

ARTICLE 14  
RURAL WOMEN

*“1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including working in the non-monetised sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.*

*2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:*

*a. To participate in the elaboration and implementation of development planning at all levels;*

*b. To have access to adequate health care facilities, including information, counselling and services in family planning;*

*c. To benefit directly from social security programmes;*

*d. To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;*

*e. To organise self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;*

*f. To participate in all community activities;*

*g. To have access to agriculture credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reforms as well as in land resettlement schemes;*

*h. To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”*

303. In view of the small area of the HKSAR, it is not practicable to distinguish women in the rural areas from those who live in urban areas. All parts of the HKSAR are served with electricity, water and sanitation services. Goods, services and facilities for women are provided for women in all parts of the territory. At the hearing on the Initial Report, the CEDAW Committee urged the Administration to ensure equal representation of women in rural committees. We therefore report under this Article measures undertaken to progressively eliminate discrimination against rights of female indigenous inhabitants in Hong Kong.

### **Definition of “Indigenous” Population in Hong Kong**

304. In the context of succession of land properties in the New Territories, rent concessions, Small House Policy and rural elections, an “indigenous inhabitant” means a person who was in 1898 a resident of an established village<sup>27</sup> in Hong Kong or who is descended through the male line from that person.

### **Succession of Land Properties in the New Territories and Review of Land Policy**

305. Section 13 of the New Territories Ordinance used to provide that in proceedings relating to land in the New Territories, the courts shall have power to recognize and enforce any Chinese custom or customary right affecting such land. New Territories land under individual ownership was inherited according to the Chinese customary law of succession. In practice, that entailed succession along the male line. The surviving widows and daughters of the deceased were maintained by the male successors as part of this tradition.

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<sup>27</sup> "Established village" is defined to mean a village that was in existence in 1898 and which the Director of Lands has satisfied himself was then in existence.

306. The New Territories Land (Exemption) Ordinance was enacted on 24 June 1994 to remove the above inhibition against women inheriting land and real estate in the New Territories. The Ordinance provides for the application of the general laws of inheritance in the New Territories. But this does not apply to the land held in the name of “tso” and “tong”<sup>28</sup>.

### Rent Concessions

307. Rent concessions in respect of certain rural properties owned by indigenous villagers are provided for under Article 122 of the Basic Law. Hence, a reservation on laws applicable in the New Territories of the HKSAR which enable male indigenous villagers to exercise certain rights in respect of property and which provide for rent concessions in respect of land or property held by indigenous persons or their lawful successors through the male line will continue to be applied (paragraph 5 of the reservations) has been entered to ensure consistency between the application of the Convention in the HKSAR and the Basic Law.

### Small House Policy

308. The reservation entered also provides for the continuation of the Small House Policy under which a male indigenous villager may apply, once in his lifetime, to build a small house on his own land or Government land (if available).

309. In the Initial Report, the Committee was informed that the Government was reviewing the Policy. During the course of the review, a number of inter-related and complex issues have been identified. These issues include optimal use of land resources, sewage and infrastructural matters associated with small house developments. We consider that there is a need to

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<sup>28</sup> A “tso” / “tong” is an association of persons who collectively own an area or areas of ancestral or clan land. A “tso” usually takes the name of a deceased person and is formed by the members of the same clan whereas for “tong”, the persons concerned are not necessarily members of the same clan and the land is held and managed for the benefit of the “tong” members only. The intention for the foundation of “Tsos” and “Tongs” is to have the land and properties passed from generation to generation in perpetuity. The interest of a member begins when he is born and ends when he dies.

review the Policy and the related issues in a comprehensive manner. We will consult various stakeholders with a view to making preliminary proposals for more in-depth discussion.

## **Rural Elections**

310. As mentioned in paragraphs 52 – 54 of the Initial Report, there are three levels of election in the villages of the New Territories, which are the election of village representatives, Rural Committee and Heung Yee Kuk<sup>29</sup>. The arrangements for electing village representatives, which is the first level, have evolved over the time. Since 1994, a set of model rules has been in use for the election of village representatives. The rules are based on one-person-one-vote, equal voting rights for men and women, and a fixed four-year term. Women can also stand for the election. Individual villages may adapt the model rules to suit their circumstances. In 1999, the electoral arrangements were challenged in court. In the case of Chan Wah vs. Hang Hau Rural Committee, it was found that in the village of Po Toi O, the electoral arrangement contravened the Sex Discrimination Ordinance, in that husbands of female indigenous villagers were not allowed to register as voters in the elections. The Court of Final Appeal affirmed that men and women should enjoy equal rights in rural elections, and that Government has a duty not to approve persons not so elected.

311. In view of the above court ruling, the Government has enacted the Village Representative Election Ordinance to bring rural elections under statutory control. It ensures that future electoral arrangements are consistent with the requirements of the Hong Kong BORO and the SDO.

312. Village representatives make up the 27 Rural Committees, of which the Chairmen and Vice-Chairmen were elected on one-person-one-vote basis. This forms the second level of the rural electoral system. The Chairmen and Vice-Chairmen of the Rural Committees are ex-official councillors of the Heung Yee Kuk. They elect the Chairman and Vice-Chairmen of the Heung Yee Kuk on a one-person-one-vote basis. This is the third level of the rural electoral system. Women and men enjoy equal rights at both levels.

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<sup>29</sup> Heung Yee Kuk is an advisory and consultative body established by law for the New Territories.

Currently, there are 10 women serving as village representatives. Two women are serving as Executive Committee members of the Rural Committees whereas five are Councillors of the Heung Yee Kuk.