

ARTICLE 2
OBLIGATIONS OF STATES PARTIES

“States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

a. To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realisation of this principle;

b. To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

c. To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

d. To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

e. To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;

f. To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

g. To repeal all national penal provisions which constitute discrimination against women.”

Bill of Rights

3. The Hong Kong Bill of Rights Ordinance (BORO), which was enacted in 1991, ensures that both women and men enjoy all civil and political

rights recognised in the Hong Kong Bill of Rights (BOR). The Ordinance binds the Government and all public authorities and any person acting on behalf of the Government or a public authority. Article 1 of the BOR provides that the rights recognised in the BOR shall be enjoyed without distinction of any kind, including sex. Article 22 of the Hong Kong BOR provides that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. The fundamental rights of the residents of the HKSAR are provided for in the Basic Law. No distinction has been drawn between the rights of women and men.

Legislation

The Sex Discrimination Ordinance

4. SDO was enacted in July 1995 and came into full operation in December 1996. The Ordinance renders discrimination on the grounds of sex, marital status or pregnancy unlawful in specified areas of activity including employment, education, provisions of goods, facilities or services, disposal or management of premises, eligibility to vote for and to be elected or appointed to advisory bodies, activities of clubs, and activities of Government in Parts III and IV of the Ordinance. Part IV of the Ordinance outlaws sexual harassments and Part V makes it unlawful to apply any discriminatory practices, and publish or cause to publish any discriminatory advertisements. More detailed description on the Ordinance is provided in paragraphs 5 – 10 of the Initial Report.

5. The SDO has been tested at the court since the entire Ordinance came into force in December 1996. Major court cases are set out in Annex C. These cases demonstrate that Sex Discrimination Ordinance has been an effective legislative tool in combating sex discrimination.

Family Status Discrimination Ordinance

6. The Family Status Discrimination Ordinance (FSDO) was enacted in June 1997 and came into operation in November of the same year. This piece of legislation renders it unlawful to discriminate against a person who has family status in specified areas of activity similar to those covered under the SDO. This Ordinance provides protection to those who have responsibility

for the care of an immediate family member. Like the SDO, the Equal Opportunities Commission (EOC) is responsible for the enforcement and implementation of this Ordinance.

Disability Discrimination Ordinance

7. The Disability Discrimination Ordinance (DDO) was enacted in 1995 and came into operation in 1996 for the elimination of discrimination against persons, on the grounds of disability, in various areas such as employment, accommodation, education, access to premises, partnerships, vocational training, clubs and sporting organisations. It also ensures, as far as practicable, that persons with disabilities have the same rights to equality before the law as the rest of the community; and promotes recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as non-disabled persons. The legislation does not impose requirements on employers, developers, service providers and others to provide more jobs or better facilities for people with disabilities. Rather, the legislation makes it unlawful for disabled people to be treated less favourably than others, on account of their disability, in circumstances that are the same or not materially different. The legislation thus protects the rights of disabled persons not to be discriminated against, rather than requiring the general provision of services to meet their needs. Disabled women enjoy the same protection as men do under the Ordinance.

Changes in the Law

8. The Evidence Ordinance was amended in June 2000 to abrogate the corroboration rules in sexual offences. Offenders in sexual offence cases could now be brought to justice more easily. The Dangerous Drugs, Independent Commission Against Corruption and Police Force (Amendment) Bill 1999 was passed in 2000. The new law empowers law enforcement agencies to take intimate and non-intimate samples to combat serious crimes including sexual offences. The Evidence (Miscellaneous Amendments) Bill 2002 renders spouses competent and compellable to give evidence in certain criminal proceedings, including domestic violence cases. The Bill is now being scrutinised by the Legislative Council.

9. In response to the concern of the CEDAW Committee that marital rape was not considered a criminal offence, the Crimes Ordinance was

amended in July 2002 to make it clear that marital rape is a criminal offence. Women are protected from being forced to engage in sexual intercourse without their consent, even with their spouses.

The Equal Opportunities Commission

10. The EOC, which was established in May 1996 under the SDO, is tasked with the responsibility for, among other things, eliminating sex and family status discrimination and promoting equal opportunities between women and men. With an annual funding over HK\$80 million (US\$10.26 million), the EOC discharges its duties through various functions: complaint handling; conciliation; strategic litigation; policy development and research; providing training and consultancy; and public education. It also plays the role of keeping the SDO, DDO and FSDO under review. In 1999, the EOC completed a legislative review on the discrimination legislation and submitted legislative amendment proposals to Government. Many of the proposals have been accepted by Government.

11. The EOC investigates complaints and endeavours conciliation between the parties in dispute. From 1999 to end October 2002, the EOC received a total of 2,021 complaints under the SDO and 114 under the FSDO, of which 517 and 19 cases were successfully conciliated respectively.

12. EOC has placed much emphasis on assisting employers, service providers and government to better understand the implications of anti-discrimination ordinances for their workplaces. Since March 2001, the EOC has been providing a range of training and advisory services including training workshops, tailor-made training programmes, train-the-trainer programmes and specific projects that are implemented collaboratively with key stakeholders in Hong Kong.

13. The EOC is concerned with the systems and structures by which individuals and groups are excluded or marginalized. As such, one of the EOC's major works focuses on policy development and research. The EOC regularly reviews public and private sector policies and practices, examines statistical data to identify trends, and meets with stakeholders such as government, community groups and businesses to ascertain and monitor major concerns.

14. Since the last report, the EOC has advocated policy changes in many different areas. Examples include:

- (a) Formal investigation into the Secondary School Places Allocation System (1998-1999);
- (b) Comments in response to the Consultation on Review of Education System Reform Proposal (July 2000);
- (c) Comments in response to the Consultation on “Learning to Learn – The Way Forward in Curriculum Development” (March 2001);
- (d) Comments in response to the Consultation on Health Care Reform – “Lifelong Investment in Health” (March 2001); and
- (e) Comments on the sports policy review report “Towards a More Sporting Future” (August 2002).

Women’s Commission

15. During the hearing on the Initial Report, the CEDAW Committee showed concern 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. To demonstrate its commitment to further promote the well-being and interests of women in Hong Kong, the Government set up the Women’s Commission on 15 January 2001 as a central mechanism to advise the Government on a strategic overview of women issues. It is tasked to identify all women’s needs and address matters of concern to women in a holistic and systematic manner. The Commission has developed a long-term vision and strategy for the development and advancement of women in Hong Kong. The Women’s Commission advises the Government on policies and initiatives which are of concern to women and seeks to ensure that women’s perspectives are factored in (or mainstreamed) during policy formulation. The Women’s Division of the Health, Welfare and Food Bureau, which has overall policy responsibility for women issues, supports the work of the Women’s Commission, which is also allocated sufficient funding to carry out its functions.

16. The establishment of the Women's Commission is a milestone in efforts to promote the advancement of women in Hong Kong. Chaired by a non-official and comprising another 21 members, the Commission has laid down as its mission "To enable women in Hong Kong to fully realise their due status, rights and opportunities in all aspects of life". It has identified three priority areas of action: gender mainstreaming, empowerment of women and public education. Special task forces have been set up to take forward work in these areas.

17. In order to make the maximum impact on society, the Women's Commission will focus its efforts in the year 2003 on the theme of "capacity building", which involves creating awareness among individuals and society of the need and opportunities for continuous self-improvement, and facilitating creation of an enabling environment. All women-related initiatives and projects of the Commission will be aligned with this theme.

Gender Mainstreaming

18. The Women's Commission sees gender mainstreaming as one of the key strategies in achieving women's advancement and gender equality. With the integration of gender perspective in legislation, policies or programmes, gender mainstreaming seeks to ensure that women and men have equitable access to, and benefit from, society's resources and opportunities.

19. To facilitate government officials in making women's as well as men's concerns and experiences an integral dimension in the design, implementation, monitoring and evaluation of government legislation, policies and programmes, the Women's Commission has developed as analytical tool in a form of checklist to enable women's perspectives to be suitably taken into account by the Government. The gender mainstreaming initiatives of the Women's Commission are further elaborated in Article 3.

Empowerment of Women

20. The Commission will look into ways to better equip women for life's challenges and to create a more congenial societal environment for women to develop themselves. The Commission has reviewed and suggested improvements to a number of services with the aim of ensuring appropriateness, adequacy and quality of the services for women. The Commission has played

a catalytic role in encouraging and promoting development of new service models. Recent work includes:-

- (a) compilation of booklet on good empowerment practices for women practised by non-governmental sector to facilitate possible replication and adaptation of these programmes and activities by others;
- (b) working with the Social Welfare Department on encouraging the setting up of mutual help childcare centres operating on a membership mode;
- (c) promotion of the establishment of a community-based women health centre to provide integrated health services in collaboration with a local charity group; and
- (d) looking further into other possibilities to enhance women's employment opportunities, e.g. setting up of co-operatives.

21. The Women's Commission also sees the need and potential of women to participate more fully in decision making processes. Currently, there are over 600 Government advisory and statutory bodies advising Government on a wide range of issues that have direct relevance to everyday life of women and men in Hong Kong. Women's participation in these bodies has been relatively low. The Women's Commission has suggested the Government to take a more proactive approach in reaching out and cultivating potential female candidates. Upon the Commission's recommendation, the Government has made special efforts to increase the number of women appointed to serve on the advisory and statutory bodies. More details on this issue are set out in paragraphs 120 – 122.

Capacity Building Programme

22. Apart from the various tasks being conducted to empower women, the Women's Commission is exploring the development of a capacity building framework which would facilitate women to develop essential skills and potentials. This framework was conceived in view of the feedback from many women's groups that existing education / training programmes provided do not fully address the needs or interests of women, particularly the homemakers. A

framework and machinery that bridges the gap between programmes offered by training institutions and the development needs of women is therefore considered appropriate. The Commission will further develop the idea, and may invite relevant parties to participate in the development process.

Public Education

23. The Women's Commission has also launched public education and publicity programmes to reduce gender prejudices and stereotyping as well as to raise public awareness of women-related issues. They include four public fora and seminars held in 2001-2002 on different specific women topics, annual public functions on International Women's Day, launching of Announcements in the Public Interest on TV, radio stations and on buses, holding of an essay writing competition, broadcasting of a TV drama series as well as a radio programme on the theme of women capacity building, printing and distribution of posters. The Women's Commission held a major Conference with the theme of "Women for a Better Tomorrow" in May 2002 to generate public discussion on and raise public awareness of gender-related issues. It was officiated by the Chief Executive and attended by senior officials, gender experts from the Mainland and overseas countries and around 500 local participants.

Collaboration with Non-governmental Organisations

24. The Women's Commission recognises and appreciates the important contribution that the non-governmental sector and community groups have made in advancing the interests of women in Hong Kong throughout the years. To enhance communication with and seek advice on the work of the Commission from the non-governmental sector, as well as to create synergy in the work of the Women's Commission and other bodies, the Commission has carried out various activities to establish partnership with non-governmental organisations. The Commission has conducted regular visits to local women organisations, service agencies and districts, and organised fora and seminars that non-governmental organisations have participated. The Commission is developing a framework of collaboration with non-governmental organisations and other parties and is seeking views from the latter.