

**Submission by Hong Kong Human Rights Monitor on various treaty reports
June 2004**

Convention Against Torture

- the Torture Convention has not been fully implemented both in terms of the flaws in the laws (e.g. consent provisions) and the problems in failing to prosecute under the Crimes (Torture) Ordinance (e.g. *HKSAR v. Chuen Lai Sze*, MA 470/98);
- lack of legislation for Refugee Status Determination and for potential torture victims (reflected in the case of *Secretary for Security v Sakthivel Prabakar* FACV 000016/2003)
- detention of asylum-seekers/potential torture victims in poor conditions without proper remedies;
- access to justice/lack of legal representation (lawyers cannot attend interviews, there is no legal aid scheme in this area);
- dangers of *refoulement* contrary to basic common law procedural fairness and HKSAR obligations under international law and the Basic Law;
- denial of the right to work for asylum-seekers/potential torture victims;
- the Refugee Convention has not been extended to the HKSAR;
- what steps the HKSAR has taken to meet the concerns of the CAT—this includes getting the HKSAR to acknowledge the flaws in the present system;
- impacts of the reduction in resources on the investigation ability of police, Correctional Services Department and other discipline forces;
- death in custody and design of detention & incarceration buildings and facilities;
- the implementation of Law Reform Commission's Report on Arrest;
- the failure to give IPCC a statutory basis;
- the measures of police in policing demonstration;
- repeated discriminatory treatments of Lui Yuk Lin by police;
- the case of death due to drug overdose in Siu Lam.

The Monitor Report to the United Nations (May 2000) sets out a number of serious concerns in these areas. It can be found at: <http://www.hkhrm.org.hk/english/reports/CAT2000.html>

Convention on the Rights of the Child

- discriminatory treatment of ethnic minorities in the old school place education allocation system with such children placed in mostly inferior schools;
- the lack of special assistance to ethnic minorities students who have been offered;
- denial of basic education to children who were right of abode claimants;
- update of the case of the death of Cheung Siu Ming: any investigation, prosecution and discipline measures;
- definition of child;
- the problems of split families;
- the change in the funding policy of the Committee on the Promotion of Civic Education;
- measures to prevent the danger of indoctrinating school children with narrow patriotism;
- the need for a central mechanism to ensure that the best interests of the child is given a primary consideration.

International Covenant on Economic, Social and Cultural Rights

- the undemocratic features in the electoral system in Hong Kong, the erosion of freedom of expression, and their impacts on the enjoyment of economic, social and cultural rights;

- the development of the right of abode issue in Hong Kong after the re-interpretation of the Basic Law dated 6 June 1999: census questions and accuracy of estimates; break-in arrests; physical and psychological impacts on claimants and their families; situation of families so split; any queue for returnees; recent court cases on concession policy; single parents without resident status and measures to assist them and their children, etc.
- the delay in releasing the consultation paper on the Bill to outlaw racial discrimination
- The List of Issues for the Pre-sessional Working Group to consider in connection with the consideration of the Second report of China to CESCR. Monitor Report to the United Nations (May 2000) sets out a number of serious concerns. The list is available at:
http://www.hkhrm.org.hk/CESCR2004/issues_list_by_NGOs.pdf

International Covenant on Civil and Political Rights

- the failure of the HKSAR to submit the report requested by the UN Human Rights Committee on or before the deadline set by the treaty body (31 October 2003) [Note: this report does not need to wait and merge with the report by Mainland China because China has not yet ratified the Covenant];
- the reasons for the delay;
- the reasons for the Home Affairs Bureau's failure to report in its first annual report to the LegCo on the implementation of human rights treaties in Hong Kong on the overdue?
- Is it still the government's policy to submit reports to the United Nations in time?
- when will the report be submitted?

International Convention on the Elimination of All Forms of Racial Discrimination

- report due on 28 January 2003 but the drafting has not yet started.

HKSAR vs Chuen Lai-Sze and 3 Others, MA 470/98 26 September 1998
(Extracts of Judgment on findings of facts)

Per Deputy Judge Lugar-Mawson at pp. 2-3:

The evidence led at trial relevant to the issues in this appeal is as follows:

All four appellants are police officers from Special Duty Squad at Kwai Chung Police Station. In the early evening of 3 March 1997, YIU So-man, the first prosecution witness, was intercepted by the 3rd and 4th appellants at the Ground Floor of Wing Lok House on the Fuk Loi Estate, Tsuen Wan, close to where he lived. He was handcuffed and taken to the refuse room on the 16th Floor. Having been asked what he thought he had done wrong and having refused to answer, he was ordered to lie on the floor on his back. The 3rd appellant sat on his pelvis and punched him in the chest. The 4th appellant removed his spectacles and sat on his shins. The 2nd appellant entered the room and, after discussion with her colleagues, told him that his methadone card had been found, together with a quantity of heroin. When YIU denied that the heroin was his, he was punched in the chest by the 3rd appellant.

The 1st appellant, the inspector in charge of the team, then joined the officers and a further discussion took place which YIU was unable to hear. The second appellant stuffed a shoe in his mouth. Then the 1st appellant, followed by the 2nd appellant, poured water from metal drinks cans into his ears, nose and mouth until he found it difficult to breathe, whilst the 3rd and 4th appellant sat on his body. He said that a Coca-Cola can and a San Miguel beer can were used to do this. Some sheets of cardboard were placed under him.

He was told that he would be released if he was able to borrow money to buy drugs. When he expressed doubt at being able to do this, all four officers carried him to the railings in the refuse room and the 1st appellant threatened to have him thrown to the ground. He agreed to cooperate. He was returned to his position on the floor, where the 3rd appellant pressed his thumbs onto his neck, whilst the 2nd appellant poured more water into his nose and mouth, which caused him to lose consciousness.

When he came around, the 4th appellant handed him a mobile phone. He made a call to his mother and asked her for \$7,000. Other police officers then arrived. He was given a change of clothing, as his own were wet, and released on the basis that they would be in touch with him again shortly. He managed to receive his spectacles, which were broken, and his wallet from which he said \$200 were missing.

YIU was uncertain as to exactly how long the incident lasted but believed it was approximately four hours and that he had been released at around 1 p.m. He was not convinced at the time that those who had assaulted him were police officers.

**List of issues for the Pre-sessional Working Group to consider in connection with
the consideration of the second report of China:**

**Hong Kong Special Administrative Region concerning the rights recognized by
the International Covenant on Economic, Social and Cultural Rights (ICESCR)**

LIST ENDORSED BY Hong Kong NGOs (17 May 2004):

1. Association for the Advancement of Feminism (hkaaf@netvigator.com)
2. The Bethune House Migrant Women's Refuge (bhmwr@hknet.com)
3. Chinese Grey Power (greypower1997@yahoo.com.hk)
4. Civil Rights for Sexual Diversities (roddy@cr4sd.org)
5. The Ethnic Minority Education Concern Group (emecg@mail.com)
6. The Frontier (frontier@frontier.org.hk)
7. Grassroots Development Centre (gdc8964@sinaman.com)
8. Hong Kong Catholic Commission for Labour Affairs
(hkccla@netvigator.com)
9. Hong Kong Confederation of Trade Unions (hkctu@hkctu.org.hk)
10. Hong Kong Christian Institute (hkci@netvigator.com)
11. Democratic Party, Hong Kong (dphk@dphk.org.hk)
12. Hong Kong Human Rights Commission (soco@pacific.net.hk)
13. Hong Kong Human Rights Monitor (contact@hkhrm.org.hk)
14. Justice and Peace Commission of HK Catholic Diocese (hkjp@hkjp.org)
15. Office of Cyd Ho, Legislative Councillor (contact@cydho.org.hk)
16. Office of Emily Lau, Legislative Councillor (elau@hknet.com)
17. Parent's Association for the Implementation of Right of Abode of Mainland
Children (Fax : 852 – 2424 7882)
18. Sham Shui Po Community Association (Fax: 852-27781300,
Tel: 852-27785175)
19. Society for Community Organisation (soco@pacific.net.hk)

International NGOs

International Federation for Human Rights, FIDH

List of issues for the Pre-sessional Working Group to consider in connection with the consideration of the second report of China: the Special Administrative Region of Hong Kong concerning the rights recognised by the International Covenant on Economic, Social and Cultural Rights (ICESCR)

I. General legal framework within which the covenant is implemented

1. Are there undemocratic features in the methods for electing the Chief Executive and the Legislative Council, which impede the full enjoyment of economic, social and cultural rights in HKSAR? How can the Hong Kong people's economic, social and cultural rights be secured and protected when the realisation of their rights to universal and equal suffrage has been hampered by the Standing Committee of the National People's Congress?
2. What measures, if any, has the Hong Kong Special Administrative Region Government (HKSAR Government) taken to ensure that government policies and domestic laws will be compatible with Hong Kong's international obligations under various human rights treaties, in particular the ICESCR.
3. Please explain the Government's reasons for maintaining the reservations to certain articles of the Covenant and provide the time-frame for the HKSAR to review and withdraw these reservations.
4. Please explain why the Hong Kong SAR Government refuses to establish a human rights commission? How can the HKSAR government fulfill its obligations enshrined in the ICESCR and other international human rights treaties effectively without such an independent human rights monitoring body?
5. Please give an account of the incident whereby the Equal Opportunities Commission (EOC) Chairperson, Michael Wong, terminated the employment of Patrick Yu, Director (Operation) designate and subsequently resigned from the office of Chairperson of EOC. Please provide information on any interventions, genuine or alleged by others, by the HKSAR Government's in the EOC's operations in the past 2 years. Please describe measures the HKSAR will take to safeguard the independence of the EOC.
6. According to the present legal aid policy, the upper financial eligibility limit, in meritorious cases where a breach of the Hong Kong Bill of Rights Ordinance or an in-consistency with the International Covenant on Civil and Political Rights as applied to Hong Kong, may be waived by the Director of Legal Aid. Please indicate whether the government will introduce the same waiver scheme for cases related to the ICESCR and the reasons for such a position.
7. Please provide Hong Kong's Gini Coefficient since 1971.

II. Issues relating to the general provisions of the covenant (Article 1 to 15)

Articles 2 & 3: Non-discrimination

8. Please describe the measures undertaken to ensure the consultation process for anti-discrimination legislation is open to all, including any measures relating to timing and availability of documents in languages of the ethnic minorities.
9. Please explain the reasons for excluding immigrants from the Mainland, as a class, from the anti-racial discrimination law and the remedy provided there under, when the problem of discrimination against immigrants from the Mainland is quite serious.
10. Please indicate whether recent reviews of and new amendments to existing discrimination legislation in other countries would be taken into account when drafting the proposed race discrimination law.
11. Please explain the justification for the failure to have a law prohibiting discrimination against a person on the basis of age or sexual orientation so far as ICESCR rights are concerned. Please provide detailed information, including a timetable, on the progress of such legislation. Please indicate the difficulties and obstacles that need to be addressed with respect to discrimination based on sexual orientation and age.
12. The Government has relied on the 85% negative submissions to its 1996 consultation as rationale against legislation to eliminate discrimination on the ground of sexual orientation, and thus advocated only educational measures. Has the situation of discrimination on the ground of sexual orientation improved or deteriorated? How does the 1996 survey contrast with the 2002 survey done by the Polytechnic University? Has public opinion improved or deteriorated towards the recognition of equal rights for people of diverse sexual orientations? How important is public opinion as compared to the severity and frequency of occurrence of discrimination against people of diverse sexual orientations?
13. What measures have been taken by the HKSAR Government to ensure that persons working in the Government and public bodies, in particular the Police, Immigration, Labour and Hospital Authority, do not conduct themselves in a discriminatory manner when providing service to migrant workers, the ethnic minorities, the disabled, the senior citizens and persons of different sexual orientation?
14. Has the 2003 reduction of the Minimum Allowable Wage for Foreign Domestic Helpers (FDHs) by HKD\$400 and the concurrent HKD\$400 levy imposed on employers of FDHs effectively imposed a 'de facto' tax on FDHs?
15. In February 1999, the EOC completed its review on the Sex Discrimination

Ordinance & the Disabilities Discrimination Ordinance and submitted them to the HKSAR Government. In November 2000, the HKSAR Government agreed in principle with most of the EOC's proposals. The EOC then requested the HKSAR Government to legislate on those areas agreed on by the Government. Why has the HKSAR Government not introduced any legislation regarding these proposals to the Legislative Council?

Article 6: Right to work

16. Please describe the measures undertaken to address the problem of unemployment among middle-aged unskilled labor. Are there specific legal measures to prevent and combat age discrimination?
17. Please provide an evaluation of the measures taken to address the problem of unemployment among ethnic minorities.
18. The HKSAR Government should explain the dichotomy in its policy whereby it claims a shortage of university graduates and a surplus of secondary school leavers in future labour supplies, but cuts university funding.
19. Is it the usual practice of the Immigration Department to deny Foreign Domestic Helpers employment visas, save in exceptional circumstances, while they have on-going labour claims to pursue their labour rights? Among these FDHs with on-going labour claims, please provide proportion of those who have allowed employment visas to those who have been denied employment visa? Is it also the practice of the Immigration to allow former employers in dispute with these domestic workers to hire new FDHs when the dispute is still going on?
20. Please report on laws regulating sex work in Hong Kong and whether they impact on the sex worker's right to work. Are there any laws and regulations that are applicable only to sex work but not other occupations? Please describe any measures the HKSAR Government intends to implement to protect the rights of sex workers.

Article 7: The right to just and favorable conditions of work

21. In the light of the increasing working hours in the work force, please explain why there is no law to regulate working hours and rest breaks. Please explain why a significant number of workers are deprived of the right to rest days.
22. Given the absence of a statutory minimum wage in the HKSAR and inhuman and extremely low income in general, how does the government determine whether average earnings are sufficient to secure an adequate standard of living for workers and their families?

23. Please explain why there are no legislative provisions to protect workers from unfair dismissal.
24. Given the wide disparity between male and female workers, as revealed by statistics of 2002, both in terms of income level (64.9% females have monthly earning less than HK\$3,000 and 68.5% of those earning over HK\$30,000 are males) and occupational types (managerial and administrative positions being occupied by 74.3% of males against 25.7% of females), can the government inform the Committee whether there are any public policies or measures that have been adopted in Hong Kong to address such disparities, particularly to ensure fair wages and equal remuneration for working women?
25. Given that casual and marginalized workers, i.e. those who are part-time, the subcontracted and manual labourers and those who are temporary job-holders, are predominantly women, will the government tell us what measures have been taken to ensure that gender perspectives and gender mainstreaming are being taken as an integral dimension in the design, implementation, monitoring and evaluation of its labour, economic and welfare policies, to ensure that women can earn a decent living for themselves (both in terms of nature of and remuneration for their work) and their families in accordance with the provisions of the Covenant?
26. In order to qualify for employment protections, the Employment Ordinance requires that an employee be employed for at least 18 hours a week for a continuous period of 4 weeks ("4-18" threshold). What measures have the government taken to counter the increasing exploitation of the Ordinance by employers with terms of employment expressly restricted to 17.5 hours of work every fourth week -- a restriction effectively excluding a large number of casual workers, again who are predominantly women, from the protection of the Ordinance.
27. Please explain what measures the government has taken so far regarding discrimination against ethnic minorities on wages, benefits and other working conditions.
28. What measures have been taken by the SAR Government to protect Foreign Domestic Helpers for the purpose of preventing or stopping them from being forced by their employers to work in business establishments or other households? How many FDHs have been prosecuted each year in the past 5 years after they had voluntarily initiated a complaint with the Immigration Department or other government authorities about being forced by their employers to work in breach of their condition of stay?
29. Please provide detailed statistics on enforcement actions, prosecutions, and the number of convictions by the Labour Department and/or Immigration Department against FDHs, employers of FDHs or employment agencies in each year of the past

five years for offences for acts or omissions arising from or relating to the FDHs or related arrangements? Under what circumstances will the licence of an FDH employment agency be terminated and an employer barred from hiring FDHs in the future for their violation of the law or rights of FDHs? How have the Immigration Department, the Labour Department and other governmental bodies acted together, or independently, to ensure that the licence of an errant employment agencies and the right to employ FDHs of an errant employer is terminated?

30. How many prosecutions and alleged cases have there been in each year of the last five years of FDHs for 'illegal work' for their employer, for their employer's family members or relatives, e.g. working in their business or other related households. Of these cases, how many prosecutions have been brought against their employers or their employer's family members or relatives, for forcing or "assisting" these FDHs to take up such extra and therefore illegal work?
31. Have the Immigration, Labour or Police Department acted in a pro-active way to curb the practice of errant employers or employment agencies forcibly confiscating the personal documents (passport, ATM cards, HK Identity Card etc.) of FDHs during and after the course of their employment? What types of measures are being taken?
32. How successful are unruly employment agencies in their attempts to circumvent the limitations on the agency fees they can lawfully charge? What kind of other parties are usually involved in such schemes? What measures has the SAR Government adopted to address such circumvention attempts?
33. Please provide information on incidences of rape, violence, non-consensual sexual practices, robbery, police harassment and abuse of sex workers in their workplace. How does the Government tackle police abuse on sex workers, such as soliciting sex workers to perform a full range of sex services for individual police officers as 'evidence' to prosecution?

Article 8: The right to free trade union

34. Please explain why most recommendations of the ILO Committee on Freedom of Association made in the conclusions of Case No. 1942 and Case No. 2186 have not been implemented by the SAR Government.
35. What is the response from the HKSAR to criticisms that the national security legislation proposals introduced in 2003, together with the Public Order Ordinance and Societies Ordinance may restrict trade union activities, freedoms of association and assembly, and social participation by the community as a whole? Please outline the measures that will be taken by the SAR Government to address such concerns

and to safeguard these rights when national security legislation is reintroduced to implement Article 23 of the Basic Law?

Article 9: The right to social security

36. What measures will the government adopt to ensure that the 230,000 women domestic workers, now excluded from the Mandatory Provident Fund scheme, will be able to enjoy, on their retirement, economic provisions of a comparable level with those other employers who are covered by the Mandatory Provident Fund scheme?
37. Please outline the measures, if there are any, by which the disabled, or unpaid workers like homemakers and the non-working class, are protected by social security when they become senior citizens, given the fact that they are excluded from the Mandatory Provident Fund scheme.
38. Please explain the reasons for not establishing an official poverty line. What is the SAR Government's definition of "poor"? Please provide data and a community profile, including sex, age and ethnicity, of people who are considered "poor" by the SAR Government. Why hasn't the SAR Government conducted a comprehensive plan to combat poverty and to narrow the drastic disparity in incomes and wealth among its people?
39. Why did the SAR Government change its policy and reduce the amount of social security sharply by 11%?
40. Please indicate whether the reduction of basic rates of assistance paid through the Comprehensive Social Security Assistance (CSSA) Scheme in 1999 and 2003 respectively can provide for a decent standard of living for recipients, especially children and senior citizens.
41. Please explain the reasons for the introduction of the 7-year residency rule as one of the application criteria for the CSSA and discuss its impacts, particularly on the new arrivals, ethnic minorities, senior citizens and their families.
42. Please discuss whether there is any further assistance or subsidies, such as extra-curricular activity subsidy, provided for children living in poverty.

Article 10: Family and children

43. What has the SAR Government done to eliminate the number of split families in Hong Kong?
44. Has the SAR Government re-assessed the accuracy of its previous estimate of 1.67 million possible right of abode beneficiaries under the Court of Final Appeal

judgments in the cases of Ng Ka Ling and Chan Kam Nga dated 29 January 1999? Why did the SAR Government refuse to include questions in the census to review the status and situation of split families in Hong Kong?

45. The concession policy only covers right of abode claimants who have asserted right of abode between 1 July 1997 and the date of these judgments and where there is a written record of such in files of the Immigration Department. As emerged in some recent court cases, there are claimants who were able to prove her/his making of their claims while there were no written records in the Immigration Department to entitle them to benefit from the concession policy. The whole purpose for the requirement of a record was to ensure a clear and objective basis for judging whether a claim had been made or not. Why hadn't the Immigration Department recorded their claims when they were made but just turned the claimants away? Why is there a need to insist on a written record of a claim when the claim has been proved to the satisfaction of the court that it had actually been made and that the Immigration Department had failed to record their claim at the first place and requiring the claimants to bear the consequence of the failure of the Immigration Department to keep its record properly? Will the Government consider waiving the requirement of a written record of a claim when the claim has been proved to exist? If not, why? Given that the purpose of the policy in the first place was to redress the grievance felt by the Mainland children who the Court of Final Appeal has said had a legitimate expectation to be treated in the same way as the litigants in the cases of Ng Ka Ling and Chan Kam Nga, will the Government now reconsider its position in relation to those persons who have shown to the Court's satisfaction that they made claims to ROA?
46. Is it true that prior to the Handover the quota of 60 persons a day admitted to settle in Hong Kong from Mainland China had been reserved for admitting children of Hong Kong residents irrespective of whether such children were born before or after the parents' status as a permanent resident of Hong Kong? And is it also the case that in recent years this quota has not been fully taken up by children who were eligible under the reinterpretation of the Standing Committee of the National People's Congress of Article 24 of the Basic Law dated 26/6/99 i.e. born to a Hong Kong resident parent who at the time of the birth had already lived in Hong Kong for 7 continuous years? Will the HKSAR Government use the surplus in the quota to permit the reunion of children who had their right of abode recognised by the Court of Final Appeal in Chan Kam Nga but whose core right was subsequently taken away by the NPC re-interpretation? If not, why not?
47. What is the decision of the Chinese authorities in response to the request by the split families for a queue to be established for those children whose right of abode was

recognized in Chan Kam Nga but were subsequently denied that right by the Standing Committee's 26 June 1999 interpretation of the Basic Law?

48. Please provide information on the number of children having their right of abode in Hong Kong recognised as a result of the Chong Fung-yuen's case (i.e. those who are Chinese citizens born in Hong Kong to Mainland parents, neither of whom are Hong Kong residents), who reside in Hong Kong with no parents in Hong Kong to take care of them and have no valid "hukou" (household registration) in Mainland China? Are there any mechanisms for these young Hong Kong permanent residents to reunite with their parents without compromising the best interests of the children? What measures have been adopted to ensure the well being of these children in the absence of their parents?
49. Please provide figures on the number of CSSA recipients who have been able to sponsor their family's immigration to Hong Kong on dependent visas. Are families who are poor being deprived of the opportunities to family visits or re-unions?
50. Please provide figures relating to asylum seekers arriving in Hong Kong in each year in the past 5 years. Please describe the immigration procedures relating to asylum seekers. Please describe the kind of support and assistance the HKSAR Government provided to these families. Please state when the Refugee Convention (in force on the mainland) may be extended to the Hong Kong SAR.
51. Please provide definitions of family and domestic violence in the relevant laws and policies respectively. What has the HKSAR Government done to protect women and children from domestic violence? Please provide information on existing legislation to protect women and children from psychological and sexual abuses as well as harassment by separated or divorced spouses. What is the plan and timetable for the HKSAR Government to review its existing laws and policy to help eliminate the problem of domestic violence? Please provide information on the existing governmental bodies that have the resources and power to address the problems of domestic violence and how such bodies plan to tackle the problem.
52. Please describe any legislation to protect same sex partners from domestic violence. If there is none, please explain what measures the HKSAR has undertaken to protect same sex partner from domestic violence. And what is the plan and timetable of HKSAR Government to extend the protections from domestic violence to include same sex partners.

Article 11: The right to an adequate standard living

53. Please provide the following figures by year since 1997: the Consumer Price Index A; the median rent to household income ratio; the number of vacant units in

subsidized housing of the public rental housing; those under the Home Ownership Scheme; and those under the Private Sector Participation Scheme?

54. Please provide up-to-date statistics on the number of inadequately housed persons in HKSAR. The Committee should ask the SAR Government whether it has taken any steps to help improve the living conditions of those living as squatters, in interim housing, in cubicles, and in non-self-contained housing.
55. Will the Housing Authority abide by the court judgment and take action to refund or reduce public housing rents for all overcharged public housing tenants?
56. Do landlords and residents who live and/or work in old urban areas have any way to access the detailed information of the planning of urban renewal projects? Do such landlords and residents have any representatives in the Urban Renewal Authority (a statutory body for urban renewal) to participate in the policy and decision making process and to monitor the implementation of the urban renewal policies? Are there any other channels for the residents to do so?
57. Do residents affected by Urban Renewal Authority's urban redevelopment projects have the rights to reject government land resumption, if they are of the opinion that the project or the land resumption is not in their or the community's best interest? If yes, please provide the details of said rights; if no, please explain why.
58. When a landlord affected by an urban redevelopment project is not satisfied with the compensation offered by the Urban Renewal Authority, or is of the opinion that the compensation is not in accordance with the policy set by the government, is there any way for them to seek a fair hearing before an independent body for determining the proper amount of compensation. If the Urban Renewal Authority and the government decide to resume a piece of land under the powers granted by the Land Resumption Ordinance, is a landlord required to surrender their property? Are they precluded from seeking judiciary review on the decision? What measures are there to ensure that a landlord receives a fair hearing in the acquisition process? What are the substantive and procedural safeguards to ensure that the powers under the Land Resumption Ordinance will not be abused?

Article 12: The right to physical and mental health

59. Please explain the adverse impact of the medical charges schemes, the self-purchase drugs scheme and other spending cuts on the patients of different ages, especially the senior citizens, in the public hospitals or clinics. Please indicate whether there are measures to assist them. Are these measures adequate to address the problem of high cost healthcare effects on the indigent?
60. Hong Kong slimming companies have campaigned excessively on slimming products and services. How has the HKSAR government ensured these products

and services serve the purpose advertised? Please explain what the HKSAR government has done to address the sex stereotypical images being presented by slimming companies? Has the HKSAR government monitored the effects these slimming campaigns on the well being of the female population, such as adverse psychological effect leading to the loss of self-confidence and self-esteem, anorexia, etc.?

61. Given that there are more than 350,000 ethnic minorities in Hong Kong, are there any interpretation services provided to ethnic minorities in Hong Kong to assist them in medical treatment and their access to other government services? Are there medical instructions and health education pamphlets available in languages of the minorities?
62. Please report on the level of discrimination faced by PHA/PWAs (People Having AIDS / People living with AIDS) and groups often imputed with an HIV+ status such as homosexual men and sex workers in their access to general health care and to HIV/AIDS prevention and health care services.
63. Please explain the policy of fee-charging for health services for non-residents and how it impacts on the sex worker community, which is pre-dominantly composed of non-residents. For terminated and abused FDHs, and those FDHs with occupational health problems due to maltreatment by their former employers, will the Hospital Authority waive their hospital fees when they have no means of income in Hong Kong.

Articles 13 & 14: The right to education

64. Is it the Government's policy to ensure that all children have access to basic education, irrespective of their legal status? How many, by year, children, asylum seekers, right of abode claimers or illegal immigrants, new arrivals from other parts of China, and new arrivals from other countries respectively, have been deprived of school education for a period longer than 3 months from the authorities' first knowledge of their presence in Hong Kong in the past 5 years?
65. Please provide statistics on the distribution of students disaggregated by race and by school district and medium of instruction.
66. Is there a consistent and coordinated policy for the education of ethnic minority students to address their special learning problems, like language education? Is it true that many poor ethnic minority families do not send their children to kindergarten and therefore are unable to provide their children with the valuable opportunities to learn Cantonese at the most crucial stage of their language development making their subsequent education in Chinese (Cantonese) more

difficult?

67. Please explain the positive and adverse impacts of the new school place allocation system on ethnic minority students. Please explain how ethnic minority students' special language needs and their parents' expectations have been properly addressed in the change?
68. Please explain whether there are any support mechanisms that have been put in place, both short and long-term, to help ethnic minorities students studying in schools, especially Chinese Medium Instruction schools, to cope with Chinese subjects and other areas? How will the Education and Manpower Bureau monitor the progress of those mechanisms if there are any?
69. How will the increase in fees or growing number of "direct subsidy scheme schools" affect the choice of schools, especially the high quality ones, for economically less well off families? Are there special measures to protect the more vulnerable groups? Are such measures effective?
70. Why are the proposed Incorporated Management Committees set up to take over the management and the control of schools from their respective Schools Sponsoring Body under the Education (Amendment) Bill 2002? Will this system of school-based management the Government erode the role of the Schools Sponsoring Bodies and therefore distort the original vision and mission on education of the Schools Sponsoring Bodies in running the schools and intervene in the internal affairs of the schools and of the Schools Sponsoring Bodies? Specifically will the amendment amount to erosion of the autonomy and academic freedom of schools guaranteed under Article 137(1) of the Basic Law? Will the Bill affect the property rights of the Schools Sponsoring Bodies in respect of the property of the schools owed and run by them and thereby be in breach of Article 141 of the Basic Law, which provides that the previous property rights and interests shall be maintained and protected and that religious organizations may, according to their previous practice, continue to run seminaries and other schools?
71. Is it true that the Education Ordinance has given the permanent secretary for education too great a power to appoint more than one member to carry out her instructions if it appears to her or him that a school is not being managed satisfactorily, or that the education of the pupils is not being promoted in a proper manner, or that the composition of the management committee of a school is such that the school is not likely to be managed satisfactorily? Are the terms "does not perform satisfactorily" and "not being promoted in a proper manner" too vague for adopting as the grounds which trigger the power to appoint a manager of a school and thereby influence its policies and practice? Is it reasonable for Permanent Secretary for Education and Manpower to have such an apparently unguided and

broad discretionary power to influence the policies of schools?

Article 15 right to culture and scientific development

72. How can the HKSAR Government stay attuned to public opinions on cultural matters when the Cultural and Heritage Commission has been dissolved? Will the Government revive the Commission in the near future?