

**For discussion on
8 November 2002**

Home Affairs Panel

**Second Report under the Convention on
the Elimination of All Forms of Discrimination Against Women**

INTRODUCTION

Members of the Panel are invited to:-

- (a) note the progress the Administration has made in preparing the second report under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and
- (b) give their views on the implementation of the Convention in respect of the draft report outline ~~at Attachment A.~~

[issued vide LC Paper No. CB(2)2812/01-02
on 23 September 2002]

BACKGROUND

2. Over the years, the Administration has adopted various legislative, judicial and administrative measures for the advancement of women's well-being. As part of its commitment in promoting women's interests, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was extended to Hong Kong on 14 October 1996 and has remained in force since then.

3. As part of the combined third and fourth periodic reports of China, HKSAR submitted its initial report on the implementation of CEDAW to the United Nations in August 1998. The UN Committee on the Elimination of Discrimination against Women (the CEDAW Committee) considered the report and held a hearing in February 1999. The CEDAW Committee raised a number

of concerns and made recommendations on Hong Kong's effort in promoting women's rights. The Concluding Comments made by the CEDAW Committee is copied at **Attachment B**.

4. Under the Article 18 of CEDAW, a state party is required to submit periodic reports on the legislative, judicial, administrative or other measures that have been adopted to give effect to the provisions of the Convention and on the progress made at least once every four years after the initial report. The Administration has been notified by the Central People's Government to submit the second report on the implementation of CEDAW by March 2003 for incorporation into China's report.

PREPARATION OF THE SECOND CEDAW REPORT

5. For the purpose of preparing the second CEDAW report, the Administration has drafted an outline of the Report, which sets out the broad subject headings and individual topics that will be covered in the Report. According to UN guidelines, the second and subsequent reports should update the previous report, detailing significant developments that have occurred, noting key trends, and identifying obstacles to the full achievement of the Convention. The draft report outline for the second report therefore covers, inter-alia, the following: -

- (a) updates of legal and other measures taken to implement the Convention;
- (b) progress made in promoting women's well-being and ensuring the elimination of discrimination against women; and
- (c) significant changes in the status of women and equality of the sexes since the previous report.

6. We shall also try to address the various concerns and recommendations made by the CEDAW Committee in its concluding comments (para 3 above) by including additional topics in the draft outline, such as the establishment of the Women's Commission as a central mechanism to promote the interests and well-being of women in Hong Kong. In order that the second

CEDAW Report would be a comprehensive one which reflects the status of well-being of women in Hong Kong and highlights significant developments, we have also included a number of topics that were not covered in the initial CEDAW report have been included in the draft outline, e.g. access of IT training for women, education and health services for women with disabilities, single parents, women smoking, etc.

7. Public consultation on the draft report outline commenced on 23 September and ended on 26 October 2002. The public were invited to submit their views on the implementation of the Convention in respect of those topics included in the draft outline, as well as to suggest (and comment on) any additional topics that they consider should be addressed. As at 30 October 2002, we received seven submissions from individuals, women's groups and service agencies (list of organizations at **Attachment C**).

8. In addition, a public consultation session was held on 12 October 2002. Apart from some specific comments on topics included the draft report outline, the following general comments were made at the consultation session:

- (a) the report should contain a review of developments since the last hearing of the CEDAW Committee on the initial report by HKSAR;
- (b) the report should explain progress made in enhancing / improving status of women in Hong Kong;
- (c) obstacles in making progress for women should be identified; and
- (d) the report should also look forward to the future.

We shall address the above and other views and suggestions made at the consultation session and submitted to us during the consultation period when we prepare the second report under CEDAW. The Women's Commission will also be involved throughout the preparation process.

FOLLOW-UP ACTION

9. We are grateful to the Panel for providing this opportunity during the preparation of the Report for us to listen to views of Members and non-governmental organizations. We will carefully consider all the comments received and try to address and incorporate them in the report as appropriate.

Health, Welfare and Food Bureau
October 2002

**Concluding Comments of the Committee on the
Elimination of Discrimination against Women
on the Initial Report on the HKSAR under
the Convention on the Elimination of
All Forms of Discrimination against Women**

**[Extracted from the report of the
Committee on the Elimination of Discrimination against Women
on the Twentieth session (19 January –5 February 1999)]**

China

251. The Committee considered the combined third and fourth periodic reports of China (CEDAW/C/CHN/3-4 and Corr.1 and Add.1 and 2) at its 419th to 421st meetings, on 1 and 2 February 1999 (see CEDAW/C/SR.419-421). Addendum 2 to the third and fourth periodic reports covered the implementation of the Convention by the Government of the Hong Kong Special Administrative Region, over which the Government of China resumed the exercise of sovereignty on 1 July 1997.

[paragraphs 252-257 deal with the third and fourth periodic report of China]

258. The representative of the Hong Kong Special Administrative Region, in introducing the initial report of the Hong Kong Special Administrative Region (CEDAW/C/CHN/3-4/Add. 2), noted that the Government of China had resumed the exercise of sovereignty over Hong Kong, with effect from 1 July 1997, under the principle of "one country, two systems". The Convention had been extended to Hong Kong on 14 October 1996 and had remained in force since the reunification on 1 July 1997.

259. The representative noted that the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, the constitutional document of the Region, included a list of fundamental rights and freedoms of residents and other persons in the Region, applicable to women and men. The Basic Law also provided for the continuing application of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and the Hong Kong Bill of Rights Ordinance.

260. The representative explained that in the period between 1996 and 1998, a legislative review had been undertaken leading to the enactment of a number of amendments and ordinances to eliminate discriminatory or unfair treatment of

women. The rights of women were also protected by legislation that included the Sex Discrimination Ordinance (1995) and the Family Status Discrimination Ordinance (1997). The Equal Opportunities Commission, an independent statutory organization established in 1996, was responsible for the elimination of discrimination and the promotion of equality between women and men, for enforcing the anti-discrimination ordinances and for handling complaints.

261. The Government's Policy Groups, chaired by the Chief Secretary for Administration and attended by senior representatives of the policy bureaux, ensured coordination among the various bureaux on all matters concerning women.

262. The improvement of the position and status of women in Hong Kong was apparent in different areas. In 1997, women accounted for 39 per cent of the total working population and made up 33 per cent of the civil service. Women also occupied two out of the three highest ranking government posts. Almost a third of the members of the Executive Council were women. Women made up between 21 and 36 per cent of the legal, accounting and medical professions.

263. The Government of the Hong Kong Special Administrative Region was committed to providing equal access to and opportunities in education, which included nine years of free and universal basic education. More than half the university graduates in 1997 were women.

264. Women's health remained a government priority, and a range of health-care services was available to women, including with regard to reproductive health. Hong Kong's infant mortality rate was among the lowest in the world, and women's life expectancy was 82.2 years.

265. The representative noted that China had entered seven reservations and declarations in respect of the application of the Convention to Hong Kong. These would be kept under review.

266. In conclusion, the representative welcomed the Committee's views and suggestions in support of the full implementation of the Convention.

Concluding comments by the Committee: China

Introduction

[paragraphs 267-268 deal with the third and fourth periodic report of China]

269. The Committee commends the Government for having sent a high-level and large delegation that included specialists from different departments of the

central Government, as well as the Hong Kong Special Administrative Region, headed by the Permanent Representative of China to the United Nations.

[paragraphs 270-307 deal with the third and fourth periodic report of China]

**Concluding comments by the Committee:
Hong Kong Special Administrative Region**

Introduction

308. The Committee expresses its appreciation to the Government of China, Hong Kong Special Administrative Region, for submitting, in a timely manner, an extremely well-structured and informative initial report. It commends the Government on its oral presentation of the report and for the detailed oral and written replies, including statistical information, to the questions posed by the Committee.

309. The Committee notes that there are many non-governmental organizations working actively in Hong Kong for the full implementation of the Convention.

Positive aspects

310. The Committee commends the Government of China for the continuing applicability of the Convention to the Hong Kong Special Administrative Region following resumption of Chinese sovereignty over Hong Kong on 1 July 1997 under the principle of "one country, two systems". It notes that the Government has disseminated the Convention, including through the Internet.

311. The Committee welcomes the guarantee of human rights and fundamental freedoms of women and men, contained in the Hong Kong Basic Law and in the Bill of Rights Ordinance. It also notes the recent adoption and revision of laws to eliminate discrimination against women. The Committee commends, in particular, the Sex Discrimination Ordinance of 1995 and the establishment thereunder of the Equal Opportunities Commission as an independent statutory body and with adequate resources, responsible for addressing complaints on discrimination and promoting gender equality through public education and other means.

312. The Committee welcomes the recent judicial decision which has enforced the right to non-discrimination by recognizing that a non-marital child can claim residence in the Hong Kong Special Administrative Region on the basis of the residence rights of either her mother or father.

313. The Committee expresses satisfaction at the high level of literacy and

the universal system of free education.

Factors and difficulties affecting the implementation of the Convention

314. The Committee notes with concern that China has entered seven reservations and declarations in respect of the provisions of the Convention as applied to Hong Kong. Of particular concern is the reservation exempting "the affairs of religious denominations or orders" from the scope of the Convention.

Principal areas of concern and recommendations

315. The Committee expresses concern that the Basic Law does not contain a prohibition of discrimination against women.

316. The Committee recommends the adoption of a constitutional definition of discrimination, both direct and indirect, to complement the prohibition of discrimination in civil law under the Sex Discrimination Ordinance.

317. Notwithstanding the important mandate and valuable work of the Equal Opportunities Commission, the Committee is concerned about the absence of a governmental mechanism for the advancement of women in Hong Kong charged with the pro-active development of policy and long-term strategies on gender equality.

318. The Committee recommends that the Government of the Hong Kong Special Administrative Region establish a high-level central mechanism with appropriate powers and resources to develop and coordinate a women-focused policy and long-term strategy to ensure effective implementation of the Convention.

319. The Committee expresses concern that the electoral system of the Region contains structural obstacles to the equal political participation of women, which is indirect discrimination against women, especially with respect to the functional constituencies.

320. The Committee urges the Government to take all measures necessary to ensure the equal representation of women in all constituencies, including rural committees, on the basis of the principle of universal and equal suffrage, in accordance with the Committee's general recommendation 23.

321. The Committee notes the low representation of women in governmental advisory boards and statutory committees, as well as in the civil service and the judiciary.

322. The Committee recommends that the Government make use of affirmative action and temporary special measures in accordance with article 4, paragraph 1, of the Convention to realize women's right to participation in all areas of public life and particularly at high levels of decision-making. It also recommends that the Government study the experience of other countries in using quotas, timetables for achieving specified goals and databases on women candidates, with a view to applying them in Hong Kong.
323. The Committee is concerned that the Domestic Violence Ordinance applies only to physical abuse in marital relations, and that it does not provide for counselling and treatment of offenders. It also notes with concern that the report does not contain information on rape and that marital rape is not considered a criminal offence in the Hong Kong Special Administrative Region.
324. The Committee recommends that the Government enhance services for survivors of domestic violence, including domestic workers, with a view to their empowerment and rehabilitation, including through psychological counselling, legal aid and temporary shelter and appropriate health services. The Committee also urges the amendment of existing legislation to include marital rape as a criminal offence. It requests the Government to provide information on sexual crimes, including rape and marital rape, in its next report under article 18 of the Convention.
325. The Committee notes that while prostitution itself is not unlawful, provisions to ensure the health and safety of sex workers are unclear, and there may be discrimination against women in the enforcement of related crimes.
326. The Committee recommends that adequate regulations to protect women sex workers be put in place and enforced. It also recommends that the Government monitor the links between the presence of migrant women, a regulatory approach to prostitution and trafficking in women.
327. The Committee commends efforts to develop a standard labour contract for migrant workers with provision for minimum wages, but it is concerned that these workers can be exposed to abuse and custodial violence.
328. The Committee recommends that the Government monitor and take action to protect women migrant workers from abuse and violence, as well as to prevent such violence.
329. Noting that over 50 per cent of recent university graduates were women, the Committee is nevertheless concerned at the degree of segregation in the educational specialization of women and men and at the low percentage of women in

the higher levels of the teaching professions and academia.

330. The Committee recommends the adoption of temporary special measures aimed at increasing de facto equality between women and men within the meaning of article 4, paragraph 1 of the Convention, to increase the number of women in non-traditional areas of education, especially in science, technology and engineering, and to promote women from junior and auxiliary positions in teaching and academia to senior positions. It urges the Government to address the perpetuation of gender stereotypes and to allocate adequate resources for gender studies programmes.

331. Noting the growing participation of women in the formal economy and the low level of unemployment of women, the Committee is nonetheless concerned about the large discrepancies in wages earned by men and women. The Committee is also concerned about the highly disproportionate number of women in the lowest wage levels, especially given the absence of minimum wage laws. The Committee is also concerned that the contraction of the manufacturing sector affects particularly low-skilled women.

332. The Committee recommends that the principle of equal pay for work of equal value be included in relevant legislation and that criteria be established to determine the measure of equal value in a largely gender-segregated labour market.

333. The Committee encourages the Government to review regularly the reservations entered to the Convention. It urges the Government to amend all laws that are incompatible with the Convention, including those relating to immigration and to pension schemes, with a view to removing the relevant reservations. In particular, it encourages the Government to eliminate discrimination against indigenous women following its review of the small house policy. The Committee also encourages the Government to re-examine the reservation relating to the favourable treatment of women in respect of labour law protection of pregnancy and maternity, which might well be in accordance with articles 4, paragraph 1, and 11, paragraph 2, of the Convention, as well as that regarding religious denominations.

334. The Committee invites the Government to hold public consultations with non-governmental organizations in the process of the implementation of the Convention and when preparing its second periodic report.

335. The Committee requests the Government of China and the Government of the Hong Kong Special Administrative Region to provide information addressing the concerns raised in the present concluding comments in the next periodic report required under article 18 of the Convention.

336. The Committee requests the wide dissemination in China and the Hong Kong Special Administrative Region of the present concluding comments, in order to make the people of China and the Region, and particularly its government administrators, politicians and senior level cadres aware of the steps that had been taken to ensure de jure and de facto equality for women and further steps that are required in that regard. It also requests the Government to continue to disseminate widely, and in particular to women's and human rights organizations, the Convention, the Committee's general recommendations and the Beijing Declaration and Platform for Action.

Preparation for the Second Report Under CEDAW
List of Organisations* Submitted Comments on the Draft Outline
(as at 30 October 2002)

1. Christian Action
基督教勵行會
2. Equal Opportunities Commission
平等機會委員會
3. Hong Kong Women Development Association Limited
香港婦女發展聯會
4. “Family Ideal” – Community Education and Resource Centre, Harmony House
和諧之家社區教育及資源中心
5. Kowloon Women’s Organisations Federation
九龍婦女聯會

* We have also received submissions from two individuals.