2010, The Ombudsman received a total of 1 141 complaints against the CSD –

<b>Year</b>	<b>Number of complaints</b>
2003 (from 1 July)	102
2004	224
2005	210
2006	178
2007	128
2008	97
2009	159
2010 (as at 30 June)	43
<b>Total</b>	<b>1 141</b>

10.5 Amongst these complaints, only one was found as substantiated and three were found partially substantiated by The

Ombudsman after full and independent investigations as at 30 June 2010.

10.6 Some commentators were concerned that prisoners are subject to unfair treatment when they complain against abuse by CSD officers in this regard. The Ombudsman pays special attention to matters concerning human rights in handling complaints from prisoners, including:

- (a) prisoners' lack of access to treatment and medication;
- (b) victimisation by prison staff;
- (c) denial of right to outside contact;
- (d) threats to personal safety; and
- (e) encroachment on the right to observe religious rites or participate in religious activities.

10.7 Some commentators expressed concerns that prisoners were denied CCTV recordings to substantiate their complaints of abuse by prison officers. The CCTV System is installed in various locations in correctional facilities to monitor prisoners' activities and maintain good order and discipline of institutions. Data Protection Principle 2(2) of the PDPO provides that "personal data shall not be kept longer than is necessary for the fulfilment of the purpose (including any directly or indirectly related purpose) for which the data are or are to be used". In pursuance of the above data protection principle, the records of the CCTV System in correctional facilities will only be retained for 14 days if no untoward incident or special occurrence has been reported. Unauthorised person will not have access to the records at any time. However, in the event of an untoward incident or special occurrence, the record will be retrieved from the system and retained as evidence.

#### Handling of disciplinary complaints

10.8 Some commentators were concerned with the prison discipline system, in that the procedure of prison superintendents hearing

and determining disciplinary complaints against an inmate of the prison he administers, which often includes determining matters of credibility of his subordinate prison officers, was considered unfair.

10.9 The CSD is committed to ensuring the fairness of the prison discipline system. Indeed, the fairness issue had been duly considered in a recent judicial review case by a prisoner against the Commissioner of Correctional Services, in which the Commissioner's decisions in disciplinary proceedings against the prisoner was challenged. In that case, the Court of Appeal ruled that there is no reasonable apprehension of bias on the part of the Superintendent in each and every case he tries by the mere fact that he is also the Superintendent of the institution involved.

#### Search procedures

10.10 Some commentators raised concerns on the policy of prison authorities to strip search and conduct anal examination of every prisoner or detained person at the occasion of reception from outside. In accordance with Rules 9 and 10 of Prison Rules (Cap. 234A), CSD officers are authorised to conduct searches on prisoners upon the latter's admission into CSD's institutions and at such times subsequently as considered necessary by the officer-in-charge. As an established practice, all prisoners have to be thoroughly searched upon their admission, and at such time when they could possibly come into possession of contraband that ensued from their contact with outsiders. This is to ensure the safe custody of prisoners and to maintain prison order and discipline.

10.11 The principles of proportionality and necessity are enshrined in Rule 9(2) of the Prison Rules which stipulates that the searching of a prisoner shall be conducted with due regard to decency and self-respect, and in as seemly a manner as is consistent with the necessity of discovering any concealed articles. The CSD has internal guidelines to assist officers in carrying out searches in an appropriate and consistent manner. The CSD conducts supervisory assessments or inspections regularly to ensure that operational practices are aligned with the statutory provisions and internal guidelines.

## Voting rights

10.12 The Administration introduced the Voting by Imprisoned Persons Bill into the LegCo in May 2009 to remove the disqualification of imprisoned persons and persons convicted of certain election-related or bribery offences from being registered as electors and from voting in the LegCo, District Council, Chief Executive, Election Committee Subsector and Village Representative elections. The bill was passed by the LegCo on 24 June 2009.

10.13 The Electoral Affairs Commission subsequently made amendment regulations to provide for the detailed practical arrangements for imprisoned persons to register as electors and for registered electors imprisoned, remanded or detained to vote. With the relevant provisions and the amendment regulations coming into operation on 30 October 2009, the LegCo By-election held on 16 May 2010 was the first election in which polling arrangements were provided for registered electors who were serving prison sentences.

## **Regulation and management of penal establishments**

10.14 Currently, there are 29 correctional facilities in Hong Kong. The objectives of imprisonment remain as stated in paragraph 179 of Part II of the initial report, i.e., to provide safe and humane custody of offenders and to rehabilitate them. The Prison Rules which regulate order and discipline in prisons also remain essentially the same.

## Prison population

10.15 In paragraph 116 of Part II of the previous report, we informed the Committee that in 2002, Hong Kong's penal institutions held an average of 11% more prisoners than their certified capacity. The situation improved steadily over the past few years. As at 30 June 2010, the overall occupancy of all penal institutions was about 6% below their certified capacity. Furthermore, a new penal facility providing 1 400 penal places for female prisoners commenced operation in July 2010. We will continue to closely monitor the occupancy situation and take necessary action as appropriate.

## Ethnic minority prisoners

10.16 The CSD is committed to providing fair and equal treatment to all prisoners, irrespective of their race, religion and nationality. As at 30 June 2010, there were 1 423 persons of “other nationality” (a statistical classification) in Hong Kong prisons. The position is essentially as explained in paragraph 120 of Part II of the previous report, except that Hong Kong now has arrangements with ten countries<sup>2</sup>, whereby we would automatically inform their consulates if their nationals are taken into custody<sup>3</sup>. For protection of personal privacy, we do so for other nationals only on the latter’s request.

10.17 The CSD has put in place measures to facilitate the communication with the ethnic minority groups in prisons. Interpretation services are provided to prisoners when required, especially during admission and adjudication. A Prisoner’s Information Booklet, which contains information on various important matters such as court appeal/review, legal aid, conduct and discipline in prisons, channels of making complaints, is issued to every prisoner upon admission. This Booklet is available in more than 20 languages catering to the needs of most ethnic minority groups in prisons.

10.18 Furthermore, the CSD has collaborated with NGOs in Hong Kong to provide interpretation services to prisoners when required.

## **Rehabilitation of offenders**

10.19 Apart from the provision of a safe and humane environment for the detention of inmates, the CSD is committed to facilitating offenders’ return to community after they have served their sentences through the provision of suitable rehabilitative services. The aim of the rehabilitative services is to facilitate their reintegration into society. The CSD offers vocational training to inmates to help improve their vocational skills and enhance their chance of securing gainful employment after release. Different psychological and counselling

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<sup>2</sup> Australia, Canada, India, Italy, the UK, the USA, Vietnam, Russia, New Zealand and Japan.

<sup>3</sup> Unless a prisoner expressly objects to our doing so.



services are also in place to address specific offending behaviour, for example, drug addiction, so as to reduce the incidence of recidivism.

### Vocational Training for Adult Offenders

10.20 The CSD will continue to provide both full-time and part-time vocational training courses for adult prisoners. Adult prisoners with remaining sentences between 6 and 24 months are eligible to join these vocational training courses on a voluntary basis.

10.21 All adult prisoners are required by Rule 38 of the Prison Rules to engage in useful work of not more than 10 hours a day unless they are excused on medical ground. The main purposes of this requirement are to help prisoners establish a good working habit and maintain prison stability. The CSD organises market-oriented vocational training courses for the prisoners in order to enhance the prisoners' employability and assist them to reintegrate into society after discharge. The course participants will be accredited with recognised qualifications through taking part in trade tests and open examinations.

### Risks and Needs Assessment and Management Protocol for Offenders

10.22 In order to deliver rehabilitative programmes to offenders in a more targeted and effective approach, the CSD has been implementing the Risks and Needs Assessment and Management Protocol for Offenders since October 2006.

10.23 The Protocol provides a scientific and evidence-based approach in identifying the custodial and re-offending risks of individual prisoners. This in turn allows the CSD to provide rehabilitative programmes that better match the prisoners' needs and more effectively reduce their likelihood of re-offending. The rehabilitative need domains covered by the Protocol include: employment; family/marital; drug abuse; community functioning; associates; personal/emotional and criminal attitudes.

10.24 At present, the Protocol is applied to all young offenders, inmates of Drug Addiction Treatment Centres and adult prisoners

sentenced to 12 months or above. As at 30 September 2010, over 14 000 offenders have benefited from the relevant assessment, and more than 16 000 group sessions of rehabilitative programmes have been organised as a result.

### **Rehabilitation of juvenile offenders**

10.25 The position is as explained in paragraphs 103 to 108 of Part II of the previous report. Regarding service development, the SWD has since July 2007 co-located its six correctional/residential homes into one purpose-built correctional home with modernised facilities to provide a safe and secure environment for the residents.

### **Young offenders detained at Executive discretion**

10.26 The background is as explained in paragraphs 112 to 115 of Part II of the previous report. In a judgement of September 2002, the Court of First Instance declared that certain provisions that governed the determination of minimum terms by the Chief Executive under the Criminal Procedure Ordinance (Cap. 221) were inconsistent with Article 80 of the Basic Law<sup>4</sup>. To remedy the court ruling, we amended the relevant sections of the Ordinance in July 2004 and gave judges of the Court of First Instance the power to determine the minimum terms of the 12 young offenders serving indeterminate sentences at the time (i.e. those detained at Executive discretion). Subsequent to the amendment, all 12 young offenders received determinate sentences from the Court of First Instance. All of them have since served their determinate sentences with the last offender discharged in December 2008.

### **Assistance for Hong Kong residents detained in the Mainland of China**

10.27 In paragraph 11 of its concluding observations on the previous report, the Committee expressed concerns at reports that HKSAR residents detained on the Mainland of China encountered

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<sup>4</sup> Article 80 of the Basic Law provides that “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.”

difficulties in having contact with their families in the HKSAR.

10.28 Under the principle of “One Country, Two Systems”, the HKSAR Government will not interfere with the law enforcement and judicial process in the Mainland. On the other hand, the HKSAR Government will assist Hong Kong residents detained in the Mainland or their families.

10.29 A reciprocal notification mechanism, under which both the Mainland authorities and the HKSAR Government will notify the other party of criminal prosecution of, or the imposition of criminal compulsory measures on suspected offenders, and unnatural deaths of residents of the other party, was introduced in 2001. The mechanism aims to facilitate prompt notifications to family members of the subject involved. Since the introduction of the mechanism, the Mainland authorities had made more than 7 000 notifications to the HKSAR Government by 30 June 2010. Upon notification from Mainland authorities, the HKSAR Government will inform the families of the detainees concerned, who can seek assistance from the Immigration Department of the HKSAR. The assistance may include:

- (a) provision of information on ways to seek the service of Mainland lawyers;
- (b) conveying assistance seekers’ requests to visit the detainees or other requests to the Mainland authorities through the relevant Office(s) of the HKSAR Government in the Mainland; and
- (c) referral of individual enquiry services to relevant authorities for follow-up action.

10.30 In general, the notification mechanism has been operating smoothly since its implementation in 2001, achieving the objective of prompt notification to family members. Based on the experience in handling cases, the Government of HKSAR and the Mainland authorities exchange views from time to time to further optimise the operation of the mechanism.

## **Article 11: No imprisonment for non-fulfilment of contract**

11.1 The position remains the same as explained in paragraphs 217 to 221 of Part II of the initial report.

## **Article 12: Liberty of movement**

### **Legal protection**

12.1 The legal protection remains as mentioned in paragraphs 222 to 225 of Part II of the initial report. Hong Kong residents' freedom of movement within the HKSAR and the right to enter or leave the HKSAR continues to be protected at the constitutional level under Article 31 of the Basic Law.

### **Travel documents for permanent residents and non-permanent residents**

12.2 As explained in paragraph 123 of the previous report, Article 154 of the Basic Law authorises the HKSAR Government to issue HKSAR passports to all Chinese citizens who hold Hong Kong permanent identity cards (persons who hold such cards have the right of abode in Hong Kong), and the Immigration Department is the sole authority for the issue of HKSAR passports.

12.3 Further to paragraph 124 of Part II of the previous report, the average time for a passport application to be processed had been shortened to 10 working days, while urgent applications can be further "fast-tracked". As at 30 June 2010, the Immigration Department had issued about 5.8 million HKSAR passports. The passport continues to be well regarded internationally: as at 30 June 2010, 140 countries/territories had granted visa-free access or visa-on-arrival to its holders.

12.4 Article 154 of the Basic Law also empowers the HKSAR Government to issue travel documents "to all other persons lawfully residing in the Region". Non-permanent residents who do not have any other travel document may apply for the HKSAR's Document of Identity for Visa Purposes. The document is issued by the Director of Immigration under the Immigration Regulations (Cap. 115A). They are valid for seven years and normally have an endorsement stating that "the holder of this document may return to Hong Kong during its validity without a visa".

12.5 Some commentators were concerned with the cases of denial of entry of some Hong Kong residents by other jurisdictions, and the policy and measures of the HKSAR Government in dealing with these cases. The HKSAR Government attaches importance to the legal right enjoyed by Hong Kong residents outside Hong Kong and will provide practicable assistance to them when necessary. At the same time, we respect the immigration control imposed by other places in accordance with their laws and policies. We will not seek to interfere with the decisions made on individual cases by other immigration authorities.

### **Lawful entry into Hong Kong**

12.6 The position was essentially as explained in paragraph 140 of Part II of the previous report. Under the “One Country, Two Systems” principle enshrined under the Basic Law, the HKSAR enjoys a high degree of autonomy and the exercise of immigration controls on entry into Hong Kong by persons from foreign states and regions falls within the HKSAR’s autonomy.

12.7 Hong Kong continues to adopt a liberal visa policy where nationals from about 170 countries and territories can visit Hong Kong visa-free for periods from 7 to 180 days. The Immigration Department handles applications from visitors who need visa to visit Hong Kong.

12.8 In response to questions about the refusal of entry of persons into Hong Kong “due to their religious or political background”, we should point out that the Immigration Department, like other immigration authorities around the world, has the responsibility to uphold effective immigration controls and is empowered by law to discharge such responsibility. In processing an application for entry, immigration officers take into account the law, the prevailing policy and other relevant circumstances and factors pertaining to each application. Each entry application is determined on its individual merits.

12.9 There is a statutory appeal channel for any person who is dissatisfied with the decision of an immigration officer. Such person may also seek a judicial review on the decision.

## **Assistance for Hong Kong residents in distress outside Hong Kong**

12.10 Hong Kong residents of Chinese nationality who are in distress overseas may seek assistance from the Chinese Diplomatic and Consular Missions. Hong Kong residents and their families, regardless of their nationalities, may also call the 24-hour hotline of the Immigration Department, which will coordinate with the Missions or other relevant parties to provide practical assistance to the Hong Kong residents. The assistance to be provided include notifying the families concerned of the incident, issuing urgent travel documents for those who have lost them, and providing information on lawyers, translators or doctors to assist in legal proceedings or seeking emergency medical treatment.

12.11 Hong Kong residents in distress in the Mainland of China can obtain similar assistance from the Immigration Department directly or through the Offices of the HKSAR Government in the Mainland.

## **Residence requirements under social security schemes**

12.12 Since 1 January 2004, applicants aged 18 or above for Comprehensive Social Security Assistance (CSSA) and Social Security Allowance (SSA) must have been Hong Kong residents for at least seven years and have resided in Hong Kong continuously for at least one year immediately before the date of application (the “one-year continuous residence requirement”). Applicants who have been absent from Hong Kong for not more than 56 days during that one-year period are considered to have satisfied the one-year continuous residence requirement. The above residence requirements provide a rational basis on which public resources are allocated, help sustain a non-contributory social security system with an increasing demand, and strike a balance between the interests of various sectors of the community.

12.13 A Hong Kong resident applied earlier for judicial review of the constitutionality of the one-year continuous residence requirement for CSSA. The application succeeded. According to the learned Judge, the requirement imposes a sanction on CSSA applicants staying outside Hong Kong for a total period exceeding 56 days in the year immediately before their application for CSSA, thus impeding upon their

constitutional right to travel; and the Government fails to provide sufficient justifications to show that the restriction meets the “proportionality” test in the legal sense. As a result of the court judgment, some commentators were concerned that residence requirements under the CSSA and SSA Schemes may restrict freedom to travel and to enter into or leave Hong Kong. Since the judgment involves legal issues of general importance, the Director of Social Welfare has already lodged an appeal against the judgment. Meanwhile, the SWD has ceased to apply the one-year continuous residence requirement in processing CSSA applications.



## **Article 13: Restrictions on expulsion from Hong Kong**

### **Legal position**

13.1 The legal position, including the powers of deportation and removal under the Immigration Ordinance (Cap. 115), remains as explained in paragraphs 246 to 248 of Part II of the initial report.

### **Deportation**

13.2 A breakdown of the deportation orders issued since the preparation of the previous report by year and up to end October 2010 is set out below. In all of these cases, deportation was made after the immigrants concerned had been found guilty of offences punishable with imprisonment for not less than two years. No deportation order was made on the ground that the deportation was deemed to be conducive to the public good.

<b><u>Year</u></b>	<b><u>Number of deportation orders issued</u></b>	<b><u>Number of petitions/objections against deportation orders and requests for rescission or suspension of deportation orders</u></b>	<b><u>Number of deportation orders rescinded or suspended</u></b>
Jul - Dec 2003	305	35	8
2004	551	49	17
2005	593	51	26
2006	564	64	24
2007	599	30	8
2008	620	28	9
2009	533	33	23
Jan - Oct 2010	419	27	14

### **Removal**

13.3 The table below provides a breakdown of the removal orders issued since the preparation of the previous report by year and up to end October 2010.

<u>Year</u>	<u>Number of removal orders issued</u>	<u>Number of statutory appeals received against removal orders</u>
Jul - Dec 2003	579	80
2004	931	50
2005	923	85
2006	939	296
2007	775	401
2008	720	171
2009	859	383
Jan - Oct 2010	1 019	520

### **Immigration Tribunal**

13.4 The position remains largely as explained in paragraphs 255 and 256 of Part II of the initial report. In the period since the preparation of the previous report up to end October 2010, there was no appeal against removal order that was considered meritorious by the Immigration Tribunal.

## **Article 14: Equality before courts and right to fair and public hearing**

### **Civil Justice Reform**

14.1 As set out in paragraphs 159 and 160 of Part II of the previous report, the reform of the civil justice system to improve its effectiveness began with the establishment of the Working Party on Civil Justice Reform in 2000. The Working Party was tasked by the Chief Justice to review the rules and procedures of the High Court in civil proceedings and to recommend changes thereto, with a view to ensuring and improving access to justice at reasonable cost and speed. In 2004, the Working Party submitted its recommendations to the Chief Justice in its Final Report, which the Chief Justice accepted.

14.2 The Civil Justice Reform was implemented in April 2009. The main areas of reform include:

- (a) giving greater case management powers to the courts;
- (b) streamlining and improving civil procedures; and
- (c) facilitating early settlement by parties (including encouraging the parties to engage in mediation), cutting out unnecessary steps and discouraging (and if necessary, penalising) unnecessary applications.

14.3 The implementation of the Civil Justice Reform has gone smoothly. While some of the innovations introduced by the Civil Justice Reform (for example, some of the case management and settlement provisions) have had an immediate impact, others will require some time before their effects can be properly evaluated. A Committee chaired by the Chief Judge of the High Court has been set up to monitor the effect of the Civil Justice Reform. Where necessary, it will make recommendations to ensure the effective operation of the reformed Civil Justice system.

14.4 Some commentators were concerned whether there are suitable and affordable venues in Hong Kong to conduct mediation, especially by mediators conducting community mediation on pro bono basis. In this regard, we note that major mediation services providers in Hong Kong, namely, the Law Society of Hong Kong, the Hong Kong International Arbitration Centre, and the Hong Kong Mediation Centre, offer mediation venues for hire subject to payment of charges. Some practising mediators would use premises of their offices as mediation venues for cases of which they are the appointed mediators.

14.5 The Public Education and Publicity Sub-Group, established under the Working Group on Mediation chaired by the Secretary for Justice, has initiated a Pilot Project on Community Mediation Venues with the objectives to:

- (a) identify suitable venues for mediation available at very low or no costs;
- (b) promote such venues to mediators;
- (c) coordinate the usage of such venues; and
- (d) collect statistics on such usage.

14.6 The provision of community facility for mediation is one of the recommendations in the report of the Working Group on Mediation published in February 2010 for public consultation for three months. The recommendation provides that there should be at least one community centre on the Hong Kong Island, one in Kowloon, and one in the New Territories to be made available as community venues for mediation, pending the outcome of the Pilot Project. Facilities in two community halls (one on the Hong Kong Island and another in Kowloon) have been identified by the Public Education and Publicity Sub-Group to be suitable venues for mediation for the purposes of the Pilot Project.

14.7 Under the Pilot Project, mediators who conduct pro bono mediation are able to use the facilities for mediation during specified period free of charge, and mediators who charge fees will pay the normal

costs of using these community facilities as mediation venue. The Pilot Project has been promoted through the Hong Kong Bar Association, the Law Society of Hong Kong, the Hong Kong Mediation Council, the Hong Kong Mediation Centre, and the Mediation Coordinator's Office of the Judiciary.

14.8 The Department of Justice will continue to lead and support initiatives, in collaboration with other Government departments, to promote and facilitate the wider use of mediation in Hong Kong. The Department of Justice will monitor the progress of the Pilot Project and follow up on the recommendation of the Working Group on Mediation as regards the availability of community venues for mediation, taking into account the submissions received during the public consultation.

### **Right of access to the legal system**

14.9 Our policy remains that no one with reasonable grounds for taking legal action in a Hong Kong court is prevented from doing so because of a lack of means. Paragraphs 45 to 48 of the HKSAR Common Core Document provide an overview of the legal aid services in the HKSAR, and paragraph 32(f) of that document provides statistics on legal aid applications in recent years. As mentioned in paragraph 165 of Part II of the previous report, the Administration regularly reviews the criteria for assessing the financial eligibility of legal aid applicants. On 30 September 2010, the Administration announced the final recommendations pursuant to the review, including raising the financial eligibility limits for legal aid applicants.

14.10 We explained the role of the Legal Aid Services Council (LASC), which was established in 1996 under the Legal Aid Services Council Ordinance (Cap. 489), in paragraphs 292 to 294 of Part II of the initial report. Some commentators continued to raise concern that the LASC is only a supervisory body without independent statutory power. Their view remained that there should be an independent legal aid authority. Some commentators also suggested that any lack of independence, whether actual or perceived, would be removed with the establishment of independent legal aid authority.

14.11 As explained in paragraphs 175 to 180 of Part II of the previous report, having regard to the safeguards already in place to ensure the independent administration of the legal aid service and other relevant considerations, we do not consider that a convincing case for an independent legal aid authority has been established. The Legal Aid Department (LAD) continues to meet our policy objective of ensuring that our target clients receive the assistance they need. The granting of legal aid to numerous cases against the Government illustrates that the administration of legal aid in Hong Kong is independent.

14.12 Our view is by and large supported by the findings of a recent review on the issue of independence of legal aid conducted by the LASC in 2009. In this review, the LASC, while acknowledging that the institutional arrangement of the LAD being a Government department may create a perception of lack of independence because of perceived risk of pressure from Government on LAD's decisions in granting legal aid and it will be ideal for a separate entity to administer legal aid independent of the Government to deal with the perception problem, recognises that there are already sufficient safeguards in statute and practice to ensure the independent administration of the legal aid service. The LASC is not convinced that legal aid independence has been compromised under the existing arrangement and it is not aware of any cases where legal aid was refused because of pressure from the Government or influence from a third party. Having regard to all relevant factors and considerations, the LASC does not see a pressing need to disestablish the LAD and substitute it with an independent legal aid authority.

14.13 Some commentators were concerned that prosecution authorities have the authority to determine the venue of trial for offences, which may raise an issue of equality of arms. We consider that the fact that the prosecution authorities have the authority to determine the venue of trial does not prejudice the defendant's right to a fair trial by a competent, independent and impartial tribunal established by law and the minimum guarantees protected by Article 14(2) and (3) of the Covenant.

## **Legal representation for children**

14.14 Some commentators raised concerns on the right of legal representation of children before the court, and, in particular, whether children and families are well-informed of the rights. When a child and other parties concerned are present before the court, the Judge may ask for and ascertain the views of the child. The Official Solicitor Ordinance (Cap. 416) allows judges to appoint the Official Solicitor to represent the child. The Adoption Ordinance (Cap. 290) authorises the appointment of the Director of Social Welfare as guardian ad litem to act on behalf of children in adoption proceedings, and under certain circumstances, section 12 of the Adoption Ordinance provides that some persons other than the Director of Social Welfare can be appointed to act as guardian ad litem. The duty of the guardian ad litem is to investigate as fully as possible all circumstances relevant to a proposed adoption with a view to safeguarding the interests of the child before the court. The Official Solicitor Ordinance provides for separate representation by the Official Solicitor, where necessary.

14.15 To enhance the representation of children in court, we put in place the Legal Representation Scheme in October 2003 for children / juveniles who are deprived of liberty and detained in a gazetted place of refuge under Section 34E of the Protection of Children and Juvenile Ordinance (Cap. 213). The Scheme was extended in June 2005 to cover children / juveniles taken to the juvenile court directly by the Police for the application for care or protection orders without any period of detention in a gazetted place of refuge before the court hearing, and the children / juveniles who are likely to be detained in a gazetted place of refuge on the recommendation of a social worker of the SWD. In March 2007, the Scheme was further extended to cover all such cases even without parental / guardian consent. The police officers / social workers initiating applications for care or protection orders or staff of the gazetted places of refuge will inform children / juveniles concerned and their parents / guardians of their rights to legal representation and have to make appropriate referrals to the Duty Lawyer Service Court Liaison Offices.

## **Article 15: No retrospective criminal offences or penalties**

15.1 Article 15(1) of the ICCPR is identical to Article 12(1) of the Hong Kong Bill of Rights. As reported in paragraph 184 of Part II of the previous report, the Court of Final Appeal decided in 1999 in *Ng Ka Ling & Others v Director of Immigration* that Article 15(1) of the Covenant as applied to Hong Kong remained in force by virtue of Article 39 of the Hong Kong Basic Law.<sup>5</sup> There is no significant update in relation to Article 15.

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<sup>5</sup> In *Ng Ka Ling & Others v Director of Immigration* [1999] 1 HKLRD 577.



## **Article 16: Right to recognition as person before law**

16.1 The position is as reported in paragraph 185 of Part II of the previous report. That is, the right to recognition as a person before the law is guaranteed in Article 13 of the Hong Kong Bill of Rights which gives domestic effect to Article 16 of the Covenant.

## **Article 17: Protection of privacy, family, home, correspondence, honour and reputation**

### **Interception of Communications and Surveillance Ordinance**

17.1 In paragraph 12 of its previous Concluding Observations, the Committee raised concern on the lack of a clear statutory regime to regulate interception and covert surveillance conducted by law enforcement agencies (LEAs). To this end, the Interception of Communications and Surveillance Ordinance, which was enacted in August 2006, specifies by law detailed provisions on the purposes for which, and the circumstances and authority under which, LEAs may lawfully intercept communications and conduct covert surveillance involving the use of devices. The Ordinance provides stringent safeguards at all stages of the regime – from the application for the authorisation, execution of the authorisation, to the subsequent oversight. The Ordinance is in conformity with Article 30 of the Basic Law, and seeks to protect the right to privacy under Article 17 of the Covenant.

17.2 According to the Interception of Communications and Surveillance Ordinance, LEAs would conduct interception of communications or covert surveillance only if it is necessary for the purpose of prevention or detection of serious crime or protection of public security. LEAs must obtain authorisation before carrying out such covert operations. For interception of communications and the more intrusive type of covert surveillance, the authorising authority is one of the panel judges, who must be judges of the Court of First Instance. Less intrusive covert surveillance would be authorised by designated senior officers of LEAs. The authorising authority must be satisfied that the tests of proportionality and necessity are met before issuing the authorisation. All intercept and surveillance products are required to be destroyed as soon as their retention is not necessary for the relevant purpose of the prescribed authorisations.

17.3 An independent commissioner, the Commissioner on Interception of Communications and Surveillance, is appointed by the Chief Executive to oversee LEAs' compliance with the relevant requirements of the Ordinance. According to the Interception of

Communications and Surveillance Ordinance, the Commissioner should, in his annual report to the Chief Executive, include an assessment on the overall compliance with the relevant requirements. In addition, if any person suspects that covert operations were conducted by LEAs on him, he may apply to the Commissioner for an examination under the Ordinance.

17.4 The Commissioner indicated in his annual reports to the Chief Executive that he was generally satisfied with the compliance of the LEAs with the requirements under the Ordinance. The operation of the regime under the Ordinance has been smooth since it came into effect in August 2006.

17.5 The Commissioner has made some recommendations to enhance the operation of the Interception of Communications and Surveillance Ordinance regime in discharging his oversight function. For those recommendations which do not require legislative amendments, the Government has implemented them as far as practicable and amended the Code of Practice issued under section 63 of the Ordinance where appropriate. Regarding the remaining recommendations, the Government will study them in detail in the comprehensive review of the Ordinance.

## **Protection of privacy**

### Personal data privacy

17.6 The position is essentially as explained in paragraphs 305 to 307 of Part II of the initial report. As at 30 June 2010, the Privacy Commissioner for Personal Data is supported by a staff of 58. Between April 2004 to March 2010, the PCPD received 5 672 complaints and 89 352 inquiries relating to operational matters and compliance with the provisions of the PDPO. In the same period, the PCPD issued 493 warnings and 145 enforcement notices and referred 32 suspected offences to the Police for investigation and consideration of prosecution.

17.7 Since the PDPO came into force in December 1996, the PCPD has issued three codes of practice<sup>6</sup>, one guideline and seven guidance notes that provide practical guidance for compliance with the PDPO. It has continued to promote public awareness of and compliance with the Ordinance.

17.8 The Government, with the support of the PCPD, conducted a comprehensive review of the PDPO in 2009 to see whether its existing provisions still afford adequate protection for personal data in the wake of the developments over the last decade or so. The Government conducted a public consultation from August to November 2009 to gauge public views on the proposals to amend the PDPO. The Government published on 18 October 2010 the Report on Public Consultation on Review of the PDPO and launched further public discussion on the legislative proposals to strengthen personal data privacy protection under the PDPO.

17.9 Some commentators raised concern on the composition of the selection board for the recruitment of the new Privacy Commissioner in 2009. The Government attaches great importance to the work of the Privacy Commissioner. The selection board comprised members with extensive experience and knowledge respectively in community services, public administration, corporate governance and management and other fields, and was chaired by a non-official member. The selection board considered all candidates carefully in accordance with objective criteria and made a recommendation to the Chief Executive on the suitable candidate.

17.10 Some commentators expressed concern on instances concerning the leakage of personal data following the development of information technology, and asked for more resources be made available to the PDPO for it to better discharge its duties. The Government attaches great importance in providing sufficient resources to the PCPD to meet its operational needs. It had increased the allocation to the PCPD from \$36.2 million in 2007-08 to \$48.6 million in 2010-11, which

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<sup>6</sup> The codes of practice are, namely, Code of Practice on Human Resource Management, Code of Practice on the Identity Card Number and other Personal Identifiers, and the revised Code of Practice on Consumer Credit Data.

is more than a one-third increase. In 2010-11, an additional provision of \$4.57 million was provided to the PCPD to create five posts to step up its enforcement and promotion work.

17.11 Some commentators enquired about actions taken by the Government to follow up the collection of data (video or photographs) by Google Maps Street View. After thorough investigations, the Privacy Commissioner decided on 30 July 2010 not to carry out a formal investigation on the incident. The main basis of the decision was that the Privacy Commissioner was reasonably satisfied that: (a) the data do not contain any meaningful details that can directly identify any one individual; (b) Google had no intention to compile personal information through the Street View car operation in Hong Kong; and (c) Google had not accessed or used any of the Wi-Fi payload data captured in Hong Kong through the operation. Google has also given a written undertaking to the Privacy Commissioner on appropriate remedial measures, including to completely delete the payload data at the direction of the Privacy Commissioner and provide the Privacy Commissioner with an independent third party's verification of the deletion. It has also undertaken that future Street View car operations carried out in Hong Kong shall comply with the requirements of the PDPO.

#### CCTV and video recording

17.12 Various Government departments have installed CCTV cameras in public places, such as strategic locations in the transport infrastructure, public rental housing estates, entrances to public facilities and lift cabins, for traffic monitoring, facility management and other lawful purposes. District Councils of Wan Chai and Yau Tsim Mong have also installed CCTV camera to deter the acts of throwing objects from height. The Police does not install any CCTV system in public places on a permanent basis for the purpose of maintaining law and order. To ensure the propriety of the operation of CCTV and the use of information collected therefrom, the PCPD issued a Guidance Note on CCTV Surveillances Practices in July 2010 for Government departments and the public to follow. Individual departments have issued internal guidelines to ensure that relevant recording strictly complies with the PDPO.

## Privacy at schools

17.13 Some commentators expressed concerns about the impact of CCTV monitoring system in schools on the privacy of students and teachers. There were also concerns about the school drug-testing scheme on the privacy of students. We understand from the schools that CCTV monitoring systems are installed mainly for security purposes. They are often installed at public areas like entrances and exits of the schools. In many cases, staff and students are informed of the installation of the systems. The Trial Scheme on School Drug Testing in Tai Po District was launched in December 2009. The Scheme was guided by four principles, one of which is “keeping personal information strictly confidential”. To protect the privacy of students participating in the Scheme, designated officers have been assigned to observe the operation of the Student Drug Testing Team and provide advice to participating schools on the data privacy requirements relating to drug testing as set out in a protocol. The Scheme implemented in the 2009-10 school year has been completed smoothly in June 2010. The procedures set out in the protocol have been strictly adhered to and personal information of the students has been safeguarded according to the data privacy requirements as set out in the Protocol. Participating students and parents are positive and cooperative towards the Scheme.

## Law Reform Commission reports on privacy

17.14 Some commentators enquired about the Government’s position on whether there should be a statutory tort of invasion of privacy. At present, a data subject who suffers damage by reason of a contravention of a requirement under the PDPO by a data user in relation to his personal data is entitled to compensation from the data user for that damage under section 66 of the PDPO.

17.15 The LRC published a series of reports on various aspects of privacy. One of the reports was on civil liability for invasion of privacy, which recommended the creation of specific torts of invasion of privacy by statute to enable an individual to seek civil remedies for unwarranted invasion of privacy. Many recommendations in the LRC reports are controversial. We need to strike a good balance between the protection

of privacy and upholding press freedom. We shall handle the LRC report on stalking first as there are relatively fewer controversies on regulating stalking behaviours. The report proposed the introduction of anti-stalking legislation to render the pursuit of a course of conduct causing another person alarm or distress a criminal offence and a civil wrong. We are studying this report in depth for formulating the way forward, and making preparations for undertaking public consultation on the subject.

## **Article 18: Freedom of thought, conscience and religion**

18.1 The legal and constitutional positions are as explained in paragraphs 321 and 322 of Part II of the initial report. The freedom of religious belief continues to be one of the fundamental rights enjoyed by Hong Kong residents. Religious organisations have the freedom to conduct any religious activities provided that they are allowed under the laws of Hong Kong. The HKSAR Government is fully committed to upholding religious freedom in Hong Kong in accordance with the Basic Law and the relevant legislation.

18.2 The various religions in Hong Kong embrace, among others, are Buddhism, Taoism, Confucianism, Catholicism, Christianity, Islam, Hinduism, Sikhism and Judaism. All of these religions have a considerable number of adherents. Apart from offering religious instructions, many major religious bodies have established schools and provided health, welfare and other social services and facilities.

18.3 A number of schools are operated by religious organisations. Some commentators were concerned whether the freedoms of thought and religion of teachers and students are affected by the present arrangements of school system, curricula and activities.

18.4 Besides the guarantee on freedom of religious belief under Article 32 of the Basic Law, Article 137 states that “schools run by religious organisations may continue to provide religious education, including courses in religion”. Article 141 states that the Government of the HKSAR “shall not restrict the freedom of religious belief, interfere in the internal affairs of religious organisations or restrict religious activities which do not contravene the laws of the Region”.

18.5 The Government of the HKSAR adheres strictly to the provisions of the Basic Law to protect religious freedom. Information on religious education provided by schools with or without religious background is widely accessible to the public, for example, through the Schools Profile published by the EDB, to inform parents before they select schools for their children. Parents can therefore make informed choices of sending their children to schools without religious education or



with education of a particular religion. Students may also withdraw from religious education in school with the consent of their parents. Conversely, parents may request schools to provide opportunity for their children to observe religious rituals or to form religious base groups as appropriate.

18.6 In terms of teacher appointment, general guidelines on personnel matters have been given to schools in the School Administration Guide. Schools are required to refer to the relevant legislation in drawing up their personnel management policies and procedures, which includes, among others, the legislation on equal opportunities. The Guide also sets out the principles of fairness and transparency in recruitment and selection of staff. More specifically, vacancy information in the advertisement should be gender-neutral and discrimination-free. In this respect, schools, irrespective of their religious background, should observe the fairness principle in personnel matters and hence avoid individual teachers being discriminated on the basis of religious belief.

18.7 The present curricula would not infringe the right to freedom of thought and of religious belief of teachers and students. As a matter of fact, the religious background of the school / school sponsoring body is in the school profile. Students (and their parents) and teachers wishing to join the school have adequate access to such information to make their own decision. The EDB's policy is in line with Article 137 in the Basic Law: "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 HKSAR. Schools run by religious organisations may continue to provide religious education, including courses in religion."

## **Article 19: Freedom of opinion and expression**

19.1 The constitutional and other legal protections are as explained in paragraphs 326 and 327 of Part II of the initial report.

### **Press freedom**

19.2 The position is essentially as explained in paragraphs 328 and 329 of Part II of the initial report and paragraph 198 of Part II of the previous report. The HKSAR Government is firmly committed to protecting the freedom of speech and of the press, and maintaining an environment in which a free and active press can operate under minimum regulation.

### **The offences of treason and sedition**

19.3 In paragraph 14 of its previous Concluding Observations, the Committee expressed concerns that the current definition of offences of treason and sedition in the Crimes Ordinance (Cap. 200) is too board, and suggested the HKSAR to amend the relevant legislation. We consider that the offences of treason and sedition should preferably be dealt with in the context of the legislative exercise for Article 23 of the Basic Law. We will take into account the Committee's views when the legislative exercise for Article 23 of the Basic Law is launched in future<sup>7</sup>.

### **Prevention and protection against intimidation and harassment of legislators and media personnel**

19.4 In paragraphs 13 and 17 of its previous Concluding Observations, the Committee raised concerns on the reports of intimidation and harassment against journalists and media personnel, and allegations of threats and acts of vandalism against some legislators during the run up to the Legislative Council election in 2004. To this end, the HKSAR Government is fully committed to protecting the safety of all members of the public, regardless of whether he or she is a person

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<sup>7</sup> The Chief Executive has announced in his 2010-11 Policy Address that the legislative exercise for Article 23 of the Basic Law would not be carried out in his current term, i.e. until end of June 2012.

of particular categories or is an ordinary member of the public. On receiving a report of criminal intimidation or violence, the Police will conduct a thorough investigation into the case in order to bring the attacker to justice. The majority of the criminal incidents against individual legislators involved vandalism of their publicity banners or causing nuisance to their offices. The Police attach importance to these incidents and adopt a proactive approach in their investigations. Depending on the evidence available and subject to legal advice, the Police will arrest and lay charges against the persons concerned.

19.5 For the protection of the safety and well-being of victims of crime, should there be indications or suggestions that there is a threat of injury to a victim, his family and/or his properties, the Police will assess the threat and take appropriate actions commensurate with the assessed threat level. These actions include, for example, enhancing patrol at the residence and/or work place of the victim, and providing safety advice to the victims.

### **Freedom of expression**

19.6 Some commentators expressed concerns over alleged Government interference of the freedom of expression and professional autonomy of social workers working under organisations subvented by the Government, arising from an incident involving the resignation of a social worker in a subvented organisation. They requested the Government to explain the mechanisms to protect against and penalise interferences, and ensure that adverse actions would not be taken against the social workers or organisations after their criticism of the Government. As explained in paragraph 326 of Part II of the initial report, the freedom of speech is protected under the Basic Law. The HKSAR Government respects its relationship with the subvented organisations and does not interfere with or influence the freedom of expression of those who work for these organisations.

19.7 Some commentators were concerned about the refusal of the Chinese University of Hong Kong to permanently place a statue in its campus, out of the reason to maintain politically neutrality. They requested Government to explain measures to protect the freedom of

expression and academic research in universities. They were also concerned about the political neutrality and protection against self-censorship of textbook publishers.

19.8 Academic freedom is an important social value which is treasured, and institutional autonomy is a cornerstone for the success of higher education in Hong Kong. Institutions can properly fulfil their responsibilities on the premise of institutional autonomy. Institutional autonomy comprises multiple meanings, the essential point being that institutions are legally entitled to freedom of action in managing their affairs within the restraints of the laws of Hong Kong.

19.9 The HKSAR Government strives to uphold the institutional autonomy of tertiary institutions, and considers that the present governance structure of institutions can effectively protect the principle of institutional autonomy<sup>8</sup>, enabling institutions to carry out their duties of promoting the creation and dissemination of knowledge.

19.10 On commentators' concerns over the political neutrality of textbook publishers, the EDB respects academic and publication freedom and does not interfere with the editorial autonomy of textbooks. Nevertheless, there are mechanisms to ensure the alignment of the contents of textbooks with the rationale of the curriculum. For each set of textbook, two external independent reviewers who are experienced teachers majoring in the discipline or related experts and scholars will be invited to review the submitted draft, and their review are based on their subject knowledge and pedagogical consideration. Regarding the teaching and learning of controversial issues, the EDB encourages students to enquire and explore the truth, and will not specify any particular perspective for political indoctrination. The EDB will not conduct political examination on textbooks; rather, the review mechanism

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8 All University Grants Committee-funded institutions, the Chinese University of Hong Kong included, are independent statutory bodies regulated by their respective ordinances. In the light of their different historical backgrounds, philosophies, religious faiths and missions, respective ordinances of the various institutions spell out the powers and governance structure of the institutions in respect of their aims and functions. In general, an institution would have a council as its supreme governing body, and a senate as its supreme academic body.

focuses on whether textbook contents are supported by historical facts with sufficient justifications. There is no need for textbook publishers to conduct any self-censorship.

19.11 As China has a long history with numerous historical events, it is impossible to list out all the historical incidents in the curriculum document. This will not, however, hinder students' enquiry into important historical events. In the current junior secondary and NSS Chinese History Curricula, there is plenty of room for teachers to discuss with their students the development of Chinese history.

### **Regulation and licensing of the broadcast media**

19.12 Digital broadcasting of free television channels in Hong Kong commenced at the end of 2007. In addition to four analogue channels, there are now 12 digital free-to-air channels, including simulcast of the four analogue channels in digital format.

19.13 To enhance transparency and certainty of the sound broadcasting licensing regime, the Government introduced the Telecommunications (Amendment) Bill 2009 into LegCo in October 2009 to prescribe a set of licensing criteria for the grant of sound broadcasting licences. The Bill was passed by LegCo on 20 January 2010 and took effect on 29 January 2010.

19.14 Some commentators requested the opening up of airwaves to accommodate more radio operators. The Government does not set a ceiling in respect of the total number of sound broadcasting licensees to be issued. All applications received would be considered on a fair and transparent basis according to the licensing criteria under the Telecommunications Ordinance (Cap. 106), including whether suitable frequency is available for the proposed service. Broadcasting without a licence might interfere with the services provided by existing licensees and is an offence under the law. The authorities would take appropriate enforcement action against unlicensed broadcasting.

19.15 The Government promulgated the Framework for Development of Digital Audio Broadcasting Services in Hong Kong in

February 2010 and invited interested parties to submit applications for the provision of Digital Audio Broadcasting services. In November of the same year, the licensing authority granted approval in principle to three applications from broadcasting companies. The licences are being prepared. Subject to formal grant of the licences, the public will be able to enjoy sound broadcasting services with better sound quality and more programme choices.

19.16 The Broadcasting Authority is also processing three applications for domestic free television programme service licences. The new licences, if granted, will enhance competition in the television industry and benefit the viewing public.

19.17 Some commentators raised concerns over self-censorship by the two existing domestic free television programme service licensees. Under the current regulatory regime, the Broadcasting Authority has published a set of codes of practice for programming and advertising but does not pre-censor any broadcast material. Broadcasters enjoy editorial independence in their operations and programming as long as they comply with the laws and codes of practice. Some commentators also raised concerns that the regulation of political advertising on the television and radio affects freedom of expression. The regulation of political advertising is to avoid the more affluent organisations or individuals from having undue advantage in promoting their political positions through television and radio. There are various other channels for expression of views.

### **Radio Television Hong Kong**

19.18 In September 2009, the Government decided that the Radio Television Hong Kong (RTHK) should take up the role as a public service broadcaster and remain as a Government department, with additional safeguards to enhance its corporate governance and appropriate resources to enhance its operations and expand the scope of services including provision of digital terrestrial television and digital audio broadcasting services and facilitating community participation in broadcasting. A Community Broadcasting Involvement Fund will be set up to facilitate community groups and ethnic minorities, etc. to broadcast

their programmes with RTHK's assistance.

19.19 Some commentators raised concerns over whether RTHK could maintain its editorial independence after taking up the role of a public service broadcaster. The Government attaches great importance to safeguarding the editorial independence of RTHK. In August 2010, the HKSAR Government promulgated the new RTHK Charter covering an array of key aspects, including the mission and public purposes of RTHK, the relationships between RTHK and the Government, the newly-established Board of Advisors, and the Broadcasting Authority, and guarantees regarding the editorial independence of RTHK.

19.20 The Board of Advisors for RTHK is to provide advice to RTHK with a view to improving its service delivery, governance and accountability. As an advisory board, it will not have executive power and will not be involved in the day-to-day operation or staffing matters of RTHK. The ultimate editorial responsibility of RTHK rests with the Director of Broadcasting (Head of RTHK).

19.21 The above decision constitutes a well-balanced set of proposals to address the concerns of various stakeholders. It gives new impetus for RTHK to build on its well-established foundation and reputation for providing a more comprehensive and quality broadcasting service to the community.

### **Film classification system**

19.22 The position is essentially as explained in paragraphs 347 and 348 of Part II of the initial report.

### **Appeals against the decision of the Film Censorship Authority and the censors**

19.23 The position is essentially as explained in paragraph 349 of Part II of the initial report. However, references to the Secretary for Information Technology and Broadcasting should be replaced by the Secretary for Commerce and Economic Development as a result of reorganisation of the Government Secretariat in 2007.



## **Regulation of obscene and indecent articles**

19.24 The position is essentially as explained in paragraphs 350 to 354 of Part II of the initial report. However, reference to the Television Ordinance (Cap. 52) in paragraph 350 therein should be replaced by the Broadcasting Ordinance (Cap. 562).

## **Access to Government information**

19.25 The Code on Access to Information continues to provide an effective framework to provide access for members of the public to a wide range of information held by the Government. Since the introduction of the Code in March 1995 and up to the end of September 2010, Government bureaux and departments received a total of 29 281 requests for information under the Code. Of these, 1 637 requests were subsequently withdrawn by the requestors, 1 188 requests covered cases in which the bureaux/departments concerned did not hold the requested information and 59 requests were still being processed by bureaux and departments. Among the 26 937 requests which covered information held by bureaux and departments and which the bureaux and departments had responded to, 26 296 requests (98%) were met, either in full (25 678 requests) or in part (618 requests). 641 requests (2%) were refused.

19.26 Under the Code, if a person who had requested a bureau / department to provide information considers that the bureau / department has failed to comply with any provision of the Code, he/she may ask the bureau / department to review the decision. The review mechanism is further underpinned by a complaint channel through The Ombudsman who is independent of the Administration. An applicant who considers that a bureau/department has failed to properly apply any provision of the Code may lodge a complaint with The Ombudsman.

19.27 Between March 1995 and September 2010, The Ombudsman received 159 such complaints and completed 149 cases. Of these 149 completed cases, 11 were substantiated and 11 partially substantiated, seven unsubstantiated, 90 concluded and settled after preliminary inquiries by The Ombudsman, 29 not pursued by The



Ombudsman while one complaint fell outside The Ombudsman's jurisdiction.

19.28 Some commentators requested Government to explain the present arrangement for managing Government records, and called for an archive law to ensure that public historical records that contain information on Government policies and matters of public significance are retained and made available. The Government has put in place administrative arrangements to facilitate the identification, transfer, preservation and management of and public access to Government records and materials with archival value. Access to archival records kept by the Government Records Service is managed through the Public Records (Access) Rule 1996. In general, public access will be allowed to archival records containing open information and those containing classified information which have been closed for 30 years. The Government keeps the current administrative arrangements under review and will continue to improve on them where appropriate.

#### **United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575)**

19.29 In paragraphs 207 to 209 of Part II of the previous report, we explained that United Nations (Anti-Terrorism Measures) Ordinance (the UNATMO) provided a clear definition of "terrorist acts" which protected the right of advocacy, protest, dissent and industrial action. Furthermore, we also explained that safeguards for items subject to legal privilege, journalistic materials and the privilege against self-incrimination were also included in the Ordinance. These safeguards are part and parcel of UNATMO and will become applicable alongside the full commencement of UNATMO.

19.30 Since the previous report, the HKSAR Government has taken steps to bring the UNATMO fully into operation. We aim to achieve this by early 2011. Some commentators expressed concerns that the Code of Practice for Requiring Persons to Furnish Information or Produce Material under section 12A of the UNATMO gives wide powers to law enforcement agencies, and requested the Government to explain whether the Code includes sensitivity to issues such as language, and awareness of people with special needs (e.g. persons with a disability).

A person subject to an order under Section 12A of the UNATMO is not under arrest or detention. The Code of Practice, in fact, sets out clearly the responsibilities of and privileges enjoyed by a person subject to a Section 12A order. Specifically, paragraph 2 of the Code provides that Braille copy and translated copies of the Code will be provided to interviewees who are visually impaired or do not understand Chinese and English. Paragraphs 7 to 16 of the Code of Practice put in place detailed procedures for the protection of the rights of interviewees, including the right to make telephone calls, the right to legal advice, the right to be interviewed in the mother tongue of the interviewee, the right to make complaints, the right to be interviewed in reasonable comfort and privacy, and to do so in a reasonable period.

19.31 Some commentators were also concerned with the protection of rights under the Code, such as the right to legal advice and legal aid, not to be held incommunicado, and rights of foreign nationals. Paragraph 9 of the Code provides that the interviewee, if he or she wishes, is allowed to have a barrister and/or a solicitor to be present during the interview and to consult privately with the barrister and/or solicitor. The interviewee may also consult his or her barrister and/or solicitor over the telephone in the presence, but out of the hearing, of an authorised officer. For other telephone calls, they will be made under supervision. The interviewee may make at least one telephone call for a reasonable time. If the interviewee can provide reasonable justifications, he or she may make further telephone calls. The time taken for the private consultation and telephone call is not counted as part of the interview period. An interviewee who is a foreign national may communicate with the consulate or mission of the foreign government concerned. Regarding the situation where the interview does not share a common language with the officers of the LEAs, paragraph 10 of the Code requires the interview to be conducted in the mother tongue of the interviewee and the provision of interpretation and translation to such interviewees. Further, paragraphs 11 to 14 of the Code also set out clearly the procedures for handling interviewees who are under the age of 16, suffering from mental disability/incapacity, with hearing or speech impairment, or who are visually handicapped.

19.32 Paragraphs 17 to 22 of the Code require that an accurate

record of the interview should be made and that the interviewee should receive a copy of the record as soon as reasonably practicable. Where an interview is video or audio recorded, the interviewee is similarly entitled to receive a copy of the recording as soon as reasonably practicable.

19.33 An interview for the purpose of an order under section 12A(1) of the UNATMO does not involve any court proceedings and thus legal aid is not applicable. However, the interviewee may apply to the Court of First Instance under section 12A(13) of the UNATMO for the revocation or variation of the order. As legal aid is applicable to proceedings in the Court of First Instance, legal aid will be granted if the interviewee passes the means and the merits tests. A person subject to a section 12A order may also seek free preliminary legal advice from volunteer lawyers under the Free Legal Advice Scheme operated by Duty Lawyer Service to understand his or her rights and obligations under the relevant legislation. The Scheme is provided at the Legal Advice Centres located in nine district offices to all members of the public without means testing. Persons who are subject to a section 12A order will normally be informed of the interview details in advance. They may seek legal advice under the Scheme prior to the interview.

### **Management of libraries and museums**

19.34 Some commentators requested whether the criteria in selecting and purchasing books with different political orientations comply with the UNESCO Public Library Manifesto. The Hong Kong Public Libraries have been following the principles laid down in the UNESCO Public Library Manifesto in acquiring library materials for the provision of a balanced and diversified library collection to meet the needs of people of different ages and sectors for information, research, self-learning and leisure reading.

19.35 Some commentators were also concerned about the decision not to pursue an earlier proposal on the setting up of a statutory Museum Board to take over the management of the public museums. The Government has carefully examined all relevant factors and considered that the services of public museums could be further improved under the

existing mode of governance. Overseas experience shows that different modes of governance have their own advantages and disadvantages. The historical and cultural context of a country or city has a bearing on the governance structure of its museums. It would therefore not be appropriate to advocate one single mode of governance that is universally applicable to and suitable for all museums. Different modes of governance could co-exist to suit the specific circumstances of the museums and local environment. Moreover, the public museums are a fertile training ground for curatorial experts and professional staff by providing them with hand-on training in museum work. The decision of maintaining the current mode of governance would provide a more stable environment for nurturing museum professionals who will be in great demand in the near future.

19.36 To enhance the management and operation of public museums so as to better cater for the needs of society, and to increase professional and community involvement in the promotion of the public museums, the Government has set up three Museum Advisory Panels (namely the Art Museum Advisory Panel, the History Museum Advisory Panel and the Science Museum Advisory Panel) in October 2010. They advise the Leisure and Cultural Services Department (which manages public museums) on the strategies for development, promotion and management of the respective streams of public museums. The Panels comprise individuals of different background with a great wealth of professional expertise and experiences relevant to the work of the museums in the respective streams. They include professionals, academics, museum experts, artists, collectors, art promoters, entrepreneurs, marketing and public relations experts, and community leaders. They help formulate strategies to pursue the missions of public museums and enhance their ability to fulfil them, sharpen the identity and focus of museums, and enhance their educational role. The Panels also inject new ideas into the work and operation of the museums and help formulate dynamic and creative plans to attract young visitors and widen the audience base.

## **Article 20: Prohibition on propaganda for war**

20.1 The general situation is as explained in paragraph 373 of Part II of the initial report.

20.2 The RDO, which aims at protecting the rights of individuals against racial discrimination, harassment and vilification on the ground of race, was enacted in 2008 and came into full operation in July 2009. The Ordinance makes it unlawful, among others, to incite, by an activity in public, hatred towards, serious contempt for, or severe ridicule of, another person or members of a class of persons (the victims) on the ground of the race of the person or members of the class of persons. Furthermore, such activity would be a criminal offence when the incitement of such hatred, serious contempt or severe ridicule was done intentionally, and the activity in public consists of threatening physical harm, or inciting others to threaten physical harm towards the victims, or towards any premises or property of the victims or which the victims have access. Appropriate safeguards have been included to protect legitimate activities, e.g. in the exercise of the freedoms of expression, of the press, and academic research. The Ordinance will be explained latter in the Report in respect of Article 26.

## **Article 21: Right of peaceful assembly**

21.1 As explained in paragraph 375 of Part II of the initial report, the freedoms of assembly, of procession and of demonstration are guaranteed by Article 27 of the Basic Law. The provisions of the Public Order Ordinance (Cap. 245) in respect of the right to assembly were specifically framed with a view to conforming with Article 21 of the Covenant.

### **The operation of the Public Order Ordinance**

21.2 The HKSAR Government respects and takes it upon itself to protect the rights of the public to peaceful assemblies and processions and to express their views. As Hong Kong is a crowded place, large-scale public assemblies and processions will affect other people or road users, and may have impacts on public safety and order. In this connection, while facilitating expression of views by participants of processions, it is also the HKSAR Government's responsibility to maintain public order, and at the same time strike a balance by ensuring the rights of other people to use the public place or road as well as their safety. Participants of public meetings or processions, in exercising their freedom of expression, should, under the premise of observing the Hong Kong law and without affecting public order, proceed in a peaceful and orderly manner.

21.3 Under the Public Order Ordinance, any public meeting or procession the attendance of which exceeds the limit prescribed in the Ordinance should give notice to the Commissioner of Police and only be conducted if the Commissioner of Police has not prohibited or objected to it. The Commissioner of Police (or delegated officers) will carefully examine each case. He may impose condition(s) on a notified public meeting or procession as reasonably necessary to ensure public order and public safety. Generally speaking, upon receipt of a notification about a public meeting or procession, the Police will establish early contact and maintain an active and close communication with the event organiser to provide advice and assistance. The Court of Final Appeal has pointed out in a judgment that Hong Kong's legal requirement for notification is widespread in jurisdictions around the world. It has also affirmed that



the statutory requirement for notification is constitutional, and is required to enable the Police to fulfil their duty of taking reasonable and appropriate measures to enable lawful assemblies and demonstrations to take place peacefully.

21.4 If the Commissioner of Police prohibits / objects to or imposes conditions on a notified public meeting or procession under the Public Order Ordinance and the organiser disagrees, the organiser may lodge an appeal to the independent Appeal Board on Public Meetings and Processions. The Appeal Board is chaired by a retired judge and consists of three other members selected in rotation from a panel of 15 independent members appointed by the Chief Executive. It may confirm, reverse or vary the prohibition, objection or condition imposed by the Commissioner of Police.

21.5 Between 1 July 1997 and 31 December 2009, there were over 30 000 public meetings and processions in Hong Kong.

21.6 It is evident that since the establishment of the HKSAR, the public continues to enjoy a high degree of freedom of assembly. The majority of these activities were conducted in a peaceful and orderly manner and in accordance with the law.

### **The confiscation of exhibits under public entertainment laws**

21.7 Some commentators raised concerns, arising from an incident involving the use of legislation regulating places of public entertainment to remove exhibits in public display, that Government had been applying the law to infringe on the freedom of expression, and requested the Government to ensure that law enforcement agencies remain politically neutral and that such laws could not be used to interfere with the freedoms of assembly and expression. It should be noted that the Places of Public Entertainment Ordinance (Cap. 172) was enacted to ensure public safety with regard to building, hygiene, fire and ventilation aspects, as well as law and order within the premises. All places of public entertainment shall comply with the requirements set by the Food and Environmental Hygiene Department (FEHD) and other relevant departments. The HKSAR Government has no intention to suppress any

activity, as far as they are in compliance with the existing legislation.

### **Stalls for fund raising / collecting signatures during processions**

21.8 Some commentators expressed concerns about the licensing procedures and criteria for approving NGOs to set up stalls during processions for various purposes such as collection of signatures, distribution of information, fund raising and recruitment of volunteers, and whether these would be used to impede the various freedoms associated with the processions. Hong Kong residents' freedom of procession is protected by Article 27 of the Basic Law. Charitable/non-charitable organisations wishing to set up stalls to raise funds during processions have to comply with the requirements under section 4(17) of the Summary Offences Ordinance (Cap. 228) by making applications to the relevant Government departments.

21.9 Charitable/non-charitable organisations wishing to conduct fund-raising activities in public places in the form of selling of goods are required to apply for temporary hawker licences, the validity period of which is not more than one month, from the FEHD. All applications must be submitted at least 12 working days before the fund-raising activities. In handling the applications, the FEHD will consult relevant departments. Apart from checking whether the locations under applications have already been allocated to other organisations, the factors which are taken into account mainly involve public safety and order, such as whether a stall would obstruct public passageways. All applications are processed based on the same criteria. From January to September 2010, the FEHD issued a total of 479 temporary hawker licences, some of which have been issued in respect of stalls set up during processions. During the same period, the FEHD refused only some 10 applications concerning the setting up of stalls during processions, with the major reasons being that the applications were not submitted to the FEHD at least 12 working days before the funding-raising activities, the locations under application had already been allocated to other organisations, and pedestrian flow control or road closure measures would be implemented by the Police at the locations concerned.



## **Public meetings outside Central Government Offices**

21.10 Some commentators were concerned about the policies and measures to facilitate public assembly and meeting outside Central Government Offices of the HKSAR. They were also concerned about whether there will be design and management measures in the new Central Government Offices and the LegCo Building under construction to facilitate protesters in expressing their views to Government officials or LegCo Members. The Administration recognises the public's right to freedom of peaceful assembly and expression of opinions and the need to facilitate members of the public to carry out public activities. As such, it has never been the intention of the Administration to incorporate into the design of the Tamar Development Project (to house the new Central Government Offices and the LegCo Building) which will restrict the public's right to peaceful assembly. To safeguard the public's right to freedom of peaceful assembly and expression, it is our intention to identify suitable places at the new Central Government Offices to facilitate members of the public to carry out public activities which will neither compromise public order and safety nor the effective operation of the Government Secretariat.

## **Article 22: Freedom of association**

### **Societies Ordinance**

22.1 As explained in the previous report, there has been a healthy growth in the number of societies in Hong Kong. The number of societies which have either been registered or been exempted from registration since the establishment of the HKSAR reached over 23 000 by 31 May 2010. It remains the case that the Police have not rejected any application for the formation of a society since the establishment of the HKSAR.

### **Regulation of trade union activities**

22.2 The position remains as explained in paragraphs 120 to 126 of Part II of the initial report of the HKSAR under the ICESCR in relation to Article 8 of that Covenant.

### **Number and membership of trade unions**

22.3 As at 31 December 2009, the number and declared membership of employees' unions in Hong Kong were:

<b>Economic sector</b>	<b>2009</b>	
	<b>No. of unions</b>	<b>Declared membership</b>
Agriculture, forestry and fishing	1	7
Manufacturing	81	59 697
Electricity and gas supply	4	2 034
Construction	37	29 689
Import/export, wholesale and retail trades	34	64 425
Transportation, storage, postal and courier services	105	121 570
Accommodation and food service activities	25	23 740

<b>Economic sector</b>	<b>2009</b>	
	<b>No. of unions</b>	<b>Declared membership</b>
Information and communications	16	7 044
Financial and insurance activities	4	8 184
Real estate activities	10	7 125
Professional, scientific and technical activities	5	479
Administrative and support service activities	31	39 366
Public administration	190	190 312
Education	63	104 784
Human health and social work activities	93	55 753
Arts, entertainment and recreation	30	6 437
Other service activities	25	6 327
Work activities within domestic households	14	3 546
<b>Total</b>	<b>768</b>	<b>730 519</b>
Union participation rate in terms of salaried employees and wage earners		22.48%

### **Organisations for the promotion of human rights**

22.4 The position continues to remain as explained in paragraphs 401 to 404 of Part II of the initial report. The list at Annex updates Annex 7 of the previous report.

## **Article 23: The family – a vital component of society**

23.1 The general position remains as explained in paragraph 234 of Part II of the previous report.

### **Family welfare services**

#### **Integrated Family Service Centre**

23.2 At the time when the previous report was prepared in 2003, the first point of call for families which need help and advice was Family Services Centre. In 2004-05, the SWD restructured the family services in Hong Kong and adopted the Integrated Family Service Centre (IFSC) service mode. It has re-engineered the then family welfare service resources (including Family Services Centres and other family service units) to form an extensive network of 61 IFSCs over the territory. IFSCs provide a continuum of preventive, supportive and remedial family services for children or families in need in a holistic manner.

23.3 In October 2008, the SWD commissioned the University of Hong Kong to conduct a review on the implementation of the IFSC service mode. The review report was released in May 2010. The consultant team concluded that the IFSC service mode had received general support from stakeholders as the delivery mode for family services and that it should continue to be adopted for the publicly-funded family services in Hong Kong.

23.4 Some commentators were concerned about the workload of IFSCs and that their efficiency may be affected. Since the adoption of the IFSC service mode in 2004-05, the Government has been closely monitoring the manpower situation of the IFSCs and, where necessary, has strengthened their manpower and supervision through provision of additional resources. The total number of frontline social workers and centre-in-charges / supervisors of the IFSCs has increased from 896 and 62 in 2004-05 to 1 017 and 91 in 2009-10 respectively, representing a 16% increase. The consultant team for the review has made a total of 26 recommendations in the review report to enhance the implementation of the IFSC service mode. The Government will take forward all the

recommendations in collaboration with administrators, supervisors and frontline staff of the IFSCs and other relevant parties.

### Family and Child Protective Services Units

23.5 To meet the specific needs of families with the problems of child abuse and spouse battering and children affected by custody/guardianship disputes, the Family and Child Protective Services Units (FCPSUs) of the SWD have been providing specialised services with the objectives of restoring the normal functions of the families and safeguarding the interests of the children concerned. In view of increasing service demand, additional resources have been allocated to strengthen the manpower of the FCPSUs in recent years. The number of FCPSUs has increased from five as reported in the previous report to 11 in 2009-10.

23.6 Measures to combat child abuse and domestic violence and our response to the Committee's previous Concluding Observations on the issue are elaborated in this Report in respect of Article 24.

### Review of laws relating to child guardianship and custody by the Law Reform Commission

23.7 The Government has completed its review of the two reports published by the LRC on guardianship of children and international parental child abduction as mentioned in paragraph 238 of Part II of the previous report. It accepts in principle all the recommendations of the two reports. With the endorsement of the LegCo Panel on Welfare Services, the Government is now in the process of preparing the necessary legislative amendments to implement the recommendations.

23.8 The LRC issued another report on child custody and access in March 2005. Among other things, the report recommends the adoption of the "joint parental responsibility" model which aims at enabling both parents to maintain an active involvement in the lives of their children after divorce. Since implementation of this model will fundamentally change the concept of "custody" underpinning the existing family law of Hong Kong and some stakeholders have expressed

concerns and worries, the Government will take a cautious approach on the matter and continue to consult relevant stakeholders before deciding on whether and how to adopt the recommendations of the report. Meanwhile, the Government has taken into account the relevant recommendations of LRC in considering related policy issues, such as in the legislative exercise to amend the Domestic Violence Ordinance in 2008.

### Responsibility of parenting

23.9 Some commentators expressed that the responsibility of parenting in Hong Kong was still largely shouldered by the mother and suggested that more resources, education and publicity measures be deployed to ensure parents were more aware of shared responsibility, and legislation should also be considered.

23.10 Family life education programmes organised by various services units under the SWD, including Family Life Education Units, IFSCs and Integrated Service Centres, cover, among other things, the promotion of the awareness of shared parental responsibility. These service units also work closely with schools in organising specific programmes for parents with a view to enhancing their understanding of the needs of their children. Moreover, Parenting Programme is available in all Maternal and Child Health Centres under the Department of Health. It aims to equip parents/caregivers with the necessary knowledge and skills to bring up healthy and well-adjusted children through enhancing parenting skills and efficacy, promoting parent-child relationship and reducing child behaviour problems. Parents and parents-to-be will receive anticipatory guidance covering both physical child care and psychological aspects of parenting. Supportive service will be offered to parents in need, including those encountering difficulties in parenting, with perinatal mental health problem or specific psychosocial needs.

### **Split families**

#### Split families between HKSAR and the Mainland of China

23.11 Some commentators expressed concerns on the issue of

“reunion of split families” between the HKSAR and the Mainland of China. Some commentators were also concerned with the unequal treatment that spouses of Hong Kong residents in the Mainland need to make applications when they come to Hong Kong, while spouses from overseas countries are not required to do so. Our position, including the legislative provisions for the entitlement of right of abode and the Certificate of Entitlement (CoE) Scheme, was set out in paragraphs 126 and 127 of Part II of the previous report.

23.12 The Basic Law stipulates that “for entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval” (Paragraph 4 of Article 22). Mainland residents who wish to settle in Hong Kong for reasons including family reunion must apply through a Permit scheme administered by the Mainland authorities. Indeed, the Permit scheme is predominantly a family reunion programme which ensures that the eligible candidates will come to Hong Kong for settlement in an orderly manner within the constraint of the social and economic infrastructure in Hong Kong.

23.13 The Mainland authorities have since May 1997 applied the “Points System” which has been refined from time to time to assess and determine the eligibility of applicants and the order in which they may settle in Hong Kong according to objective criteria. Except for CoE holders, the main considerations in examining and approving the Permit applications include the separation time and the age of the applicants and their Hong Kong relatives. Mainland residents claiming right of abode under paragraph 2(c) of Schedule 1 to the Immigration Ordinance can apply for a CoE from the Public Security Offices in the Mainland where their household registration is kept.

23.14 In recent years, the Permit scheme has been refined, including relaxation of the age limit for applications by accompanying children of spouses from below 14 to below 18, and removal of the restriction that only one accompanying child was allowed in 2003. In January 2009, the waiting time for the Permit for spouses and their accompanying children was further shortened to four years, considerably shorter than the waiting time of seven years a few years ago.



23.15 From the establishment of the HKSAR (1 July 1997) to 31 December 2009, the CoE Scheme has facilitated the admission of more than 180 000 Mainland residents for settlement in Hong Kong. From 1 July 1997 to 31 December 2009, over 620 000 Mainland residents (including CoE holders) have settled in Hong Kong under the Permit Scheme.

23.16 Apart from entering Hong Kong for settlement on the strength of the Permit, Mainland residents may visit Hong Kong for sightseeing, conducting businesses and visiting relatives. Eligible Mainland residents can also apply for multiple journey exit endorsement for visiting relatives in Hong Kong, which enables them to stay in Hong Kong for 90 days on each entry. Over 1.8 million visitor-arrivals per annum on strength of the endorsement for visiting relatives were recorded in recent years.

23.17 Some commentators were concerned about the high level of fee charged by public hospitals for wives of local residents in the Mainland who were admitted to local hospitals for delivery. It is the Government's policy to ensure that Hong Kong resident women are given proper and adequate obstetric services. To tackle the problem of rapid increase in the demand for obstetric services in Hong Kong by non-local women (i.e. those being non-Hong Kong residents, including Mainland women) in recent years, which has caused tremendous pressure on the capacity of obstetric service in public hospitals and affected such services to Hong Kong residents, the Hospital Authority has implemented since 1 February 2007 revised arrangements for obstetric service for non-eligible persons. The revised arrangements seek to limit the number of non-eligible persons coming to Hong Kong to give births to a level that can be supported by our public healthcare system, and to deter their dangerous behaviour of seeking emergency hospital admissions through Accident & Emergency Departments shortly before labour. The revised obstetric service arrangements for non-eligible persons apply to all non-local women including those whose husbands are Hong Kong residents.



### Split families from other countries

23.18 Some commentators expressed concerns that some South Asian families remain split because dependents' applications for residency in Hong Kong are rejected on the ground that the sponsors were unable to provide suitable accommodation and financial support to the dependents. Under the existing immigration policy, eligible Hong Kong residents may sponsor their dependants to take up residence in Hong Kong. Such applications may be favourably considered provided that normal immigration requirements and specific eligibility criteria are met, including that there is reasonable proof of a genuine relationship between the applicant and the sponsor; there is no known record to the detriment of the applicant; and the sponsor is able to support the applicant's living at a standard well above the subsistence level and provide the applicant with suitable accommodation in Hong Kong. The current requirements and criteria already strike an appropriate balance between facilitating the entry of eligible dependants and upholding immigration control. Nevertheless, the HKSAR Government can assure that each application is determined on its individual merits and will continue to review its immigration policies from time to time to ensure that they meet the needs of society.

### **Families on asylum or torture claims**

23.19 Some commentators were concerned about the questions of subsistence and education of families on asylum or torture claims. Children with no right to remain in HKSAR are subject to removal, so the question of their schooling in HKSAR does not normally arise. Where removal is unlikely in the short term, requests to allow them to attend school are considered on a case-by-case basis, having regard to the obligation on the rights and interests of the child and other relevant factors. In appropriate cases, the Director of Immigration may give an indication of no objection, whereafter arrangements for schooling may be made by the education authorities in accordance with established rules.

23.20 In arranging such placements, the EDB will consider the education needs of the children. For example, new arrival children may attend Initiation Programmes, which aim to improve their Chinese and

English, assist them in adjusting to the local community and foster personal development. Student financial assistance to cover education-related expenses may be provided on a case-by-case basis. Apart from the assistance provided by the Administration, there are other resources in the community in support of the development of child asylum seekers/torture claimants.

23.21 On humanitarian grounds, the Administration, in collaboration with NGOs and on a case-by-case basis, offers in-kind assistance to torture claimants and asylum seekers who have difficulty meeting their basic needs while their claims are being processed. The assistance offered includes temporary accommodation, food, clothing, other basic necessities, appropriate transport allowances, counselling and medical service.

### **Amendments to the Matrimonial Causes Rules**

23.22 The Matrimonial Causes (Amendment) Rules of December 2001 simplify the procedures for handling undefended petitions or joint applications for divorce or judicial separation. Further, to facilitate the enforcement of maintenance orders and the timely collection of maintenance payment, the Administration is working on ways to streamline the court procedures in relation to judgement summons to combat the problem of maintenance payers evading service of the judgement summons.

### **New arrivals from the Mainland of China**

23.23 Between 1 July 1998 and 31 December 2009, nearly 570 000 people from the Mainland of China settled in Hong Kong. In paragraphs 417 to 425 of Part II of the initial report, and paragraphs 243 to 245 of Part II of the previous report, we explained the position of new arrivals from the Mainland of China and the initiatives then being taken to ease the process of their settlement. Those initiatives have continued and, where necessary, been improved and updated –

- (a) **Identifying needs and organising community activities:**  
The HAD continues to conduct quarterly surveys on the

profile and service needs of new arrivals from the Mainland in collaboration with the Immigration Department. Survey results are distributed to relevant Government departments and NGOs for reference.

Since 2007, the HAD has allocated resources to those districts with a higher concentration of new arrivals and the disadvantaged in the community, to facilitate district organisations to organise activities (such as workshops, interest classes, visits, camps and other activities) to assist those newly arrived in Hong Kong to integrate into the local community as soon as possible.

- (b) **Education:** the position remains as explained in paragraph 243(b) of Part II of the previous report.
  
- (c) **Housing:** At present, about half of the new arrivals from the Mainland live in public rental housing (PRH). New arrivals may apply, on the ground of family reunion, for inclusion into PRH tenancy if they are either the spouse / children aged under 18 / dependent family members of the tenants; or the spouse and children of one of the tenant's married children. An adult child of elderly tenants, together with his family members, can be included in the tenancy. New arrivals who want to apply for PRH flats under the waiting list by themselves can register on the waiting list, subject to the requirements such as income and asset limits being met. With a minimum of half of the family members having lived in Hong Kong for seven years, the new arrival would be offered PRH flats when their turns for PRH mature. A person under the age of 18 will be deemed to have fulfilled the seven-year residence rule if he/she has established permanent resident status by birth. For those new arrivals not meeting the aforesaid requirements but having difficulties in meeting their imminent housing needs, they may apply to the SWD for special recommendations to housing on compassionate grounds.

To assist the newly-arrived residents in the PRH to better adapt to the new living environment, the Housing Department has extended the Housing Advisory and Service Team service for another two years to cover 22 PRH estates in Tuen Mun, Yuen Long, Tin Shui Wai and Tung Chung districts starting from April 2010. The expanded service will continue to reach out to the new PRH tenants from the Mainland more proactively to help them better settle in the new environment in Hong Kong.

- (d) **Welfare:** We explained in paragraph 10.37 of the third report of the HKSAR under the ICESCR, in relation to Article 10 of that Covenant, that welfare services such as child care, community support and financial assistance are made available to new arrivals.

Following the SWD's implementation of the IFSC service mode in 2004-05, new arrivals can now have access to a continuum of comprehensive family services in one stop at the 61 IFSCs and two Integrated Service Centres over the territory. Family services are now available to them in a much more convenient, accessible and holistic way than before. Social workers at IFSCs and Integrated Service Centres have the relevant experience and skills in supporting new arrivals. They will thoroughly assess and take care of the needs of new arrival families and provide them with appropriate services. From time to time, programmes and activities targeting newly-arrived families are organised at these centres to help them adapt to the new environment. Topics covered in these programmes include effective communication among family members and conflict, emotion and stress management, etc. Districts with a higher concentration of new arrivals were given additional resources in 2008-09 to organise more focused and targeted programmes for new arrivals.

Meanwhile, with continuous funding and additional resources from the SWD, the International Social Service

Hong Kong Branch (ISS), a local NGO, continues to provide services to new arrival families and individuals. Services provided include intake enquiries, counselling, emergency assistance, volunteer training, various groups and activities and referral. Moreover, the ISS also reaches out to new arrivals and connects those having difficulties to mainstream or community services. The SWD has also linked up its Departmental Hotline with the New Arrival Hotline operated by ISS since July 2009. The New Arrival Hotline provides support in the form of information giving, guidance, regular concern calls, etc. to those who have arrived in Hong Kong for less than six months with a view to facilitating their integration into the community. Linking up the two hotlines will enable new arrivals calling the SWD Hotline to have their calls transferred to the New Arrival Hotline for tailor-made and targeted advice and services. In July 2010, the SWD has given additional funding to the ISS to operate a service team at the Lo Wu Control Point (one of the immigration control points between HKSAR and the Mainland). Services provided include provision of information about social services in Hong Kong and referrals to appropriate service units for follow up.

- (e) NGOs operate complimentary projects, funded from sources such as the Hong Kong Jockey Club Charities Trust and Community Chest. These initiatives include education, employment programmes and volunteer services.

23.24 Various Government departments have been providing a range of services to help new arrivals adapt to their new environment as soon as possible and help ethnic minorities integrate into our society. The Permanent Secretary for Home Affairs will lead a dedicated team to step up and co-ordinate efforts in this regard. The team will monitor closely the service needs of new arrivals during the adaptation period and the difficulties faced by ethnic minorities in daily life, so as to ensure that the support services can meet their needs. Moreover, the team will enhance collaboration with NGOs and district organisations to facilitate the early integration of new arrivals and ethnic minorities into the local

community.

### **Right of marriage of transgender persons**

23.25 Some commentators were concerned that transgender persons' right to form families has been violated by the refusal of the Government to recognise marriage based on the post-operation sex. Under Hong Kong law, marriage is the voluntary union for life of one man and one woman. A recent court judgment in a judicial review upholds the interpretation of "man" and "woman" in this context as the individual's biological sex at birth. As the judgment is subject to possible appeal, it is not appropriate for the Administration to comment on the case further at this juncture, but the Administration will continue to listen to the views of the community on relevant issues.

## **Article 24: Rights of children**

### **Convention on the Rights of the Child**

24.1 The second report of the HKSAR, which formed part of China's third and fourth reports under the Convention on the Rights of the Child (CRC) has been submitted to the United Nations. The HKSAR Government will produce a child-friendly version of the HKSAR report on CRC which is more easily understood by children and young people, in order to promote the awareness of the CRC among them.

### **Promotion of the rights of the child**

24.2 Further to the initiatives mentioned in paragraphs 264 to 266 of Part II of the previous report, we have continued our efforts to promote the CRC and respect of children's rights in schools and the community at large through different means. We have also taken initiatives to enhance cooperation with NGOs to promote children's rights.

24.3 In respect of the Children's Council mentioned in paragraphs 265 and 266 of Part II of the previous report, the Government has provided funding for the Children's Council project to be held annually. Furthermore, in 2006, Child Councillors who had participated in the Children's Council formed "Kids' Dream", the first children-led NGO in Hong Kong. It has been actively involved in the promotion of children's rights and provision of insightful contribution to the Government.

24.4 The Government also established the Children's Rights Education Funding Scheme in 2006 to provide financial support for community organisations to carry out education projects to raise public awareness and understanding of children's rights. Details of the Funding Scheme are elaborated in Part II of the second report of the HKSAR under the CRC in relation to Articles 42 and 44.

24.5 In 2009, to commemorate the 20th anniversary of the adoption of the CRC, the Government undertook a series of programmes



to promote the CRC and understanding of children's rights, including the publication of a comic booklet on the CRC, launching of media promotion, allocating additional resources to fund community projects to promote the CRC, as well as sponsoring the production of educational kits for teachers, parents and students to enhance their understanding of children's rights.

24.6 Some commentators proposed to establish a commission with a clear mandate on children's rights. Some others commented that there was no comprehensive child policy or mechanism to implement the CRC in the HKSAR. It should be noted that in the HKSAR, all decision-making, including legislative proposals and policies would, as a matter of course, take into account the best interests of children. Regarding coordination on matters concerning children which span across a number of policy areas, it is a standing practice that the lead bureau of a subject matter would consult other concerned bureaux and departments as and when necessary. As regards the collection of views, for formulating policies and measures including those affecting children, the relevant Government bureau or department will make use of established channels to carry out consultation with stakeholders, including children and children's organisations.

24.7 The issue of setting up a new human rights institution has recently been considered by the Government as detailed in paragraphs 2.1 to 2.4 of this Report, in respect of Article 2.

## **Services for the child**

### Day child care services

24.8 The Government continues to fund NGOs which provide various kinds of child care services to support parents who cannot take care of their children temporarily because of work or other reasons.

24.9 Further to paragraph 251 of Part II of the previous report, apart from providing regular and institutional services at the traditional child care centres and kindergarten-cum-child care centres, the SWD has introduced various new services with more flexible service hours and



mode of operation in recent years to better meet service demands. For instance, the SWD has launched a pilot Neighbourhood Support Child Care Project since October 2008 to provide needy parents with flexible child care services, and at the same time, foster mutual help and care in the community. Under the Project, carers in the neighbourhood are hired and trained to take care of children at centres run by the service operators or at the carers' homes.

24.10 At the time when the previous report was prepared, child care centres and kindergartens were registered under different ordinances and regulated by different departments, although their service targets and the services they provided might be similar. Child care centres were registered under the Child Care Services Ordinance (Cap. 243) and regulated by the SWD, whereas kindergartens were registered under the Education Ordinance (Cap. 279) and regulated by the then Education and Manpower Bureau. In 2005, amendments were made to the Child Care Services Ordinance to harmonise the pre-primary services governed by the two Ordinances

24.11 The harmonisation re-delineates the services and target users of child care centres and kindergartens. Independent child care centres have been redefined as day care services for children under the age of three and are registered under the Child Care Services Ordinance and supervised by the SWD. Kindergartens, on the other hand, are registered under the Education Ordinance and administered by the EDB. For institutions which provide pre-primary services to both children aged below three and aged from three to six (i.e. kindergarten-cum-child care centres), a Joint Office for Pre-primary Services staffed by the EDB and the SWD was set up under the EDB in 2005 to provide one-stop services and supervision to them.

#### Residential child care services

24.12 The underlying principle of residential child care services, as mentioned in the previous report, is that a family setting is preferred to an institutional one. This is particularly important in the case of younger children. As at 30 June 2010, there were a total of 1 865 non-institutional residential care placements, compared with 1 535 as at

30 June 2003 as reported in the previous report.

### Poverty among children

24.13 Some commentators suggested that the Government should consider re-establishing the Commission on Poverty (CoP) in collaboration with NGOs, academics and stakeholders and drawing up a poverty line to tackle poverty among children. With the conclusion of the work of the CoP, the Government set up the Task Force on Poverty (TFP) in 2007, headed by the Secretary for Labour and Welfare, to monitor the progress in implementing recommendations of the CoP, co-ordinate efforts across the Government in tackling poverty-related issues. The TFP has duly followed up the recommendations of the CoP and many of which have already been implemented. The TFP will continue to coordinate the Government's efforts and explore possible new initiatives and measures to assist the disadvantaged groups and people in need where necessary.

24.14 The CoP had deliberated fully the issue of how to measure poverty in Hong Kong. It was of the view that in an affluent city like Hong Kong, poverty could not be understood simply by the concept of absolute poverty or the lack of ability to afford minimum subsistence, nor could we rely upon a single poverty line to measure income poverty. We must take into consideration the actual situation and needs of the disadvantaged groups, including their access to essential services and opportunities such as housing, healthcare, education and employment. The Government agrees with the CoP, and has all along been adopting a set of 24 multi-dimensional poverty indicators that the CoP recommended for monitoring the overall poverty situation in Hong Kong.

24.15 To reduce intergenerational poverty, the Government set up the \$300 million Child Development Fund (CDF) in April 2008 to try out an asset-based model which encourages the longer-term personal development of children from a disadvantaged background. Since December 2008 and up to October 2010, two batches of CDF projects have been rolled out, benefiting altogether 2 270 children. We estimate that 13 600 children will eventually benefit from the CDF.

## **Child abuse and domestic violence**

24.16 In paragraph 16 of its previous Concluding Observations, the Committee suggested that the HKSAR Government should allocate adequate resources for the protection and provision of assistance to the victims of domestic violence. The Government has launched various initiatives in combating child abuse and domestic violence, as well as strengthening support for the victims and families in need. Our work in this aspect has been set out in paragraphs 10.46 to 10.57 in relation to Article 10 of HKSAR's third report under the ICESCR. It would be explained in the relevant section in relation to Article 5 of HKSAR's third report under the CEDAW.

24.17 In addition to providing support and specialised services for victims of domestic violence, we also provide support to needy families through the provision of childcare services, family crisis intervention and counselling services, etc. To this end, we have allocated considerable resources to the SWD to provide a co-ordinated package of preventive, supportive and specialised services for individuals involved in domestic violence as well as families in need. The SWD's expenditure in this area has increased from \$1.3 billion in the 2004-05 financial year to \$1.6 billion in the 2008-09 financial year. The budget for the 2009-10 financial year was further increased to about \$1.8 billion. Additional manpower has also been allocated to the SWD to enhance the department's capability in handling domestic violence cases.

24.18 Some commentators expressed concerns over cases involving parents committing suicide with their children, or neglecting children by leaving them unattended. They asked the Government to strengthen public education on the right to life of children and provide support to parents with mental health problems.

24.19 The SWD has stepped up its efforts and services to instil in parents the importance of children's safety and to assist families in need. These efforts include public education and publicity, family life education and family counselling services, enhanced child care services, and financial support for low-income families in need of child care services. The SWD also includes in its publicity plan the production of a new

Announcement in the Public Interest in 2010-11 reminding parents to respect children's right to life, as well as promoting the right attitude of parents towards life.

24.20 We strive to provide suitable support services for parents with disabilities, including those with mental health problems. All along, the Hospital Authority has been promoting the importance of mental health through its provision of psychiatric services. The Department of Health has also included mental health in its public health education programme. The measures taken by the HKSAR Government in this respect was elaborated under Article 23 of the Initial Report of the HKSAR under the United Nations Convention on Rights of Persons with Disabilities (UNCRPD).

#### Training for Police officers in handling domestic violence cases

24.21 The Committee recommended in paragraph 16 of its last Concluding Observations that the HKSAR should ensure that police officers receive proper training to deal with cases of domestic violence.

24.22 The Police officers handle all reports related to domestic violence and child abuse professionally. The Child Protection Policy Unit of the Police has introduced various training programmes to enhance the capabilities of frontline officers in handling domestic violence and child abuse cases. These programmes cover domestic violence dynamics, psychology of parties involved, questioning techniques, risk assessment, conflict management and service interface with welfare units, etc. In particular, officers of Child Abuse Investigation Unit in Police regions have received specialised training on child abuse investigation under a joint training programme co-organised by the Police and the SWD. Refresher training is also organised on a regular basis to enhance officers' skills in case investigation and assisting victims of such cases.

24.23 The Police adopted a new assessment tool, namely the Emergency Referral Questionnaire, in November 2006 to assist frontline officers in identifying and assessing the risk factors of the family involved in domestic violence incidents. An action checklist has also been introduced to assist frontline officers in conducting initial

investigation at the scene of a domestic violence case.

24.24 To enhance Police officers' effectiveness in handling family related incidents, e-learning packages in the name of "Family Harmony Project", covering domestic violence, child abuse, juvenile crime and elder abuse, have been provided to police officers since November 2009.

#### Supportive and specialised services offered to victims of domestic violence

24.25 Since November 2006, the Police have adopted a "one family one team" principle by ensuring that the same investigation unit would follow up cases that involve the same family. To strengthen the support of and assistance to victims of domestic violence during the investigation and judicial processes, and to enhance communication and cooperation among the Police, the SWD and other NGOs, the Police have implemented the Victim Management Workflow so as to enable the Police to adopt a consistent and coordinated approach in victims handling and to take proactive measures that are commensurate with the level of risk and gravity of individual cases.

#### **Corporal punishment**

24.26 Some commentators raised concern regarding corporal punishment within a family, and called for legislation against corporal punishment of children in Hong Kong.

24.27 At present, there are provisions under the Child Care Services Regulations (Cap. 243A) and the Education Regulations (Cap. 279A) which prohibit corporal punishment of children in a childcare centre and mutual help childcare centre as well as corporal punishment of pupil by a teacher.

24.28 In relation to child abuse, the provisions under the Offences Against the Person Ordinance (Cap. 212) may apply. For example, a person who is convicted of an assault occasioning actual bodily harm (section 39) or a common assault (section 40) would be liable to a maximum penalty of imprisonment for three years and one year

respectively. Furthermore, pursuant to section 27(1) of the Ordinance, it is unlawful for a person aged over 16, including a parent, who has the custody, charge or care of a child or young person under the age of 16, to wilfully assault or ill-treat the child or young person, or causes such child or young person to be assaulted, or ill-treated in a manner likely to cause such child or young person unnecessary suffering or injury to his health. If convicted, the person shall be liable to a maximum penalty of 10 years' imprisonment.

24.29 As to whether corporal punishment in the family that may not constitute criminal offences under the existing laws should be prohibited by law, we note that laws in other jurisdictions are developing, and the issue is still a controversial one even in Western society. We do not consider that legislation at this stage would be the most effective means of dealing with the issue in Hong Kong.

### **Review and amendment of the Adoption Ordinance**

24.30 Upon completion of the review as mentioned in paragraph 259 of Part II of the previous report, the Government introduced legislative amendments to the Adoption Ordinance into the LegCo in June 2003 which gave effect to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption in Hong Kong and improved local adoption arrangements. The amendments were passed by LegCo in July 2004 and commenced operation in January 2006.

### **Representation of children in care or protection cases**

24.31 As mentioned in paragraph 262 of Part II of the previous report, we have commissioned the Duty Lawyer Service to operate the Legal Representation Scheme for Children or Juveniles involved in care or protection proceedings since October 2003. The Scheme provides free legal representation service for children and juveniles involved in care or protection proceedings. The Scheme was extended in June 2005 to cover children and juveniles taken to the juvenile court directly by the Police for the application for care or protection orders without any period of detention in a gazetted place of refuge before the court hearing, and



children and juveniles likely to be detained in a gazetted place of refuge on the recommendation of a social worker of the SWD. In March 2007, the Scheme was further extended to cover all such cases even without parental/guardian consent.

### **Proposals on “sexual offences records check”**

24.32 Some commentators noted that the LRC has published a report in February 2010 recommending the setting up of an administrative scheme to enable employers of persons undertaking work relating to children and mentally incapacitated persons (MIPs) to check the criminal conviction records for sexual offences of employees. The LRC considers that information about the background history of job applicants is important to employers seeking to fill position of trust. Where the work involves working with children or MIPs, information as to a job applicant’s sexual conviction record is relevant in assessing the applicant’s suitability. It is reasonable, responsible and necessary for the Government to introduce a system whereby the employers or parents may ascertain that a person who assumes any post related to work with children has any previous convictions for sexual offences.

24.33 The LRC in its report also recommends introducing a number of measures to the administrative mechanism to address privacy and rehabilitation concerns of previous sex offenders. The public consultation on the proposed mechanism conducted by the LRC shows that the majority of respondents are in support of the mechanism for sexual offences records checks.

24.34 Given that a comprehensive legislative scheme would take considerable time to be deliberated and the immediate need for a system to reduce the risk of children and MIPs being sexually abused, the LRC requests the Government to implement the proposed administrative mechanism without delay. The LRC would further consider whether a comprehensive legislative scheme should be introduced.

24.35 The Government is considering the LRC’s recommendations. We aim to introduce the proposed checks mechanism as soon as practicable so as to enhance the protection of

children and MIPs.



## **Article 25: Right to participate in public life**

### **Constitutional development**

25.1 In paragraph 18 of its previous Concluding Observations, referring to the reservation made by the United Kingdom according to which Article 25(b) of the Covenant does not require the establishment of an elected legislature in Hong Kong, the Committee stated its view that once an elected LegCo is established, its election must conform to Article 25 of the Covenant. The Committee recommended that “All necessary measures should be taken whereby the LegCo is elected by universal and equal suffrage. It should be ensured that all interpretations of the Basic Law, including on electoral and public affairs issues, are in compliance with the Covenant”.

25.2 We note the Committee’s recommendations. However, we respectfully maintain the position, as explained in the previous reports that, when the Covenant was applied to Hong Kong in 1976, a reservation was made not to apply Article 25(b) insofar as it might require the establishment of an elected Executive Council or LegCo in Hong Kong. In accordance with the notification given by the CPG to the United Nations Secretary-General in June 1997 and Article 39 of the Basic Law, this reservation continues to apply to the HKSAR.

25.3 The above view was supported by the decision made by the Court of First Instance of the High Court of the HKSAR in *Chan Yu Nam v Secretary for Justice* (HCAL32/2009 and HCAL55/2009)<sup>9</sup>. In rejecting applicants’ argument that the provisions in relation to corporate voting under the Legislative Council Ordinance (Cap. 542) were inconsistent with Article 21(b) of the Hong Kong Bill of Rights (which mirrors Article 25(b) of the Covenant), Andrew Cheung J was of the view that, as far as domestic law is concerned, Article 25(b) of the Covenant assumes constitutional significance only by virtue of Article 39 of the Basic Law. In his view, Article 39 of the Basic Law “provides for the

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<sup>9</sup> The appeals lodged by the two applicants were dismissed by the Court of Appeal of the High Court (the Court of Appeal) on 7 December 2010. Both applicants have filed applications for leave to appeal to the Court of Final Appeal. Hearing date of the applications for leave to appeal before the Court of Appeal has yet to be fixed.

continued application of ICCPR to Hong Kong after 1997 as it applied to Hong Kong at the time the Basic Law was enacted”. There had been elections for FC in Hong Kong comprising, among other things, corporate voting which was not regarded by the British Government or the then Hong Kong Government to be inconsistent with the provisions of the Covenant and quite plainly it was considered that the reservation of British Government relating to Article 25(b) of the Covenant had the effect of permitting elections for FCs in general and corporate voting in particular to be practised in Hong Kong.

25.4 In his judgment, Andrew Cheung J also considered Keith J's obiter dictum in *Lee Miu Ling v Attorney General* (1995) 5 HKPLR 181 that section 13 of the HKBORO (which mirrors the reservation in relation to Article 25(b) of the Covenant) was, to the extent that it related to LegCo, a dead letter, after the Letters Patent were amended to provide for a wholly elected LegCo in 1995. Andrew Cheung J was of the view that Keith J was addressing the position in Hong Kong in 1995 when the Letters Patent had been amended to provide for a wholly elected legislature and his view did not affect the position back in 1990 when the Basic Law was promulgated and the application of the Covenant to Hong Kong was still subject to the British reservation and thus there was no question of the reservation having become spent at that time even under Keith J's reasoning.

25.5 Moreover, in the Court of Appeal judgment on *Ubamaka Edward Wilson v Secretary for Security and Director of Immigration* (CACV138/2009), Hon Stock VP made it clear that the phrase in Article 39 of the Basic Law “the provisions of the International Covenant on Civil and Political Rights ... as applied to Hong Kong” means “the ICCPR as applied to Hong Kong by the Government of the United Kingdom in 1976, and as intended to remain in force in relation to Hong Kong after 1 July 1997 by reason of the PRC's Communication of 20 June 1997 to the Secretary General of the United Nations”. He explained that “whatever view might be taken by the Human Rights Committee or by commentators on the validity or desirability of a reservation thus applied, the phrase ‘as applied to Hong Kong’ which we see in article 39 is a phrase that falls to be determined in the context of a domestically binding constitution and is to be interpreted in accordance

with the meaning intended by that constitution”. “In referring to the ICCPR ‘as applied to Hong Kong’, the Basic Law... contemplated it as a reference to the application, with reservations, in 1976 of the ICCPR by the Government of the United Kingdom to Hong Kong ... and it contemplated the continued application of that Covenant to Hong Kong beyond 1 July 1997, upon proper authorisation by the Government of the PRC, with those reservations.”

25.6 In the same judgment, Hon Fok J also stated that “[counsel for the applicant] ran a fallback argument to the effect that the phrase ‘as applied to Hong Kong’ should be read as meaning ‘as lawfully applied to Hong Kong’ since, he submitted, in applying the Covenant to Hong Kong, the UK cannot have intended its reservations to apply regardless of their legality as a matter of international law”. This argument is, in the Judge's opinion, “wholly fallacious since it would mean that a party acceding to the ICCPR with a reservation was binding itself to whatever interpretation of legality the Human Rights Committee might thereafter, or from time to time, pronounce. That simply cannot be right. A party making a reservation does so on the basis that the reservation is lawful and that, but for the reservation, it would not have acceded to the treaty at all.”

25.7 Both the CPG and the HKSAR Government are fully committed to attaining universal suffrage for the Chief Executive and LegCo in 2017 and 2020 respectively in accordance with the Basic Law and the relevant Interpretation and Decision of the NPCSC. Details of the work done to achieve the ultimate aim of universal suffrage are set out in the relevant paragraphs in respect of Article 1.

25.8 Regarding the issue of interpretation of the Basic Law by the NPCSC, the consistent position of the HKSAR Government is that, the power of interpretation of the Basic Law, which is enshrined in the Constitution of the PRC and the Basic Law, is vested in the NPCSC. Such power is in general and unqualified terms. This principle is fully acknowledged and respected in Hong Kong and by the courts of the HKSAR. The exercise of that power by the NPCSC, therefore, has not, and could not have, in any way affected the independence of the Judiciary, the rule of law, or Hong Kong’s high degree of autonomy.

25.9 Our efforts to roll forward Hong Kong's democratic development and responses to concerns raised by commentators in this respect are set out early in this report, in respect of Article 1. The elections held in Hong Kong since the submission of the previous report are elaborated in the following paragraphs.

### **Election of the Chief Executive**

25.10 The Basic Law provides that the Chief Executive shall be elected by a broadly representative Election Committee<sup>10</sup> in accordance with the Basic Law and appointed by the CPG.

25.11 Since the submission of the previous report, two Chief Executive elections were held in 2005 and 2007 respectively. The elections were conducted and supervised by the Electoral Affairs Commission, a statutory and independent body, so as to ensure that the elections were held in a fair, open and honest manner in accordance with the law.

25.12 The 2005 Chief Executive Election was held to fill the vacancy in the office of the Chief Executive, arising from the resignation of the incumbent<sup>11</sup>. Since only one candidate, Mr Donald Tsang Yam-kuen, was validly nominated at the close of the nomination period for the election, he was declared elected on 16 June 2005. On 21 June 2005, in accordance with the provisions of the Basic Law and the outcome of the election by the Election Committee, the State Council of the PRC appointed Mr Tsang as the Chief Executive. His term of office

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<sup>10</sup> The Election Committee is currently composed of 800 members from four sectors (which are in turn composed of 38 subsectors), comprising:

- (a) 664 members of 35 subsectors who are returned through elections;
- (b) 96 ex-officio members (i.e. Hong Kong deputies to the National People's Congress and Members of the LegCo) under the National People's Congress subsector and the LegCo subsector; and
- (c) 40 members under the religious subsector who are nominated by six designated bodies.

<sup>11</sup> On 10 March 2005, Mr Tung Chee-hwa tendered to the CPG his resignation from the office of the Chief Executive. The resignation was approved by the CPG on 12 March 2005 and the office of the Chief Executive became vacant on the same date.

commenced on the same date and expired on 30 June 2007.

25.13 The 2007 Chief Executive Election was held to elect the third-term Chief Executive. A new-term Election Committee was constituted in February 2007 for the election. Two candidates were validly nominated at the close of the nomination period for the election. The election by the Election Committee was held on 25 March 2007. Mr Donald Tsang Yam-kuen, who obtained more than half of the total number of valid votes cast, was declared as returned at the election. On 2 April 2007, in accordance with the provisions of the Basic Law and the outcome of the election by the Election Committee, the State Council of the PRC appointed Mr Tsang as the third-term Chief Executive, with his term of office commencing on 1 July 2007.

25.14 Concerns expressed by some commentators on the electoral system and constitutional development in respect of the election of the Chief Executive were addressed earlier in this Report, in respect of Article 1.

## **Legislative Council elections**

### The 2008 Legislative Council elections

25.15 The fourth term LegCo comprises 60 members returned by elections on 7 September 2008. The elections were conducted under the supervision of the Electoral Affairs Commission and in accordance with the relevant provisions of the Basic Law, the relevant domestic statutes<sup>12</sup>, and their subsidiary legislation. The powers and functions of the LegCo are explained in paragraph 20 of the HKSAR Common Core Document.

25.16 Members of the HKSAR's fourth term LegCo were returned as follows –

- (a) **geographical constituencies:** 30 members were returned by direct elections based on universal suffrage, through the list

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<sup>12</sup> Namely the Legislative Council Ordinance (Cap. 542), the Electoral Affairs Commission Ordinance (Cap. 541), and the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

voting system, which is a form of proportional representation system. All permanent residents of the HKSAR who had reached the age of 18 or above were eligible to be registered and to vote. Some 3.37 million people – 72.3% of those eligible to do so – registered as electors. Over 1.52 million registered electors voted, representing a turnout of 45.2%;

- (b) **functional constituencies:** returned 30 members. As explained in paragraphs 459(b) and 461 of Part II of the initial report, these constituencies represent economic, social, and professional sectors that are substantial and important to Hong Kong.

### The 2010 Legislative Council By-election

25.17 Some commentators expressed concerns on Government's handling of the 2010 LegCo By-election in May 2010, arising from the resignation of five incumbent LegCo Members in January 2010. They were concerned that senior officials, by expressing the views that they would not vote at the By-election, would prejudice the impartial and independent role of the Government in conducting the election, as well as the right to vote by discouraging civil servants and the public from voting in the by-election. Some also expressed concerns on whether the scale of publicity for the by-election had been reduced.

25.18 While the Chief Executive and members of his political team decided not to vote in the By-election in view of its unique nature, the Chief Executive stressed that these were purely personal decisions on his part and the part of the political team and that civil servants would not and should not be affected by their decisions. The HKSAR Government duly respected decisions of individual civil servant as to whether or not they would vote.

25.19 The publicity work for the 2010 LegCo By-election involved a budget of \$3 million. By comparison, for the 2007 LegCo Hong Kong Island GC By-election, an amount of about \$770,000 was incurred for the publicity work. Given that the publicity materials for the 2010 LegCo



By-election could apply to all the five GCs and did not require separate arrangements for individual GC, the budget of \$3 million for the publicity work of the By-election involving five GCs is considered proportionate to that for the 2007 LegCo By-election.

25.20 In addition, various publicity measures were carried out to inform electors of the arrangements for the By-election. Announcements in the Public Interest were made in television and radio. Posters, railing banners and giant wall banners were mounted. Relevant information on the By-election, including boundary maps, relevant legislation, candidates' personal particulars and election platforms was also put up on the Electoral Affairs Commission and Registration and Election Office websites to facilitate public access. Advertisements were also placed on local newspapers to publicise the relevant information and arrangements about the By-election.

25.21 Of the 516 ordinary polling stations for the By-election, 443 (i.e. over 85%) were accessible to electors with disabilities. This is an improvement over the 2008 LegCo Election, in which 434 (i.e. 82%) polling stations were accessible to disabled persons.

### **The 2007 District Council election**

25.22 The third DC election was held on 18 November 2007, with a total turnout rate of 38.8%. The 18 DCs came into being on 1 January 2000 by virtue of the District Councils Ordinance (Cap. 547). The HKSAR is divided into 405 constituencies, each returning one elected member. There are a maximum of 102 appointed members, and 27 ex-officio members. The work and functions of the DCs are explained in paragraph 24 of the HKSAR Common Core Document. The fourth District Council election will be held in late 2011. The fourth term will begin on 1 January 2012.

25.23 There are views in the community calling for abolition of appointed seats in the DCs. The HKSAR Government considers that the appointed members of the District Councils have made tremendous contribution to local issues and District Councils with their professional knowledge and experience over the years. We appreciate the

contributions that appointed members have made to district administration. However, in response to requests made by the community, the Administration will put forth proposals concerning the abolition of the DC appointment system for consultation with the LegCo and the public.

### **Role and Functions of District Councils**

25.24 In 2006, the Government conducted a comprehensive review of the role and functions of the DCs. All measures to enhance the role and functions of the DCs have been fully implemented in 18 districts since the third term of DCs which commenced in January 2008.

25.25 Starting from January 2008, all DCs have participated in managing certain district facilities, including community halls, public libraries, leisure grounds, sports venues, public swimming pools and beaches. In addition, starting from the financial year 2008-09, the Government has increased the annual resources for DCs to carry out community involvement activities to \$300 million. A dedicated capital works block vote with an annual allocation of \$300 million has also been set up for the DCs to implement district minor works projects.

25.26 To foster regular dialogue between senior Government officials and the District Councils, 22 heads of Government departments who have direct interface with the public started attending DC meetings one at a time since January 2007. Heads of Government departments also gave briefings to DC members on territory-wide planning and development issues.

25.27 In addition, the first and second Summits on District Administration were successfully held in May 2008 and June/July 2010 respectively. The Summits provided a platform for the senior echelon of the Government to exchange views with the DC members and district personalities on issues of concern to the people.

### **Rural elections**

25.28 In paragraph 295 of Part II of the previous report, we



explained that there were three levels of election in the villages of the New Territories, namely the election of village representatives, Rural Committees and Heung Yee Kuk. The Heung Yee Kuk is an advisory and consultative body established by law for the New Territories.

25.29 A system of village representation has developed in the New Territories over the decades. The arrangements for electing village representatives have also evolved over time. The Government recognised the need to reform village representative elections to ensure that they are conducted in an open, fair and honest manner. As explained in paragraph 297 of Part II of the previous report, following the ruling of the Court of Final Appeal in December 2000 concerning the village representative elections, the Village Representative Election Ordinance (Cap. 576) was enacted in February 2003, which ensures that the electoral arrangements of the Village Representative elections are consistent with the HKBORO and the Sex Discrimination Ordinance (Cap. 480).

25.30 In accordance with the Village Representative Election Ordinance, Village Representatives are members of their respective Rural Committees, of which the Chairmen and Vice-Chairmen are elected on a one-person-one-vote basis. This forms the second level of the rural electoral system. The Chairmen and Vice-Chairmen of the Rural Committees are ex-officio councillors of the Heung Yee Kuk. The Chairman and Vice-Chairmen of the Heung Yee Kuk are also returned on a one-person-one-vote basis from the councillors of the Heung Yee Kuk. This is the third level of the rural electoral system. Women and men enjoy equal rights at all three levels.

25.31 Some commentators considered that the election of Rural Committee should be governed and regulated under statutory law to ensure fairness and transparency. There were also views about the specific case of Kaifong Representative Elections held for formation of the Rural Committees of Peng Chau and Cheung Chau, two outlying islands in Hong Kong. The concern mainly evolved around the lack of statutory underpinning for the conduct of these two elections and as such, it would be unfair for winners of the two elections to enjoy the same rights as members of other Rural Committees who are returned by

statutory elections, i.e. through the Village Representative Elections. On this, we would like to point out that, under the Village Representative Election Ordinance, the electoral arrangements and the conduct of an election to elect an office holder of a Rural Committee shall be consistent with Article 21(a) and (b) of the Hong Kong Bill of Rights set out in Part II of the HKBORO. After each rural election, the Government will review the relevant arrangements. After completion of the 2011 Village Representative Election, we will, as in the past, conduct a comprehensive review on the arrangements of that Election. The review for the 2011 Rural Committee Election will be conducted before mid-2011. In this context, we will study the feasibility of regulating the Kaifong Representative Elections of Peng Chau Rural Committee and Cheung Chau Rural Committee under the law.

### The 2007 Rural Election

25.32 Since the enactment of the Village Representative Election Ordinance in February 2003, two village representative elections were held in 2003 and 2007 respectively. The number of registered voters increased from about 158 000 in 2003 to about 170 000 in 2007. The number of candidates for the election in 2007 was 1 630. Among those candidates, 996 were returned without contest, while the remaining 631 competed for a total of 324 Village Representative seats. The total number of Village Representatives elected in 2007 was 1 320.

25.33 In the 2007 election, about half of the registered voters (47%) were female. The number of female candidates rose from 29 in 2003 to 35 in 2007, representing an increase of 21%. The number of female village representatives elected increased from 17 in 2003 to 28 in 2007, representing an increase of 65%.

25.34 The next Village Representative election will be held in early 2011. The number of registered voters has increased by 7.1% from 170 000 in 2007 to about 182 000 in the 2011 election. The percentage of female voters among all registered voters increased from 47% to 47.3% during the same period, representing an 8% increase in real number (from 80 000 to 86 000).

25.35 Whether a person participates in rural elections as a candidate is entirely a matter of his or her own choice. The Government will continue its efforts to encourage eligible persons of both genders to register as voters and participate in the election as candidates. We will also continue to step up publicity to encourage a wider participation of women in the Village Representative elections to be held in 2011. We will also closely monitor the rate of female participation in candidate nomination and voter turn-out, as well as the number of female Village Representatives elected

### **Government advisory and statutory bodies**

25.36 As reported in paragraph 292 of Part II of the previous report, the network of Government ASBs remains a distinctive feature of Hong Kong's system of Government. The Government relies on them to provide advice on its policies, to resolve disputes between the Government and aggrieved parties, and to deliver public services.

25.37 In paragraph 293 of Part II of the previous report, we mentioned that a review of ASBs was being conducted. Since early 2004, we have submitted 15 reports on the review to the Panel on Home Affairs of the LegCo. The reports mainly cover the following major issues -

- (a) we have re-affirmed the principle of appointment by merit. As a matter of principle, the Government makes appointments to ASBs on the basis of the merit of individuals concerned, taking into account a candidate's ability, expertise, experience, integrity and commitment to public service and with due regard to the statutory provisions of statutory bodies, functions and nature of business of the ASBs concerned;
- (b) we have established guidelines and principles for appointments to ASBs such as the Six-year Rule (i.e. not appointing a non-official member to serve on the same ASB in any one capacity for more than six years), the Six-board Rule (i.e. not appointing a person to serve as a non-official

member on more than six ASBs at any one time) in order to attract more suitable talents;

- (c) we set the 25% gender benchmark target for appointment of non-official members to ASBs for gender balance purpose in 2004. The latest development on the gender benchmark has been covered in paragraph 3.2 above in relation to Article 3; and
- (d) we have also conducted reviews on other issues including the classification of ASBs, appointment system as well as operation of ASBs.

25.38 Having regard to the outcome in the review, the appointment authorities are reminded on a regular basis of the main principles and general guidelines for Government appointments of non-official members to ASBs.

25.39 The review of the role and functions of ASBs is an on-going process. Government bureaux and departments would from time to time review ASBs under their respective purview, having regard to the relevant guidelines on ASBs as mentioned above. Women's participation in ASBs has been explained at paragraph 3.2 of this report in relation to Article 3.

## **Article 26: Right to equal protection before the law**

### **Legislation against racial discrimination**

26.1 As foreshadowed in paragraph 305 of Part II of the previous report, the HKSAR had conducted a public consultation exercise on the proposal to introduce legislation prohibiting racial discrimination, which ended in February 2005. After gauging the views of the public, the Government had introduced the Race Discrimination Bill and the Bill was passed by the LegCo in July 2008 after detailed scrutiny.

26.2 The RDO, which came into full operation in July 2009, aims at protecting the rights of individuals against discrimination, harassment and vilification on the ground of race. Under the RDO, race in relation to a person means the race, colour, descent, national or ethnic origin of the person.

26.3 The RDO renders unlawful both direct and indirect racial discrimination in prescribed areas of activity, including education, employment and the provision of goods, services, facilities and premises. It enshrines the internationally accepted principle of proportionality in determining whether there is indirect discrimination. It also makes racial harassment (i.e. engaging in unwelcome conduct in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated by that conduct) unlawful in the specified fields. In addition, the RDO prohibits other unlawful acts relating to racial discrimination, including discriminatory practices and advertisements, aiding, instructing or procuring others to discriminate, as well as vilification.

26.4 While the RDO does not impose an obligation for affirmative actions, special measures designed to meet the special needs of persons of a particular racial group are specifically permitted under the law.

26.5 Some commentators expressed concerns that the RDO does not offer protection to some groups such as new arrivals from the

Mainland of China and urged the Government to extend the statutory protection to this particular group. Others were concerned that the RDO did not include nationality and immigration status among the prohibited grounds of discrimination. For clarity and certainty in law, the RDO provides that acts done on the ground of nationality and a number of immigration status (e.g. the length of residence in Hong Kong) do not constitute acts done on the ground of “race”. This does not narrow the definition of “race” in the RDO. As a matter of fact, the RDO applies equally to all persons in Hong Kong, and safeguards their rights against discrimination on the ground of race, irrespective of their nationality or immigration status.

26.6 It is also worth noting that the difference between new arrivals from the Mainland and the majority of other permanent residents in Hong Kong is not one based on “race”. The vast majority of new arrivals from the Mainland are of the same ethnic origin as that of most permanent residents in Hong Kong. The differences among some in accent, dialect or certain personal habits do not distinguish them as a separate racial group. This notwithstanding, the relevant Government bureaux and departments have been providing various support measures to facilitate new arrivals from the Mainland to settle in Hong Kong and integrate into the community.

26.7 Some commentators expressed concerns that the definition of “indirect discrimination” is too narrow. The RDO defines indirect discrimination in the same manner as the three anti-discrimination ordinances previously enacted on sex, disability and family status respectively. The proportionality test in the definition is in line with the general principle under international human rights jurisprudence. The definition covers various requirements or conditions. Whether a particular requirement or condition would give rise to indirect discrimination would depend on the factual circumstances of the case.

26.8 Some commentators raised concerns over the coverage of government functions and powers under the RDO, we would like to emphasise that the Government is prohibited from practising racially discriminatory acts in the exercise of its functions under the Basic Law and the HKBORO. While the RDO does not contain a specific clause to

cover all the functions and powers of the Government, it binds the Government in all the areas specified in the Ordinance, such as employment, education and provision of services. In addition, there is an extensive framework of organisations which deal with complaints against Government departments. Any racially discriminatory act of the Government is also subject to the court's supervisory jurisdiction. In addition, we have drawn up a set of Administrative Guidelines on Promotion of Racial Equality to provide guidance to concerned Government bureaux, departments and public authorities to promote racial equality and ensure equal access by ethnic minorities to public services in key areas. Details of the Guidelines are set out in paragraph 27.2 to 27.4 below in relation to Article 27.

26.9 Some commentators expressed concerns on the exemptions included in the RDO. As the key consideration of the RDO is to afford effective safeguards for the rights of individual against racial discrimination, while at the same time maintaining proper respect and protection for the legitimate rights and freedoms of others, the RDO contains exception provisions which serve to clearly delineate the scope of control and regulation. Most of these exception provisions mirror those in the other existing anti-discrimination ordinances. Local circumstances as well as international practice and experience of other common law jurisdictions with similar legislation are also taken into account. The exception provisions are critically examined to ensure that they are reasonable and necessary, and are consistent with the principles widely adopted by international human rights authorities.

### **Discrimination on the ground of age and sexual orientation**

26.10 With regard to discrimination on the ground of sexual orientation, some commentators enquired on the plan and timetable of the HKSAR Government to legislate against discrimination on grounds of sexual orientation. Our considered view is the same as that in the previous report, i.e. at this stage, self-regulation and education, rather than legislation, are the most appropriate means of addressing discrimination in this area. We will continue to address discriminatory attitudes and promote equal opportunities on ground of sexual orientation through public education and administrative means, with a view to



fostering in the community a culture of mutual understanding, tolerance and mutual respect. Detailed measures were elaborated in paragraphs 2.15 to 2.19 of the third report of the HKSAR under the ICESCR, in relation to Article 2 of that Covenant.

26.11 Some commentators noted that homosexual couples were not afforded “dependency” immigration status, in cases where such status would ordinarily be granted to materially identical heterosexual couples, even where they were lawfully married in another jurisdiction. The existing immigration policy on admission of spouses as a dependant is based on monogamy and the concept of a married couple consisting of one male and one female. Nevertheless, the Director of Immigration may consider, on a case by case basis, allowing people to remain in Hong Kong as visitors to join their same-sex partners provided that their relationship is not in doubt and other immigration requirements are met.

26.12 The position regarding elimination of age discrimination in employment is as explained in paragraph 2.22 of the HKSAR’s third report under the ICESCR, in relation to Article 2 of that Covenant.

### **Disability discrimination**

26.13 The general framework of the legal protection for persons with disabilities is explained in the relevant sections of the HKSAR Common Core Document. It was also elaborated under Article 5 of the Initial Report of the HKSAR under the UNCRPD. Under Article 5 of the UNCRPD, States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.

26.14 Some commentators expressed concern on the discrimination faced by persons with mental health problems or persons recovering from mental illness, and reiterated the request to establish a mental health council. The Disability Discrimination Ordinance (Cap. 487) provides the legal means to ensure equal opportunities for persons with disabilities (including persons with mental health problem) and to facilitate their integration into the community to the fullest extent possible.



26.15 At present, the Food and Health Bureau assumes the responsibility in coordinating policies and programmes on mental health. It works closely with the Labour and Welfare Bureau and coordinates various government departments and agencies including the Hospital Authority, the Department of Health and the SWD in the implementation of relevant measures. We seek to provide medical and rehabilitation services to patients with mental health problems through a multi-disciplinary and cross-sectoral team approach. The mental health services are kept under review on a continuous basis by the Working Group on Mental Health Services. The Working Group is chaired by the Secretary for Food and Health and its members comprise academics, relevant professionals and service providers. The Government takes into account their views in making adjustment to existing services and formulating new service initiatives. The existing system has worked well to provide coordinated and comprehensive services to mental patients.

26.16 Furthermore, the HKSAR Government strives to enhance public awareness on mental health, promote public acceptance of persons with mental illness and encourage social inclusion of persons recovering from mental illness with a view to eliminating stigmatisation and assisting them to re-integrate into society. The measures taken by the HKSAR Government in this respect were elaborated under Article 8 of the Initial Report of the HKSAR under the UNCRPD.

### **Discrimination against rehabilitated persons**

26.17 Some commentators suggested legislating against discrimination against rehabilitated persons and offenders, and asked the Government to put in place measures to combat such discrimination. There is currently legislation in Hong Kong that provides protection to rehabilitated individuals of minor offences. Pursuant to the Rehabilitation of Offenders Ordinance (Cap. 297), anyone who has been convicted in Hong Kong of an offence in respect of which he was not sentenced to imprisonment exceeding three months or to a fine exceeding \$10,000, and provided that he has not been convicted in Hong Kong on any earlier day of an offence and that a period of three years has elapsed without him being convicted again in Hong Kong of an offence, that

person is generally not obliged to disclose his previous conviction, and his failure to disclose it shall not be a lawful or proper ground for dismissing or excluding him from any office, profession, occupation or employment or for prejudicing him in any way in that office, profession, occupation or employment. We consider that the protection provided by the Rehabilitation of Offenders Ordinance appropriate and we do not see the need to introduce new legislation to prohibit discrimination against rehabilitated persons at this time.

26.18 As mentioned in paragraphs 10.19 to 10.25 in relation to Article 10 of this Report, CSD is committed to facilitating the reintegration of rehabilitated persons to the community through the provision of suitable rehabilitative services. The effectiveness of offender rehabilitation not only hinges on the quality of the custodial regime and rehabilitative programmes, but also the motivation and responsiveness of offenders towards rehabilitation, as well as community acceptance of rehabilitated persons. In this connection, CSD has been organising different education and publicity campaigns to appeal for public acceptance of and community support for rehabilitated persons, for example, symposiums on employment for rehabilitated persons and visits to correctional institutions. These activities promote better understanding of CSD's rehabilitation services and encourage prospective employers to offer job opportunities to rehabilitated persons to facilitate their return to society. We will continue our efforts in organising different education and publicity campaigns to promote acceptance of rehabilitated persons and offenders in the community.

## **Article 27: Right of ethnic minorities**

### **Administrative guidelines and support services for ethnic minorities**

27.1 In respect of ethnic minorities, the HKSAR Government is committed to facilitating their integration into the community, while preserving their cultural characteristics.

#### **Administrative Guidelines on Promotion of Racial Equality**

27.2 Further to the legislation against race discrimination as described in paragraphs 26.1 to 26.9 above in relation to Article 26, the HKSAR Government issued in 2010 Administrative Guidelines to provide general guidance to relevant Government bureaux and departments and public authorities (hereafter referred to as “relevant authorities”) to promote racial equality and ensure equal access by ethnic minorities to public services in key areas concerned, and to take this into account in their formulation, implementation and review of relevant policies and measures. In accordance with the Guidelines, relevant authorities have drawn up checklists of measures that would assist in the promotion of racial equality, ensuring equal access to key public services and enhancing the transparency of their work. The checklists cover various areas of services – social welfare, education, employment, vocational training, medical and health, communications and technology and public enquiry and declaration services.

27.3 Some commentators were of the opinion that the Guidelines did not cover all Government bureaux/departments and that compliance with the Guidelines was not mandatory. They were also concerned with the resources provided to relevant authorities for implementing the Guidelines. As explained in paragraphs 39 to 44 of the HKSAR Common Core Document in relation to the legal framework for the protection of human rights, the HKBORO already prohibits the Government and public authorities from engaging in practices that would entail any form of discrimination, including discrimination on the ground of race. The Administrative Guidelines cover the key public services which are particularly relevant to meeting the special needs of ethnic minorities. The Government will keep their implementation under

review.

27.4 As with other administrative guidelines issued by the Government, relevant authorities have an obligation to comply. Any non-compliance with the Guidelines could be addressed through the established compliant mechanisms. On resource deployment, the relevant authorities had deployed internal resources to implement the Guidelines and will, where necessary, seek additional resources within the Government through established mechanisms.

#### Support services for ethnic minorities

27.5 We believe that public education and support services are important for better integration of ethnic minorities into the community. Over the years, the Government has launched various initiatives to promote racial harmony and to assist integration of ethnic minorities. Some of these were mentioned in paragraph 315 of Part II of the previous report and paragraphs 105 to 108 of the HKSAR Common Core Document. The latest position is set out in the following paragraphs.

27.6 The Race Relations Unit as mentioned in paragraph 315(c) of Part II of the previous report continues to provide a range of support services, either by implementing its own programmes or through sponsoring the work of NGOs. These include 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, community support teams to provide services to ethnic minority groups through members of their own community, and the Mobile Information Service initiative, which provides ethnic minority new arrivals with information on relevant public services and channels to seek assistance.

27.7 Furthermore, starting from 2009, the Government has provided funding for four NGOs to establish and operate four support service centres for ethnic minorities in Hong Kong. They provide Chinese and English language classes, orientation programmes, counselling and referral services, interest classes, and other support services to ethnic minorities. One of the four centres also provides

telephone and on-site interpretation services to facilitate ethnic minorities' access to public services.

27.8 The Committee on the Promotion of Racial Harmony, as mentioned in paragraph 315(b) of Part II of the previous report, continues to advise the Government on promotion of racial harmony, including provision of support services to ethnic minorities. The Ethnic Minorities Forum, set up in July 2003, also provides a channel of communication between the Government and the ethnic minority communities and organisations dedicated to serving them. It helps to identify the concerns and needs of ethnic minority communities and discuss possible ways of addressing them.

27.9 In addition, a dedicated team led by the Permanent Secretary for Home Affairs will step up and co-ordinate efforts in this regard to monitor the service needs of ethnic minorities as well as new arrivals in Hong Kong and ensure that the support services can meet their needs. Details of this dedicated team are explained in paragraph 23.24 of this Report, in respect of Article 23.

### **Access to public sector employment**

27.10 The position remains essentially as mentioned in paragraphs 317 to 319 of Part II of the previous report. Appointments to the civil service are based on open and fair competition, and entry requirements for civil service posts are set based on the qualities or attributes as may be required for particular jobs. All the candidates in an open recruitment exercise to fill vacancies in a particular grade are assessed consistently on the basis of merit and having regard to the stipulated entry requirements, including language proficiency, set with regard to the job requirements of the grade concerned. The race of a candidate is not a relevant consideration in the assessment process. It is also a long-standing policy that promotion of civil servants is based on merit and on prescribed assessment criteria such as acquisition of specific professional qualification, past work performance and potential. The race of a serving civil servant is not a relevant consideration in the assessment for promotion.

27.11 Some commentators expressed concerns over the difficulties faced by ethnic minorities in joining the civil service due to the Chinese language proficiency requirements. Constitutionally and legally, both Chinese and English are official languages of Hong Kong. As explained in paragraph 319 of Part II of the previous report, our long-term policy objective is to develop and maintain a civil service that can operate efficiently and effectively in the official languages. Achieving that objective will entail public servants becoming generally biliterate in Chinese and English and, eventually, trilingual in Cantonese, Putonghua, and English. Nevertheless, where the job does not require proficiency in both languages to the same degree, Government departments may set different requirements for the two languages. Furthermore, individual departments may seek exemption for candidates with special expertise required for a particular job but who do not meet the stipulated language proficiency requirements.

27.12 It is also worth mentioning that since August 2007, all Government bureaux and departments have accepted Chinese Language results in the United Kingdom International General Certificate of Secondary Education (IGCSE) / General Certificate of Secondary Education (GCSE) / General Certificate of Education (GCE) 'O' Level, which are qualifications popular amongst students learning Chinese as a second language, in addition to results in the Hong Kong Certificate of Education Examination, for appointment to civil service posts. We have informed the ethnic minority communities and organisations dedicated to serve them of the acceptance arrangement, which has also been publicised in the website of the Civil Service Bureau.

### **Education for non-Chinese speaking students**

27.13 Some commentators were concerned with the education opportunities for non-Chinese speaking (NCS) students. They suggested the provision of an alternative curriculum and examination on Chinese as a second language for NCS students and that more support be given to them. The Government's policy is to facilitate the early integration of NCS students into the local education system and various educational support measures have been put in place as elaborated in paragraphs 13.40 to 13.56 of the third report of HKSAR under the



ICESCR.

27.14 Our strategy of curriculum development in every subject including the Chinese Language is to provide a common and flexible curriculum framework for schools to make appropriate adaptation of the curriculum strategies and materials in accordance with the aspirations and ability of students. We have provided schools with a supplementary guide to the Chinese Language curriculum targeted at NCS students. This Supplementary Guide covers multiple curriculum modes<sup>13</sup> and practical teaching experiences widely accepted on sound pedagogical grounds. Currently, schools are making adaptations to the curriculum to pitch for the appropriate learning level, leading to multiple exits for NCS students. In this sense, schools are already working on the basis of an alternative Chinese Language curriculum within the broader framework.

27.15 Offering an alternative Chinese Language curriculum with pre-set simpler contents and lower standards for NCS students will only limit the range of their learning opportunities and can hardly meet their diversified needs. A separate alternative Chinese Language curriculum per se is against the interests of NCS students. It is fairer to them to have a common and flexible curriculum framework, guaranteeing broad and balanced learning experiences, containing a whole range of achievement levels to stretch their potential to the full.

27.16 Besides, we have already launched a study on the Chinese proficiency of NCS students so as to provide schools with a basis to assess these students. The assessment tools are expected to be completed at the end of 2010. Regarding the qualifications of the Chinese Language, students who are able to attain Chinese Language proficiency comparable to their local counterparts may take the Chinese Language paper for the local examination. To facilitate those NCS students who may prefer to have an alternative Chinese qualification, we

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<sup>13</sup> The curriculum modes include “immersion in Chinese Language lessons”, “bridging / transition”, “specific learning purposes” and “integration”. To support implementation of the Supplementary Guide in schools, EDB has also developed a series of curriculum resource materials for NCS students such as lexical lists for learning Chinese with English explanations, courseware on Chinese characters, learning software on traditional Chinese virtues, and a set of learning materials covering both primary and secondary levels in the form of textbook.

have, through the Hong Kong Examinations and Assessment Authority, administered the GCSE (Chinese) Examination in Hong Kong. This alternative Chinese qualification will be considered for appointment to civil service posts and for further studies. The development of assessment tools and recognition of the GCSE (Chinese) Examination as an alternative Chinese qualification mentioned above have, to a certain extent, served the purposes of the proposed “alternative” examination.



**Non-governmental Organisations**  
**with an active interest in human rights issues**

1. Against Child Abuse
2. Alliance of Civic Education
3. Amnesty International Hong Kong Section
4. Association for the Advancement of Feminism
5. Association of Indonesian Migrant Workers in Hong Kong
6. Association of Sri Lankans in Hong Kong
7. Bangladesh Cultural Centre Hong Kong
8. Berita Indonesia Ltd.
9. Centre for Citizenship Education, Hong Kong Institute of Education
10. Children's Rights Association
11. Chinese YMCA of Hong Kong
12. Christian Action
13. Civic Party
14. Civic-Exchange
15. Civil Human Rights Front
16. Civil Rights for Sexual Diversities
17. Coalition for Migrants' Rights
18. Community Business Limited
19. Democratic Alliance for Betterment and Progress of Hong Kong
20. End Child Sexual Abuse Foundation
21. Equal Opportunities Commission
22. Evangel Children's Home
23. Family Reunion Association
24. Far East Overseas Nepalese Association
25. Harmony House
26. Heep Hong Society
27. HKSKH Lady Maclehole Centre
28. Hong Kong Against Racial Discrimination
29. Hong Kong Arts Development Council
30. Hong Kong Association for Democracy & People's Livelihood
31. Hong Kong Bar Association
32. Hong Kong Catholic Commission for Labour Affairs

33. Hong Kong Children & Youth Services
34. Hong Kong Christian Institute
35. Hong Kong Christian Service
36. Hong Kong Committee for UNICEF
37. Hong Kong Committee on Children Rights
38. Hong Kong Confederation of Trade Unions
39. Hong Kong Council of Early Childhood Education and Services
40. Hong Kong Council of Social Services
41. Hong Kong Employers of Domestic Helpers Association
42. Hong Kong Employment Development Service Ltd.
43. Hong Kong Federation of Journalists
44. Hong Kong Federation of Trade Unions
45. Hong Kong Federation of Women
46. Hong Kong Federation of Women's Centres
47. Hong Kong Human Rights Commission
48. Hong Kong Human Rights Monitor
49. Hong Kong Informal Education Research Centre
50. Hong Kong Institute of Housing
51. Hong Kong Integrated Nepalese Society
52. Hong Kong Journalists Association
53. Hong Kong Medical Association
54. Hong Kong Minority Communities Association
55. Hong Kong Nepalese Federation
56. Hong Kong News Executive Association
57. Hong Kong People's Council on Housing Policy
58. Hong Kong Playground Association
59. Hong Kong Policy Research Institute
60. Hong Kong Secondary Student Union
61. Hong Kong Sex Culture Society
62. Hong Kong Society for the Protection of Children
63. Hong Kong Student Aid Society
64. Hong Kong Unison Ltd.
65. Hong Kong Women Christian Council
66. Hong Kong Women Development Association
67. Hong Kong Women Professionals and Entrepreneurs Association
68. Hong Kong Workers Union
69. Hong Kong Young Legal Professionals Association Limited
70. Hong Kong Young Women's Christian Association

71. Horizons
72. Human Rights Council of Hong Kong
73. Human Welfare Services
74. Indian Businessmen's Association
75. Indian Resources Group
76. Indonesian Migrant Workers Union
77. International Human Rights Forum
78. International Islamic Society
79. International Social Service Hong Kong Branch
80. Justice and Peace Commission of the Hong Kong Catholic Diocese
81. Kids' Dream
82. Kirat Yakthung Chumlung Hong Kong
83. Magar Association Hong Kong
84. Movement Against Discrimination
85. Non-Resident Nepali Association
86. Office of Emily Lau, Legislative Councilor
87. Office of The Ombudsman, Hong Kong
88. Office of the Privacy Commissioner for Personal Data
89. Oxfam Hong Kong
90. Pakistan Islamic Welfare Union of Hong Kong
91. Philippine Association of Hong Kong
92. Playright Children's Play Association
93. Po Leung Kuk
94. Punjab Youth Club (Hong Kong)
95. Rainbow Action
96. Society for Community Organization
97. Society of Boys' Centres
98. Southern Democratic Alliance
99. Thai Regional Alliance in Hong Kong
100. The Balance of Human Rights Watch
101. The Bethune House Migrant Women's Refuge
102. The Board of Directors Friends of Hope Education Fund
103. The Boys' and Girls' Club Association of Hong Kong
104. The Child Development Centre at Matilda
105. The Democratic Party
106. The Incorporated Trustees of the Islamic Community Fund of Hong Kong
107. The India Association Hong Kong

108. The Law Society of Hong Kong
109. The Liberal Party
110. The Mission for Migrant Workers (Hong Kong) Society
111. The Pakistan Association of Hong Kong Ltd.
112. The Society for the Relief of Disabled Children
113. The Society for Truth and Light
114. Tongzhi Community Joint Meeting
115. Tung Wah Group of Hospitals
116. United Christian Nethersole Community Health Service
117. United Filipinos in Hong Kong
118. United Muslim Association of Hong Kong
119. Women's Commission
120. Yang Memorial Methodist Social Service
121. YMCA of Hong Kong Cheung Sha Wan Centre
122. Young Indian Friends Club
123. Youth Christian Institute

**Hong Kong  
Special Administrative Region of  
the People's Republic of China**

**Common Core Document**

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## Hong Kong Special Administrative Region Common Core Document

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## **List of abbreviations**

API	Announcement in the public interest
Basic Law	Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China
CAPO	Complaints Against Police Office
CEDAW	United Nations Convention on the Elimination of All Forms of Discrimination against Women
CMAB	Constitutional and Mainland Affairs Bureau
CPCE	Committee on the Promotion of Civic Education
CRC	Convention on the Rights of the Child
CSD	Correctional Services Department
DDO	Disability Discrimination Ordinance
EOC	Equal Opportunities Commission
ExCo	Executive Council
FSDO	Family Status Discrimination Ordinance
GDP	Gross Domestic Product
HAD	Home Affairs Department
HKBOR	Hong Kong Bill of Rights
HKBORO	Hong Kong Bill of Rights Ordinance
HKSAR	Hong Kong Special Administrative Region of the People's Republic of China
ICAC	Independent Commission Against Corruption
ICCPR	International Covenant on Civil and Political Rights



## List of abbreviations

ICESCR	International Covenant on Economic, Social and Cultural Rights
LegCo	Legislative Council
LWB	Labour and Welfare Bureau
NPC	National People's Congress
NPCSC	Standing Committee of the NPC
RDO	Race Discrimination Ordinance
RRU	Race Relations Unit
SDO	Sex Discrimination Ordinance
The ICC	Independent Commission Against Corruption Complaints Committee
The Police	the Hong Kong Police Force
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
WoC	Women's Commission

## **GENERAL INFORMATION**

### **Demographic, economic, social and cultural characteristics**

Relevant demographic indicators and social, economic and cultural indicators in respect of the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR) are at **Annex A**.

2. The population in Hong Kong at mid-2005 was 6.81 million. With the annual population growth ranging from 0.4% to 1.0% in recent years, the population at mid-2009 exceeded the 7 million mark (7.01 million). The population increase was mainly due to the continuous inflow of holders of Permit for Proceeding to Hong Kong and Macao from the Mainland of China and the natural increase during the period.

3. The majority of the population in Hong Kong are Chinese (95%). The number of ethnic minorities in Hong Kong was 342 198 (about 5% of the population) in 2006, which was more or less the same as the number in 2001. Nevertheless, there had been changes in the composition of ethnic minorities in the past five years. For example, the number of Indonesians increased markedly from 50 494 in 2001 to 87 840 in 2006, while their proportion in all ethnic minorities increased from 14.7% to 25.7%.

4. In terms of language most commonly used, 93.9% of Chinese aged five and over usually spoke Cantonese at home, followed by other Chinese dialects (other than Cantonese and Putonghua) (4.6%). On the other hand, among ethnic minorities aged five and over, English was the language most commonly spoken at home (46.7%), followed by Cantonese (32.4%).

5. Ageing of the population has continued. While the proportion of people aged under 15 fell from 16.5% in 2001 to 13.7% in 2006, the proportion of people aged 65 and over rose from 11.1% to 12.4%.

6. Hong Kong is a small and open economy. Hong Kong's per capita Gross Domestic Product (GDP) in 2009 stood at around \$233,300. Its economy has become increasingly service-oriented over the past two decades, as manifested by a continued rise in the share of the service sectors in GDP from 73% in 1988 to 92% in 2008.

7. The diversification and restructuring of the economy will continue. The Government will consolidate the strengths of the traditional four pillar industries (namely financial services, tourism, trading and logistics, and professional services), and at the same time step up efforts to promote the growth of industries where Hong Kong enjoys clear advantage (including educational services, medical services, testing and certification services, environmental industries, innovation and technology, cultural and creative industries). The transformation towards a knowledge-based economy has led to a shift in manpower demand in favour of higher-skilled and better educated workers.

## **Constitutional, political and legal structure of the HKSAR**

### **Constitutional document**

8. 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, 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 HKSAR was established on 1 July 1997. The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Basic Law) came into effect on 1 July 1997.

9. The Basic Law is the most important legal document for the HKSAR to exercise a high degree of autonomy. It prescribes the relationship between the Central Authorities and the HKSAR, fundamental duties of the residents and the social, political, cultural and other systems to be practised in the HKSAR.

10. Among other matters, the Basic Law provides that –
- (a) the NPC authorises the HKSAR to 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) under the principle of “one country, two systems”, the socialist system and policies shall not be practised in the HKSAR and Hong Kong’s previous capitalist system and way of life shall remain unchanged for 50 years;
  - (d) 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;
  - (e) national laws shall not be applied in the HKSAR except for those listed in Annex III to the Basic Law<sup>1</sup> and that the laws listed therein shall be applied locally by way of promulgation or legislation by the Region. The Standing Committee of the NPC (NPCSC) 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;
  - (f) the HKSAR is authorised to conduct relevant external affairs on its own in accordance with the Basic Law 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

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<sup>1</sup> National laws listed in Annex III to the Basic Law are at **Annex B**.

appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields;

- (g) 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. The HKSAR safeguards the free flow of capital within, into and out of the Region. The HKSAR issues and manages its own currency;
- (h) 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;
- (i) Hong Kong residents enjoy a wide range of freedoms and rights; and
- (j) 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.

The freedoms and rights of Hong Kong residents will be dealt with under the section below on “General framework for the protection and promotion of human rights”.

## **Political System**

11. The Chief Executive of the HKSAR is the head of the Region, and is accountable to the Central People’s Government and the HKSAR in accordance with the provisions of the Basic Law. The Executive Council (ExCo) assists him in policy-making. The HKSAR

Government formulates and implements policies, introduces bills, implements law and provides services to the community. The Legislative Council (LegCo) is the legislature of the HKSAR. District Councils – established in accordance with Articles 97 and 98 of the Basic Law – are consulted on district administration and other affairs. There is an independent judiciary.

### Chief Executive

12. The Chief Executive leads the HKSAR Government and decides on government policies. He is responsible for the implementation of the Basic Law and other laws which, in accordance with the Basic Law, apply in the HKSAR. Moreover, he signs bills and budgets passed by the LegCo. He also nominates and reports to the Central People's Government for appointment of principal officials. He appoints or removes judges of the courts at all levels and holders of public office in accordance with legal procedures. The Chief Executive also conducts, on behalf of the HKSAR Government, external affairs and other affairs as authorised by the Central Authorities.

13. 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.

### Executive Council

14. The ExCo 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 ExCo before making important policy decisions, introducing bills to the LegCo, making subordinate legislation, or dissolving the LegCo. 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 ExCo, he shall put the specific reasons on record.

15. 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 ExCo shall be appointed by the Chief Executive from among the principal officials of the executive authorities, members of the LegCo 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.

16. The current membership of the ExCo comprises the 15 Principal Officials appointed under the Political Appointment System and 14 non-official members.

#### The structure of the Administration

17. 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.

18. There are currently 12 bureaux, each headed by a Policy Secretary, which collectively form the Government Secretariat. With certain exceptions, the heads of Government departments are responsible to the Secretaries of Departments and Policy Secretaries. 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.



19. A Political Appointment System has been introduced since 1 July 2002. Under the system, the Chief Secretary for Administration, the Financial Secretary, the Secretary for Justice and the 12 Policy Secretaries of the HKSAR Government are political appointees. They are responsible for specific policy areas and are accountable to the Chief Executive. They are at the same time appointed as Members of the ExCo and, together with other Non-Official Members of the Council, assist the Chief Executive in policy making. Under the system, there remains a permanent, professional and politically neutral civil service.

### Legislative Council

20. The powers and functions of the LegCo 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.

21. Article 68 of the Basic Law provides that the LegCo 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 LegCo by universal suffrage. Annex II to the Basic Law and the relevant decision of the NPC at its Third Session on 4 April 1990 prescribe the composition of the LegCo 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



<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)
(b) elected by functional constituencies	30	30	30
(c) elected by an election committee	10	6	-
Total	60	60	60

22. Annex II of the Basic Law provides that, if there is a need to amend the method for forming the LegCo 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 NPCSC for the record.

23. The election of the current (fourth) term of the LegCo (2008-2012) was held on 7 September 2008. The HKSAR is divided into five geographical constituencies, each of which has four to eight seats. A total of 30 seats are returned by geographical constituencies through direct elections. Another 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. The fourth term of the LegCo assumed office on 1 October 2008.

### District Councils

24. Eighteen District Councils were established in the HKSAR to advise the Government on all matters relating to the well-being of residents in the districts and to promote community building through carrying out various community involvement programmes including recreational and cultural projects, and undertaking environmental improvement projects 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 current (third) term District Councils (2008-2011), the HKSAR is divided into 405 constituencies, each returning one elected member. In addition, there are 102 appointed members and 27 ex-officio members.

## Relevant statistics

25. Relevant statistics on the political system, including the number of complaint cases received from the public on the conduct of major elections, and the voter turnout rates, are set out in **Annex C**.

## **Administration of justice**

### The judicial system of the HKSAR

26. The legal system is firmly based on the rule of law, professional legal services, quality legal aid services, and a Judiciary which is independent of the executive authorities and the legislature.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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 the Basic Law.

#### Relevant statistics

32. From 2005 to 2009, the relevant statistics on the administration of justice in respect of the HKSAR set out below. Statistics relevant to the sentencing of offenders and death in custody are set out in **Annex D**.

(a) Incidence of violent death and life threatening crimes reported

<b>Crime</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
Murder and manslaughter	34	35	18	36	47
Attempted murder	5	4	7	4	4

(b) Number of persons arrested for violent or other serious crimes

<b>Crime</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
Murder and manslaughter	65	50	25	42	35
Wounding and serious assault	5 693	6 352	6 498	5 985	5 878
Robbery	720	821	682	611	428
Drug trafficking	1 058	1 139	1 420	1 489	1 579

(c) Number of reported cases of sexually motivated violence

<b>Crime</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
Rape	99	96	107	105	136
Indecent assault	1 136	1 195	1 390	1 381	1 318

(d) Number of Police officers per 100 000 persons

	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
Police officers	381.8	384.9	395.0	391.4	395.6

(e) Number of judges and judicial officers

	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
Judges and judicial officers	156	150	154	161	154

(f) Statistics on legal aid

	2005	2006	2007	2008	2009
(1) No. of legal aid applications	4 162	3 779	3 765	3 413	3 816
(2) No. of applications refused on merits	1 328	1 216	1 152	1 012	899
(3) No. of applications granted legal aid	2 666	2 357	2 507	2 235	2 800
(4) Applicants granted legal aid with nil contribution out of (3) (as % of (3))	2 465 (92.46%)	2 162 (91.73%)	2 305 (91.94%)	2 046 (91.54%)	2 546 (90.93%)

**Non-government organisations**

33. Article 27 of the Basic Law guarantees that Hong Kong residents shall have freedom of association and the right and freedom to form and join trade unions, and to strike. Article 18 of the Hong Kong Bill of Rights (HKBOR), which corresponds to Article 22 of the ICCPR, also guarantees the freedom of association. In Hong Kong, all organisations including companies, societies, trade unions and credit unions must be registered by authorities under applicable ordinances such as the Companies Ordinance (Cap. 32) and the Societies Ordinance (Cap. 151).

Exemption of tax

34. Subject to certain limitations, charitable institutions or trusts of a public character are exempt from tax under section 88 of the Inland Revenue Ordinance (Cap. 112). Charities wishing to enjoy the tax exemption may apply to the Inland Revenue Department.

35. For an institution or a trust to be a charity, it must be established for purposes which are exclusively charitable according to law. The law defining the legal attributes of a charity is based upon case law developed through court decisions.

36. A summary of the purposes that may be accepted as charitable, in accordance with case law, are -

- (a) relief of poverty;
- (b) advancement of education;
- (c) advancement of religion; and
- (d) other purposes of a charitable nature beneficial to the community not falling under any of the preceding heads.

37. While the purposes under the first three heads may be in relation to activities carried on in any part of the world, those under head (d) will only be regarded as charitable if they are of benefit to the Hong Kong community.

## **GENERAL FRAMEWORK FOR THE PROTECTION AND PROMOTION OF HUMAN RIGHTS**

### **Application of international human rights treaties to the HKSAR**

38. The list of international treaties that are applicable to the HKSAR and the relevant information is at **Annex E**.

### **Legal framework for the protection of human rights**

#### **Rule of Law**

39. The fundamental basis for the protection of human rights is the rule of law maintained by an independent judiciary (see paragraphs 26 to 31 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 China, abide by the laws of the HKSAR. Article 35 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, 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**

40. 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



- (1) freedom of marriage and right to raise a family freely.

41. 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**

42. 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.”

43. 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 legislation<sup>2</sup>. 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

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<sup>2</sup> 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 (CAT).

such action), a remedy will be available in the courts through the ordinary procedures of civil litigation; or the law may provide criminal sanctions.

### **Hong Kong Bill of Rights Ordinance**

44. The Hong Kong Bill of Rights Ordinance (Cap. 383) (HKBORO) 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 HKBOR, the terms of which are almost identical to those of the ICCPR.

### **Legal aid**

45. 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

46. 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 family disputes to immigration matters and to coroner's inquests. The grant of legal aid is not subject to a residence requirement. 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). In civil cases, the Director has discretion to waive the upper limits of the means test in meritorious applications where a breach of the HKBORO or the ICCPR as applied to Hong Kong is an issue. In criminal cases, the Director has the same discretion if he considers it in the interest of justice to do so. 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

47. 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). In addition, the Service started operating the Convention Against Torture Scheme on a pilot basis for 12 months since December 2009. 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 HKBOR. 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. The Convention Against Torture Scheme provides legal assistance to persons who have made a claim to the Immigration Department under Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

### Legal Aid Services Council

48. 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**

49. The Ombudsman is an independent authority, established under The Ombudsman Ordinance (Cap. 397). The Ombudsman

investigates complaints of grievances arising from maladministration in the 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 his 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.

50. The Ombudsman, a corporate sole, is empowered with full autonomy and statutory authority to conduct his own administrative and financial business. The Ordinance specifically makes it clear that The Ombudsman is not a servant or agent of the HKSAR Government.

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

52. After investigating a complaint, The Ombudsman is empowered to report his 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. He may also do so if he believes that a serious irregularity or injustice has been done. Such reports are required by law to be laid before the LegCo. This helps ensure that The Ombudsman's recommendations are heard and acted upon.

53. With the exception of the Police and the Independent Commission Against Corruption (ICAC), The Ombudsman has jurisdiction over all Government bureaux and departments of the HKSAR and major statutory bodies. Complaints against these two organisations are handled separately by discrete, dedicated bodies (see paragraphs 57 and 58 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.

### **The Equal Opportunities Commission**

54. The Equal Opportunities Commission (EOC) was established under the Sex Discrimination Ordinance (SDO) in May 1996 and started full operation in September that year. The Commission is responsible for conducting formal investigations, handling complaints, encouraging conciliation between parties in dispute, providing assistance to aggrieved persons in accordance with the SDO, the Disability Discrimination Ordinance (DDO), the Family Status Discrimination Ordinance (FSDO) and the Race Discrimination Ordinance (RDO). 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. Accordingly, it issued Codes of Practice on Employment in relation to the SDO and the DDO in December 1996. It issued similar codes in relation to the FSDO in March 1998 and the RDO in July 2009. The Code of Practice on Education under the DDO was issued in July 2001 to assist educational establishments in fulfilling the requirements of the DDO.

55. Please refer to the section on "Information on non-discrimination and equality and effective remedies" below for further details in relation to the anti-discrimination ordinances and the work of the EOC.

### **Privacy Commissioner for Personal Data**

56. The Personal Data (Privacy) Ordinance 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 the 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

57. The Complaints Against Police Office (CAPO) investigates complaints about the conduct and behaviour of members of the Hong Kong Police Force (the Police). The CAPO's investigations are monitored and reviewed by the statutory Independent Police Complaints Council established under the Independent Police Complaints Council Ordinance which took effect on 1 June 2009. The Council's main functions include observing, monitoring and reviewing the handling and investigation of reportable complaints by CAPO and making recommendations in respect of the handling or investigation of such complaints, and identifying any fault or deficiency in the practices or procedures adopted by the Police that has led or might lead to reportable complaints. The Council comprises non-official members appointed by the Chief Executive from a wide spectrum of the community.

### The Independent Commission Against Corruption

58. 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. This is an independent committee appointed by the Chief Executive. The ICC comprises mainly members of the ExCo and the LegCo and prominent members of the community. 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

59. 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 LegCo, 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.

60. 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 (Cap. 331). 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, unlawful or unnecessary exercise of authority resulting in loss or injury to any person is a disciplinary offence.

## **Framework within which human rights are promoted**

### **Promotion of public awareness of the human rights treaties**

61. The Constitutional and Mainland Affairs Bureau (CMAB) of the HKSAR Government is responsible for coordinating and overseeing the implementation of policies relating to human rights and equal opportunities, including the promotion of public awareness of the rights and obligations stipulated in the human rights treaties applicable to Hong Kong. The Labour and Welfare Bureau (LWB) of the HKSAR Government is responsible for matters and human rights treaties relating to women and disability, including the relevant human rights treaties applicable to Hong Kong.

#### *Dissemination of human rights treaties in the HKSAR*

62. The HKSAR Government is committed to the promotion of the rights as enshrined in the human rights treaties applicable to Hong Kong. The promotion work is carried out through various channels including media campaigns in the form of television and radio announcement in the public interest (API). For example, an API produced by the CMAB to promote respect of children's rights as enshrined in the Convention on the Rights of the Child (CRC), namely, the right to life, development, protection and participation, was launched in June 2009. A major publicity campaign, including a series of television thematic docudrama, a package of television and radio APIs, and advertisements on newspapers and public transport facilities has been launched by LWB since August 2009 to promote the spirit and values enshrined in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). A series of publicity programmes in the form of roving exhibitions, school educational dramas and district activities have been carried out by LWB on an on-going basis to promote public awareness on the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

63. The Government also produces bilingual booklets on the text of the human rights treaties (in both Chinese and English, the official languages of the HKSAR). Furthermore, publications such as\_bilingual



booklets, newsletters and leaflets on these treaties, with illustrations of the principal provisions and in languages which are easy to understand, are published. These publications aim to enhance the promotion of the treaties to members of the public, including parents and children. The publications are widely distributed to the public, including schools, libraries, district offices and NGOs, and have been uploaded onto the Government website.

64. The processes undertaken by the HKSAR Government in consulting the public in preparing reports to the United Nations treaty monitoring bodies, publication of the report, dissemination of concluding observations of the United Nations treaty monitoring bodies to the public and discussing them with stakeholders concerned also provide opportunities for promoting the human rights treaties to the public. These are elaborated below under the section on “Reporting process”.

#### *Human rights education among public officials and professionals*

65. Training and education is provided to Government officials including legal officers and operational staff of the disciplinary forces in relation to the Basic Law, which provides the constitutional guarantees for human rights protection in the HKSAR, and other human rights subjects such as application of human rights treaties, equal opportunities and the HKBORO.

##### (a) Government officials in general

66. The Civil Service Bureau and the Civil Service Training and Development Institute organise seminars for Government officers at middle to senior rank. These include seminars on the Basic Law, equal opportunities (in collaboration with the EOC) and other areas of human rights.

67. In particular, major components of UNCRPD have been incorporated into the induction courses for new recruits of the Administrative Officer, Executive Officer and Clerical Officer grades. We are also developing tailored courses for departments with frequent

and extensive contacts with members of the public with a view to enhancing their knowledge on applying UNCRPD in their daily work.

68. In addition to the above, training is provided to Government officers of different grades and ranks to raise their gender awareness and understanding of gender-related issues. Such training includes seminars and workshops which cover CEDAW and other instruments that protect women's interests and their application in Hong Kong. The LWB has also developed a web-portal and a web course on gender mainstreaming for reference by all Government officers.

(b) Legal officers

69. The Department of Justice organises training sessions for Government legal officers. Some of those sessions deal with international human rights law and human rights protection under the Basic Law. Others focus on specific areas according to the specialised needs of the different divisions of the Department. For example, the Prosecutions Division of the Department of Justice organises criminal advocacy courses for prosecutors and during which prosecutors are acquainted with the Juvenile Offenders Ordinance (Cap. 226), the Protection of Children and Juveniles Ordinance (Cap. 213), relevant international standards, and the court proceedings in relation to the juvenile justice system. Counsel of the Department also attend seminars and conferences organised by universities and academic institutions and overseas conferences on human rights.

(c) Operational staff of the disciplinary forces

70. Training of disciplined services invariably includes reference to human rights. The Immigration Department, the Customs and Exercise Department and the CSD have incorporated lectures on the HKBORO and gender-related trainings into their regular in-service and training programmes for new recruits. Human rights and equality principles are part of the foundation training for the Police Force's new recruits and probationary inspectors. The continued training programmes for in-service officers also cover these topics.

71. A research unit under the Operations Department of the ICAC monitors developments in relation to the HKBORO and their implications for the Commission's operations. The unit also provides seminars and training on the HKBORO for the Commission's investigators.

*Human rights training for judges*

72. Hong Kong's Judiciary operates within the international world of the Common Law and follows developments in all areas of law - including human rights law - in other common law jurisdictions. The Judicial Studies Board provides continuing education and training for judges and judicial officers. Human rights law is one of many areas that are emphasised. They participate in visits and human rights seminars both locally and overseas. Talks on anti-discrimination ordinances and seminars on Personal Data (Privacy) Ordinance are arranged regularly for the support staff of the Judiciary to enhance their understanding and knowledge on these ordinances and to raise their awareness on human rights, equal opportunities and protection of personal data. Staff also attend the training on Basic Law by the Civil Service Training and Development Institute.

*Promotion of human rights in general*

73. The Committee on the Promotion of Civic Education (CPCE) is an advisory body under the Home Affairs Bureau to promote civic education outside schools and to enhance general public's civic awareness. As human rights education forms part and parcel of civic education, CPCE continues to promote public understanding of and respect for human rights when it promotes civic education. Separately, a Basic Law Promotion Steering Committee - chaired by the Chief Secretary for Administration - was established in January 1998 to guide promotional strategy.

74. The EOC, an independent statutory body to enforce the anti-discrimination ordinances, also has the important function of promoting equal opportunities in respect of sex, disability, family status and race. Please refer to the section on "Information on

non-discrimination and equality and effective remedies” below on the work of the EOC.

75. The HKSAR Government also promotes the rights under the international human rights treaties applicable to the HKSAR through other measures, such as sponsoring and cooperating with NGOs to promote awareness and public education through funding schemes and other initiatives.

#### *Promotion of human rights at schools*

76. Education in schools is an important aspect in the promotion of children’s rights and human rights in general. Human rights education is integral to the school curriculum and is addressed in a wide range of subjects at different key stages of learning. These curriculum areas have been strengthened in the core subject of Liberal Studies implemented at senior secondary level starting from the 2009-10 school year. Students are provided with ample opportunities to develop concepts and values in relation to human rights in the existing school curriculum. Important concepts and values on human rights, such as the right to life, freedom (e.g. speech, religion), privacy, respect for all peoples (e.g. different nationalities and their cultures, ways of life), equality (e.g. gender equality), anti-discrimination and gender awareness (e.g. race, sex) are discussed through the learning and teaching of various subjects in primary and secondary schools. Students’ concepts and understanding of human rights are strengthened progressively from a basic understanding of the rights and responsibilities to more complex concepts of human rights.

77. Besides, students may also get acquainted with the concepts and values of human rights through various school-based programmes, such as teacher’s class periods, assemblies, talks, as well as other learning experiences, such as discussion forums, debates, services and visits.

78. Civic education, human rights education and education against discrimination are integral to the curriculum and are addressed in a wide range of subjects at different key stages of learning such as General Studies at primary level, curricula under the Personal, Social and

Humanity Education at secondary level and the core subject of Liberal Studies implemented at New Senior Secondary curriculum in the 2009-10 school year. To support schools in promoting concepts and values pertaining to these curriculum areas, professional development programmes and resources support are provided to empower teachers' professional capability to implement these curricula. Relevant learning activities and programmes are provided to deepen students' understanding of the concepts and values relating to civic education, human rights education and education against discrimination.

*Participation of NGOs in promotion of human rights*

79. A number of organisations are dedicated to the promotion of human rights in Hong Kong. Some focus on a particular aspect of human rights such as the rights of ethnic minorities, children, persons with disabilities, or women. Others have a wider scope, embracing all, or most of, the issues addressed in the human rights treaties.

80. The HKSAR Government has increasingly engaged or collaborated with NGOs in matters relevant to the promotion of human rights. This include seeking their views during the preparation of reports in respect of the HKSAR under the UN human rights treaties and in considering follow-up actions on the concluding observations, seeking their views on issues of policy and other matters concerning human rights, as well as cooperation on public promotion and provision of support services.

81. To strengthen the liaison with the NGOs, a number of forums have been established to provide platforms for exchanging views with NGOs on various issues concerning human rights. These include:

(a) Human Rights Forum

82. The Forum first met in October 2003. It provides a platform for NGOs to have regular meetings with the Government for discussions on various human rights issues, including the implementation of various human rights treaties as well as other issues of concern, such as those on ethnic minorities and human rights education.

(b) Children's Rights Forum

83. The Children's Rights Forum aims to provide a platform for exchanging views on matters concerning children's rights among the Government, children's representatives, NGOs focusing on children's rights and other human rights NGOs. The first meeting was held on 2 December 2005.

(c) Ethnic Minorities Forum

84. The Forum provides a channel of communication between the Government and Hong Kong's ethnic minority communities and organisations dedicated to serving them. It helps to identify the concerns and needs of the ethnic communities and discuss possible ways of addressing them. The first meeting was held on 30 July 2003.

(d) Sexual Minorities Forum

85. The Forum was established in 2004. It provides a platform for the Government, NGOs and interested parties to exchange views on issues concerning sexual minorities in Hong Kong, including the promotion of equal opportunities for people with different sexual orientations and transgendered persons.

86. The agenda and notes of the meetings of the above forums are publicly available on the Government website.

### **Reporting process**

87. The Central People's Government submits reports in respect of the HKSAR under various human rights treaties applicable to the HKSAR. Under the established practice, the HKSAR Government would consult the public in the drafting of each report. The HKSAR Government would set out in an outline the broad subject headings and individual topics that it envisages to cover in the report. The outline would be widely distributed to stakeholders, including the LegCo and members of relevant forums, and to the general public through various means such as the HKSAR Government's website. Discussions with

members of the relevant forums and NGOs would be arranged. The public are also invited to suggest additional topics that ought to be included in the report. The outline would also be discussed at the LegCo, and usually representatives of interested NGOs would be invited by the LegCo to present their views.

88. Comments and suggestions raised by commentators would be considered. Respective responses of the HKSAR Government would be incorporated in the relevant sections of the reports as appropriate.

89. The HKSAR section of the report will be made available, in both English and Chinese, to stakeholders, including the LegCo and interested NGOs, and will be distributed to the public at the Public Enquiry Service Centres of the Home Affairs Department (HAD), public libraries and the Government website, after the report has been submitted to the United Nations and released by the United Nations. The report would also be discussed at the LegCo.

*Follow-up to concluding observations of human rights treaty bodies*

90. In accordance with the established practice, following the issue of the concluding observations by the human rights treaty bodies, we would widely disseminate the concluding observations among all levels of society, including the LegCo, the relevant Government bureaux and departments, the Judiciary, NGOs and other interested parties. At the same time, we would also issue a press release to the media on the concluding observations and the preliminary response of the HKSAR Government. The concluding observations would also be made available to the public through the Government website. We would discuss the concluding observations and the HKSAR Government's initial response with the LegCo and relevant forums. Follow up actions on the concluding observations would also be discussed from time to time at the LegCo and at various forums as appropriate.



## **Information on non-discrimination and equality**

91. The general constitutional and legislative framework to guarantee equality before the law, as well as the relevant institutional framework, has been described above in respect of the framework on the protection of human rights.

### Equal Opportunities Commission

92. As outlined above, the EOC is responsible for the implementation of four anti-discrimination ordinances in the HKSAR and promotion of equal opportunities in the respective areas. These ordinances are outlined below.

#### *Anti-discrimination ordinances*

93. The SDO and the DDO came into full operation in December 1996. Under the SDO, it is unlawful to discriminate against or harass a person on the grounds of sex, marital status or pregnancy in the specified areas of activities. The law applies to both males and females. Under the DDO, it is unlawful to vilify a person with a disability in public, or discriminate against or harass a person on the ground of disability in the specified areas of activities.

94. The FSDO came into force in November 1997. Under the FSDO, it is unlawful to discriminate against a person on the ground of family status. Family status means the status of having a responsibility for the care of an immediate family member. Immediate family member, in relation to a person, means someone who is related to the person concerned by blood, marriage, adoption or affinity.

95. The RDO came into full operation in July 2009. Race in relation to a person means the race, colour, descent, national or ethnic origin of the person. It is unlawful under the RDO to vilify a person on the ground of race in public, or discriminate against or harass a person on the ground of race, in specified areas of activities.



96. The areas of activities covered by the four abovementioned ordinances are broadly the same, including employment; education; provision of goods, facilities or services; disposal or management of premises; eligibility to vote for and to stand for election of public bodies; and participation in clubs.

#### *Investigation and Conciliation*

97. The EOC investigates into complaints lodged under the four ordinances and encourages conciliation between the parties in dispute. Where conciliation fails, a complainant may apply to the EOC for other forms of assistance including legal assistance. The EOC also conducts formal investigation into discriminatory practices where appropriate.

#### *Education and Promotion*

98. The EOC is committed to promoting the concept of equal opportunities through education and promotion. The EOC builds partnership with the Government and NGOs in working towards the elimination of discrimination. Public education and publicity programmes to raise awareness and promote better understanding of equal opportunities concepts include organising talks, seminars and workshops for different target groups; publishing quarterly newsletters; organising roadshows and exhibitions; developing programmes for students and producing TV and radio announcements and programmes. In order to encourage community participation, the Community Participation Funding Programme on Equal Opportunities is in place to assist community groups to organise their own activities to promote equal opportunities. The EOC also seeks to achieve its vision through partnership projects with all sectors in the community. Calendar and tailor-made training programmes are conducted to raise awareness of discrimination and harassment within organisations and Government departments to equip them with the skills to deal with the situation should such problems arise.

## *Research*

99. The EOC commissions various research studies and baseline surveys to examine why discrimination takes place, the overall attitudes and perceptions of equal opportunities within the community. The research studies will help the EOC to develop its strategy, monitor the attitude change and provide benchmarks for future studies.

## *Review of relevant legislation and issuing codes of practice and guidelines*

100. The EOC keeps under review the anti-discrimination ordinances and submit proposals for amendments to the Government as it thinks fit. It also issues codes of practice under the ordinances and other guidelines. The Codes of Practice on Employment are issued to assist employers and employees in understanding their responsibilities under the ordinances and to provide practical guidelines to management on procedures and practices that can help prevent discrimination and other unlawful acts in the workplace.

101. Copies of the codes of practice under the four ordinances as well as a series of other publications explaining the provisions of the ordinances are available at the EOC office and its website. The EOC website also provides up-to-date information on equal opportunities issues in Hong Kong and around the world.

## Administrative measures on promotion of non-discrimination and equality

### *Women*

102. Since the extension of the CEDAW to Hong Kong in October 1996, we have been striving to adhere to the principles of CEDAW and promote public awareness of the Convention.

103. The HKSAR Government set up the Women's Commission (WoC) in 2001 as a high-level central mechanism to advise and assist the HKSAR Government on women's issues and to champion for women's

interests. The WoC is tasked to take a strategic overview on women issues, develop a long-term vision and strategy for the development and advancement of women, and to advise the HKSAR Government on policies and initiatives which are of concern to women.

104. To achieve its mission of enabling women in Hong Kong to fully realise their due status, rights and opportunities in all aspects of life, the WoC has adopted a three-pronged strategy, namely the provision of an enabling environment, empowerment of women through capacity building and public education, in promoting the interest and well-being of women. Apart from offering advice to the HKSAR Government on women-related policies and initiatives, the Commission also commissions researches and surveys, organises publicity and public education programmes and maintains close liaison with women's groups and different sectors of the community with a view to promoting interests of women in Hong Kong.

#### *Ethnic minorities*

105. In respect of the promotion of racial equality, besides legislation, we believe that public education and support services are also important for better integration of ethnic minorities into the community. We have, over the years, launched various initiatives to promote racial harmony and to assist integration of the ethnic minorities in Hong Kong.

106. The Committee on the Promotion of Racial Harmony was established in 2002 to advise the HKSAR Government on public education and publicity in this area. The Race Relations Unit (RRU), established also in 2002 by the Government, serves as the secretariat to the Committee on the Promotion of Racial Harmony and implements the programmes and activities.

107. The RRU operates a number of programmes to promote racial equality and facilitate the integration of ethnic minorities into society, either by organising activities or through sponsoring the work of NGOs. Such programmes include language programmes, integration activities, radio programmes in the languages of the ethnic minorities, and community teams to provide support services to the ethnic minority

groups. Starting from 2009, we have provided funding for four NGOs to establish and operate support service centres for ethnic minorities in Hong Kong. They provide Chinese and English language training, orientation programmes, counselling and referral services, interest classes, and other support services to ethnic minorities. One of the four centres provides telephone and on-site interpretation services to facilitate ethnic minorities' access to public services.

108. In 2010, the HKSAR Government also issued Administrative Guidelines to provide general guidance to concerned Government bureaux and departments and relevant public authorities to promote racial equality and ensure equal access by ethnic minorities to public services in key areas concerned, and to take this into account in their formulation, implementation and review of relevant policies and measures.

#### *Children's rights*

109. In the HKSAR, matters concerning children cover a wide range of policies. They are taken care of by the respective policy bureaux of the HKSAR Government. The best interests of the child are necessary considerations in all relevant decision-making, including legislative proposals and policies, and are taken into account as a matter of course. Advice would be sought from Government experts on human rights and international law where necessary to ensure compliance.

110. Certain child-related policies and measures may involve more than one bureau or department. Mechanisms are in place within the HKSAR Government for co-ordinating and handling policies that involve different bureaux and departments. Mechanisms within the Administration continue to serve the need of coordinating policies and measures among Government bureaux and departments, ensuring that adequate consideration is given to the interests of children.

111. In 2006, the HKSAR Government established the Children's Rights Education Funding Scheme, which provides financial support for community organisations to carry out educational projects to raise public awareness and understanding of the Convention on the Rights of the

Child and the children's rights enshrined in it. The Scheme accepts open application for funding on an annual basis. The HKSAR Government also collaborates with NGOs from time to time to undertake worthy projects for the promotion of children's rights.

*People of different sexual orientation*

112. We have been promoting equal opportunities for people of different sexual orientation through various measures. Besides setting up a Sexual Minorities Forum mentioned above, we set up a Gender Identity and Sexual Orientation Unit in 2005 to promote equal opportunities for people of different sexual orientation. Since 1998, we have been operating a funding scheme to support worthwhile community projects which seek to promote equal opportunities for people of different sexual orientation or to provide support services for the sexual minorities. The Administration will continue to promote equal opportunities on ground of sexual orientation through public education and publicity measures such as poster campaigns and broadcasting APIs through radio.

*Persons with disabilities*

113. The UNCRPD entered into force for China and applied to the HKSAR on 31 August 2008. States Parties to the Convention undertake to adopt all appropriate legislative, administrative and other measures for the implementation of the rights of persons with disabilities recognised in the Convention. With the existing DDO affording protection against discrimination on the ground of disability, and the Mental Health Ordinance (Cap. 136) safeguarding the rights of mental patients, the HKSAR has been well positioned to meet the objectives of this Convention.

114. Measures have been taken to ensure that all bureaux and departments are fully aware of the need to take due account of this Convention's provisions in formulating policies and implementing programmes. The HKSAR Government will also continue to work with the Rehabilitation Advisory Committee, the principal advisory body to the HKSAR Government on matters pertaining to the well-being of persons with disabilities and the development and implementation of

rehabilitation policies and services in Hong Kong, the rehabilitation sector and the community at large to ensure compliance with the Convention, to provide support to promote participation by persons with disabilities in society and to facilitate the enjoyment of their rights under this Convention. The HKSAR Government has also been actively promoting this Convention to the community.

## Demographic indicators and social, economic and cultural indicators

### A. Demographic Indicators

#### (a) : Population size

Year	Population size
2005	6 813 200
2006	6 857 100
2007	6 925 900
2008	6 977 700
2009#	7 008 300

Note: # Provisional figures.

#### (b) : Population growth rate

Year	Population growth rate
2005	0.4%
2006	0.6%
2007	1.0%
2008	0.7%
2009#	0.4%

Note: # Provisional figures.

#### (c) : Population Density<sup>(1)</sup> by Area

	<b>Persons per sq. km</b>				
	2004	2005	2006	2007	2008
Hong Kong Island	15 800	15 850	15 890	16 170	16 390
Kowloon	42 690	43 080	43 020	43 350	43 290
New Territories and Islands	3 690	3 700	3 740	3 770	3 810
<b>Total</b>	<b>6 280</b>	<b>6 310</b>	<b>6 350</b>	<b>6 410</b>	<b>6 460</b>

Note : Figures refer to end-June of the year.

<sup>(1)</sup> Excluding marine population and area of reservoirs.



**(d) : Population aged 5 and over by usual language and ethnicity, 2001**

Ethnicity	Usual language / dialects								Total
	Cantonese	English	Putonghua	Other Chinese dialects	Filipino	Indonesian	Japanese	Others	
Chinese	5 657 076	20 942	54 240	351 274	338	3 768	520	2 704	6 090 862
Filipino	7 378	121 710	146	220	11 605	26	41	230	141 356
Indonesian	36 357	5 697	408	420	-	7 332	8	197	50 419
Indian	577	6 892	36	107	15	220	-	8 861	16 708
Nepalese	242	895	8	9	8	16	-	10 415	11 593
Japanese	521	1 033	123	29	-	-	11 207	25	12 938
Thai	10 576	671	64	189	14	-	8	2 705	14 227
Pakistani	692	1 160	9	-	1	23	-	7 579	9 464
Korean	368	837	22	14	-	-	73	3 530	4 844
Other Asian	3 284	2 320	135	75	8	18	-	1 442	7 282
White	1 382	35 116	127	16	17	7	15	4 640	41 320
Mixed - With Chinese parent	8 341	3 355	92	209	95	25	159	261	12 537
Mixed - Others	76	1 321	-	-	-	-	21	178	1 596
Others	102	1 649	-	-	-	7	-	835	2 593
<b>Total</b>	<b>5 726 972</b>	<b>203 598</b>	<b>55 410</b>	<b>352 562</b>	<b>12 101</b>	<b>11 442</b>	<b>12 052</b>	<b>43 602</b>	<b>6 417 739</b>

Note: The figures exclude mute persons.

**(d) (cont'd) : Population aged 5 and over by usual language and ethnicity, 2006**

Ethnicity	Usual language / dialects								Total
	Cantonese	English	Putonghua	Other Chinese dialects	Filipino	Indonesian	Japanese	Others	
Chinese	5 923 974	33 163	57 530	287 663	392	2 781	1 172	3 452	6 310 127
Filipino	8 488	95 686	344	183	6 842	10	50	157	111 760
Indonesian	66 349	13 224	1 831	297	-	5 708	40	329	87 778
Indian	1 373	6 871	36	97	-	380	20	10 285	19 062
Nepalese	913	1 080	30	23	-	20	-	12 644	14 710
Japanese	1 066	1 452	109	59	8	-	9 541	51	12 286
Thai	9 534	537	75	100	-	-	10	1 496	11 752
Pakistani	913	1 263	-	40	-	-	-	7 483	9 699
Korean	651	746	84	20	-	-	30	3 034	4 565
Other Asian	4 170	1 900	294	169	-	18	-	1 113	7 664
White	3 729	25 586	261	71	29	-	10	3 801	33 487
Mixed - With Chinese parent	8 802	3 001	257	240	96	95	152	399	13 042
Mixed - Others	405	1 639	-	11	39	16	30	190	2 330
Others	593	1 133	8	54	-	10	-	284	2 082
<b>Total</b>	<b>6 030 960</b>	<b>187 281</b>	<b>60 859</b>	<b>289 027</b>	<b>7 406</b>	<b>9 038</b>	<b>11 055</b>	<b>44 718</b>	<b>6 640 344</b>

Note: The figures exclude mute persons.

**(e) : Population by ethnicity, sex and age group, 2001**

Ethnicity / Sex		Age group							Total
		< 15	15 - 24	25 - 34	35 - 44	45 - 54	55 - 64	65+	
Chinese	Male	554 607	448 338	480 454	632 133	479 639	263 572	343 164	3 201 907
	Female	516 762	422 267	504 145	642 269	448 775	228 117	400 197	3 162 532
	Total	1 071 369	870 605	984 599	1 274 402	928 414	491 689	743 361	6 364 439
Filipino	Male	1 377	418	1 772	2 074	1 021	301	96	7 059
	Female	1 303	11 809	61 713	46 580	12 603	1 308	181	135 497
	Total	2 680	12 227	63 485	48 654	13 624	1 609	277	142 556
Indonesian	Male	74	130	184	150	242	189	119	1 088
	Female	91	20 968	22 885	4 313	624	297	228	49 406
	Total	165	21 098	23 069	4 463	866	486	347	50 494
Indian	Male	1 974	1 219	2 268	1 594	1 129	713	406	9 303
	Female	1 716	1 361	2 704	1 411	1 092	613	343	9 240
	Total	3 690	2 580	4 972	3 005	2 221	1 326	749	18 543
Nepalese	Male	734	1 180	2 891	1 350	380	621	39	7 195
	Female	571	1 601	2 230	671	163	101	32	5 369
	Total	1 305	2 781	5 121	2 021	543	722	71	12 564
Japanese	Male	1 718	130	1 313	2 513	1 171	561	106	7 512
	Female	1 533	206	2 206	1 931	485	213	94	6 668
	Total	3 251	336	3 519	4 444	1 656	774	200	14 180
Thai	Male	96	128	418	310	120	46	31	1 149
	Female	137	782	4 115	4 845	2 702	559	53	13 193
	Total	233	910	4 533	5 155	2 822	605	84	14 342
Pakistani	Male	1 625	1 655	2 022	685	453	622	203	7 265
	Female	1 506	601	761	437	174	188	85	3 752
	Total	3 131	2 256	2 783	1 122	627	810	288	11 017
Korean	Male	741	110	358	655	190	82	30	2 166
	Female	682	211	928	807	335	81	53	3 097
	Total	1 423	321	1 286	1 462	525	163	83	5 263
Other Asian	Male	314	239	832	748	361	129	149	2 772
	Female	422	751	1 755	1 056	482	197	137	4 800
	Total	736	990	2 587	1 804	843	326	286	7 572
White	Male	4 684	1 178	6 030	7 368	4 700	2 147	649	26 756
	Female	4 377	1 277	4 427	4 519	2 548	852	338	18 338
	Total	9 061	2 455	10 457	11 887	7 248	2 999	987	45 094
Mixed - With Chinese parent	Male	4 990	1 659	544	401	235	215	149	8 193
	Female	4 583	1 727	759	758	310	165	92	8 394
	Total	9 573	3 386	1 303	1 159	545	380	241	16 587
Mixed - Others	Male	955	118	99	82	40	28	11	1 333
	Female	1 094	98	160	103	51	8	7	1 521
	Total	2 049	216	259	185	91	36	18	2 854
Others	Male	468	137	307	392	210	100	32	1 646
	Female	283	147	249	332	182	17	28	1 238
	Total	751	284	556	724	392	117	60	2 884
Total	Male	574 357	456 639	499 492	650 455	489 891	269 326	345 184	3 285 344
	Female	535 060	463 806	609 037	710 032	470 526	232 716	401 868	3 423 045
	Total	1 109 417	920 445	1 108 529	1 360 487	960 417	502 042	747 052	6 708 389

**(e) (cont'd) : Population by ethnicity, sex and age group, 2006**

Ethnicity / Sex		Age group							Total
		< 15	15 - 24	25 - 34	35 - 44	45 - 54	55 - 64	65+	
Chinese	Male	468 191	441 725	446 987	533 983	577 864	336 456	390 243	3 195 449
	Female	439 195	425 344	484 250	625 854	578 648	317 478	455 930	3 326 699
	Total	907 386	867 069	931 237	1 159 837	1 156 512	653 934	846 173	6 522 148
Filipino	Male	1 225	337	1 218	1 468	1 007	409	156	5 820
	Female	1 242	7 279	38 717	40 695	15 966	2 237	497	106 633
	Total	2 467	7 616	39 935	42 163	16 973	2 646	653	112 453
Indonesian	Male	111	115	324	185	161	225	146	1 267
	Female	115	21 541	49 493	12 372	2 123	603	326	86 573
	Total	226	21 656	49 817	12 557	2 284	828	472	87 840
Indian	Male	1 941	927	2 645	2 246	992	1 154	529	10 434
	Female	1 754	1 034	2 892	1 947	928	1 018	437	10 010
	Total	3 695	1 961	5 537	4 193	1 920	2 172	966	20 444
Nepalese	Male	1 476	760	2 263	2 193	516	531	207	7 946
	Female	1 416	1 101	3 021	1 660	365	321	120	8 004
	Total	2 892	1 861	5 284	3 853	881	852	327	15 950
Japanese	Male	1 444	189	913	2 134	1 310	524	166	6 680
	Female	1 423	277	1 350	2 460	673	221	105	6 509
	Total	2 867	466	2 263	4 594	1 983	745	271	13 189
Thai	Male	200	185	290	302	58	60	20	1 115
	Female	166	393	2 156	3 855	2 886	985	344	10 785
	Total	366	578	2 446	4 157	2 944	1 045	364	11 900
Pakistani	Male	1 993	711	1 606	1 074	361	383	253	6 381
	Female	1 833	667	1 111	488	228	127	276	4 730
	Total	3 826	1 378	2 717	1 562	589	510	529	11 111
Korean	Male	411	255	308	603	399	110	67	2 153
	Female	465	169	480	1 034	332	127	52	2 659
	Total	876	424	788	1 637	731	237	119	4 812
Other Asian	Male	393	180	534	744	549	251	241	2 892
	Female	328	484	1 600	1 191	666	400	290	4 959
	Total	721	664	2 134	1 935	1 215	651	531	7 851
White	Male	3 025	1 237	4 581	7 095	4 279	2 317	1 047	23 581
	Female	2 977	948	2 675	3 049	1 675	941	538	12 803
	Total	6 002	2 185	7 256	10 144	5 954	3 258	1 585	36 384
Mixed - With Chinese parent	Male	3 084	1 259	686	314	488	404	301	6 536
	Female	3 093	1 277	1 119	1 039	843	616	409	8 396
	Total	6 177	2 536	1 805	1 353	1 331	1 020	710	14 932
Mixed - Others	Male	905	251	145	126	28	1	-	1 456
	Female	982	227	306	103	49	7	30	1 704
	Total	1 887	478	451	229	77	8	30	3 160
Others	Male	152	72	225	377	238	146	36	1 246
	Female	135	61	231	264	156	49	30	926
	Total	287	133	456	641	394	195	66	2 172
Total	Male	484 551	448 203	462 725	552 844	588 250	342 971	393 412	3 272 956
	Female	455 124	460 802	589 401	696 011	605 538	325 130	459 384	3 591 390
	Total	939 675	909 005	1 052 126	1 248 855	1 193 788	668 101	852 796	6 864 346

**(f) : Population by age group and sex, mid-2005 to mid-2009**

Age group	Mid-2005			Mid-2006			Mid-2007			Mid-2008			Mid-2009#		
	Male	Female	Both sexes	Male	Female	Both sexes	Male	Female	Both sexes	Male	Female	Both sexes	Male	Female	Both sexes
0 - 4	114 400	106 700	221 100	110 400	102 600	213 000	111 400	103 200	214 600	115 000	105 800	220 800	118 300	108 400	226 700
5 - 9	171 300	161 500	332 800	162 300	151 800	314 100	153 100	142 300	295 400	147 100	135 400	282 500	135 600	125 800	261 400
10-14	213 100	201 900	415 000	211 300	200 800	412 100	210 600	200 600	411 200	204 400	194 600	399 000	193 200	183 700	376 900
15-19	220 200	214 000	434 200	222 300	213 900	436 200	226 600	215 700	442 300	228 400	215 900	444 300	220 900	208 800	429 700
20-24	226 400	244 500	470 900	225 600	246 800	472 400	221 500	245 200	466 700	218 500	241 300	459 800	215 000	234 500	449 500
25-29	220 500	266 200	486 700	223 800	278 500	502 300	226 700	288 200	514 900	230 400	299 800	530 200	231 800	307 200	539 000
30-34	241 800	314 600	556 400	238 800	309 600	548 400	237 100	314 100	551 200	231 000	313 000	544 000	227 500	315 100	542 600
35-39	256 600	334 300	590 900	248 000	331 400	579 400	243 700	332 200	575 900	241 800	335 400	577 200	242 500	335 500	578 000
40-44	318 400	370 800	689 200	304 400	365 300	669 700	293 600	359 000	652 600	278 100	345 400	623 500	265 800	337 200	603 000
45-49	319 500	328 700	648 200	323 700	335 700	659 400	320 800	337 700	658 500	321 300	348 400	669 700	319 500	357 600	677 100
50-54	253 900	256 000	509 900	264 000	267 600	531 600	276 900	280 900	557 800	290 800	296 200	587 000	303 100	309 300	612 400
55-59	198 000	190 100	388 100	214 700	207 800	422 500	222 100	219 100	441 200	228 900	228 800	457 700	238 700	239 600	478 300
60-64	125 200	109 900	235 100	127 600	116 300	243 900	140 700	131 500	272 200	154 800	147 600	302 400	169 500	163 700	333 200
65-69	126 300	119 900	246 200	125 200	116 600	241 800	122 100	112 300	234 400	118 000	106 900	224 900	117 600	105 000	222 600
70-74	112 700	115 600	228 300	112 400	115 900	228 300	115 300	119 600	234 900	115 500	119 700	235 200	115 200	118 500	233 700
75-79	77 400	92 400	169 800	82 300	96 300	178 600	86 700	98 000	184 700	90 700	100 700	191 400	95 900	104 700	200 600
80-84	42 600	65 100	107 700	44 800	67 900	112 700	47 800	71 700	119 500	50 100	73 800	123 900	53 100	76 200	129 300
85+	25 700	57 000	82 700	28 500	62 200	90 700	30 700	67 200	97 900	32 700	71 500	104 200	36 400	77 900	114 300
<b>Total</b>	<b>3 264 000</b>	<b>3 549 200</b>	<b>6 813 200</b>	<b>3 270 100</b>	<b>3 587 000</b>	<b>6 857 100</b>	<b>3 287 400</b>	<b>3 638 500</b>	<b>6 925 900</b>	<b>3 297 500</b>	<b>3 680 200</b>	<b>6 977 700</b>	<b>3 299 600</b>	<b>3 708 700</b>	<b>7 008 300</b>

Note : # Provisional figures.

**(g) : Dependency ratio**

Year	Child dependency ratio <sup>(1)</sup>	Elderly dependency ratio <sup>(2)</sup>	Overall dependency ratio <sup>(3)</sup>
2005	193	167	360
2006	185	168	354
2007	179	170	349
2008	174	169	343
2009#	165	172	337

Notes: # Provisional figures.

<sup>(1)</sup> The number of persons aged under 15 per 1 000 persons aged between 15 and 64.

<sup>(2)</sup> The number of persons aged 65 and over per 1 000 persons aged between 15 and 64.

<sup>(3)</sup> The number of persons aged under 15 and aged 65 and over per 1 000 persons aged between 15 and 64.

**(h) : Statistics on Births**

	2004	2005	2006	2007	2008
Number of births					
Male	25 827	29 880	34 595	37 448	41 928
Female	23 969	27 218	31 031	33 427	36 894
Total	49 796	57 098	65 626	70 875	78 822
Crude birth rate (per 1 000 population)	7.3	8.4	9.6	10.2	11.3

**(i) : Death statistics**

(ii)

Age	2004			2005			2006			2007			2008							
	SEX			SEX			SEX			SEX			SEX							
	Male	Female	Unknown	Male	Female	Unknown	Male	Female	Unknown	Male	Female	Unknown	Male	Female	Unknown					
0	65	67	0	132	78	53	0	131	64	53	1	118	67	57	1	125	80	65	0	145
01-04	18	13	0	31	15	15	0	30	22	14	0	36	12	15	0	27	17	23	0	40
05-09	15	17	0	32	16	11	0	27	20	12	0	32	15	13	0	28	22	15	0	37
10-14	24	16	0	40	22	13	0	35	25	21	0	46	23	14	0	37	19	17	0	36
15-19	57	23	0	80	57	34	0	91	42	26	0	68	46	21	0	67	43	31	0	74
20-24	98	65	0	163	93	52	0	145	88	36	0	124	83	56	0	139	75	56	0	131
25-29	155	89	0	244	130	88	0	218	149	66	0	215	121	65	0	186	131	79	0	210
30-34	202	130	0	332	185	111	0	296	160	117	0	277	194	105	0	299	190	94	0	284
35-39	274	174	0	448	282	174	0	456	238	174	0	412	247	150	0	397	236	162	0	398
40-44	442	276	0	718	454	303	0	757	431	283	0	714	381	237	0	618	356	260	0	616
45-49	722	383	0	1105	721	385	0	1106	653	390	0	1043	715	382	0	1097	710	396	0	1106
50-54	943	463	0	1406	917	506	0	1423	965	538	0	1503	1025	532	0	1557	1032	594	0	1626
55-59	1096	488	0	1584	1185	498	0	1683	1210	560	0	1770	1294	560	0	1854	1385	617	0	2002
60-64	1373	449	0	1822	1261	513	0	1774	1261	510	0	1771	1390	573	0	1963	1409	606	0	2015
65-69	2115	961	0	3076	2160	890	0	3050	1928	810	0	2738	1950	713	0	2663	1932	714	0	2646
70-74	3123	1669	0	4792	3189	1707	0	4896	3004	1521	0	4525	2992	1557	0	4549	2971	1470	0	4441
75-79	3492	2258	0	5750	3746	2403	0	6149	3620	2289	0	5909	3889	2341	0	6230	4029	2481	0	6510
80-84	3107	2865	0	5972	3469	3172	0	6641	3400	2930	0	6330	3608	3172	0	6780	3849	3298	0	7147
85+	3396	5746	0	9142	3598	6291	0	9889	3673	6112	0	9785	4304	6508	0	10812	4670	7620	0	12290
Unknown	39	7	3	49	28	3	2	33	25	8	8	41	35	10	3	48	27	9	6	42
TOTAL	20756	16159	3	36918	21606	17222	2	38830	20978	16470	9	37457	22391	17081	4	39476	23183	18607	6	41796

**(j) : Life expectancy**

	2004	2005	2006	2007	2008
Expectation of life at birth					
Male	79.0	78.8	79.4	79.4	79.3
Female	84.8	84.6	85.5	85.5	85.5

**(k) : Fertility rate**

	2004	2005	2006	2007	2008
Total Fertility rate (Number of live births per 1 000 women)	922	959	984	1 024	1 056

**(l) : Average household size**

Period	Number of domestic households ('000)	Average domestic household size
2004	2 140.5	3.1
2005	2 197.1	3.0
2006	2 220.9	3.0
2007	2 247.1	3.0
2008	2 277.4	3.0

**(m) : Proportion of single-parent households and proportion of domestic household with female household head, 2001**

	No. of domestic households	Domestic households with female household head	Domestic households with single parent	Proportion of domestic households with female household head	Proportion of single-parent households
Total	2 053 412	590 681	58 119	28.8	2.8

**Proportion of single-parent households and proportion of domestic household with female household head, 2006**

	No. of domestic households	Domestic households with female household head <sup>(1)</sup>	Domestic households with single parent	Proportion of domestic households with female household head <sup>(1)</sup>	Proportion of single-parent households
Total	2 226 546	975 971	72 223	43.8	3.2

Note:

<sup>(1)</sup> The figures include 975 971 domestic household with female household head. Among them, there were 332 402 domestic households reported to have more than one household head and at least one female head.



## B. Social, economic and cultural indicators

### (a) : Share of average monthly household expenditure on food, housing, health and education

	1999-2000	2004-05
Food (excluding meals bought away from home)	9.8%	9.5%
Meals bought away from home	15.9%	16.3%
Housing	32.2%	30.6%
Health <sup>(1)</sup>	2.5%	2.5%
Education <sup>(1)</sup>	3.6%	4.1%

Note:

<sup>(1)</sup> Refers to “Health” and “Education” under the Classification of Individual Consumption According to Purpose (COICOP). “Health” covers expenditure on outpatient and hospital services, proprietary medicines and supplies, and medical and health equipment. “Education” covers school fees (but excluding those for interest and sports courses) and expenditure on other educational services.

### (b) : Gini Coefficient (Based on original household income), 2001 and 2006

Year	Gini Coefficient
2001	0.525
2006	0.533

### (c) : Percentage of Children Born in 2002 who were Underweight by Sex<sup>(1)</sup>

	6 months - <9 months	12 months - < 18 months	18 months- <24 months	36 months – <48 months	48 months – <60 months
Number of male children in the sample with weight recorded within the age interval	591	511	469	168	108
Number & percentage of male children being underweight	10 (1.7%)	8 (1.6%)	6 (1.3%)	4 (2.4%)	2 (1.9%)
No of female children in the sample with weight recorded within the age interval	630	556	478	191	137
Number and percentage of female children being underweight	5 (0.8%)	5 (0.9%)	3 (0.6%)	6 (3.1%)	3 (2.2%)

Note:

<sup>(1)</sup> Based on a retrospective study on the growth of a random sample of 1 294 children born in 2002 conducted in 2007 July. The growth parameters at (1) birth, (2) 3-5 months, (3) 6-8 months, (4) 12 to 17 months, (5) 18 to 24 months, (6) 36 to 48 months and (7) 48 to 60 months, were retrieved from their health records. Based on the WHO 2006 child growth standard, children were defined as underweight if their body weights were 2 standard deviations below the median.

**(d) : Number of registered infant deaths and infant mortality rate by sex, 2004-2008**

Year	Number of registered infant deaths			Infant mortality rate (Number of registered infant deaths per 1 000 registered live births)		
	Male	Female	Total*	Male	Female	Total*
2004	57	64	121	2.2	2.7	2.5
2005	78	58	136	2.6	2.1	2.4
2006	68	51	120	2.0	1.7	1.8
2007	66	54	121	1.8	1.6	1.7
2008	70	70	140	1.7	1.9	1.8

Note: \* Total include unknown sex.

**Number of registered maternal deaths and maternal mortality ratio, 2004-2008**

Year	Number of registered maternal deaths	Maternal mortality ratio (number of registered maternal deaths per 100 000 registered live births)
2004	2	4.1
2005	2	3.5
2006	1	1.5
2007	1	1.4
2008	2	2.5

**(e) : Ratio of Legal Termination of Pregnancy to Known Live Births, 2004-2008**

	Year				
	2004	2005	2006	2007	2008
No. of Legal Termination of Pregnancy	15 880	14 191	13 510	13 510	13 191
No. of Known Live Births	49 796	57 098	65 626	70 875	78 822
Ratio	31.9%	24.9%	20.6%	19.1%	16.7%

**(f) : Number of reported cases of HIV/AIDS by age group**

Year	2004		2005		2006		2007		2008	
	HIV	AIDS	HIV	AIDS	HIV	AIDS	HIV	AIDS	HIV	AIDS
Age group										
0-14	0	0	2	0	2	0	1	0	0	0
15-44	185	29	229	41	282	50	322	47	311	54
45-64	49	12	58	17	72	19	68	26	89	28
65 and above	14	6	14	5	8	2	14	4	20	10
Unknown	20	2	10	1	9	2	9	2	15	4
Total	268	49	313	64	373	73	414	79	435	96

**Number of reported cases of HIV/AIDS by sex**

Year	2004		2005		2006		2007		2008	
	HIV	AIDS	HIV	AIDS	HIV	AIDS	HIV	AIDS	HIV	AIDS
Sex										
Male	205	44	255	51	304	61	342	68	349	81
Female	63	5	58	13	69	12	72	11	86	15
Total	268	49	313	64	373	73	414	79	435	96

**(g) : Notifications of Notifiable Infectious Diseases 2005 – 2009**

Disease	Number of Notifications					Notification Rate (Number of Notifications per 100 000 Population)				
	2005	2006	2007	2008*	2009*	2005	2006	2007	2008*	2009*
Amoebic dysentery	2	4	4	4	6	0.03	0.06	0.06	0.06	0.09
Bacillary dysentery	129	140	67	150	85	1.89	2.04	0.97	2.15	1.21
Chickenpox	11 933	14 415	17 940	8 927	6 783	175.15	210.22	259.03	127.94	96.79
Chikungunya fever	-	-	-	-	1	-	-	-	-	0.01
Cholera	5	1	3	7	0	0.07	0.01	0.04	0.10	0.00
Community-associated methicillin-resistant <i>Staphylococcus aureus</i> infection	-	-	173	282	368	-	-	2.50	4.04	5.25
Creutzfeldt-Jakob disease	-	-	-	1	6	-	-	-	0.01	0.09
Dengue fever	31	31	58	42	42	0.45	0.45	0.84	0.60	0.60
Enterovirus 71 infection	-	-	-	-	31	-	-	-	-	0.44
<i>Escherichia coli</i> O157:H7 infection	-	-	-	1	2	-	-	-	0.01	0.03
Food poisoning:										
<b>Outbreaks</b>	972	1 095	621	619	410	14.27	15.97	8.97	8.87	5.85
<i>Persons affected</i>	(3 595)	(4 145)	(1 992)	(2 537)	(1 441)	(52.77)	(60.45)	(28.76)	(36.36)	(20.56)
<i>Haemophilus influenzae</i> type b infection (invasive)	-	-	-	0	1	-	-	-	0.00	0.01
Hantavirus infection	-	-	-	1	1	-	-	-	0.01	0.01
Influenza A:										
<i>Influenza A(H2)</i>	-	-	-	0	0	-	-	-	0.00	0.00
<i>Influenza A(H5)</i>	0	0	0	0	0	0.00	0.00	0.00	0.00	0.00
<i>Influenza A(H7)</i>	0	0	0	0	0	0.00	0.00	0.00	0.00	0.00
<i>Influenza A(H9)†</i>	0	0	1	1	2	0.00	0.00	0.01	0.01	0.03
<i>Swine Influenza</i>	-	-	-	-	34 174	-	-	-	-	487.62
Japanese encephalitis	2	0	2	0	0	0.03	0.00	0.03	0.00	0.00
Legionnaires' disease	11	16	11	13	37	0.16	0.23	0.16	0.19	0.53
Leprosy	4	6	2	5	4	0.06	0.09	0.03	0.07	0.06
Leptospirosis	-	-	-	4	9	-	-	-	0.06	0.13
Listeriosis	-	-	-	11	14	-	-	-	0.16	0.20
Malaria	32	40	33	25	23	0.47	0.58	0.48	0.36	0.33
Measles	65	106	88	68	26	0.95	1.55	1.27	0.97	0.37
Meningococcal infection (invasive)	4	6	2	0	2	0.06	0.09	0.03	0.00	0.03
Mumps	145	184	180	136	163	2.13	2.68	2.60	1.95	2.33
Paratyphoid fever	33	39	28	21	27	0.48	0.57	0.40	0.30	0.39
Psittacosis	-	-	-	0	1	-	-	-	0.00	0.01
Q fever	-	-	-	1	4	-	-	-	0.01	0.06
Rubella and congenital rubella syndrome	53	34	38	39	45	0.78	0.50	0.55	0.56	0.64
Scarlet fever	177	230	224	235	188	2.60	3.35	3.23	3.37	2.68
Streptococcus suis infection	13	8	6	6	6	0.19	0.12	0.09	0.09	0.09
Tetanus	0	2	1	0	1	0.00	0.03	0.01	0.00	0.01
Tuberculosis	6 160	5 766	5 463	5 730	5 348	90.41	84.09	78.88	82.12	76.31
Typhoid fever	36	46	46	38	88	0.53	0.67	0.66	0.54	1.26
Typhus and other rickettsial diseases‡	38	24	18	35	39	0.56	0.35	0.26	0.50	0.56
Viral hepatitis§	204	235	209	247	210	2.99	3.43	3.02	3.54	3.00
Whooping cough	32	21	31	25	15	0.47	0.31	0.45	0.36	0.21
Total δ	20 081	22 449	25 249	16 674	48 162	294.74	327.38	364.56	238.96	687.21

Notes: Figures in the table refer to the infectious disease cases known to the Department of Health.  
 No case of acute poliomyelitis, anthrax, botulism, diphtheria, plague, rabies, relapsing fever, Severe Acute Respiratory Syndrome, smallpox, viral haemorrhagic fever, West Nile virus infection or yellow fever was reported during the specified years.

Infectious diseases have been made notifiable during the period include:

<u>Infectious disease</u>	<u>Effective date</u>
<i>Streptococcus suis</i> infection	2 August 2005
Community-associated methicillin-resistant <i>Staphylococcus aureus</i> infection	5 January 2007
Anthrax, botulism, congenital rubella syndrome, Creutzfeldt-Jakob disease, <i>Escherichia coli</i> O157:H7 infection, <i>Haemophilus influenzae</i> type b infection (invasive), hantavirus infection, influenza A(H2), leptospirosis, listeriosis, psittacosis, Q fever, smallpox, viral haemorrhagic fever and West Nile virus infection	14 July 2008
Chikungunya fever and Enterovirus 71 infection	6 March 2009
Swine Influenza	27 April 2009

\* Provisional figures.

† The cases notified from 2007 to 2009 were all H9N2 infection.

‡ “Typhus” has been revised to “Typhus and other rickettsial diseases” which includes spotted fever since 14 July 2008.

§ Unclassified viral hepatitis cases are not included in the figures since 2008.

∅ Number of persons affected in food poisoning cases are excluded.

- Not applicable.

**(h) : Persons with chronic diseases by selected type of chronic diseases, sex and age group**

Selected type of chronic diseases	Male						Female						Both sexes															
	Age group		Age group		Age group		Age group		Age group		Age group		Age group		Age group		Age group											
	0 - 44	45 - 64	65 +	Total	0 - 44	45 - 64	65 +	Total	0 - 44	45 - 64	65 +	Total	0 - 44	45 - 64	65 +	Total	No. of persons	%*	No. of persons	%*	No. of persons	%*	Total	No. of persons	%*			
Hypertension	9 500	89 800	155 700	255 000	11 100	106 500	191 200	308 800	8.5%	11.0%	40.5%	8.5%	20 600	196 300	346 900	39.6%	563 700	8.2%	0.5%	0.5%	0.5%	0.5%	20 600	196 300	346 900	39.6%	563 700	8.2%
Diabetes mellitus	6 200	45 600	54 200	106 000	3 000	42 300	78 900	124 100	3.4%	4.4%	16.7%	3.4%	9 200	87 900	133 000	15.2%	230 100	3.3%	0.3%	0.3%	0.2%	0.2%	9 200	87 900	133 000	15.2%	230 100	3.3%
Heart diseases	3 100	21 600	42 300	67 000	2 300	18 500	47 300	68 000	1.9%	1.9%	10.0%	1.9%	5 400	40 000	89 600	10.2%	135 100	2.0%	0.2%	0.2%	0.1%	0.1%	5 400	40 000	89 600	10.2%	135 100	2.0%
Cataract	§	§	21 800	25 200	§	3 900	38 700	42 900	1.2%	0.4%	8.2%	1.2%	§	6 900	60 500	6.9%	68 100	1.0%	§	§	§	§	§	6 900	60 500	6.9%	68 100	1.0%
Diseases of the respiratory system	10 200	6 200	21 200	37 600	7 800	6 300	14 000	28 000	0.8%	0.6%	3.0%	0.8%	18 000	12 500	35 200	4.0%	65 600	0.9%	0.5%	0.5%	0.4%	0.4%	18 000	12 500	35 200	4.0%	65 600	0.9%
Cerebrovascular diseases (Stroke)	§	§	21 100	27 900	§	4 300	19 800	25 200	0.7%	0.4%	4.2%	0.7%	1 700	10 500	41 000	4.7%	53 200	0.8%	§	§	§	§	1 700	10 500	41 000	4.7%	53 200	0.8%
Rheumatoid arthritis	§	§	8 700	15 400	1 900	13 400	20 500	35 800	1.0%	1.4%	4.4%	1.0%	2 200	19 900	29 200	3.3%	51 300	0.7%	§	§	§	§	2 200	19 900	29 200	3.3%	51 300	0.7%
Cancer	2 600	6 200	9 100	17 800	6 000	16 400	10 100	32 600	0.9%	1.7%	2.2%	0.9%	8 600	22 600	19 200	2.2%	50 400	0.7%	0.1%	0.2%	0.2%	0.2%	8 600	22 600	19 200	2.2%	50 400	0.7%
Thyroid diseases	2 900	4 500	§	8 800	10 200	13 400	5 700	29 200	0.8%	1.4%	1.2%	0.8%	13 000	17 900	7 100	0.8%	38 000	0.5%	0.2%	0.3%	0.3%	0.3%	13 000	17 900	7 100	0.8%	38 000	0.5%
Hypercholesterolemia	2 200	7 400	4 800	14 400	§	9 400	10 200	20 500	0.6%	1.0%	2.2%	0.6%	3 100	16 800	15 000	1.7%	34 900	0.5%	0.1%	0.1%	0.1%	0.1%	3 100	16 800	15 000	1.7%	34 900	0.5%
Gastrointestinal diseases	1 700	4 800	7 700	14 200	2 000	6 500	6 400	15 000	0.4%	0.7%	1.4%	0.4%	3 700	11 300	14 100	1.6%	29 100	0.4%	0.1%	0.1%	0.1%	0.1%	3 700	11 300	14 100	1.6%	29 100	0.4%
Kidney diseases	2 100	5 500	4 800	12 400	1 800	4 300	5 300	11 400	0.3%	0.4%	1.1%	0.3%	3 900	9 800	10 100	1.2%	23 800	0.3%	0.1%	0.1%	0.1%	0.1%	3 900	9 800	10 100	1.2%	23 800	0.3%

Notes: \* As a percentage of all persons in the respective sex and age sub-groups.

§ Estimates less than 1 500 (including zero figures) and related statistics derived based on such estimates (e.g. percentages) are not released due to very large sampling errors.

Source: Survey on Persons with Disabilities and Chronic Diseases, 2006-07 (The survey is conducted on an ad hoc basis and was conducted once only during the last five years).

**(i) : Number of registered deaths by ten leading causes of death by age group, 2004-08  
(Ranking is according to the number of registered deaths in 2008)**

Rank	Disease group	Age group	Number of registered deaths				
			2004	2005	2006	2007	2008
1	Malignant neoplasms (ICD10: C00-C97)	0-14	26	26	30	31	29
		15-44	633	659	593	513	554
		45-64	3 081	3 213	3 252	3 416	3 572
		65 and above	8 050	8 410	8 218	8 356	8 301
		Total‡	11 791	12 310	12 093	12 316	12 456
2	Diseases of heart (ICD10: I00-I09, I11, I13, I20-I51)	0-14	10	15	13	7	13
		15-44	129	113	134	126	119
		45-64	643	595	621	734	780
		65 and above	5 080	5 142	4 850	5 502	5 865
		Total‡	5 866	5 868	5 619	6 372	6 777
3	Pneumonia (ICD10: J12-J18)	0-14	9	9	13	4	10
		15-44	45	57	43	48	45
		45-64	178	192	201	237	254
		65 and above	3 440	4 032	3 944	4 688	5 176
		Total‡	3 676	4 291	4 201	4 978	5 486
4	Cerebrovascular diseases (ICD10: I60-I69)	0-14	4	6	2	3	2
		15-44	60	73	68	78	63
		45-64	377	346	336	392	407
		65 and above	2 974	3 008	2 896	3 039	3 219
		Total‡	3 416	3 434	3 302	3 513	3 691
5	Chronic lower respiratory diseases* (ICD10: J40-J47)	0-14	2	2	1	0	1
		15-44	14	15	12	13	16
		45-64	127	123	107	107	106
		65 and above	1 980	2 121	1 803	1 975	1 980
		Total‡	2 123	2 261	1 924	2 096	2 103
6	External causes of morbidity and mortality† (ICD10: V01-Y89)	0-14	18	31	18	21	22
		15-44	880	841	731	645	622
		45-64	594	571	525	521	485
		65 and above	737	694	678	656	633
		Total‡	2 243	2 150	1 961	1 854	1 766
7	Nephritis, nephrotic syndrome and nephrosis (ICD10: N00-N07, N17-N19, N25-N27)	0-14	0	0	3	1	1
		15-44	12	21	20	20	18
		45-64	111	130	136	125	155
		65 and above	1 059	1 110	1 128	1 201	1 245
		Total	1 182	1 261	1 287	1 347	1 419
8	Septicaemia (ICD10: A40-A41)	0-14	9	7	6	8	6
		15-44	5	13	18	21	16
		45-64	68	72	71	84	70
		65 and above	533	609	581	624	705
		Total	615	701	676	737	797
9	Diabetes mellitus (ICD10: E10-E14)	0-14	0	0	0	0	0
		15-44	14	7	3	5	10
		45-64	59	65	57	62	66
		65 and above	655	530	451	439	472
		Total	728	602	511	506	548
10	Dementia (ICD10: F01-F03)	0-14	0	0	0	0	0
		15-44	0	0	0	0	0
		45-64	2	2	2	5	3
		65 and above	274	281	286	312	492
		Total	276	283	288	317	495
All other causes		0-14	135	148	143	139	161
		15-44	298	269	274	261	232
		45-64	763	692	786	840	802
		65 and above	4 183	4 381	4 320	4 657	4 787
		Total‡	5 405	5 522	5 553	5 927	5 992
All causes		0-14	213	244	229	214	245
		15-44	2 090	2 068	1 896	1 730	1 695
		45-64	6 003	6 001	6 094	6 523	6 700
		65 and above	28 965	30 318	29 155	31 449	32 875
		Total‡	37 321	38 683	37 415	39 963	41 530

Notes: Classification of diseases and causes of death is based on the International Statistical Classification of Diseases and Related Health Problems (ICD) 10th Revision from 2001 onwards.

\* According to the ICD 10th Revision, when the morbid condition is classifiable under Chapter XIX as “injury, poisoning and certain other consequences of external causes”, the codes under Chapter XX for “external causes of morbidity and mortality” should be used as the primary cause of death.

† Chronic lower respiratory diseases has been included as a disease group for the purpose of ranking the causes of death since 2001.

‡ Including unknown age.

**(i) (cont'd) : Number of registered deaths by ten leading causes of death by sex, 2004-08**  
**(Ranking is according to the number of registered deaths in 2008)**

Rank	Disease group	Sex	Number of registered deaths				
			2004	2005	2006	2007	2008
1	Malignant neoplasms (ICD10: C00-C97)	Male	7 183	7 497	7 386	7 600	7 517
		Female	4 608	4 813	4 707	4 716	4 939
		Total	11 791	12 310	12 093	12 316	12 456
2	Diseases of heart (ICD10: I00-I09, I11, I13, I20-I51)	Male	3 015	2 971	2 831	3 255	3 442
		Female	2 851	2 897	2 788	3 117	3 335
		Total	5 866	5 868	5 619	6 372	6 777
3	Pneumonia (ICD10: J12-J18)	Male	1 905	2 276	2 264	2 723	2 925
		Female	1 771	2 015	1 937	2 255	2 561
		Total	3 676	4 291	4 201	4 978	5 486
4	Cerebrovascular diseases (ICD10: I60-I69)	Male	1 730	1 663	1 603	1 779	1 843
		Female	1 686	1 771	1 699	1 734	1 848
		Total	3 416	3 434	3 302	3 513	3 691
5	Chronic lower respiratory diseases* (ICD10: J40-J47)	Male	1 516	1 598	1 382	1 521	1 504
		Female	607	663	542	575	599
		Total	2 123	2 261	1 924	2 096	2 103
6	External causes of morbidity and mortality† (ICD10: V01-Y89)	Male	1 508	1 402	1 264	1 223	1 140
		Female	735	748	697	631	626
		Total	2 243	2 150	1 961	1 854	1 766
7	Nephritis, nephrotic syndrome and nephrosis (ICD10: N00-N07, N17-N19, N25-N27)	Male	542	601	634	656	692
		Female	640	660	653	691	727
		Total	1 182	1 261	1 287	1 347	1 419
8	Septicaemia (ICD10: A40-A41)	Male	294	321	322	381	404
		Female	321	380	354	356	393
		Total	615	701	676	737	797
9	Diabetes mellitus (ICD10: E10-E14)	Male	311	247	232	221	227
		Female	417	355	279	285	321
		Total	728	602	511	506	548
10	Dementia (ICD10: F01-F03)	Male	104	100	110	126	177
		Female	172	183	178	191	318
		Total	276	283	288	317	495
All other causes		Male	2 915	2 892	2 973	3 137	3 129
		Female	2 485	2 625	2 569	2 784	2 862
		Total‡	5 405	5 522	5 553	5 927	5 992
All causes		Male	21 023	21 568	21 001	22 622	23 000
		Female	16 293	17 110	16 403	17 335	18 529
		Total‡	37 321	38 683	37 415	39 963	41 530

Notes: Classification of diseases and causes of death is based on the International Statistical Classification of Diseases and Related Health Problems (ICD) 10th Revision from 2001 onwards.

\* According to the ICD 10th Revision, when the morbid condition is classifiable under Chapter XIX as “injury, poisoning and certain other consequences of external causes”, the codes under Chapter XX for “external causes of morbidity and mortality” should be used as the primary cause of death.

† Chronic lower respiratory diseases has been included as a disease group for the purpose of ranking the causes of death since 2001.

‡ Including unknown sex.



**(j) : Net Enrolment Ratios by Grade and Sex, 2004-05 - 2008-09 School Years**

Grade	Sex	2004-05	2005-06	2006-07	2007-08	2008-09
P1-P6	Male	93.1%	93.6%	93.2%	92.6%	93.1%
	Female	90.8%	91.5%	91.5%	91.0%	91.7%
	Both Sexes	92.0%	92.5%	92.3%	91.8%	92.4%
S1-S3 <sup>(1)</sup>	Male	80.9%	84.4%	85.8%	85.7%	84.9%
	Female	81.0%	83.0%	83.7%	84.0%	83.8%
	Both Sexes	81.0%	83.7%	84.8%	84.8%	84.4%
S4-S5 <sup>(2)</sup>	Male	67.0%	65.8%	66.5%	69.4%	72.7%
	Female	68.0%	68.0%	69.3%	71.9%	73.7%
	Both Sexes	67.5%	66.9%	67.8%	70.6%	73.2%
S6-S7	Male	23.3%	23.5%	24.8%	23.9%	24.5%
	Female	29.5%	29.0%	30.2%	30.4%	31.3%
	Both Sexes	26.4%	26.2%	27.5%	27.0%	27.8%
S1-S7 <sup>(1) &amp; (2)</sup>	Male	77.8%	78.7%	78.9%	79.2%	79.7%
	Female	78.1%	78.3%	78.8%	79.7%	80.3%
	Both Sexes	78.0%	78.5%	78.9%	79.5%	80.0%

## Notes:

Figures refer to the position as at mid-September of the respective school years. They include students attending in both day and evening schools, special schools and special classes of ordinary schools.

<sup>(1)</sup> Figures for the 2008-09 school year include correctional / residential home under the Social Welfare Department and correctional institutions under the Correctional Services Department.

<sup>(2)</sup> Figures include students enrolled in craft level courses and programmes of the Project Yi Jin.

**(k) : School Attendance Rates by Age Group and Sex, 1996, 2001 and 2006**

Age Group	School Attendance Rate (%)								
	1996			2001			2006		
	Male	Female	Both Sexes	Male	Female	Both Sexes	Male	Female	Both Sexes
3 – 5	94.6	94.6	94.6	94.6	94.7	94.7	89.9	88.3	89.1
6 – 11	99.8	99.8	99.8	99.9	99.9	99.9	99.9	99.9	99.9
12 – 16	95.2	96.8	96.0	96.9	98.0	97.5	98.7	99.1	98.9
17 - 18	59.5	68.7	63.9	68.0	74.1	71.0	81.1	84.6	82.8
19 – 24	21.5 (21.6)	20.5 (21.7)	21.0 (21.6)	26.8 (26.8)	26.1 (29.4)	26.4 (28.0)	38.4 (38.4)	36.3 (40.3)	37.3 (39.3)
25+	0.3	0.3	0.4	0.3	0.3	0.5	0.4	0.4	0.3

Note: Figures in brackets are school attendance rates compiled with foreign domestic helpers excluded from the population in the respective age-sex group.

**(l) : Pupil-Teacher Ratios in Public Sector Primary and Secondary Schools, 2004 - 2008**

	2004	2005	2006	2007	2008
Primary school	19.1	18.4	17.6	17.2	16.4
Secondary school	18.1	18.0	17.2	16.9	16.6

Notes : Figures refer to the position as at mid-September of the respective school years.  
Figures include government, aided and caput schools, but exclude special schools.

**(m) : Unemployment and Unemployment Rates by Sex and by Age Group**

Sex/Age group	2004		2005		2006		2007		2008		
	Number ( <sup>'</sup> 000)	Rate (%)	Number ( <sup>'</sup> 000)	Rate (%)	Number ( <sup>'</sup> 000)	Rate (%)	Number ( <sup>'</sup> 000)	Rate (%)	Number ( <sup>'</sup> 000)	Rate (%)	
<b>Male</b>											
15 - 19	10.5	29.0	8.4	24.2	7.9	24.8	7.0	20.8	5.4	18.4	
20 - 24	19.3	12.1	17.8	11.3	16.1	10.4	13.1	8.8	12.5	8.8	
25 - 29	14.6	6.9	12.1	5.8	10.7	5.0	9.0	4.2	8.3	3.9	
30 - 34	13.0	5.6	10.7	4.6	9.6	4.2	8.5	3.7	6.4	2.9	
35 - 39	14.9	5.7	11.1	4.5	10.1	4.2	7.1	3.0	6.3	2.7	
40 - 44	18.3	5.8	14.7	4.8	11.5	4.0	10.1	3.6	8.8	3.3	
45 - 49	22.4	7.7	19.9	6.6	16.6	5.5	11.5	3.8	10.2	3.4	
50 - 54	18.9	8.6	17.0	7.5	14.4	6.1	11.7	4.8	11.2	4.3	
55 - 59	14.0	10.5	11.8	7.9	10.4	6.5	8.4	5.0	7.7	4.4	
60 - 64	4.7	8.8	3.4	6.0	2.6	4.4	2.4	3.6	2.1	2.9	
≥ 65	1.2	3.2	0.6	1.7	0.4	1.0	0.4	1.2	0.3	0.9	
Overall	151.8	7.8	127.5	6.5	110.2	5.7	89.2	4.6	79.4	4.1	
<b>Female</b>											
15 - 19	7.1	22.6	5.4	19.0	5.2	18.6	5.5	18.8	3.7	13.9	
20 - 24	11.2	6.4	10.8	6.1	11.2	6.4	9.2	5.2	9.6	5.7	
25 - 29	8.1	3.6	7.1	3.1	6.0	2.5	5.5	2.2	6.1	2.3	
30 - 34	9.4	3.8	6.9	2.8	5.8	2.4	6.8	2.7	4.9	2.0	
35 - 39	10.7	4.4	8.0	3.4	7.0	2.9	5.2	2.1	5.8	2.3	
40 - 44	13.8	5.7	11.2	4.5	7.7	3.2	7.0	2.8	6.0	2.5	
45 - 49	12.7	6.6	9.3	4.7	8.8	4.2	7.6	3.5	7.4	3.3	
50 - 54	9.8	7.7	7.0	5.4	5.4	3.8	5.8	3.9	4.6	2.9	
55 - 59	4.0	6.9	3.9	5.8	3.5	4.7	3.6	4.3	2.3	2.5	
60 - 64	0.6	4.3	0.5	3.6	0.2	1.2	0.4	1.9	0.3	1.1	
≥ 65	0.1	1.1	0.0	0.3	-	-	0.0	0.3	-	-	
Overall	87.4	5.6	70.1	4.4	60.8	3.8	56.5	3.4	50.7	3.0	
<b>Both sexes</b>											
15 - 19	17.7	26.0	13.8	21.9	13.1	21.9	12.5	19.9	9.2	16.2	
20 - 24	30.5	9.1	28.6	8.6	27.3	8.3	22.3	6.9	22.1	7.1	
25 - 29	22.6	5.2	19.2	4.4	16.6	3.7	14.5	3.1	14.4	3.0	
30 - 34	22.4	4.7	17.5	3.7	15.4	3.3	15.3	3.2	11.3	2.4	
35 - 39	25.6	5.1	19.1	4.0	17.0	3.6	12.3	2.6	12.1	2.5	
40 - 44	32.1	5.8	25.9	4.7	19.3	3.6	17.1	3.2	14.8	2.9	
45 - 49	35.1	7.3	29.2	5.9	25.4	4.9	19.1	3.7	17.6	3.4	
50 - 54	28.7	8.3	24.0	6.7	19.8	5.3	17.6	4.5	15.9	3.8	
55 - 59	18.0	9.4	15.8	7.3	14.0	5.9	12.0	4.7	10.0	3.7	
60 - 64	5.3	7.9	3.9	5.5	2.8	3.7	2.8	3.2	2.4	2.4	
≥ 65	1.3	2.8	0.6	1.4	0.4	0.8	0.5	1.0	0.3	0.8	
Overall	239.2	6.8	197.6	5.6	171.1	4.8	145.7	4.0	130.1	3.6	

**(n) : Employed persons by industry sector of main employment, age and sex**

Industry sector/Age group		2004						2005					
		Male		Female		Both Sexes		Male		Female		Both Sexes	
		Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
		('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)
Manufacturing	15 - 24	10.4	0.6	5.4	0.4	15.7	0.5	9.5	0.5	5.2	0.3	14.7	0.4
	25 - 39	48.7	2.7	29.8	2.0	78.5	2.4	46.9	2.6	27.2	1.8	74.0	2.2
	≥ 40	88.2	4.9	49.7	3.4	137.9	4.2	90.5	5.0	45.2	3.0	135.6	4.1
	Sub-total	147.2	8.2	84.9	5.8	232.1	7.1	146.8	8.1	77.5	5.1	224.3	6.7
Construction	15 - 24	18.7	1.0	2.3	0.2	21.0	0.6	17.2	0.9	1.7	0.1	19.0	0.6
	25 - 39	83.4	4.6	9.1	0.6	92.5	2.8	79.2	4.3	7.8	0.5	87.0	2.6
	≥ 40	141.1	7.8	8.5	0.6	149.6	4.6	148.3	8.1	9.4	0.6	157.7	4.7
	Sub-total	243.2	13.5	19.9	1.3	263.1	8.0	244.7	13.4	19.0	1.3	263.7	7.9
Wholesale, retail, import/export trades, restaurants & hotels	15 - 24	60.5	3.4	70.4	4.8	130.9	4.0	65.4	3.6	74.7	4.9	140.1	4.2
	25 - 39	199.3	11.1	238.7	16.2	438.0	13.4	199.6	10.9	242.0	16.0	441.5	13.2
	≥ 40	275.0	15.3	218.0	14.8	493.0	15.1	281.4	15.4	230.8	15.2	512.1	15.3
	Sub-total	534.8	29.7	527.1	35.8	1 061.9	32.4	546.3	30.0	547.5	36.2	1 093.8	32.8
Transport, storage & communications	15 - 24	21.7	1.2	9.6	0.7	31.4	1.0	20.4	1.1	10.2	0.7	30.6	0.9
	25 - 39	97.3	5.4	41.0	2.8	138.3	4.2	90.7	5.0	41.5	2.7	132.3	4.0
	≥ 40	161.0	8.9	24.4	1.7	185.4	5.7	167.0	9.2	27.4	1.8	194.4	5.8
	Sub-total	280.1	15.6	75.0	5.1	355.1	10.8	278.1	15.3	79.2	5.2	357.3	10.7
Financing, insurance, real estate & business services	15 - 24	20.9	1.2	21.1	1.4	42.0	1.3	22.5	1.2	20.5	1.4	43.0	1.3
	25 - 39	122.6	6.8	107.4	7.3	230.0	7.0	125.2	6.9	109.5	7.2	234.8	7.0
	≥ 40	140.8	7.8	67.5	4.6	208.2	6.4	150.3	8.2	75.3	5.0	225.5	6.8
	Sub-total	284.2	15.8	196.0	13.3	480.2	14.7	298.0	16.4	205.3	13.6	503.3	15.1
Community, social & personal services	15 - 24	32.8	1.8	78.2	5.3	111.0	3.4	29.4	1.6	76.9	5.1	106.3	3.2
	25 - 39	106.4	5.9	258.4	17.5	364.8	11.1	104.9	5.8	262.1	17.3	367.0	11.0
	≥ 40	153.5	8.5	228.5	15.5	381.9	11.7	155.5	8.5	241.3	15.9	396.8	11.9
	Sub-total	292.7	16.3	565.0	38.4	857.8	26.2	289.8	15.9	580.4	38.3	870.2	26.1
Others	15 - 24	1.0	0.1	##	##	1.3	0.0	0.7	0.0	##	##	0.8	0.0
	25 - 39	5.4	0.3	1.6	0.1	7.0	0.2	5.1	0.3	1.2	0.1	6.3	0.2
	≥ 40	12.1	0.7	2.9	0.2	15.0	0.5	13.1	0.7	3.9	0.3	17.0	0.5
	Sub-total	18.5	1.0	4.9	0.3	23.4	0.7	18.9	1.0	5.3	0.3	24.1	0.7
Total	15 - 24	166.1	9.2	187.3	12.7	353.4	10.8	165.1	9.1	189.3	12.5	354.4	10.6
	25 - 39	663.0	36.8	686.0	46.6	1 349.0	41.2	651.5	35.7	691.4	45.7	1 342.9	40.2
	≥ 40	971.8	54.0	599.4	40.7	1 571.2	48.0	1 006.0	55.2	633.3	41.8	1 639.3	49.1
	Sub-total	1 800.8	100.0	1 472.7	100.0	3 273.5	100.0	1 822.6	100.0	1 514.0	100.0	3 336.6	100.0

**(n) (cont'd) : Employed persons by industry sector of main employment, age and sex**

Industry sector/Age group		2006						2007					
		Male		Female		Both Sexes		Male		Female		Both Sexes	
		Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
		('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)
Manufacturing	15 - 24	9.3	0.5	4.9	0.3	14.2	0.4	7.3	0.4	3.7	0.2	11.1	0.3
	25 - 39	43.6	2.4	25.1	1.6	68.6	2.0	40.2	2.1	23.4	1.4	63.6	1.8
	≥ 40	87.1	4.7	47.0	3.0	134.1	3.9	82.8	4.4	44.9	2.8	127.8	3.7
	Sub-total	140.0	7.6	76.9	4.9	216.9	6.4	130.3	7.0	72.1	4.5	202.4	5.8
Construction	15 - 24	15.2	0.8	1.4	0.1	16.6	0.5	12.0	0.6	1.6	0.1	13.6	0.4
	25 - 39	82.0	4.5	8.3	0.5	90.4	2.7	82.5	4.4	8.9	0.5	91.4	2.6
	≥ 40	152.8	8.3	9.5	0.6	162.3	4.8	159.8	8.6	9.9	0.6	169.7	4.9
	Sub-total	250.0	13.6	19.3	1.2	269.2	7.9	254.3	13.6	20.4	1.3	274.7	7.9
Wholesale, retail, import/export trades, restaurants & hotels	15 - 24	64.5	3.5	72.3	4.6	136.8	4.0	66.3	3.5	73.9	4.6	140.2	4.0
	25 - 39	197.4	10.7	248.3	15.9	445.8	13.1	200.5	10.7	248.4	15.4	448.9	12.9
	≥ 40	283.9	15.4	238.3	15.3	522.2	15.4	294.2	15.7	260.5	16.1	554.7	15.9
	Sub-total	545.9	29.7	558.9	35.8	1 104.8	32.5	561.0	30.0	582.8	36.1	1 143.8	32.8
Transport, storage & communications	15 - 24	21.2	1.2	10.3	0.7	31.5	0.9	20.4	1.1	10.4	0.6	30.8	0.9
	25 - 39	95.8	5.2	44.0	2.8	139.8	4.1	93.1	5.0	43.2	2.7	136.3	3.9
	≥ 40	168.3	9.1	29.6	1.9	197.9	5.8	173.4	9.3	31.7	2.0	205.1	5.9
	Sub-total	285.3	15.5	83.8	5.4	369.2	10.9	286.9	15.3	85.4	5.3	372.2	10.7
Financing, insurance, real estate & business services	15 - 24	22.5	1.2	22.6	1.4	45.1	1.3	24.4	1.3	26.3	1.6	50.7	1.5
	25 - 39	121.2	6.6	109.4	7.0	230.6	6.8	129.0	6.9	112.9	7.0	241.9	6.9
	≥ 40	164.2	8.9	85.8	5.5	250.0	7.4	165.6	8.9	89.8	5.6	255.3	7.3
	Sub-total	307.9	16.7	217.8	14.0	525.7	15.5	319.0	17.1	229.0	14.2	548.0	15.7
Community, social & personal services	15 - 24	29.6	1.6	75.1	4.8	104.8	3.1	31.6	1.7	73.8	4.6	105.3	3.0
	25 - 39	102.9	5.6	267.4	17.1	370.2	10.9	103.2	5.5	286.7	17.8	390.0	11.2
	≥ 40	161.3	8.8	255.8	16.4	417.1	12.3	166.2	8.9	259.6	16.1	425.8	12.2
	Sub-total	293.8	16.0	598.3	38.3	892.1	26.2	301.0	16.1	620.1	38.4	921.1	26.4
Others	15 - 24	##	##	##	##	0.5	0.0	##	##	##	##	0.6	0.0
	25 - 39	4.3	0.2	1.2	0.1	5.5	0.2	3.1	0.2	0.9	0.1	4.0	0.1
	≥ 40	12.9	0.7	4.0	0.3	16.9	0.5	13.1	0.7	4.0	0.2	17.1	0.5
	Sub-total	17.6	1.0	5.4	0.3	22.9	0.7	16.6	0.9	5.1	0.3	21.7	0.6
Total	15 - 24	162.8	8.8	186.6	12.0	349.5	10.3	162.4	8.7	189.9	11.8	352.4	10.1
	25 - 39	647.1	35.2	703.7	45.1	1 350.8	39.7	651.6	34.9	724.4	44.9	1 376.0	39.5
	≥ 40	1 030.5	56.0	670.0	42.9	1 700.5	50.0	1 055.0	56.4	700.4	43.4	1 755.4	50.4
	Sub-total	1 840.4	100.0	1 560.4	100.0	3 400.8	100.0	1 869.0	100.0	1 614.8	100.0	3 483.8	100.0

**(n) (cont'd) : Employed persons by industry sector of main employment, age and sex**

Industry sector/Age group		2008					
		Male		Female		Both Sexes	
		Number	Percentage	Number	Percentage	Number	Percentage
		('000)	(%)	('000)	(%)	('000)	(%)
Manufacturing	15 - 24	7.1	0.4	3.0	0.2	10.1	0.3
	25 - 39	37.4	2.0	22.8	1.4	60.1	1.7
	≥ 40	82.7	4.4	38.1	2.3	120.9	3.4
	Sub-total	127.2	6.8	63.9	3.9	191.2	5.4
Construction	15 - 24	11.5	0.6	2.2	0.1	13.7	0.4
	25 - 39	78.1	4.2	8.5	0.5	86.6	2.5
	≥ 40	158.4	8.5	9.9	0.6	168.3	4.8
	Sub-total	248.0	13.3	20.6	1.3	268.6	7.6
Wholesale, retail, import/export trades, restaurants & hotels	15 - 24	61.1	3.3	71.8	4.4	132.9	3.8
	25 - 39	198.6	10.6	251.6	15.3	450.2	12.8
	≥ 40	295.0	15.8	267.4	16.2	562.3	16.0
	Sub-total	554.7	29.7	590.8	35.8	1 145.5	32.6
Transport, storage & communications	15 - 24	19.0	1.0	10.2	0.6	29.2	0.8
	25 - 39	93.7	5.0	44.2	2.7	137.9	3.9
	≥ 40	177.6	9.5	33.1	2.0	210.8	6.0
	Sub-total	290.3	15.5	87.5	5.3	377.9	10.7
Financing, insurance, real estate & business services	15 - 24	26.2	1.4	25.5	1.5	51.7	1.5
	25 - 39	134.0	7.2	118.3	7.2	252.3	7.2
	≥ 40	174.6	9.3	101.4	6.1	276.0	7.8
	Sub-total	334.8	17.9	245.2	14.9	580.0	16.5
Community, social & personal services	15 - 24	29.1	1.6	67.7	4.1	96.8	2.8
	25 - 39	101.5	5.4	294.4	17.9	395.9	11.3
	≥ 40	166.8	8.9	273.5	16.6	440.3	12.5
	Sub-total	297.4	15.9	635.7	38.6	933.1	26.5
Others	15 - 24	##	##	##	##	0.7	0.0
	25 - 39	3.8	0.2	1.1	0.1	4.9	0.1
	≥ 40	13.3	0.7	3.7	0.2	17.0	0.5
	Sub-total	17.5	0.9	5.1	0.3	22.6	0.6
Total	15 - 24	154.5	8.3	180.7	11.0	335.2	9.5
	25 - 39	647.1	34.6	740.9	44.9	1 388.0	39.4
	≥ 40	1 068.4	57.1	727.2	44.1	1 795.6	51.0
	Sub-total	1 870.0	100.0	1 648.8	100.0	3 518.8	100.0

Notes : ## Statistics are not released due to large sampling error.  
0.0 Less than 0.05%

**(o) : Labour Force and Labour Force Participation Rates by Sex and Age Group**

Sex/Age group	2004		2005		2006		2007		2008	
	Number (‘000)	Rate (%)	Number (‘000)	Rate (%)	Number (‘000)	Rate (%)	Number (‘000)	Rate (%)	Number (‘000)	Rate (%)
<b>Male</b>										
15 - 19	36.3	16.5	34.6	15.8	31.8	14.3	33.5	14.8	29.6	13.0
20 - 24	159.5	71.0	156.6	69.5	155.0	69.0	149.0	67.6	142.8	65.8
25 - 29	211.2	95.6	207.9	95.3	212.0	95.6	213.6	95.0	215.5	94.3
30 - 34	233.9	97.0	232.0	97.0	228.5	96.8	228.3	97.2	221.1	96.6
35 - 39	260.3	97.2	245.4	96.6	237.0	96.6	234.3	97.0	231.5	96.5
40 - 44	315.6	96.7	303.9	96.2	289.6	96.0	280.6	96.3	265.0	95.9
45 - 49	291.6	94.8	300.3	94.5	303.6	94.4	302.6	94.8	301.7	94.5
50 - 54	219.9	89.8	226.8	89.7	235.0	89.5	244.9	88.9	260.0	89.8
55 - 59	133.9	75.6	150.0	76.0	161.5	75.6	168.3	76.2	173.9	76.5
60 - 64	53.7	43.4	55.8	44.7	58.5	46.2	67.7	48.5	73.0	47.5
≥ 65	36.7	9.9	36.6	9.7	38.2	10.2	35.5	9.2	35.3	9.1
Overall	1 952.7	71.6	1 950.1	71.1	1 950.6	70.9	1 958.2	70.5	1 949.4	69.7
<b>Female</b>										
15 - 19	31.6	14.7	28.4	13.3	28.0	13.1	29.2	13.5	26.7	12.4
20 - 24	174.1	72.8	177.1	72.6	175.1	71.1	175.4	71.7	167.3	69.5
25 - 29	225.2	86.3	228.4	86.2	241.6	87.2	251.1	87.4	261.1	87.3
30 - 34	246.7	77.5	246.8	78.8	242.7	78.9	247.6	79.1	249.9	80.0
35 - 39	242.3	70.7	238.1	71.5	238.2	72.3	243.1	73.4	246.8	73.8
40 - 44	241.0	65.4	247.1	66.9	244.5	67.3	246.7	68.9	239.5	69.6
45 - 49	192.0	60.7	197.6	60.2	210.0	62.7	216.3	64.2	221.6	63.8
50 - 54	127.5	52.1	130.0	50.9	141.6	53.1	148.9	53.2	161.4	54.7
55 - 59	58.4	34.8	67.4	35.5	75.3	36.3	83.8	38.4	92.3	40.6
60 - 64	13.3	12.5	14.7	13.4	16.6	14.3	20.8	15.9	25.1	17.1
≥ 65	8.0	1.9	8.3	1.9	7.5	1.8	8.3	1.9	7.9	1.8
Overall	1 560.1	51.9	1 584.1	51.8	1 621.2	52.6	1 671.3	53.1	1 699.5	53.1
<b>Both sexes</b>										
15 - 19	67.9	15.6	63.0	14.5	59.8	13.7	62.6	14.2	56.4	12.7
20 - 24	333.6	71.9	333.7	71.2	330.1	70.1	324.4	69.8	310.1	67.7
25 - 29	436.4	90.6	436.4	90.3	453.5	90.9	464.7	90.7	476.6	90.3
30 - 34	480.7	85.9	478.8	86.7	471.2	86.7	475.9	86.8	471.0	87.0
35 - 39	502.6	82.3	483.5	82.4	475.1	82.7	477.4	83.4	478.2	83.3
40 - 44	556.6	80.1	551.0	80.4	534.2	80.3	527.3	81.2	504.4	81.3
45 - 49	483.6	77.5	497.9	77.1	513.6	78.2	518.9	79.1	523.2	78.5
50 - 54	347.4	71.0	356.9	70.2	376.6	71.1	393.9	70.9	421.4	72.1
55 - 59	192.4	55.7	217.4	56.1	236.8	56.2	252.1	57.4	266.3	58.5
60 - 64	67.0	29.1	70.5	30.1	75.1	31.0	88.5	32.7	98.1	32.6
≥ 65	44.7	5.6	44.9	5.5	45.7	5.8	43.8	5.4	43.2	5.2
Overall	3 512.8	61.3	3 534.2	60.9	3 571.8	61.2	3 629.6	61.2	3 648.9	60.9

**(p) : Per capita income**

	Year				
	2004	2005	2006	2007	2008
Per capita income <sup>(1)</sup> (\$)	190,451	202,928	215,158	233,245	240,327

Note:

<sup>(1)</sup> Figures refer to per capita Gross Domestic Product at current market prices

**(q) : Gross Domestic Product (GDP) at current market prices**

	Year				
	2004	2005	2006	2007	2008
GDP at current market prices (\$ million )	1,291,923	1,382,590	1,475,357	1,615,431	1,676,929

**(r) : Annual growth rate of GDP**

	Year				
	2004	2005	2006	2007	2008
Annual growth rate <sup>(1)</sup> ( % )	8.5	7.1	7.0	6.4	2.4

Note:

<sup>(1)</sup> Figures refer to percentage change of GDP in real terms



**(s) : Gross National Product (GNP) and Per Capita GNP of Hong Kong**

Year	GNP <sup>(1)</sup>		Per Capita GNP <sup>(2)</sup>	
	At current market prices	In chained (2007) dollars	At current market prices	In chained (2007) dollars
	\$ million	\$ million	\$	\$
1993	932,900	944,334	158,092	160,029
1994	1,049,415	997,697	173,877	165,308
1995	1,125,229	1,027,144	182,783	166,850
1996	1,218,405	1,051,481	189,326	163,388
1997	1,363,409	1,113,343	210,101	171,566
1998	1,317,362	1,067,869	201,318	163,190
1999	1,291,436	1,095,386	195,480	165,804
2000	1,326,404	1,167,331	199,010	175,143
2001	1,327,761	1,191,110	197,751	177,399
2002	1,282,966	1,192,295	190,235	176,791
2003	1,263,252	1,250,159	187,682	185,737
2004	1,315,333	1,348,667	193,902	198,816
2005	1,384,238	1,420,201	203,170	208,448
2006	1,502,705	1,545,738	219,146	225,422
2007*	1,659,868	1,659,868	239,661	239,661
2008*	1,760,235	1,734,563	252,266	248,587

Notes: Figures in this table are the latest data released on 14 December 2009.

\* Revised figures.

In Hong Kong, the first release of GNP in respect of a period is called "Preliminary figures". When more data become available, the preliminary figures will be revised. All those figures published subsequently, on revision, are called "Revised figures". The figures are finalised when data from all regular sources are incorporated.

<sup>(1)</sup> Gross National Product (GNP) is a measure of the total income earned by residents of a country or territory from engaging in various economic activities, irrespective of whether the economic activities are carried out within the economic territory or outside. GNP is computed by the following formula:

$$\text{GNP} = \text{Gross Domestic Product (GDP)} + \text{Net external factor income flows (Net EFIF)}$$

Factor income is mainly classified into investment income and compensation of employees. Investment income includes direct investment income, portfolio investment income and other investment income.

The chained dollar estimate of GNP for a particular year is obtained by multiplying the chain volume index for that year by the current price value in the reference year.

In compiling the continuous time series of the chain volume indices of GNP, the annually re-weighted chain linking approach is adopted.

<sup>(2)</sup> Per Capita GNP of a country or territory is obtained by dividing GNP in a year by the population of that country or territory in the same year.

**(t) : Consumer Price Index (CPI)****Table 1(A) - Composite Consumer Price Index (Oct 2004 - Sep 2005 = 100)**

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2005	99.5	99.8	99.8	100.1	100.0	100.3	100.4	100.2	100.7	100.9	101.0	101.2	100.3
2006	101.3	101.1	101.5	102.0	102.1	102.4	102.7	102.7	102.8	102.9	103.2	103.5	102.4
2007	103.3	101.9	103.9	103.3	103.4	103.8	104.3	104.4	104.5	106.2	106.7	107.4	104.4
2008	106.7	108.3	108.2	108.9	109.2	110.1	110.9	109.1	107.7	108.1	110.0	109.6	108.9
2009	110.0	109.2	109.5	109.6	109.3	109.1	109.2	107.4	108.2	110.5	110.6	111.0	109.5

**Table 1(B) - Consumer Price Index (A) (Oct 2004 - Sep 2005 = 100)**

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2005	99.6	100.0	100.0	100.0	100.0	100.4	100.4	100.2	100.6	100.8	100.8	101.0	100.3
2006	101.1	101.1	101.4	101.7	101.8	102.3	102.4	102.5	102.5	102.5	102.6	102.9	102.1
2007	102.9	97.9	103.6	102.4	102.5	103.1	103.5	103.2	103.5	105.4	105.8	106.4	103.4
2008	105.9	107.5	107.5	108.0	108.3	109.3	110.0	105.5	103.2	103.6	108.1	107.7	107.1
2009	108.2	107.7	108.1	107.8	107.7	107.6	107.6	102.9	104.0	109.0	109.1	109.5	107.4

**Table 1(C) - Consumer Price Index (B) (Oct 2004 - Sep 2005 = 100)**

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2005	99.5	99.9	99.9	100.1	100.0	100.3	100.4	100.3	100.7	100.9	101.0	101.2	100.4
2006	101.5	101.2	101.6	102.1	102.2	102.5	102.8	102.9	102.8	103.0	103.2	103.5	102.4
2007	103.4	103.2	103.9	103.4	103.5	103.9	104.5	104.6	104.7	106.3	106.9	107.6	104.7
2008	106.9	108.6	108.5	109.1	109.5	110.4	111.2	110.3	108.9	109.3	110.5	110.2	109.5
2009	110.5	109.6	109.9	110.0	109.7	109.6	109.7	108.7	109.4	110.8	111.0	111.5	110.0

**Table 1(D) - Consumer Price Index (C) (Oct 2004 - Sep 2005 = 100)**

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2005	99.3	99.5	99.6	100.1	100.0	100.1	100.4	100.3	100.8	101.1	101.2	101.3	100.3
2006	101.3	100.9	101.4	102.1	102.4	102.6	102.9	102.8	103.1	103.3	103.8	104.0	102.6
2007	103.7	104.5	104.1	104.0	104.1	104.5	105.1	105.3	105.4	106.9	107.6	108.2	105.3
2008	107.3	108.6	108.7	109.5	109.9	110.5	111.5	111.7	111.0	111.5	111.6	111.1	110.2
2009	111.2	110.2	110.5	110.8	110.5	110.3	110.4	110.5	111.1	111.6	111.7	112.1	110.9

**(t) (cont'd) : Consumer Price Index (CPI)****Table 1(A) – Year-on-year rates of change in Composite Consumer Price Index (Oct 2004 - Sep 2005 = 100)**

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2005	-0.5	0.8	0.8	0.5	0.8	1.2	1.3	1.4	1.6	1.3	1.2	1.3	1.0
2006	1.9	1.2	1.6	1.9	2.1	2.2	2.3	2.5	2.1	2.0	2.2	2.3	2.0
2007	2.0	0.8	2.4	1.3	1.2	1.3	1.5	1.6	1.6	3.2	3.4	3.8	2.0
2008	3.2	6.3	4.2	5.4	5.7	6.1	6.3	4.6	3.0	1.8	3.1	2.1	4.3
2009	3.1	0.8	1.2	0.6	0.0	-0.9	-1.5	-1.6	0.5	2.2	0.5	1.3	0.5

**Table 1(B) - Year-on-year rates of change in Consumer Price Index (A) (Oct 2004 - Sep 2005 = 100)**

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2005	-0.2	1.1	1.1	0.7	0.9	1.3	1.3	1.3	1.5	1.2	1.1	1.3	1.1
2006	1.6	1.1	1.4	1.7	1.8	1.9	2.0	2.3	1.9	1.7	1.8	1.9	1.7
2007	1.8	-3.2	2.2	0.7	0.7	0.8	1.0	0.7	1.0	2.9	3.1	3.4	1.3
2008	2.9	9.9	3.8	5.5	5.6	6.1	6.4	2.2	-0.3	-1.7	2.1	1.2	3.6
2009	2.1	0.1	0.5	-0.2	-0.5	-1.6	-2.2	-2.4	0.8	5.2	1.0	1.7	0.4

**Table 1(C) - Year-on-year rates of change in Consumer Price Index (B) (Oct 2004 - Sep 2005 = 100)**

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2005	-0.5	0.8	0.8	0.4	0.8	1.2	1.3	1.4	1.7	1.4	1.3	1.4	1.0
2006	2.0	1.2	1.7	2.0	2.2	2.2	2.4	2.6	2.2	2.1	2.2	2.3	2.1
2007	1.9	2.1	2.3	1.3	1.3	1.4	1.6	1.7	1.8	3.2	3.5	3.9	2.2
2008	3.3	5.2	4.4	5.5	5.8	6.3	6.5	5.5	4.0	2.8	3.3	2.4	4.6
2009	3.4	0.9	1.3	0.9	0.2	-0.7	-1.4	-1.5	0.5	1.3	0.5	1.2	0.5

**Table 1(D) - Year-on-year rates of change in Consumer Price Index (C) (Oct 2004 - Sep 2005 = 100)**

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2005	-1.0	0.5	0.3	0.2	0.8	1.0	1.3	1.5	1.7	1.3	1.2	1.3	0.8
2006	2.0	1.4	1.8	2.0	2.4	2.5	2.5	2.6	2.3	2.1	2.6	2.7	2.2
2007	2.3	3.6	2.7	1.9	1.7	1.9	2.1	2.4	2.2	3.5	3.6	4.0	2.7
2008	3.5	3.9	4.4	5.2	5.5	5.8	6.1	6.0	5.4	4.3	3.8	2.7	4.7
2009	3.7	1.4	1.7	1.2	0.5	-0.3	-0.9	-1.0	0.1	0.1	0.1	0.9	0.6

**(u) : External Debt (ED) Statistics**

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Position as at end of	\$ million		
	General Government		
	Short-term	Long-term	All maturities
2004	149	12,341	12,490
2005	0	12,227	12,227
2006	0	12,990	12,990
2007	0	13,421	13,421
2008	0	13,096	13,096

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**National laws applied in the HKSAR  
listed in Annex III to the Basic Law**

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

### Statistics on the political system

#### (a) Complaint cases received from the public on the conduct of major elections during the complaints-handling period, by type of alleged irregularity

##### Chief Executive Election

	2005	2007
(1) Unfair and unequal treatment by the media	2	11
(2) Treating	1	1
(3) Duress in relation to voting	0	3
(4) Bribery in relation to voting	2	0
(5) Election expenses	1	1
(6) Nomination and candidature <sup>(1)</sup>	0	1
(7) Noise nuisance and other nuisance	1	1
(8) Miscellaneous	6	6
<b>Total</b>	<b>13</b>	<b>24</b>

Note: <sup>(1)</sup> Complaint case received on the polling day

##### Legislative Council Election

	2007 by-election	2008 general election
(1) Election advertisement	153	857
(2) Electioneering activities on private premises	9	111
(3) Entitlement to vote	8	93
(4) Allocation/designation of polling station	27	166
(5) Nomination and candidature	9	5
(6) Election expenses	5	8
(7) False statements	6	35
(8) False claims of support	0	2
(9) Corruption/bribery/treating/duress/impersonation	16	100

	2007 by-election	2008 general election
(10) Employment of young persons under 18 years of age for canvassing/ electioneering activities	1	19
(11) False registration	1	11
(12) Disturbances to electors caused by loudspeakers/telephone canvassing/ shouting electors' names/vehicles	115	735
(13) Personal data privacy	47	104
(14) Unfair and unequal treatment by the media	34	38
(15) Polling arrangements	31	234
(16) No Canvassing Zone (NCZ) Arrangement	1	11
(17) Illegal canvassing NCZ /No Staying Zone ( NSZ)	83	221
(18) Conduct of exit poll	7	61
(19) Against Returning Officer or his staff	4	8
(20) Against polling staff	25	146
(21) Counting arrangements	1	1
(22) Complaints outside Electoral Affairs Commission (EAC)'s ambit	5	6
(23) Criminal damage	10	44
(24) Dispute cases	17	29
(25) Intimidation	1	4
(26) False declarations in election matters	0	1
(27) Noise nuisances	165	0
(28) Other nuisances	12	0
(29) No offence alleged	2	0
(30) Others	57	430
<b>Total</b>	<b>852</b>	<b>3 480</b>

## District Council Ordinary Election

	<b>2007 ordinary election</b>
(1) Election advertisements	1 968
(2) Nomination and candidature	20
(3) Election expenses	28
(4) False statement about a candidate	334
(5) False claim of support	89
(6) Unfair and unequal treatment by the media	18
(7) Electioneering activities on private premises	406
(8) Employment of young persons under 18 years of age for canvassing/electioneering activities	23
(9) Disturbances to electors caused by loudspeakers/telephone canvassing/shouting electors' names/broadcasting vans	1 370
(10) Personal data privacy	134
(11) Criminal damage	187
(12) Illegal canvassing in NCZ/NSZ	385
(13) No canvassing zone arrangements	21
(14) Conduct of exit polls	55
(15) Entitlement to vote	40
(16) Corruption/bribery/treating/duress/ Impersonation	240
(17) Dispute case	103
(18) Against Returning Officer or his staff	17
(19) Against polling staff	113
(20) Allocation/designation of polling station	78
(21) Polling arrangement	87
(22) Others/Miscellaneous	414
(23) Complaints outside EAC's ambit	7
(24) False registration	36
(25) Counting arrangement	2
(26) Intimidation	10
(27) Triad related or other incidents	2
<b>Total</b>	<b>6 187</b>



## District Council By-elections

	2005 <sup>3</sup>	2006 <sup>4</sup>	2007 <sup>5</sup>	2008 <sup>6</sup>	2009 <sup>7</sup>
(1) Election advertisements		66	14	11	30
(2) Nomination and candidature					2
(3) Election expenses					1
(4) False statement about a candidate	4	3	2	1	1
(5) False claim of support	2	3			
(6) Unfair and unequal treatment by the media	1	3			
(7) Electioneering activities at living/working places of electors	2				
(8) Electioneering activities on private premises	4	3	3		15
(9) Employment of young persons under 18 years of age for canvassing/electioneering activities		1	1		
(10) Disturbances to electors caused by loudspeakers/telephone canvassing/shouting electors' names/broadcasting vans	17	19	8	13*	122
(11) Personal data privacy			1		3
(12) Criminal damage	2		2	1	1
(13) Failing to comply with requirements in relation to publication of election advertisements			1		
(14) Illegal canvassing in NCZ/NSZ	30	55	13	6	3
(15) No canvassing zone arrangements				1	1
(16) Conduct of exit polls	1				3

<sup>3</sup> Including By-elections in Southern District Council (DC) Ap Lei Chau North Constituency, Kwun Tong DC King Tin Constituency, Sham Shui Po DC Nam Cheong Central Constituency, Eastern DC Fort Street Constituency

<sup>4</sup> Including By-elections in Central & Western DC Centre Street Constituency, Eastern DC Tsui Wan Constituency

<sup>5</sup> Including By-elections in Tai Po DC Hong Lok Yuen Constituency, Sha Tin DC Kam Ying Constituency, Kwun Tong DC Kai Yip Constituency, Kowloon City DC Hung Hom Bay Constituency

<sup>6</sup> Including By-elections in Yau Tsim Mong DC Jordan East Constituency, Wong Tai Sin DC Tsz Wan West Constituency

<sup>7</sup> Including By-elections in Wan Chai DC Canal Road Constituency, Sha Tin DC Tai Wai Constituency, Kwai Tsing DC Kwai Shing East Estate

	2005 <sup>3</sup>	2006 <sup>4</sup>	2007 <sup>5</sup>	2008 <sup>6</sup>	2009 <sup>7</sup>
(17) Noise nuisance	45	56	35	10	
(18) Other nuisance	7	1		1	
(19) Entitlement to vote		1			
(20) Corruption/bribery/treating/duress/ Impersonation	2	4		2	15
(21) Dispute case	2	1			10
(22) Against Returning Officer or his staff	1				
(23) Against polling staff				1	
(24) Allocation/designation of polling station					1
(25) Polling arrangement	1				
(26) Others/Miscellaneous	9	25	7	4	12
(27) Complaints outside EAC's ambit	1		1		2
<b>Total</b>	<b>203</b>	<b>241</b>	<b>88</b>	<b>51</b>	<b>222</b>

\* Including noise nuisance

**(b) Population coverage and breakdown of ownership of major media channels (as at 28 February 2010)**

Population coverage of free-to-air TV and radio broadcasting	Nearly 100%
Number of local newspapers registered under the Registration of Local Newspaper Ordinance (Cap. 268)	46
Number of periodicals registered under the Registration of Local Newspaper Ordinance	637
Number of news agencies registered under the Registration of Local Newspaper Ordinance	12

(c) Average voter turnouts in elections

	Voter Turnout Rate (%)
(1) 2007 Chief Executive Election	99.12
(2) 2008 Legislative Council General Election	
• <i>Geographical Constituency</i>	45.20
• <i>Functional Constituency</i>	59.76
(3) 2007 Legislative Council Hong Kong Island Geographical Constituency By-election	52.06
(4) 2007 District Council Ordinary Election	38.83
(5) 2005-2009 District Councils By-elections	
• <i>2009 Kwai Tsing District Council Kwai Shing East Estate Constituency</i>	38.62
• <i>2009 Wan Chai District Council Canal Road Constituency</i>	25.86
• <i>2009 Sha Tin District Council Tai Wai Constituency</i>	49.02
• <i>2008 Wong Tai Sin District Council Tsz Wan West Constituency</i>	41.34
• <i>2008 Yau Tsim Mong District Council Jordan East Constituency</i>	25.68
• <i>2007 Kowloon City District Council Hung Hom Bay Constituency</i>	20.83
• <i>2007 Tai Po District Council Hong Lok Yuen Constituency</i>	30.78
• <i>2007 Kwun Tong District Council Kai Yip Constituency</i>	46.97
• <i>2007 Sha Tin District Council Kam Ying Constituency</i>	35.35
• <i>2006 Eastern District Council Tsui Wan Constituency</i>	45.39
• <i>2006 Central &amp; Western District Council Centre Street Constituency</i>	36.88
• <i>2005 Kwun Tong District Council King Tin Constituency</i>	37.50
• <i>2005 Southern District Council Ap Lei Chau North Constituency</i>	31.28
• <i>2005 Eastern District Council Fort Street Constituency</i>	28.30
• <i>2005 Sham Shui Po District Council Nam Cheong Central Constituency</i>	33.13

## Statistics on crime and the administration of justice

### (a) Average length of remand in correctional facilities

	2005	2006	2007	2008	2009
Male	51	49	48	48	55
Female	32	33	34	35	36
All	46	46	45	45	51

Note: Figures refer to the average remand lengths (in number of days) for sentenced persons since they were remanded in CSD until they were sentenced to imprisonment in CSD.

### (b) Statistics on sentenced persons

(1) Sentenced persons by type of offence and by sex (as at end of year)

Type of Offence	Male					Female					Total				
	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009
<b>Against Lawful Authority</b>															
Unlawful society	33	50	60	53	49	2	0	0	0	0	35	50	60	53	49
Possession of offensive weapons	26	30	33	30	18	0	0	0	0	0	26	30	33	30	18

Type of Offence	Male					Female					Total				
	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009
Perjury	129	175	151	104	67	214	175	120	115	73	343	350	271	219	140
Others	20	26	41	27	14	4	7	2	0	5	24	33	43	27	19
<b>Sub-total</b>	<b>208</b>	<b>281</b>	<b>285</b>	<b>214</b>	<b>148</b>	<b>220</b>	<b>182</b>	<b>122</b>	<b>115</b>	<b>78</b>	<b>428</b>	<b>463</b>	<b>407</b>	<b>329</b>	<b>226</b>
<b>Against Public Morality</b>															
Rape	61	61	66	67	64	0	0	0	0	0	61	61	66	67	64
Indecent assault	48	47	72	66	63	0	1	0	2	2	48	48	72	68	65
Keeping a vice establishment	145	127	103	61	81	10	4	8	6	6	155	131	111	67	87
Others	47	55	61	78	73	12	6	9	8	2	59	61	70	86	75
<b>Sub-total</b>	<b>301</b>	<b>290</b>	<b>302</b>	<b>272</b>	<b>281</b>	<b>22</b>	<b>11</b>	<b>17</b>	<b>16</b>	<b>10</b>	<b>323</b>	<b>301</b>	<b>319</b>	<b>288</b>	<b>291</b>
<b>Against the Person</b>															
Murder	252	251	246	239	242	11	10	11	12	12	263	261	257	251	254
Manslaughter/ Attempted murder	90	97	92	90	75	12	11	5	4	4	102	108	97	94	79
Wounding/ Serious assault	309	291	293	302	232	14	18	24	32	20	323	309	317	334	252
Others	72	65	69	57	68	10	8	12	8	12	82	73	81	65	80
<b>Sub-total</b>	<b>723</b>	<b>704</b>	<b>700</b>	<b>688</b>	<b>617</b>	<b>47</b>	<b>47</b>	<b>52</b>	<b>56</b>	<b>48</b>	<b>770</b>	<b>751</b>	<b>752</b>	<b>744</b>	<b>665</b>
<b>Against Property</b>															
Robbery	776	734	609	499	445	15	8	9	10	8	791	742	618	509	453

Type of Offence	Male					Female					Total				
	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009
Burglary	423	402	406	285	304	12	11	5	9	8	435	413	411	294	312
Theft	995	1 028	909	780	695	229	220	227	215	234	1 224	1 248	1 136	995	929
Others	331	338	280	221	203	75	71	61	48	36	406	409	341	269	239
<b>Sub-total</b>	<b>2 525</b>	<b>2 502</b>	<b>2 204</b>	<b>1 785</b>	<b>1 647</b>	<b>331</b>	<b>310</b>	<b>302</b>	<b>282</b>	<b>286</b>	<b>2 856</b>	<b>2 812</b>	<b>2 506</b>	<b>2 067</b>	<b>1 933</b>
<b>Against the</b>															
<b>Penal Code</b>															
Possession of forged identity document	311	362	301	348	235	407	399	327	456	291	718	761	628	804	526
Forgery/Counterfeiting	128	136	99	99	111	56	45	41	44	39	184	181	140	143	150
Others	234	264	251	224	203	44	60	106	115	92	278	324	357	339	295
<b>Sub-total</b>	<b>673</b>	<b>762</b>	<b>651</b>	<b>671</b>	<b>549</b>	<b>507</b>	<b>504</b>	<b>474</b>	<b>615</b>	<b>422</b>	<b>1 180</b>	<b>1 266</b>	<b>1 125</b>	<b>1 286</b>	<b>971</b>
<b>Against Local</b>															
<b>Laws</b>															
Remaining in Hong Kong unlawfully	395	518	487	480	336	144	238	233	227	202	539	756	720	707	538
Breach of condition of stay	129	134	99	106	88	320	326	266	240	204	449	460	365	346	292
Publishing of obscene articles	156	102	114	134	90	3	1	0	2	0	159	103	114	136	90

Type of Offence	Male									Female									Total		
	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	
Soliciting for immoral purpose	3	0	2	2	4	97	39	61	20	27	100	39	63	22	31						
Possession of dutiable commodities	121	68	76	37	62	41	19	13	10	13	162	87	89	47	75						
Others	577	556	610	599	547	101	114	95	102	95	678	670	705	701	642						
<b>Sub-total</b>	<b>1 381</b>	<b>1 378</b>	<b>1 388</b>	<b>1 358</b>	<b>1 127</b>	<b>706</b>	<b>737</b>	<b>668</b>	<b>601</b>	<b>541</b>	<b>2 087</b>	<b>2 115</b>	<b>2 056</b>	<b>1 959</b>	<b>1 668</b>						
<b>Narcotics Offences</b>																					
Trafficking in Dangerous Drugs	1 680	1 601	1 473	1 391	1 744	171	169	168	186	221	1 851	1 770	1 641	1 577	1 965						
Possession of Dangerous Drugs	430	435	437	544	518	87	88	94	101	106	517	523	531	645	624						
Others	108	104	79	73	73	4	5	10	7	9	112	109	89	80	82						
<b>Sub-total</b>	<b>2 218</b>	<b>2 140</b>	<b>1 989</b>	<b>2 008</b>	<b>2 335</b>	<b>262</b>	<b>262</b>	<b>272</b>	<b>294</b>	<b>336</b>	<b>2 480</b>	<b>2 402</b>	<b>2 261</b>	<b>2 302</b>	<b>2 671</b>						
<b>Total</b>	<b>8 029</b>	<b>8 057</b>	<b>7 519</b>	<b>6 996</b>	<b>6 704</b>	<b>2 095</b>	<b>2 053</b>	<b>1 907</b>	<b>1 979</b>	<b>1 721</b>	<b>10 124</b>	<b>10 110</b>	<b>9 426</b>	<b>8 975</b>	<b>8 425</b>						

Note : Sentenced persons include prisoners and inmates but exclude civil prisoners.

(2) Sentenced persons by type of offence and by age on admission (as at end of year)

Type of Offence	Aged 21 or over					Aged under 21					Total				
	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009
<b>Against Lawful Authority</b>															
Unlawful society	25	35	34	37	34	10	15	26	16	15	35	50	60	53	49
Possession of offensive weapons	10	14	25	20	12	16	16	8	10	6	26	30	33	30	18
Perjury	323	332	264	207	134	20	18	7	12	6	343	350	271	219	140
Others	15	23	32	15	14	9	10	11	12	5	24	33	43	27	19
<b>Sub-total</b>	<b>373</b>	<b>404</b>	<b>355</b>	<b>279</b>	<b>194</b>	<b>55</b>	<b>59</b>	<b>52</b>	<b>50</b>	<b>32</b>	<b>428</b>	<b>463</b>	<b>407</b>	<b>329</b>	<b>226</b>
<b>Against Public Morality</b>															
Rape	56	57	62	60	61	5	4	4	7	3	61	61	66	67	64
Indecent assault	44	43	65	61	50	4	5	7	7	15	48	48	72	68	65
Keeping a vice establishment	149	129	108	65	85	6	2	3	2	2	155	131	111	67	87
Others	51	53	50	65	56	8	8	20	21	19	59	61	70	86	75
<b>Sub-total</b>	<b>300</b>	<b>282</b>	<b>285</b>	<b>251</b>	<b>252</b>	<b>23</b>	<b>19</b>	<b>34</b>	<b>37</b>	<b>39</b>	<b>323</b>	<b>301</b>	<b>319</b>	<b>288</b>	<b>291</b>
<b>Against the Person</b>															
Murder	262	260	256	249	249	1	1	1	2	5	263	261	257	251	254
Manslaughter/ Attempted murder	101	101	91	90	78	1	7	6	4	1	102	108	97	94	79
Wounding/ Serious	254	240	238	252	193	69	69	79	82	59	323	309	317	334	252



Type of Offence	Aged 21 or over									Aged under 21									Total		
	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	
assault																					
Others	78	65	75	58	74	4	8	6	7	6	82	73	81	65	80						
<b>Sub-total</b>	<b>695</b>	<b>666</b>	<b>660</b>	<b>649</b>	<b>594</b>	<b>75</b>	<b>85</b>	<b>92</b>	<b>95</b>	<b>71</b>	<b>770</b>	<b>751</b>	<b>752</b>	<b>744</b>	<b>665</b>						
<b>Against Property</b>																					
Robbery	673	623	521	442	382	118	119	97	67	71	791	742	618	509	453						
Burglary	392	387	379	267	290	43	26	32	27	22	435	413	411	294	312						
Theft	1 117	1 133	1 041	905	863	107	115	95	90	66	1 224	1 248	1 136	995	929						
Others	375	357	309	233	210	31	52	32	36	29	406	409	341	269	239						
<b>Sub-total</b>	<b>2 557</b>	<b>2 500</b>	<b>2 250</b>	<b>1 847</b>	<b>1 745</b>	<b>299</b>	<b>312</b>	<b>256</b>	<b>220</b>	<b>188</b>	<b>2 856</b>	<b>2 812</b>	<b>2 506</b>	<b>2 067</b>	<b>1 933</b>						
<b>Against the Penal Code</b>																					
Possession of forged identity document	659	736	608	765	511	59	25	20	39	15	718	761	628	804	526						
Forgery/Counterfeiting	177	179	134	137	144	7	2	6	6	6	184	181	140	143	150						
Others	275	315	352	334	293	3	9	5	5	2	278	324	357	339	295						
<b>Sub-total</b>	<b>1 111</b>	<b>1 230</b>	<b>1 094</b>	<b>1 236</b>	<b>948</b>	<b>69</b>	<b>36</b>	<b>31</b>	<b>50</b>	<b>23</b>	<b>1 180</b>	<b>1 266</b>	<b>1 125</b>	<b>1 286</b>	<b>971</b>						
<b>Against Local Laws</b>																					
Remaining in Hong Kong unlawfully	458	666	658	673	512	81	90	62	34	26	539	756	720	707	538						
Breach of condition of stay	401	427	350	335	280	48	33	15	11	12	449	460	365	346	292						

Type of Offence	Aged 21 or over					Aged under 21					Total				
	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009
Publishing of obscene articles	154	101	114	136	90	5	2	0	0	0	159	103	114	136	90
Soliciting for immoral purpose	92	37	59	21	27	8	2	4	1	4	100	39	63	22	31
Possession of dutiable commodities	151	83	88	45	69	11	4	1	2	6	162	87	89	47	75
Others	620	602	627	612	563	58	68	78	89	79	678	670	705	701	642
<b>Sub-total</b>	<b>1 876</b>	<b>1 916</b>	<b>1 896</b>	<b>1 822</b>	<b>1 541</b>	<b>211</b>	<b>199</b>	<b>160</b>	<b>137</b>	<b>127</b>	<b>2 087</b>	<b>2 115</b>	<b>2 056</b>	<b>1 959</b>	<b>1 668</b>
<b>Narcotics Offences</b>															
Trafficking in dangerous drugs	1 807	1 706	1 552	1 439	1 750	44	64	89	138	215	1 851	1 770	1 641	1 577	1 965
Possession of dangerous drugs	492	478	450	491	476	25	45	81	154	148	517	523	531	645	624
Others	111	107	87	73	75	1	2	2	7	7	112	109	89	80	82
<b>Sub-total</b>	<b>2 410</b>	<b>2 291</b>	<b>2 089</b>	<b>2 003</b>	<b>2 301</b>	<b>70</b>	<b>111</b>	<b>172</b>	<b>299</b>	<b>370</b>	<b>2 480</b>	<b>2 402</b>	<b>2 261</b>	<b>2 302</b>	<b>2 671</b>
<b>Total</b>	<b>9 322</b>	<b>9 289</b>	<b>8 629</b>	<b>8 087</b>	<b>7 575</b>	<b>802</b>	<b>821</b>	<b>797</b>	<b>888</b>	<b>850</b>	<b>10 124</b>	<b>10 110</b>	<b>9 426</b>	<b>8 975</b>	<b>8 425</b>

Note: Sentenced persons include prisoners and inmates but exclude civil prisoners.

(3) Sentenced persons by length of sentence and by sex (as at end of year)

Length of Sentence	Male					Female					Total				
	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009
Determinate Sentence															
less than 1 month	20	38	44	40	61	41	47	37	18	21	61	85	81	58	82
1 to less than 3 months	184	218	178	177	146	333	252	234	200	179	517	470	412	377	325
3 to less than 6 months	370	403	367	333	297	161	158	143	137	109	531	561	510	470	406
6 to less than 12 months	1 028	893	884	741	623	523	336	317	260	188	1 551	1 229	1 201	1 001	811
12 to less than 18 months	858	1 031	1 024	1 009	794	480	682	587	704	561	1 338	1 713	1 611	1 713	1 355
18 months to less than 3 years	1 256	1 222	1 164	1 002	1 077	135	154	181	209	155	1 391	1 376	1 345	1 211	1 232
3 years	172	160	152	119	128	23	23	26	27	17	195	183	178	146	145
over 3 to 6 years	1 383	1 395	1 236	1 155	1 249	120	118	106	131	139	1 503	1 513	1 342	1 286	1 388
over 6 to less than 10 years	550	505	440	439	469	35	32	40	41	53	585	537	480	480	522
10 years and over	804	777	729	644	618	41	49	46	48	63	845	826	775	692	681

	Male					Female					Total				
	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009
<b>Length of Sentence</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
<b>Indeterminate Sentence</b>															
Life (Mandatory)	217	216	223	219	219	9	9	10	12	12	226	225	233	231	231
Life (Discretionary)	20	20	20	21	22	0	0	0	0	0	20	20	20	21	22
Admissions under Mental Health Ordinance/ Criminal Procedure Ordinance	48	49	44	47	45	6	5	6	6	7	54	54	50	53	52
<b>Total</b>	<b>6 910</b>	<b>6 927</b>	<b>6 505</b>	<b>5 946</b>	<b>5 748</b>	<b>1 907</b>	<b>1 865</b>	<b>1 733</b>	<b>1 793</b>	<b>1 504</b>	<b>8 817</b>	<b>8 792</b>	<b>8 238</b>	<b>7 739</b>	<b>7 252</b>

Note : Figures exclude civil prisoners.

(4) Sentenced persons by length of sentence and by age on admission (as at end of year)

Length of Sentence	Aged 21 or over									Aged under 21									Total			
	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007		2008	2009	
Determinate Sentence																						
less than 1 month	57	80	75	57	75	4	5	6	1	7	4	5	6	1	7	61	85	81	58	82		
1 to less than 3 months	463	437	396	365	316	54	33	16	12	9	54	33	16	12	9	517	470	412	377	325		
3 to less than 6 months	500	554	502	462	398	31	7	8	8	8	31	7	8	8	8	531	561	510	470	406		
6 to less than 12 months	1 452	1 152	1 150	964	794	99	77	51	37	17	99	77	51	37	17	1 551	1 229	1 201	1 001	811		
12 to less than 18 months	1 275	1 630	1 567	1 657	1 311	63	83	44	56	44	63	83	44	56	44	1 338	1 713	1 611	1 713	1 355		
18 months to less than 3 years	1 358	1 347	1 314	1 179	1 172	33	29	31	32	60	33	29	31	32	60	1 391	1 376	1 345	1 211	1 232		
3 years to over 3 to 6 years	184	177	176	140	130	11	6	2	6	15	11	6	2	6	15	195	183	178	146	145		
over 6 to less than 10 years	1 449	1 464	1 285	1 206	1 285	54	49	57	80	103	54	49	57	80	103	1 503	1 513	1 342	1 286	1 388		
10 years and over	571	524	467	462	501	14	13	13	18	21	14	13	13	18	21	585	537	480	480	522		
	839	819	768	688	675	6	7	7	4	6	6	7	7	4	6	845	826	775	692	681		

Length of Sentence	Aged 21 or over					Aged under 21					Total				
	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009
<b>Indeterminate Sentence</b>															
Life (Mandatory)	226	225	233	231	230	0	0	0	0	1	226	225	233	231	231
Life (Discretionary)	20	20	20	20	21	0	0	0	1	1	20	20	20	21	22
Admissions under Mental Health Ordinance/ Criminal Procedure Ordinance	54	54	50	52	51	0	0	0	1	1	54	54	50	53	52
<b>Total</b>	<b>8 448</b>	<b>8 483</b>	<b>8 003</b>	<b>7 483</b>	<b>6 959</b>	<b>369</b>	<b>309</b>	<b>235</b>	<b>256</b>	<b>293</b>	<b>8 817</b>	<b>8 792</b>	<b>8 238</b>	<b>7 739</b>	<b>7 252</b>

*Note : Figures exclude civil prisoners.*

**(c) Death of Persons under custody of the Police and Correctional Services Department (CSD)**

(1) Incidence of death in Police custody

Age on Death	Male				Female				Total						
	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009
<21															
21 - 30	0	1	0	0	0	0	1	0	0	1	0	2	0	0	1
31 - 40	0	0	0	0	0	1	0	0	0	0	1	0	0	0	0
41 - 50	0	1	0	0	1	0	0	0	0	0	0	1	0	0	1
51 - 60	1	0	1	0	0	0	0	0	0	0	1	0	1	0	0
61 - 70	0	0	0	1	0	0	0	1	0	0	0	0	1	1	0
71 - 80	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
81 and over	0	0	0	0	1	0	0	0	1	0	0	0	0	1	1
<b>Total</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>3</b>

(2) Incidence of death in custody of the CSD - by age and sex

Age on Death	Male				Female				Total						
	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009
<21	1	1	2	0	0	0	0	0	0	0	1	1	2	0	0
21 - 30	2	2	3	0	1	1	0	1	0	1	3	2	4	0	2

Age on Death	Male					Female					Total				
	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009	2005	2006	2007	2008	2009
	31 - 40	3	3	3	1	2	1	0	0	0	0	4	3	3	1
41 - 50	4	2	3	4	4	0	0	0	0	1	4	2	3	4	5
51 - 60	8	8	1	6	9	0	1	0	1	2	8	9	1	7	11
61 - 70	3	1	1	1	2	0	0	0	0	0	3	1	1	1	2
71 - 80	2	0	3	0	2	0	0	0	0	0	2	0	3	0	2
81 and over	0	1	1	0	1	0	0	0	0	0	0	1	1	0	1
<b>Total</b>	<b>23</b>	<b>18</b>	<b>17</b>	<b>12</b>	<b>21</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>4</b>	<b>25</b>	<b>19</b>	<b>18</b>	<b>13</b>	<b>25</b>



**Application of International Human Rights Treaties to the HKSAR**

**Part A : Main international human rights convention and protocols**

***International Covenant on Economic, Social and Cultural Rights (ICESCR)***

By a notification on 20 June 1997, the Government of the People's Republic of China (PRC) informed the United Nations Secretary-General of the status of Hong Kong in relation to treaties deposited with the Secretary-General. The notification specifically sets out, among other things, that the provisions of the ICESCR as applied to Hong Kong shall remain in force beginning from 1 July 1997.

On 20 April 2001, the Government of PRC notified the Secretary-General of the following statement on the application of the Covenant to the HKSAR:

- “1. Article 6 of the Covenant does not preclude the formulation of regulations by the HKSAR for employment restrictions, based on place of birth or residence qualifications, for the purpose of safeguarding the employment opportunities of local workers in the HKSAR.
  
2. “National federations or confederations” in Article 8.1(b) of the Covenant shall be interpreted, in this case, as “federations or confederations in the HKSAR” and this Article does not imply the right of trade union federations or confederations to form or join political organisations or bodies established outside the HKSAR.”

## *International Covenant on Civil and Political Rights (ICCPR)*

The abovementioned notification of 20 June 1997 from the Government of the PRC also informed the Secretary General that the provisions of ICCPR as applied to Hong Kong shall remain in force beginning from 1 July 1997.

In 1976, the Government of the United Kingdom ratified the International Covenant on Civil and Political Rights with certain reservations and declarations, and extended the Covenant to Hong Kong. The reservations and declarations which continue to apply to HKSAR are as follows.

### *Declaration made on signing the Covenant*

“First, the Government of the United Kingdom declare their understanding that, by virtue of Article 103 of the Charter of the United Nations, in the event of any conflict between their obligations under Article 1 of the Covenant and their obligations under the Charter (in particular, under Articles 1, 2 and 73 thereof) their obligations under the Charter shall prevail.”

### *Declarations and reservations made on depositing the instrument of ratification of the Covenant*

“Firstly the Government of the United Kingdom maintain their declaration in respect of Article 1 made at the time of signature of the Covenant.”

“The Government of the United Kingdom reserve the right to apply to members of and persons serving with the armed forces of the Crown and to persons lawfully detained in penal establishments of whatever character such laws and procedures as they may from time to time deem to be necessary for the preservation of service and custodial discipline and their acceptance of the provisions of the Covenant is subject to such restrictions as may for these purposes from time to time be authorised by law.”

“Where at any time there is a lack of suitable prison facilities or where the mixing of adults and juveniles is deemed to be mutually beneficial, the Government of the United Kingdom reserve the right not to apply Article 10.2(b) and 10.3 so far as those provisions require juveniles who are detained to be accommodated separately from adults, ...”

“The Government of the United Kingdom reserve the right to interpret the provisions of Article 12.1 relating to the territory of a State as applying separately to each of the territories comprising the United Kingdom and its dependencies.”

“The Government of the United Kingdom reserve the right to continue to apply such immigration legislation governing entry into, stay in and departure from the United Kingdom as they may deem necessary from time to time and, accordingly, their acceptance of Article 12.4 and of the other provisions of the Covenant is subject to the provisions of any such legislation as regards persons not at the time having the right under the law of the United Kingdom to enter and remain in the United Kingdom. The United Kingdom also reserves a similar right in regard to each of its dependent territories.”

“The Government of the United Kingdom reserve the right not to apply Article 13 in Hong Kong in so far as it confers a right of review of a decision to deport an alien and a right to be represented for this purpose before the competent authority.”

“The Government of the United Kingdom interpret Article 20 consistently with the rights conferred by Articles 19 and 21 of the Covenant and having legislated in matters of practical concern in the interests of public order (ordre public) reserve the right not to introduce any further legislation. The United Kingdom also reserve a similar in regard to each of its dependent territories.”

“The Government of the United Kingdom reserve the right to enact such nationality legislation as they may deem necessary from time to time to reserve the acquisition and possession of citizenship under such legislation to those having sufficient connection with the United

Kingdom or any of its dependent territories and accordingly their acceptance of Article 24.3 and of the other provisions of the Covenant is subject to the provisions of any such legislation.”

“The Government of the United Kingdom reserve the right not to apply sub-paragraph (b) of Article 25 in so far as it may require the establishment of an elected Executive or Legislative Council in Hong Kong ...”.

***International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)***

On 10 June 1997, the Government of the PRC issued a letter to the United Nations Secretary-General giving notification that the ICERD will apply to the HKSAR with effect from 1 July 1997. The Government of the PRC also makes the following declarations:

“The reservation made by the Government of the People’s Republic of China to Article 22 of the Convention will also apply to the Hong Kong Special Administrative Region.

The reservation of the People’s Republic of China on behalf of the Hong Kong Special Administrative Region interprets the requirement in Article 6 concerning “reparation and satisfaction” as being fulfilled if one or other of these forms of redress is made available and interprets “satisfaction” as including any form of redress effective to bring the discriminatory conduct to an end.”

*United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*

CEDAW was extended to Hong Kong, at the consent of the PRC and the United Kingdom, on 14 October 1996. The Government of the PRC notified the Secretary-General that the Convention would continue to apply to the HKSAR with effect from 1 July 1997, with the following reservations and declarations :

- “1. The reservation made by the Government of the People’s Republic of China to paragraph 1 of Article 29 of the Convention will also apply to the Hong Kong Special Administrative Region.
  
2. The Government of the People’s Republic of China understands, on behalf of the Hong Kong Special Administrative Region, the main purpose of the Convention, in the light of the definition contained in Article 1, to be the reduction, in accordance with its terms, of discrimination against women, and does not therefore regard the Convention as imposing any requirement upon the Hong Kong Special Administrative Region to repeal or modify any of its existing laws, regulations, customs or practices which provide for women to be treated more favourably than men, whether temporarily or in the longer term. Undertakings by the Government of the People’s Republic of China on behalf of the Hong Kong Special Administrative Region under Article 4, paragraph 1, and other provisions of the Convention are to be construed accordingly.
  
3. The Government of the People’s Republic of China reserves, for the Hong Kong Special Administrative Region, the right to continue to apply relevant immigration legislation governing the entry into, stay in and departure from the Hong Kong Special Administrative Region as may be deemed necessary from time to time. Accordingly, acceptance of Article 15, paragraph 4, and of the other provisions of the Convention is subject to the provisions of

any such legislation as regards persons not at the time having the right under the laws of the Hong Kong Special Administrative Region to enter and remain in the Hong Kong Special Administrative Region.

4. The Government of the People's Republic of China understands, in the light of the definition contained in Article 1, that none of its obligations under the Convention shall be treated as extending to the affairs of religious denominations or orders in the Hong Kong Special Administrative Region.
5. Laws applicable in the New Territories of the Hong Kong Special Administrative Region which enable male indigenous villagers to exercise certain rights in respect of property and which provide for rent concessions in respect of land or property held by indigenous persons or their lawful successors through the male line will continue to be applied.
6. The Government of the People's Republic of China reserves, for the Hong Kong Special Administrative Region, the right to apply all its legislation and the rules of pension schemes affecting retirement pensions, survivors' benefits in relation to death or retirement (including retirement on ground of redundancy), whether or not derived from a social security scheme.

This reservation will apply equally to any future legislation which may modify or replace such aforesaid legislation, or the rules of pension schemes, on the understanding that the terms of such legislation will be compatible with the Government of the People's Republic of China's obligations under the Convention in respect of the Hong Kong Special Administrative Region.

The Government of the People's Republic of China reserves the right for the Hong Kong Special Administrative Region to apply any non-discriminatory requirement for a qualifying

period of employment for the application of the provisions contained in Article 11, paragraph 2 of the Convention.

7. The Government of the People's Republic of China understands, on behalf of the Hong Kong Special Administrative Region, the intention of Article 15, paragraph 3, of the Convention to be that only those terms or elements of the contract or other private instrument which are discriminatory in the sense described are to be deemed null and void, but not necessarily the contract or instrument as a whole. ”

***Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)***

On 10 June 1997, the Governments of the PRC notified the United Nations Secretary-General that the Convention will apply to the HKSAR with effect from 1 July 1997. The PRC Government also made the following declaration:

- The reservation made by the Government of the People's Republic of China to article 20 and paragraph 1 of article 30 of the Convention will also apply to the Hong Kong Special Administrative Region.

***Convention on the Rights of the Child (CRC)***

On 10 June 1997, the Government of the PRC issued a letter to the United Nations Secretary-General and a number of diplomatic notes stating that the reservations and declarations entered by the Government of the PRC on its ratification of the Convention in 1992 are also applicable to the HKSAR with effect from 1 July 1997. In addition, the notification made by the Government of the PRC contained the following declarations:



- “1. The Government of the People’s Republic of China, on behalf of the Hong Kong Special Administrative Region, interprets the Convention as applicable only following a live birth.
2. The Government of the People’s Republic of China reserves, for the Hong Kong Special Administrative Region, the right to apply such legislation, in so far as it relates to the entry into, stay in and departure from the Hong Kong Special Administrative Region of those who do not have the right under the laws of the Hong Kong Special Administrative Region to enter and remain in the Hong Kong Special Administrative Region, and to the acquisition and possession of residency as it may deem necessary from time to time.
3. The Government of the People’s Republic of China interprets, on behalf of the Hong Kong Special Administrative Region, the references in the Convention to “parents” to mean only those persons who, under the laws of the Hong Kong Special Administrative Region, are treated as parents. This includes cases where the laws regard a child as having only one parent, for example where a child has been adopted by one person only and in certain cases where a child is conceived other than as a result of sexual intercourse by the woman who gives birth to it and she is treated as the only parent.
4. The Government of the People’s Republic of China reserves, for the Hong Kong Special Administrative Region, the right not to apply article 32(2)(b) of the Convention in so far as it might require regulation of the hours of employment of young persons who have attained the age of fifteen years in respect of work in non-industrial establishments.
5. Where at any time there is a lack of suitable detention facilities, or where the mixing of adults and children is deemed to be mutually beneficial, the Government of the People’s Republic of China reserves, for the Hong Kong



Special Administrative Region, the right not to apply Article 37(c) of the Convention in so far as those provisions require children who are detained to be accommodated separately from adults.”

In regard to the above-mentioned declaration, by a notification received on 10 April 2003, the Government of the PRC informed the Secretary-General that it had decided to withdraw its declaration relating to article 22 of the Convention. The declaration reads as follows:

“The Government of the People’s Republic of China, on behalf of the Hong Kong Special Administrative Region, seeks to apply the Convention to the fullest extent to children seeking asylum in the Hong Kong Special Administrative Region except in so far as conditions and resources make full implementation impracticable. In particular, in relation to article 22 of the Convention the Government of the People’s Republic of China reserves the right to continue to apply legislation in the Hong Kong Special Administrative Region governing the detention of children seeking refugee status, the determination of their status and their entry into, stay in and departure from the Hong Kong Special Administrative Region.”

***United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)***

On 1 August 2008, the Government of the PRC made to the Secretary-General the following declarations in respect of the HKSAR:

“In accordance with the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, the Government of the People’s Republic of China decides that the Convention shall apply to the Hong Kong Special Administrative Region.

The application of the provisions regarding liberty of movement and nationality of the Convention on the Rights of Persons with Disabilities to the Hong Kong Special Administrative Region of the People's Republic of China, shall not change the validity of relevant laws on immigration control and nationality application of the Hong Kong Special Administrative Region of the People's Republic of China.”

The UNCRPD entered into force for the PRC, including the HKSAR, on 31 August 2008.

The HKSAR periodically reviews the need of the continued applicability of the relevant reservations and declarations.

### **Part B : Other United Nations human rights and related conventions**

The following United Nations human rights and related conventions apply to the HKSAR :

- Convention on the Prevention and Punishment of the Crime of Genocide
- Slavery Convention
- Convention relating to the Status of Stateless Persons
- United Nations Convention against Transnational Organised Crime

### **Part C : Conventions of the International Labour Organisation**

The following Conventions of the International Labour Organisation apply to the HKSAR :

- Weekly Rest (Industry) Convention, 1921 (No. 14)
- Forced Labour Convention, 1930 (No. 29)
- Labour Inspection Convention, 1947 (No. 81)

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Migration for Employment Convention (Revised), 1949 (No. 97)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Employment Policy Convention, 1964 (No. 122)
- Minimum Age Convention, 1973 (No. 138)
- Labour Relations (Public Service) Convention, 1978 (No. 151)
- Worst Forms of Child Labour Convention, 1999 (No. 182)

**Part E : Conventions of the Hague Conference on Private International Law**

The following Conventions of the Hague Conference on Private International Law apply to the HKSAR:

- Convention on Protection of Children and Co-operation in respect of Inter-country Adoption
- Convention on the Recognition of Divorces and Legal Separations
- Convention on the Civil Aspects of International Child Abduction



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### **List of issues to be taken up in connection with the consideration of the third periodic report of Hong Kong, China, adopted by the Committee at its 106th session (15 October–2 November 2012)**

##### **Constitutional and legal framework within which the Covenant is implemented (arts. 2, 25 and 26)**

1. In view of the comments provided by the Government of Hong Kong, China, in paragraphs 49–52 of its periodic report, please comment on the “Report on Review of Jurisdiction of the Office of the Ombudsman”, which states that, although various public bodies have been charged with different functions concerning the protection and promotion of citizen’s rights, “each of these organizations is charged with protecting and/or promoting certain aspects of human rights, but none is empowered to discharge the full scope of functions envisaged for a HRC [Human Rights Commission]”,\* i.e. a national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). Please provide information as to any steps taken to ensure the independence and effectiveness of the Equal Opportunities Commission, particularly given the dual role of its chairperson, as both the head of the Commission and as Convener of Executive Council.
2. Please provide examples of cases in which the provisions of the Hong Kong Bill of Rights Ordinance that had incorporated the Covenant were applied by the courts. In particular, please provide examples of cases in which the court referred to the work of the Committee in interpreting the Bill of Rights and cases, if any, in which the Bill of Rights was applied to supersede conflicting laws. Please also explain the status of the Bill of Rights in relation to the Basic Law.
3. With reference to the information provided in paragraphs 7–43 of the report, please indicate what further steps have been taken to ensure that the next Chief Executive and Legislative Council elections take place by universal suffrage in compliance with the Covenant. Please describe the conditions for nomination, e.g., age limits, and any other qualifications or restrictions.

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\* Office of the Ombudsman, “Report on Review of Jurisdiction: Part 2”, LC Paper No. CB(2)1384/08/-09(08), paras. 2.10–2.12.

**Non-discrimination and equality (arts. 2, 3 and 26)**

4. With reference to the information provided in paragraphs 354–362 of the periodic report of Hong Kong, China, please provide information on the practical implementation of the Race Discrimination Ordinance, including examples of case law. What measures have been taken to ensure that all Government functions and powers are brought within the scope of the Race Discrimination Ordinance? Please also provide updated information on the progress made in amending the Sex Discrimination Ordinance and Disability Discrimination Ordinance, as proposed by the Equal Opportunities Commission in its 1999 Equal Opportunities Legislative Review Report.

5. Please indicate the legislative or administrative measures, including recent court decisions, if any, relating to the protection against discrimination on the grounds of language, religion, political or other opinion, sexual orientation or age.

6. With regard to paragraph 73 of the periodic report of Hong Kong, China, please indicate any further measures taken to ensure women's participation in different areas of public affairs, including decision-making boards, the Legislative Council and District Councils. Please elaborate on the respective mandates of the Women's Commission and the additional commissions under the Family Council and describe how these mechanisms coordinate their activities.

**Violence against women, including domestic violence (arts. 3 and 7)**

7. Please provide updated statistical data covering the period under review on the number of complaints filed concerning all forms of violence against women and the number of convictions handed down, including the sentences imposed and the compensation awarded to victims. With reference to information provided in paragraphs 295–304 of the periodic report of Hong Kong, China, please include further information on the practical implementation of the Domestic and Cohabitation Relations Violence Ordinance (Amended 18 of 2009 s. 4), including examples of case law.

**Right to life, prohibition of torture and other cruel, inhuman or degrading treatment (arts. 6 and 7)**

8. With reference to the information provided in paragraphs 82–88 of the periodic report of Hong Kong, China, please provide updated disaggregated statistical data regarding deaths in custody during the period under consideration, broken down by place of detention, sex, age, ethnicity of the deceased and cause of death. Please give detailed information on the results of the investigations into all deaths and the measures taken to prevent suicides and other sudden deaths in detention centres.

9. Please provide an update concerning the Crimes (Torture) Ordinance, or other efforts to enact a definition of the crime of torture consistent with international standards. With reference to the information provided in paragraph 92 of the periodic report of Hong Kong, China, please provide statistical data on complaints of acts of torture and ill-treatment received by the Complaints against Police Office since the examination of the second periodic report. Please include information on investigations, disciplinary and criminal proceedings, convictions, penal or disciplinary sanctions applied and measures taken for the rehabilitation and compensation offered to victims. Please indicate in how many cases the Complaints against Police Office's investigation was not endorsed by the Independent Police Complaint Council and the reasons for this.

10. According to the information provided in paragraphs 59–62 of the periodic report of Hong Kong, China, the Independent Police Complaint Council, despite its statutory status, has only advisory and oversight functions and its members are appointed by the Chief Executive. In this regard and in the light of the Committee's previous concluding

observations (CCPR/C/HKG/CO/2, para. 9), please provide information on measures taken, if any, to establish a fully independent mechanism mandated to receive and investigate complaints on police misconduct and empowered with the executive authority to formulate binding recommendations in respect of investigations conducted and findings regarding such complaints. Is Hong Kong, China, considering establishing independent complaint mechanisms in other law enforcement departments, such as the Immigration Department, Correctional Services Department, Customs and Excise Department and the Independent Commission against Corruption? Please include information on the number of reported cases of torture or ill-treatment committed by officials of the above-mentioned law enforcement departments since the consideration of the second periodic report of Hong Kong, China, and the penalties imposed on perpetrators of such acts.

11. In its previous concluding observations, the Committee recommended that Hong Kong, China, establish an appropriate mechanism to assess the risk faced by individuals expressing fears of being victims of grave human rights violations in the locations to which they may be returned. Please provide updated information on the process to amend the Immigration Ordinance (Cap. 115), inter alia, to provide for a process for determining claims made by persons in Hong Kong, China, for non-refoulement protection. Please provide information about the number of persons, broken down by country of origin, who had been granted asylum or humanitarian protection and the number of those who have been returned, extradited or expelled since the consideration of the second periodic report. Please provide details of the grounds on which they were sent back, including a list of countries to which individuals were returned.

**Liberty and security of the person and treatment of persons deprived of their liberty (arts. 9 and 10)**

12. With reference to the information provided in paragraph 130 of the periodic report of Hong Kong, China, please provide updated information, including statistics, disaggregated by sex, age and ethnicity, on the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention.

13. Please include information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with psychosocial disabilities. What is the situation with respect to alternative forms of treatment, such as community-based rehabilitation services and other forms of outpatient treatment programmes?

**Elimination of slavery and servitude (arts. 7 and 8)**

14. With reference to the information provided in paragraphs 109–111 of the report, please provide information, on an annual basis since 2006, on complaints investigations, prosecutions and convictions, including penalties, for perpetrators of human trafficking. Please indicate what measures, if any, have been adopted to improve and develop training in the identification of victims of trafficking, especially child victims.

15. Please indicate what measures have been taken to ensure that migrant domestic workers, who are subject to the live-in requirements, are protected from working conditions amounting to forced labour or ill-treatment.

**Right to a fair trial and equality before the law (arts. 14 and 26)**

16. With reference to the information provided in paragraphs 172–176 of the periodic report, please provide further information on the legal aid system implemented in Hong Kong, China, including on the criteria for eligibility, functioning and financing of the system. Please indicate whether legal aid is made available to all detained persons and

clarify whether asylum seekers have access to legal representation in the refugee status determination procedure.

**Prohibition of arbitrary or unlawful interference with privacy, family, home correspondence (art. 17)**

17. With reference to the information provided in paragraph 192 of the periodic report of Hong Kong, China, please provide information on the existence of any legislation or guidelines for police videotaping of public demonstration. Please also provide information on the content of the amendments to the Personal Data (Privacy) Ordinance adopted in June 2012.

**Freedom of opinion and expression and association and the right to peaceful assembly (arts. 19, 21 and 22)**

18. In the light of the Committee's general comment No. 34 (2011) on freedoms of opinion and expression, please provide information on the measures taken to give effect to the right of access to information by public bodies. Please also comment on how freedom of expression is ensured in Hong Kong, China, in particular how a free media is encouraged. What measures are in place to ensure that public broadcasting services operate in an independent manner? Please comment on reports that Hong Kong, China, has seen a sharp deterioration in media and academic freedom, including arrests, assaults and harassment of journalists and academics. In this regard, please provide information on the measures taken to address such harassment and to protect person from attacks aimed at silencing those exercising their right to freedom of expression.

19. Please comment on reports that police used disproportionate force and imposed heavy restrictions on demonstrators and members of the news media during the annual Hong Kong march on 1 July 2011 and the visits of Vice-Premier of China Li Keqiang and President of China Hu Jintao in August 2011 and July 2012, respectively. Please also comment on the alleged harassment by police of participants in the march for the International Day against Homophobia and Transphobia organized on 15 May 2011.

20. With reference to the information provided in paragraph 205 of the report, please provide information on any steps taken to bring the wording of the definition of the offences of treason and sedition in the Crimes Ordinance fully into line with the provisions of the Covenant. In this regard, please indicate the status of the enactment of the national security law under article 23 of the Basic Law.

21. According to the information before the Committee, restrictions continue to be placed on Falun Gong practitioners in Hong Kong, China. Please comment.

**Measures for the protection of the family and minors (arts. 6, 7 and 24)**

22. Please provide information on the measures taken to ensure that the policies and practices of Hong Kong, China, regarding the right to abode fully take into consideration its obligations regarding the right of families and children to protection enshrined in articles 23 and 24 of the Covenant, as recommended by the Committee in 2006.

23. With reference to paragraphs 89, 90, 297 and 298 of the report, please provide information on the content of the final report released by the Review Panel of the Pilot Project on Child Fatality Review in January 2011 and the progress made in the implementation of the recommendations contained therein.

24. In paragraph 308 of its periodic report, referring to corporal punishment in the family, Hong Kong, China, states that it does “not consider that legislation at this stage would be the most effective means of dealing with the issue in Hong Kong”. Please elaborate on the reasons behind this approach and provide further information on the measures taken or envisaged to strengthen the efforts of Hong Kong, China, including resources allocated, in adequately preventing, combating or punishing the practice of corporal punishment in all settings, including in the home and alternative child care.

**Participation in public affairs (art. 25)**

25. According to the information before the Committee, sections 31, 39 and 51 of the Legislative Council Ordinance and sections 30, 14(2), 19(2)(3) and 24(3) of the District Councils Ordinance exclude people with intellectual or psychosocial disability from voting or standing for election. Please explain the reasons for these exclusions and how they are compatible with article 25 of the Covenant.

**Rights of persons belonging to minorities (art. 27)**

26. Please provide information on the measures taken to ensure adequate political representation and participation of minorities at all levels of government. Please provide further information on the measures taken to ensure the effective implementation of the 2010 Administrative Guidelines on Promotion of Racial Equality with particular regard to ensuring equal access by ethnic minorities to public services (paras. 372–375 of the report).

27. With regard to paragraphs 384–387 of the report, please clarify what progress has been made with regard to ensuring adequate opportunities for minority children to learn their languages, culture and history.

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