

**The Hong Kong Special Administrative Region Government's
Response to the List of Issues and Questions Raised by the
United Nations Committee on the Elimination of Discrimination
against Women in relation to the Combined Seventh and Eighth
Periodic Reports of the People's Republic of China**

Reservation and declarations

Paragraph 1

Information on measures taken to withdraw the reservation on Article 11 (2) of the Convention applicable to the Hong Kong Special Administrative Region.
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1. In respect of Article 11 (2) of the Convention on the Elimination of All Forms of Discrimination against Women (the Convention), the Government of the People's Republic of China (PRC) reserves the right for the Hong Kong Special Administrative Region (HKSAR) to apply any non-discriminatory requirement for a qualifying period of employment for the application of the provisions contained therein.

2. Under the Employment Ordinance (Chapter 57 of the Laws of Hong Kong, hereafter abbreviated as Cap. 57), all pregnant employees, irrespective of their length of employment, are protected against heavy, hazardous or harmful work. A pregnant employee with a continuous contract of employment (i.e. having been employed under a contract of employment for not less than four weeks, with at least 18 hours worked in each week) and who has given notice of pregnancy to her employer would be entitled to maternity leave and protection against dismissal by her employer. If she has been employed under a continuous contract for not less than 40 weeks before the commencement of scheduled maternity leave, she will further be entitled to maternity leave with pay.

3. The existing provisions on maternity protection under the Ordinance have provided comprehensive protection for pregnant employees in various aspects. The existing requirement of a continuous contract for entitlements to maternity leave and maternity leave pay is necessary in order to strike a reasonable balance between the interests of employers and employees. In formulating labour policy and legislation, the HKSAR Government needs to take into account the local socio-economic circumstances and consider whether there is a consensus in the community. At this stage, there is no plan to withdraw the reservation.

Whether a review of the interpretative declarations to the Convention is envisaged. How the application of the interpretative declarations has impacted the implementation of the Convention in the Special Administrative Regions.

4. The PRC has entered seven reservations and declarations on behalf of the HKSAR in respect of the application of the Convention to the HKSAR having due regard to the circumstances in the HKSAR. The HKSAR Government considers that these seven reservations and declarations are necessary and should be retained. Justifications for their retention have been included in the combined seventh and eighth periodic reports of the PRC.

5. The HKSAR Government is committed to the advancement of the interests and well-being of women in the HKSAR, and to discharging its obligations under the Convention. Relevant bureaux and departments have put in place appropriate policies and measures to fulfil the objectives under the Convention.

Legislative and policy framework, and data collection

Paragraph 2

Measures taken to amend the Sex Discrimination Ordinance in Hong Kong to ensure that its definition of discrimination covers indirect discrimination.

6. The Sex Discrimination Ordinance (Cap. 480) defines “discrimination” to include both “direct discrimination” and “indirect discrimination”. “Direct discrimination” means treating a person less favourably than another person in analogous circumstances because of the victimized person’s sex, marital status, or pregnancy. “Indirect discrimination” involves imposing on everyone the same requirement or condition which, however, has a detrimental effect on a particular group of persons. Such requirement will constitute “indirect” discrimination under the Ordinance if there is no justification for the requirement. The definition of discrimination under the Ordinance in relation to discrimination against women remains unchanged.

Paragraph 3

Reform measures taken to address inconsistencies in statutory law and customary law and practices that discriminate against women and girls. Measures taken to integrate inter-sectional discrimination, faced by ethnic minority women, into the legal and policy framework.

7. The Sex Discrimination Ordinance, the Race Discrimination Ordinance (Cap. 602), the Family Status Discrimination Ordinance (Cap. 527) and the Disability Discrimination Ordinance (Cap. 487) make provisions for the elimination of discrimination against persons on the grounds of sex, marital status, pregnancy, race, family status and disability. These Ordinances are applicable when addressing discrimination, both direct and indirect, against women and girls on grounds of sex, marital status, pregnancy, race, family status and disability.

8. For the purpose of updating the Sex Discrimination Ordinance, the Government has introduced a number of amendments to repeal certain items which were exempted from the operation of that Ordinance. These include exceptions relating to disciplinary services, such as uniform and equipment requirements; reservation of positions within the Police Tactical Unit for men; and difference in training in the use of weapons between men and women.

9. As announced by the Chief Executive of the HKSAR in his 2014 Policy Address in January 2014, the HKSAR Government will implement a number of measures to strengthen education support and employment services for ethnic minorities and to help them integrate into the community. In 2014-15, the Equal Opportunities Commission will conduct new public education and promotion programmes and studies to promote the messages of inclusion and diversity, foster social integration and build a caring society. The Commission's preliminary plan is to set up an Ethnic Minority Taskforce to promote its work. This Taskforce will conduct publicity campaigns and education programmes, including new training services on cultural sensitivity and the Race Discrimination Ordinance, and organize more partnership programmes with different organizations to promote equal opportunities for ethnic minorities. The Taskforce will also liaise with relevant government bureaux, schools, stakeholders and service organizations, and will follow up with relevant government bureaux to enhance support for meeting the needs of ethnic minorities in education and employment.

Stereotypes and harmful practices

Paragraph 7

Strategy or initiative aimed at eliminating the negative portrayal of women as sex objects in the media

10. All broadcasting licensees in the HKSAR shall comply with the broadcasting codes of practice promulgated by the Communications Authority in HKSAR. Under the codes of practice, a licensee should not include in its programmes any material which is likely to encourage hatred against or fear of, and/or considered to be denigrating or insulting to any person(s) or group(s) on the basis of, among others,

gender, or anything which is in contravention of the law which shall include the Sex Discrimination Ordinance (paragraphs 2 (b) and (c) of Chapter 3 of Generic Code of Practice on Television Programme Standards (“TV Programme Code”) and paragraphs 7 (b) and (c) of Radio Code of Practice on Programme Standards). The TV Programme Code further requires that the licensee should take great care in the depiction of violence against women, among others, particularly in an abusive context. Incitement to violence against specific groups identified by gender among others should not be permitted (paragraph 5 of Chapter 6 of the TV Programme Code).

Measures taken to revise the Small House Policy

11. The review of the Small House Policy is ongoing. The Small House Policy has been in operation for a long time. It involves complicated issues in various aspects including legal, environment and land use planning, all of which require careful examination.

Violence against women

Paragraph 8

Information and statistical data on the prevalence of violence against women, including domestic violence

12. According to the Central Information System on Spouse/Cohabitant Battering Cases and Sexual Violence Cases and the Child Protection Registry administered by the Social Welfare Department, the number of newly reported spouse/cohabitant battering cases and child abuse cases involving female victims from 2010 to 2013 are as follows:

Newly reported spouse/cohabitant battering cases involving female victims

<i>Year</i>	<i>Number of newly reported cases with female victims</i>	<i>% among the total newly reported cases</i>
2010	2 643	83.6%
2011	2 616	82.4%
2012	2 300	84.1%
2013	3 144	82.0%

Newly reported child abuse cases involving female victims

<i>Year</i>	<i>Number of newly reported cases with female victims</i>	<i>% among the total newly reported cases</i>
2010	628	62.7%
2011	548	62.5%
2012	567	63.4%
2013	571	59.3%

Number of shelters available and free-of-charge hotlines established

13. The HKSAR Government is committed to combating domestic violence. Over the past few years, the Government has devoted additional resources to further enhance the wide range of preventive, supportive and specialized services, including public education, victim support services, clinical psychological service, etc., for victims of domestic violence and families in need.

14. Individuals and families in crisis of domestic violence can seek temporary accommodation at emergency shelters. There are five refuge centres for women with a total capacity of 260 places. The Multi-purpose Crisis Intervention and Support Centre (named as CEASE Crisis Centre) provides 80 short-term residential places to victims of sexual violence and individuals/families facing domestic violence or in crisis, while the Family Crisis Support Centre also provides 40 places of short-term accommodation to individuals and families in crisis or distress.

15. Since 2008, the Social Welfare Department has been providing, through its hotline, round-the-clock phone counselling, support and advice by social workers to individuals/families in need, and arrange appropriate follow-up services. In addition, 24-hour hotline service for victims of domestic violence and their families is also provided by all five refuge centres for women, the CEASE Crisis Centre and the Family Crisis Support Centre.

Protection orders

16. In 2008, the HKSAR Government amended the Domestic Violence Ordinance and extended the protection afforded by the Ordinance from enabling a party to marriage, or a man and woman in cohabitation to apply to the court for an injunction order against molestation by the other party, to former spouses and former cohabitants of the opposite sex as well as immediate and extended family members including grandparent, grandson/granddaughter, uncle, aunt, nephew, niece, cousin, etc. The protection of minors who are under the age of 18 and victims of domestic violence has also been enhanced. Since January 2010, the name of the Ordinance has been changed to Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189) with the protection further extended to same sex cohabitants.

Concrete measures taken to improve the prosecution of cases of domestic violence

17. In 2010, 2011, 2012 and 2013, the number of domestic violence crime cases handled by the Police were 2 157, 1 928, 2 002 and 1 870 respectively.

18. The Police handle all domestic violence reports seriously with high sensitivity with the aims of protecting victims and prosecuting offenders. To align with the multi-agency and cross-sectoral policy, victims will be referred to the support services, e.g. sheltered accommodation, immediately for assistance whenever necessary. At the same time, suspects will be arrested as soon as possible if there are reasonable grounds to suspect an offence has been committed.

19. An officer of Sergeant rank or above is required to attend the scene of all domestic violence cases to ensure correct handling. “One-family-one-team” system is adopted whereby the same team handles all cases involving the same household thus ensuring that the officers handling the case are fully aware of the extent of the problem.

20. Risk assessment of the continuation and recurrence of domestic violence is carried out based upon the facts of the reported incident, any case history involving the same parties and any other relevant matters. A checklist of domestic violence indicators and the Enhanced Central Domestic Violence Database containing details of previous reports has been formulated to assist frontline officers to do the risk assessment.

21. In 2006, the Department of Justice of the HKSAR Government issued “The Policy for Prosecuting Cases involving Domestic Violence”. Apart from explaining domestic violence and the role of the prosecutor, it provides guidance on charging policy and charging practice. In deciding whether to prosecute a case involving domestic violence, prosecutors should consider whether there is sufficient evidence to justify the institution of proceedings on the basis that it affords a reasonable prospect of conviction, and whether the public interest requires a prosecution to be pursued. The public interest will normally require that a prosecution to be brought in a case of domestic violence if the victim is willing to give evidence. Since victims are sometimes reluctant to testify for various reasons, the prosecutor has to ensure that the Police and social workers are liaising with the victim and providing appropriate support services in order to facilitate victims to consider testifying. If the prosecutor concludes that the case should continue against the wishes of the victim, it has to be decided whether an application could be made to use the victim’s statement in evidence without the victim having to testify; whether the prosecution can proceed by helping the victim to attend court by the use of special

measures, such as CCTV; and whether the victim should be compelled to give evidence in person in court. Depending on the circumstances of the case, the prosecutor may consider seeking a remand in custody or conditional bail to protect the victim from the risk of danger, threats or other acts by the accused which might obstruct the course of justice. The prosecutor will also consider whether special measures are required to support witnesses at court. If a domestic violence victim is a “witness in fear” under the Criminal Procedure Ordinance (Cap. 221), the testimony may be given by live television link to court. Alternatively, the court may allow a victim to testify from behind a screen inside the courtroom.

22. To avoid delay in prosecuting cases involving domestic violence, the Department of Justice has adopted various administrative procedures to ensure that domestic violence cases are identified and processed expeditiously. These procedures include: legal advice in domestic violence cases will be provided as soon as possible upon receipt of the case files from the Police, irrespective of the venue of trial; advice will be given on an urgent basis even when the full transcripts of video-recorded statements or translations of documents are not available on the file; and where possible and appropriate domestic violence cases will be tried in Chinese. If a delay is unavoidable, the victim should be informed of the position by the Police, and the reasons for the delay.

Trafficking in women and exploitation of prostitution

Paragraph 10

Updated information on the prevalence of human trafficking
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23. It should be pointed out clearly that the HKSAR is *not* a destination for human trafficking and is *not* a place of origin or transit for such illicit activities. Also, the existing legislation in the HKSAR provides a solid framework underpinning our robust efforts to combat human trafficking.

24. Trafficking-related acts as defined in the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime” (“UN Palermo Protocol”) are prohibited in the HKSAR under various pieces of legislation such as the Crimes Ordinance (Cap. 200), the Immigration Ordinance (Cap. 115) and Offences against the Person Ordinance (Cap. 212). The prescribed penalties are up to a maximum of 10 years’ to life imprisonment. The HKSAR Government has all along spared no effort in cooperating closely with our overseas counterparts on intelligence exchange and the conduct of joint operations in the fight against human trafficking.

25. Occurrence of human trafficking for sex exploitation crimes is rare in the HKSAR. Five syndicates were smashed by the Police in the past three years and the arrested persons were sentenced to up to 30 months' imprisonment. The human trafficking case statistics from 2009 to 2013 are tabled below:

	2009	2010	2011	2012	2013
Number of trafficking cases	4	3	2	4	7

26. Taking into account the latest developments of international trends about human trafficking, the Prosecution Code issued by the Department of Justice in September 2013 includes a new section on "Human Exploitation Cases". It provides useful guidelines to prosecutors in the identification of human exploitation cases as well as broad principles regarding their handling having regard to international standards and practices concerning victims of human trafficking in order to promote fair, just and consistent decision-making at all stages of the prosecution process in these cases.

27. Furthermore, the HKSAR Government has enhanced cooperation with international and local non-governmental organizations for rendering relevant supporting services, including the protection of trafficking victims. Frontline departments have planned to conduct various sharing sessions with them in order to update law enforcement officers with the latest trend of human trafficking, including the skills in victim identification.

28. For protection of foreign domestic helpers (FDHs), various short, medium and long-term measures have been and will be implemented. The HKSAR Government will further strengthen its publicity and educational efforts, including enhanced collaboration with relevant consulate-generals in the HKSAR, to increase FDHs' awareness of their rights and measures to safeguard their own interest, for example, how to deal with situations on intrusion of personal safety and confiscation of identity documents by others as well as channels for seeking redress, etc. The HKSAR Government has also increased manpower to strengthen the monitoring and inspection of employment agencies in April 2014, and will consider reviewing the present licensing mechanism for employment agencies placing FDHs.

Paragraph 11

Measures taken to ensure greater protection of sex workers
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29. In HKSAR, the Police maintain liaison with sex workers' associations in the HKSAR and disseminate to them information about measures to ensure the safety of sex workers. Leaflets are issued to sex workers giving advice on ways to protect themselves. Sex workers are

also encouraged to install alarm systems at their premises to cater for emergency or life-threatening violence.

Paragraph 12

Measures taken to revise the administrative practice of detaining female unaccompanied minors who arrive in Hong Kong by air and are refused entry
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30. Under the laws of Hong Kong, a person being refused permission to land may be detained pending his/her removal from the HKSAR. For an unaccompanied minor arriving by air and being refused permission to land, the Immigration Department will normally arrange for immediate removal with the concerned airline to convey him/her back to the port of embarkation by the earliest available flight. The airline will be requested to contact the minor's contact person in the port of embarkation to receive the minor upon his/her return. Meanwhile, the minor may be detained temporarily in the Airport Detention Quarters located inside the restricted area of the Hong Kong International Airport pending removal to ensure the safety of the unaccompanied minor. Inside the Airport Detention Quarters, male and female detention rooms are situated separately and the female detention rooms can only be accessed by female immigration officers.

31. In exceptional circumstances where the concerned minor cannot be removed within a very short period of time, under the existing policy they will not continue to be detained unless with strong reasons (e.g., it is believed that the child will be assisted to abscond, or an unaccompanied child who would not be properly taken care of if he/she is not so detained, etc.) Each case will be assessed on individual merits and they will normally be released on recognizance as soon as supervised care home facility is available. If detention is indeed necessary, the minor will, pursuant to paragraph 4 and Schedule 2 of the Immigration (Places of Detention) Order, be admitted into the Tuen Mun Children and Juvenile Home operated by the Social Welfare Department who will provide proper care and guidance.

Participation in political and public life

Paragraph 13

Women participation in the Legislature, Administration and Judiciary
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Women in the Legislative Council, District Councils and the Election Committee for the Election of the Chief Executive of the HKSAR

32. Women and men enjoy the same rights to vote and to stand for elections to the Legislative Council, the District Councils and the Election Committee for the Election of the Chief Executive of the HKSAR. This right is safeguarded by the Basic Law. The relevant legislation makes no reference to a person's gender, ethnic origin¹ or religion to qualify a person as an elector or a candidate in elections. The HKSAR Government will continue our efforts in ensuring that elections are conducted openly, fairly and honestly at all times.

33. Female electors constitute around half of the registered electorate. In the 2012 Legislative Council election, there were 1.75 million registered female electors on the electoral register, representing 50.4% of all the registered electors in the HKSAR. This compared with 1.78 million (50.1%) and 1.67 million (49.7%) registered female electors in the 2011 District Council election and 2008 Legislative Council election respectively. Furthermore, out of the 1.84 million voters who cast their votes in the 2012 Legislative Council election, 49.6% were female. The corresponding figures for the 2011 District Council election and the 2008 Legislative Council election were 50.1% and 48.9% respectively.

34. In the 2012 Legislative Council election, 59 candidates (19.8%) out of the 298 candidates were women. Eleven of them were elected making 15.7% of the membership of the 70-member legislature. For the 2011 District Council election and the 2008 Legislative Council election, the number of female candidates was 166 (17.8% of 935 candidates) and 38 (18.9% of 201 candidates) respectively. The number elected was 79 (accounting for 19.2% of 412 elected members) and 11 (accounting for 18.3% of 60 elected members) respectively.

35. For the current-term Election Committee, 1 034 seats were returned through elections,² i.e. the 2011 Election Committee subsector elections, in which there were 130,909 female registered voters, representing 56.0% of the overall number of registered

¹ Article 67 of the Basic Law provides that permanent residents of the HKSAR who are not of Chinese nationality or who have the right of abode in foreign countries may become members of the Legislative Council if so elected, subject to their number not exceeding 20% of the total membership of the Council. Non-Chinese permanent residents who wish to acquire Chinese nationality may do so in accordance with Article 7 of the Nationality Law of the People's Republic of China and the "Explanations of some questions by the Standing Committee of the National People's Congress concerning the implementation of the Nationality Law of the People's Republic of China in the Hong Kong Special Administrative Region".

² Apart from the 1,034 seats filled by members returned by elections, the Election Committee also comprises 106 ex officio members (i.e. Hong Kong deputies to the National People's Congress and Members of the Legislative Council) and 60 members nominated by six designated religious bodies.

individual voters.³ A total of 1,583 candidates stood for the subsector elections, out of whom 258 (16.3%) were female. Among these female candidates, 157 were elected. Following the subsector elections, the current-term Election Committee was constituted in 2012. It had 180 female members (at the time of the fourth-term Chief Executive election in 2012), 71 more when compared to the Election Committee of the previous term (at the time of the third -term Chief Executive election in 2007).

Women in the Executive Council and public offices

36. There are currently a total of 30 Members sitting on the Executive Council, and six (20%) of them are women. The Chief Secretary for Administration, second only to the Chief Executive of the HKSAR Government, is a female. As at end-2013, female civil servants made up 36.3% of the Civil Service. The number of senior female directorate officers in the Civil Service rose from 396 in 2009 to 435 in 2013, which represented 33.5% of the directorate positions in the Civil Service. In July 2014, nine out of 17 Permanent Secretaries ranked at Administrative Officer Staff Grade A1 (the top civil service rank) were female.

Women in the judiciary

37. Article 92 of the Basic Law stipulates that judges and other members of the judiciary of the HKSAR shall be chosen on the basis of their judicial and professional qualities. Gender is not a relevant consideration in judicial appointment. As at 1 April 2014, there were 41 females (i.e. 26.6%) out of a total of 154 judges and judicial officers.

Encouraging women to participate in various levels of rural elections

38. Whether a person would participate in rural elections is entirely a matter of his or her own choice. Nevertheless, the HKSAR Government has been committed to encouraging eligible persons, men and women, to participate in rural elections and has undertaken a series of publicity and promotion activities.

39. The HKSAR Government will further step up its effort to encourage women to participate in rural elections, including advertising on television and radio in hours with more female audience, placing advertisements and press releases on newspapers,

³ According to the latest Final Register published in 2013, there are 127,232 female voters registered for the subsectors, representing 55.9% of the overall number of registered individual voters in the various subsectors.

displaying publicity banners, posters and notices, mobile broadcasting vans, appealing through the Women and Youth Affairs Committee of Heung Yee Kuk and distributing rural election voter registration forms at major locations and during district activities (especially activities for women).

40. The last round of village ordinary elections was conducted in 2011. As compared with the village ordinary elections in 2007, the number of valid female candidates in 2011 increased from 35 in 2007 to 39, representing an increase of 11%. The number of female Village Representatives elected also rose from 28 in 2007 to 30 in 2011, representing an increase of 7%.

Representation of women in Government advisory and statutory bodies

41. The HKSAR Government makes appointments to Government advisory and statutory bodies (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, with due regard to the functions and nature of business of ASBs concerned as well as the statutory provisions of statutory bodies. The HKSAR Government has continued to take proactive measures to enhance women's participation in community and public service. Women's associations and professional organizations are welcome to nominate female members for inclusion into the Central Personality Index held by the Home Affairs Bureau. Bureaux/Departments are reminded from time to time of the requirement to vigorously consider appointing female members to ASBs under their purviews.

42. Taking into account the advice of the Women's Commission, the HKSAR Government set in 2004 a gender benchmark of 25% as a working target for appointment to ASBs. In June 2010, the gender benchmark was raised to 30%. As at 31 March 2014, there were 1,937 female Government appointed non-official post-holders and 4,043 male Government appointed non-official post-holders in ASBs. The women participation rate in ASBs was 32.4%.

Measures in place to address the low participation of ethnic and religious minority women in politics and public life

Rights to vote and to stand for elections

43. As stated in paragraph 32 above, women and men enjoy the same rights to vote and to stand for elections to the Legislative Council, the District Councils and the Election Committee. This right is safeguarded by the Basic Law. The relevant legislation makes no

reference to a person's gender, ethnic origin or religion to qualify a person as an elector or a candidate in elections.

Appointments to Government ASBs

44. In considering appointment and re-appointments to ASBs, the HKSAR Government has been following the established practice to carefully assess the suitability of the prospective candidates, taking into account relevant factors such as their ability, expertise, experience, integrity and commitment to public service.

45. The HKSAR Government has proactively invited the public and other organizations to nominate individuals to serve on ASBs by inviting them to return to the Government the Curriculum Vitae (CV) forms. In accordance with the principle of no-discrimination, the CV providers are not required to state in their CV forms their race or any religion they may have. There is no readily available information on the number of members of ethnic or religious minorities serving on ASBs.

46. The HKSAR Government maintains the established policy that the best available person capable of meeting the specific needs of ASBs concerned should be appointed to any ASB vacancy, and that the appointment to ASBs should be non-discriminatory. The HKSAR Government will continue to encourage the appointing authorities to appoint more female members of the public with different cultural backgrounds to ASBs to ensure the representation of the different interests and sections of the community in ASBs.

Employment

Paragraph 15

Measures taken to address the prevalent gender discrimination and segregation in employment and to promote and implement the principle of "Equal Pay for Work of Equal Value"

47. Under the Sex Discrimination Ordinance, it is unlawful for a person, in relation to employment by him/her at an establishment in the HKSAR, to discriminate against another person in the terms on which he/she offers the person that employment. At present, discrimination complaints are being handled by the Equal Opportunities Commission which is a statutory body in the HKSAR.

48. Since its establishment in 1996, the Equal Opportunities Commission has worked steadily to advance the Equal Pay for Work of Equal Value (EPEV) principle by including it in the Code of Practice on Employment issued under the Sex Discrimination Ordinance. In 2006, the Commission released its Study on EPEV, a long term project undertaken by it to advance the principle of EPEV in the HKSAR. The study on certain selected jobs in the civil service and the Hospital Authority revealed no systemic problem of pay inequity on the basis of gender.

49. Subsequently, in 2008, the Equal Opportunities Commission developed a set of clear guidelines to employers to continuously strengthen the public understanding on the concept of equal pay, to address the issue of pay disparity between the two genders and to conduct investigation into alleged contraventions. Talks were arranged by the Commission for employers and women groups and other stakeholders on the subject of EPEV. The essence of EPEV principles and practices has been incorporated in its regular training for different stakeholders and the general public. The Commission would continue to promote EPEV as part of its overall public education effort on the concept of equal opportunities for all.

50. The Commission has not received any related complaints since launch of the EPEV guides and the aforementioned promotional and training work. The present arrangements have worked well and there is no compelling need for legislation on EPEV.

Paragraph 16

Promotion of women employment

51. The Labour Department (LD) provides comprehensive, equitable and free-of-charge employment services to all job seekers, regardless of their gender. The vacancies received by LD from employers for recruitment services cover a wide spectrum of industries and occupations. In 2013, out of the 1,218,885 vacancies processed by LD, 409 714 were from the occupational groups of managers and administrators, professionals, and associate professionals earning higher pay, covering 33.6% of the total number of vacancies. The vacancy information is widely and efficiently disseminated through a network of 12 Job Centres, the Interactive Employment Service website (which is a very popular Government website with around 0.38 billion page views recorded in 2013) and vacancy search terminals installed at various convenient locations throughout the territory. LD also organizes large-scale and district-based job fairs regularly in different locations to expedite the dissemination of employment information so as to help different groups of job seekers find work. In addition, LD reminds employers using its recruitment services of the need to consider the genuine occupational

qualifications of the posts during recruitment. LD vets vacancies submitted to ensure the job requirements and employment terms are in compliance with labour legislation and discrimination ordinances, including the Sex Discrimination Ordinance, before they are released for display.

52. Job seekers who have registered with LD for employment services may be placed into employment either through the referral services of LD or by direct application to employers who advertise their vacancies through LD. In 2013, 1,115 placements in the occupational groups of management/ professionals were secured through LD's referral services. Among them, 541 (48.5%) were from female job seekers. Currently over 90% of the vacancies advertised through LD are open for direct application by job seekers. Those who have secured employment through direct application are not required to report their placements to LD.

Protection for women employees under labour law

53. The Employment Ordinance (Cap. 57) confers female employees with equal employment rights and protection as male employees.

Paragraph 17

Regulation on employment agencies (EA)
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54. The HKSAR Government attaches great importance to regulating employment agencies (EAs) through licensing, inspection, complaint investigation and prosecution, etc. to ensure that they are operating in compliance with the law and to protect the interests of job seekers.

55. According to Part XII of the Employment Ordinance and the Employment Agency Regulations (EAR), all EAs, including intermediaries placing FDHs, are required to obtain a licence from LD before they can operate any business of employment service in the HKSAR. They are also not allowed to receive from job seekers any charges which are more than 10% of their first month's salary for job placement. EAs that operate without a licence or collect more than the prescribed commission would be liable for an offence and subject to a maximum fine of HK\$50,000 (USD 6,410).

56. Officers of LD make regular and surprise inspections to EAs, conduct investigation upon receipt of overcharging or malpractice complaints, and take out prosecution where there is sufficient evidence. In 2013, LD conducted 1,341 inspections to all EAs in the HKSAR, with over 75% of these inspections made to EAs placing

FDHs. LD has increased its manpower since April 2014 to step up the monitoring and plan to increase the number of inspections conducted by around 38% to 1,800 per year.

57. During the same period, LD prosecuted nine EAs that were suspected of breaching the law. Of these, seven were convicted and one is being dealt with by the court.

58. If satisfied on reasonable grounds that an EA has breached the law, the Commissioner for Labour, as head of LD, may refuse to issue or renew its licence, or revoke the licence of an EA. In 2013, the licences of four EAs were revoked/not renewed respectively subsequent to an EA being convicted of overcharging, and the licensees of the three EAs being convicted of an offence involving dishonesty, providing forged document to the Immigration Department, and being considered not fit and proper to operate an EA after repeatedly failing to provide information to LD according to the Employment Ordinance.

59. In the longer term, LD will consider measures to strengthen the present licensing mechanism on EAs to step up protection of the interests of FDHs.

Protection of rights of foreign domestic helpers (FDHs)

60. The HKSAR Government attaches great importance to protecting the rights of FDHs in the HKSAR. Like local workers, FDHs enjoy equal and full protection and entitlements under the Employment Ordinance, including rest days and annual leave etc. An employer who without reasonable excuse fails to grant rest days to his or her employee, or compels his or her employee to work on rest days, is liable to prosecution and, upon conviction, to a maximum fine of HK\$50,000 (USD 6,410).

61. Apart from statutory protection, FDHs are further protected by a Government prescribed Standard Employment Contract, under which they enjoy Minimum Allowable Wage, free food (or food allowance in lieu), free passage to/from their places of domicile, free medical treatment and free accommodation with reasonable privacy.

62. The Minimum Allowable Wage for FDHs has been prescribed by the HKSAR Government since the early 1970s to protect them from exploitation, and is subject to regular reviews. Employers shall not pay a wage lower than the Minimum Allowable Wage stipulated in the Standard Employment Contract signed with the FDH. The prevailing Minimum Allowable Wage is HK\$4,010 (USD 514) which is applicable to all contracts signed on or after 1 October 2013. An employer who wilfully and without reasonable excuse underpays an

FDH is liable to prosecution and, upon conviction, to a maximum fine of HK\$350,000 (USD 44,871) and to imprisonment for three years.

63. FDHs have full access to the LD's free services, including consultation and conciliation service to resolve disputes with their employers. If no settlement could be reached by conciliation, the cases are referred to labour courts for adjudication.

64. LD provides conciliation and related services to assist FDHs to pursue their civil claims. LD will not tolerate abuse of FDH and takes rigorous enforcement action against labour offences. Any complaints involving suspected underpayment of wages or non-granting of rest day will be investigated promptly. Prosecution against the offending employer will be instituted if there is sufficient evidence.

65. To ensure FDHs are aware of their rights and their employers are aware of their obligations and consequences of breaching the law, LD undertakes a host of promotional activities throughout the year, including:

(i) Producing various publications (with some available in FDHs' first languages in addition to English) on the rights and obligations of FDHs and their employers which are disseminated free of charge. The information is also available online;

(ii) Holding seminars and exhibitions on the Employment Ordinance and Standard Employment Contract from time to time, sometimes jointly with consulates of the FDH-exporting countries;

(iii) Staging information kiosks at FDHs' popular gathering places and distributing information packs;

(iv) Placing advertisements in local newspapers read by FDHs; and

(v) Screening radio commercials as well as publicity videos at public places.

66. The publicity and educational efforts will be further strengthened to increase FDHs' awareness of safeguarding themselves, in addition to LD's ongoing efforts which focus on employees' rights and benefits. For example, advertisement has been posted in local newspaper read by FDHs on what channels they could approach if and when being exploited. LD will stage more information kiosks to distribute the information packs containing pamphlets on FDHs' rights and benefits and the redress channels available to them and to screen publicity videos. Furthermore, LD will enhance FDHs' understanding of their labour rights through TVAPI and collaboration with relevant consulate-generals in the HKSAR, and appeal to the employers to treat FDHs well, not to withhold their wages nor deduct their wages for paying any intermediary or training fees.

Two-week rule

67. Under the prevailing policy, FDHs are required to leave the HKSAR upon completion of their contract or within 14 days from the date of termination of their contract, whichever is earlier. Employers have the contractual obligation to provide their FDHs with passage to their places of origin. The “two-week rule” is essential for maintaining effective immigration control and helps prevent FDHs from changing employers frequently or taking up illegal work in the HKSAR after contract termination. The policy does not preclude FDHs from applying to work in the HKSAR again after returning to their places of origin and has allowed sufficient flexibility to cater for exceptional circumstances. The Immigration Department may exercise discretion in approving an FDH’s application for change of employer in the HKSAR without returning to his/her place of origin if the contract is terminated on grounds of the migration, external transfer, death or financial reasons of his/her ex-employer, or if there is evidence suggesting that the FDH has been abused or exploited. The HKSAR Government considers that the “two-week rule” is appropriate and has no plans to change it.

Live-in requirement

68. The live-in requirement forms the foundation of the HKSAR’s policy of importing FDHs. It has been the HKSAR Government’s established policy that, as in many other jurisdictions, priority in employment should be given to the local workforce, and importation of workers should only be allowed where there is proven manpower shortage in a particular trade that cannot be filled by the local workers. FDHs have been imported since the early 1970s to meet the acute shortfall of local live-in domestic workers. The live-in requirement has been clearly specified in Standard Employment Contract which has to be signed by both the employer and FDH. Such requirement has been made known to FDH before he/she assumes duty in the HKSAR.

69. Apart from the above cardinal policy considerations, the employers’ affordability in providing separate accommodation to their FDHs, the additional medical costs, insurance and other risks by allowing FDHs to live out as well as issues such as the additional pressure on private housing and public transportation, etc. should also be fully taken into account. The HKSAR Government considers it necessary to retain the “live-in requirement” and the relevant requirements specified in Standard Employment Contract for FDHs.

70. According to the prevailing policy, employers shall provide FDHs with free, suitable and furnished accommodation. In processing employment visa applications of FDHs, the Immigration Department will assess whether the accommodation provided by the employer for FDH is suitable, has reasonable privacy and has basic

facilities/furniture, etc. The application will be refused if the Department is not satisfied that the employer can provide suitable accommodation for the FDH concerned. If reports of employers' failure to provide suitable accommodation for their FDHs are received, the Immigration Department will follow up with the complaints and arrange field visits where necessary. If the employers furnish false information in the applications, they may contravene the Immigration Ordinance (Cap. 115). Under the prevailing legislation, it is an offence for any person to make a false representation to Immigration Officers. Offenders shall be liable to prosecution and a maximum fine of HK\$150,000 (USD 19,231) and imprisonment for 14 years on conviction. Aiders and abettors are also liable to prosecution. The Immigration Department will also take into consideration an employer's conduct in considering his/her future applications for employment of FDHs and may refuse any such future applications if the employer breaches the undertaking on accommodation arrangements.

71. If FDHs in the HKSAR have been abused or exploited by employers or EAs, they should report immediately to the relevant Government departments for assistance. If an FDH is involved in labour or monetary disputes and has to attend hearings at relevant tribunals, or if he/she has been criminally intimidated or abused and is required to remain in the HKSAR for assisting in investigation or acting as a witness, etc. after the termination or expiry of his/her contract, the Immigration Department may, based on individual merits, exercise discretion to allow him/her to extend his/her stay in the HKSAR as a visitor. Also, these records will be kept and taken into account by the Immigration Department in considering any future applications for employment of FDHs by the employers.

Health

Paragraph 18

Information on the progress made to combat forced abortions, and reported forced sterilization of transgender women

72. In accordance with Section 47A of the Offences against the Person Ordinance (Cap. 212), a pregnancy may be terminated if two registered medical practitioners are of the opinion, formed in good faith, that:

- (i) The continuance of the pregnancy would involve risk to the life of the pregnant woman or of injury to her physical or mental health, greater than if the pregnancy were terminated; or
- (ii) There is a substantial risk that if the child were born, it would suffer from such physical or mental abnormality as to be seriously handicapped.

- Termination of pregnancy can only be performed within 24 weeks of pregnancy, unless it is absolutely necessary for saving the life of the pregnant woman. Any treatment for the termination of pregnancy must be carried out by a registered medical practitioner in a government approved or gazetted hospital, or in the operation theatre of the Family Planning Association of Hong Kong. In the HKSAR, any person who has anything done with the intent to procure unlawfully her own or another woman's miscarriage is liable to imprisonment and fine.

73. According to the Code of Professional Conduct issued by the Medical Council of Hong Kong for registered medical practitioners, a doctor cannot perform diagnostic procedures and medical treatment on a patient who does not consent to the treatment. As such, forced abortion or sterilization is not allowed in the existing legal framework.

Paragraph 19

An update on the progress made to further reduce the high rate of suicide committed by women, particularly transgender women in Hong Kong

74. The HKSAR Government adopts a multi-pronged and cross-disciplined approach and works together with different sectors including non-governmental organizations, medical and healthcare professionals and academics in reducing suicidal risks and promoting suicide prevention in the community.

75. The psychiatric specialty of the Hospital Authority provides a wide-range of services to, including comprehensive suicidal risk assessment for patients with suicidal risk. Under existing triage mechanism of the Hospital Authority, patients with suicidal risk will be scheduled as "Priority 1" in which an urgent medical appointment will usually be arranged within one week. Based on individual patient's needs, appropriate and timely multi-disciplinary support will be provided accordingly. The Social Welfare Department provides a wide range of preventive, supportive and remedial services, and organizes publicity campaigns and training programmes for frontline professionals to assist persons with emotional distress and/or with suicidal risks.

76. According to the Census and Statistics Department, the crude suicide death rates (number of known suicide deaths per 100 000 population) for female and male were 9.0 and 16.3 respectively in 2012. It is also observed that the crude suicide death rates for female have been lower than those for male in the past decade.

77. While the statistics on suicide deaths of trans-gender persons is not available, attention has been paid to trans-gender persons who may have special clinical and psychosocial needs. In the case of trans-gender persons who wish to receive sex reassignment surgery, they will be given appropriate support and counselling services depending on individuals' specific clinical and psychosocial needs, before and after the surgery. The whole process of counselling service will last for at least two years, including a minimum 12-month successful real-life experience (i.e. social gender role change) before the surgery. The consultation time for counselling service varies on a case-by-case basis depending on individual person's specific clinical and psychosocial needs.