

**Monitoring Mechanisms
for the Implementation of International Human Rights Treaties**

**Meeting of Legislative Council Panel on
Home Affairs on 14 May 2004**

- Submission from the Equal Opportunities Commission -

Introduction

Adequate protection of human rights is a constant challenge for all civil societies. Having an effective monitoring mechanism for the implementation of international human rights treaties is of vital importance for Hong Kong to meet this challenge. The matter was discussed at various meetings of the Panel on Home Affairs in the past twelve months. Means such as publishing of draft reports instead of outlines under these treaties for public consultation, establishment of a “human rights commission” (HRC) and submission of annual progress report to Legislative Council (LegCo) by the Government have been raised. The Research Report on “Monitoring Mechanisms for the Implementation of International Human Rights Treaties in the United Kingdom, New Zealand and Canada” prepared by the Research and Library Services Division of the Legislative Council Secretariat has provided useful information and reference. This submission provides Equal Opportunities Commission’s view on the matter.

Publishing draft reports for public consultation

2. The issuance of draft outlines only for public consultation is the standard practice currently adopted by the Hong Kong Special Administrative Region (HKSAR) Government in preparing its reports under the international instruments. As expressed in our submission in April 2003 in relation to the Second Report to be prepared by the HKSAR Government under the International Covenant on Civil and Political Rights at the time, the Commission considers that this practice

presents difficulties for the public to: (a) gauge whether the Government has addressed the concerns raised by the relevant United Nation (UN) committees; and (b) gain an overview of the overall progress with implementing the rights under respective instruments. The Commission therefore suggests the Government should consider publishing draft reports for public consultation instead of just the outlines.

Submission of annual progress reports to LegCo

3. Submission of annual progress reports to LegCo is a good idea, as it would further enhance the monitoring mechanism. We welcome the Government's recent decision to provide reports on annual overview of developments relating to the various human rights treaties applicable to HKSAR to the LegCo.

Establishment of human rights commission

4. One of the ways to improve human rights protections, promoted by the UN, is the building of "national human rights institutions" (NHRIs).

5. At present, no binding international norm requires the setting up of an NHRI. However, there are non-binding international standards represented by the UN General Assembly Resolution 48/134 (1993), commonly known as the "Paris Principles", and its follow-up resolutions. These non-binding standards function as a normative measure to guide and assess state behaviour. The UN attaches high priority to building strong NHRIs. In his report to the UN General Assembly of 9 September 2002, General Secretary Kofi Annan even promised to strengthen the capacity of the UN to help individual countries to build strong NHRIs.

6. As revealed in the LegCo paper, both Canada and New Zealand have set up NHRIs and the discussions on the establishment of an independent HRC have gradually been intensified in the United Kingdom. All these show that democratic states adhering to international norms take the non-binding standards seriously.

7. Currently, there is a number of specialized bodies in Hong Kong dealing with different aspects of human rights, such as the Office of the Privacy Commissioner for Personal Data, and the Equal Opportunities Commission. The remit and responsibilities of the proposed HRC have to be construed very carefully taking into account the current provisions and the possible jurisdictional overlap, the resource implications and the structure to ensure the various aspects of human rights can be properly catered for in a cost-effective manner.

8. The Commission suggests the Government should consider setting up an independent HRC in Hong Kong as soon as possible through careful planning and wide public consultation.

Equal Opportunities Commission
May 2004